

BEFORE THE BOARD OF RESPIRATORY CARE PRACTITIONERS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT,
ARM 24.213.301 definitions,	)	ADOPTION, AND REPEAL
24.213.402 application for licensure,	)	
24.213.408 examination, 24.213.415	)	
inactive status, 24.213.504	)	
authorization to perform testing,	)	
24.213.2101 continuing education	)	
requirements, 24.213.2104 and	)	
24.213.2107 traditional education by	)	
organizations, 24.213.2111 teaching -	)	
category III, 24.213.2114 papers,	)	
publications, journals, and course	)	
work, and 24.213.2301	)	
unprofessional conduct, the adoption	)	
of NEW RULE I training—conscious	)	
sedation, and the repeal of ARM	)	
24.213.501 institutional guidelines	)	
concerning education and certification	)	

TO: All Concerned Persons

1. On September 4, 2014, the Board of Respiratory Care Practitioners (board) published MAR Notice No. 24-213-18 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 1960 of the 2014 Montana Administrative Register, Issue No. 17.

2. On September 29, 2014, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Several comments were received by the October 6, 2014, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments and the board responses are as follows:

COMMENT 1: Several commenters expressed concern regarding NEW RULE I and the repeal of ARM 24.213.501, asserting that conscious sedation IV medications should be reserved for trained and educated nurses and advanced practice nurses. The commenters further stated the best practice is to have a respiratory therapist in the room to monitor airway.

RESPONSE 1: The board notes that studies show that respiratory care practitioners trained to perform conscious sedation can provide competent care, reduce costs, and function in settings in which an APRN or RN might not be available.

The American Society of Anesthesiologists' "Practice Guidelines for Sedation and Analgesia by Non-Anesthesiologists" sets guidelines for pulmonary ventilation, oxygenation, etc., for practitioners in a variety of settings who are not specialists in anesthesiology. These guidelines are routinely referenced by other state boards and medical centers. The board relies on Montana health care facilities to set appropriate guidelines and protocols regarding education and training. The board is adopting NEW RULE I and repealing ARM 24.213.501 exactly as proposed.

COMMENT 2: Commenters requested that the board amend ARM 24.213.301(2) to further limit the administration of conscious sedation by a respiratory care provider to procedures related to respiratory care. The commenters also asked the board to set minimum guidelines or protocols for conscious sedation for institutions in NEW RULE I.

RESPONSE 2: The board notes that conscious sedation administered by a respiratory care practitioner would always involve respiratory care, because conscious sedation requires that the airway be continuously and independently maintained so the patient can respond to physical stimulation and verbal commands. The proposed definition is within the scope of 37-28-102, MCA.

The board does not have jurisdiction over institutions and cannot dictate protocols or guidelines for them. Some boards do, by statute, have jurisdiction over programs or facilities, such as the Board of Veterinary Medicine's statutory jurisdiction over Certified Euthanasia Agencies, or the Board of Medical Examiner's statutory mandate to create a physician assistance program for which it dictates terms. However, the board has no statutory authority to set standards for health care facilities. The board is adopting NEW RULE I exactly as proposed.

4. The board has amended ARM 24.213.301, 24.213.402, 24.213.408, 24.213.415, 24.213.504, 24.213.2101, 24.213.2104, 24.213.2107, 24.213.2111, 24.213.2114, and 24.213.2301 exactly as proposed.

5. The board has adopted NEW RULE I (24.213.502) exactly as proposed.

6. The board has repealed ARM 24.213.501 exactly as proposed.

BOARD OF RESPIRATORY CARE  
PRACTITIONERS  
MARIA CLEMONS, PRESIDING OFFICER

/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 January 5, 2015