

BEFORE THE BOARD OF MEDICAL EXAMINERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF AMENDMENT,
ARM 24.156.2701 definitions,)	ADOPTION, AND REPEAL
24.156.2705 unprofessional conduct,)	
24.156.2707 reporting to the board,)	
24.156.2711 ECP licensure)	
qualifications, 24.156.2713 ECP)	
license application, 24.156.2715)	
substantially equivalent education,)	
24.156.2718 continuing education and)	
refresher requirements, 24.156.2719)	
expired license, 24.156.2731 fees,)	
24.156.2732 medical direction,)	
24.156.2751 levels of ECP licensure)	
including endorsements, 24.156.2752)	
ECP endorsement application,)	
24.156.2761 procedures for revision of)	
Montana ECP practice guidelines or)	
curriculum, 24.156.2771 ECP scope of)	
practice; the adoption of New Rule I)	
ECP training courses and New Rule II)	
final pre-licensing examinations; and)	
the repeal of 24.156.2708 complaints,)	
24.156.2717 ECP license renewal,)	
24.156.2741 ECP training)	
program/course application and)	
approval, 24.156.2745 examinations,)	
24.156.2754 initial ECP course)	
requirements, 24.156.2755 post-)	
course requirements, 24.156.2757)	
ECP clinical requirements)	

TO: All Concerned Persons

1. On January 25, 2019, the Board of Medical Examiners (board) published MAR Notice No. 24-156-85 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 83 of the 2019 Montana Administrative Register, Issue No. 2.
2. On February 15, 2019, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Many comments were received by the February 22, 2019 deadline.

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

GENERAL COMMENTS:

COMMENT 1: Three commenters approved of or fully supported the rules proposal.

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

COMMENT 2: One commenter desired clarification on the recertification process and the required continuing education.

RESPONSE 2: The board's guidance on these issues is reflected in ARM 24.156.2718 and the intent of the rules is to provide clarification to ECP licensees.

COMMENT 3: Several commenters expressed concern over the rule changes on testing. The issues included confusion over how testing will be conducted, no Montana exam manual, oversight of testing, no provision for reporting exam results to the NREMT, and whether board or NREMT guidelines are to be used.

RESPONSE 3: The NREMT exams and the state alternative exams both remain viable routes to ECP licensure in Montana and neither process will be changed through these amendments or new rules. Equivalent skills are tested by the NREMT exams and the state alternative exams.

There is currently an "Exam Manual" located on the board's web site which provides guidance to those conducting practical examinations required for licensure at the levels of EMR and EMT. The document is not affected by these changes.

No provision previously existed in rule regarding reporting exam results to NREMT and these rules do not change the process. The current system of ECP course providers reporting through the NREMT web site remains the same.

COMMENT 4: Two commenters asserted there are no assistance or guidance documents and that the proposed rules are out-of-date as they follow 2016 NREMT guidelines. Commenters stated this will lead to undertrained practitioners and questioned what would happen when NREMT changes their requirements and New Rule II still references NREMT 2016 Psychomotor Exam.

RESPONSE 4: It is legally proper to point to a specific version of a document being referenced. The board has chosen the NREMT 2016 Psychomotor Exam requirements. If NREMT publishes a newer version of the document, the board will review the new requirements and may choose to adopt the newer version, amending the rules to reflect that decision. Furthermore, the board concluded that noting a specific version for exam requirements does not mean that applicants and licensees are not expected to be trained to a higher level.

COMMENT 5: Two commenters expressed concern that all training and licensing of ECPs will be turned over to the Department of Public Health and Human Services.

RESPONSE 5: The board does not intend to transfer regulatory authority over ECPs to DPHHS or any other department or entity and has not proposed any changes toward that end in this project.

COMMENT 6: One commenter questioned the proposed changes in state protocols arguing the changes will cause confusion that the protocols were designed to stop.

RESPONSE 6: Changes to the Statewide Protocols document (or "Montana ECP Practice Guidelines" as per this project) exceed the scope of this rules package. Current protocols remain available on the board's web site, which can be located via the Department of Labor and Industry web site.

COMMENT 7: One commenter expressed concern that the board is attempting to remove EMR and EMT levels from Basic Life Support status under the proposed rules and that this would put volunteer agencies in trouble.

RESPONSE 7: The board believes this is a misunderstanding and has no intention of removing EMR and EMT licensure levels in Montana. The board notes that the proposed rule changes do not remove them.

COMMENT 8: Several commenters suggested that the oversight of local EMS systems by the state or board will be reduced or eliminated and are concerned that the board will relinquish many of its current activities regarding EMS training. Commenters stated this will put patients and the public at risk and asked the board to continue oversight and guidance. The commenters believed there will no longer be "support and resources" from BOME staff following these changes, and without state supervision, more rural areas will cut corners to staff the local ambulance. Multiple commenters stated that the proposals are unclear and would compromise the quality of pre-hospital care.

RESPONSE 8: The board is not eliminating any oversight but is changing the method of how oversight will be accomplished. The board strongly disagrees that these rules put public health at risk and fully intends to continue oversight and regulation of ECPs in Montana. Protection of public health and welfare are the primary purposes underlying the board's regulatory authority and the board will continue to provide clear rules to guide all licensees.

Additionally, these rules do not change the responsibilities of medical directors. The only "addition" is under ARM 24.156.2732, which requires a medical director to assess an ECP's endorsement competency and skills and sign an affidavit of such competence upon the ECP's license renewal. Because medical directors are already responsible to sign an ECP's renewal form and authorize an ECP's use of endorsement skills, the board concluded this is merely a clarification.

COMMENT 9: Several commenters stated the rule changes will place an additional or excessive burden on medical directors and eliminate the board's technical assistance for medical directors. A commenter praised the support and resources board staff provides and believed changing the rules will cause more issues. A commenter stated the changes will result in inadequate training and medical standards and a burden on medical direction, especially for wildland firefighters.

RESPONSE 9: Per ARM 24.156.2732, the only new responsibility placed on a medical director is to assess an ECP's endorsement competency and skills and to sign an affidavit stating such competence upon renewal of the ECP's license. All other changes are cleanup and clarification and nothing has changed regarding requirements for wildland firefighters. The board will continue to provide clear rules to guide all licensees.

COMMENT 10: One commenter asked if curricula for ECPs should be specified for each level of licensure, as they are not currently distinguished.

RESPONSE 10: The board concluded that specifying for each license level would be redundant as this is currently done in the USDOT and Montana ECP Practice Guidelines (formerly referred to as Montana Statewide Protocols).

COMMENT 11: One commenter asked the board to clarify the board's "designee" as used throughout the rules by stating the individual's qualifications. The commenter believed the designee has substantial authority while the public doesn't know how the individual is named or the person's qualifications. The commenter was concerned that the designee could expand a licensee's scope of practice.

RESPONSE 11: Under 2-15-1731, MCA, the board is allocated to the Department of Labor and Industry for administrative purposes and 2-15-121, MCA, clarifies that certain duties may be delegated to department staff. Thus, "designee" refers to department staff and would not have authority to change an ECP's scope of practice.

COMMENT 12: One commenter praised the board for a general trend toward adoption of national standards but encouraged more of this movement.

RESPONSE 12: The board appreciates all comments received during the rulemaking process.

COMMENT 13: Several commenters asked the board to review all aspects of the rule revisions, consider each change unilaterally, consider long-term implications, and ensure changes will be for the positive. One commenter suggested the changes may undermine out-of-hospital medical care and lead to dangerous outcomes or providers not providing care. Another commenter believed misleading statements about the profession are included and that without oversight of ECPs, the public will be placed at risk. Commenters suggested the proposed revisions went swiftly through the process and were not fully discussed, and suggested there was not enough time to examine the implications of the changes.

RESPONSE 13: The board has been in the drafting process of these rule changes since the spring of 2017. Since then, the changes were discussed or reviewed in at least six public meetings of the full board, two public meetings of the Medical Direction Committee, one public meeting of the Laws and Rules Committee, and numerous meetings within the department. The board has thoroughly considered the proposed rule package and the comments received.

COMMENT 14: Several commenters were generally confused regarding education and licensure of ECPs including course instructors believing there will be no more application process for courses or instructors and no post-course approvals or required submission of documents. One commenter asked the board to require post-course documentation.

RESPONSE 14: The board concluded that standardizing and streamlining the licensure process for ECPs is critical and these rules are a step in that direction. New Rule I clearly articulates the requirements for ECP courses. While the board cannot make significant amendments to the rule in this final notice, it will consider amendments to the new rule once it is effective. The board would like to emphasize that help/support remains available.

COMMENT 15: One commenter stated the rules proposal does not identify who will keep the state web site up-to-date with protocol changes.

RESPONSE 15: The department maintains all board web sites. Current rules do not address maintenance of the web site and the proposed changes do not alter that process.

COMMENT 16: One commenter asserted that the board currently delegates excessive responsibility to medical directors without oversight and that some of them rely too much on lead instructors to tell them what is happening. The commenter stated that medical directors don't attend training to teach and don't know all their responsibilities and suggested this requires oversight by the board.

RESPONSE 16: The responsibilities of medical directors dictated in these rules already exist under the previous rules. Currently, the state medical director provides training regarding the responsibilities of medical directors which will not change under the proposed rules. Furthermore, the department complaint process is available for specific complaints.

COMMENT 17: One commenter stated that removing current examination procedures would lead to no guidance from the board regarding requirements. The commenter believed that the board would be unable to license new providers.

RESPONSE 17: The board respectfully disagrees and points to these rules as guidance. These rules allow new applicants to become licensed as ECPs in Montana.

COMMENT 18: One commenter suggested the board not remove verification processes from ECP licensure requirements and questioned how the board would determine ineligibility without verification.

RESPONSE 18: The board is unclear as to this comment's meaning, but notes that ARM 24.156.2711 and 24.156.2713 provide guidance on licensure qualifications and the application process.

COMMENT 19: Three commenters expressed opposition to the board discontinuing oversight of lead instructor training and no longer conducting the training. Commenters were also concerned regarding the requirements to become a lead instructor.

RESPONSE 19: These rules do not change the process for becoming a lead instructor.

COMMENT 20: One commenter asked if guidance from a nurse practitioner is considered online medical direction and, if so, if it is prohibited because the rules state only physicians or PAs can do this. The commenter stated that nurse practitioners are capable of providing online medical direction.

RESPONSE 20: This comment exceeds the scope of this proposed rule project.

COMMENT 21: One commenter expressed opposition to new protocols developed by the board, stating that they do not comply with national guidelines or meet educational standards.

RESPONSE 21: This comment exceeds the scope of this proposed rule project.

COMMENT 22: One commenter expressed concerns about newly adopted statewide protocols and specifically in these areas:

- Re: paramedic interfacility transports, the commenter disagrees with titration of medication being limited to nitroglycerin and heparin.
- Re: the allowance for fentanyl, morphine, and ketamine for pain, the commenter states a belief that more options such as Dilaudid and Toradol should be allowed to be carried at the discretion of the medical director.
- Re: the protocol for anaphylaxis for AEMTs with medical endorsement, the commenter states that the wording of the protocol prohibits a NREMT-registered AEMT from giving IM diphenhydramine and should be adjusted to allow NREMT-registered AEMTs to administer that medication.

RESPONSE 22: This comment exceeds the scope of this proposed rule project.

COMMENT 23: Several commenters expressed general concerns about how the proposed rules affect training courses, pre-licensing exams, continuing education, and medical direction.

RESPONSE 23: The board appreciates all comments received during the rulemaking process. However, the board is unable to respond to overly broad comments that do not cite to specific rules or issues.

COMMENT 24: Two commenters were concerned that all oversight of ECP courses is on the medical director instead of being conducted by the board.

RESPONSE 24: The medical director is already responsible for oversight of ECP courses and those responsibilities are not changing in this project. The rule changes also maintain the board's regulatory authority and oversight of ECPs in Montana.

COMMENT 25: One commenter recommended that there be additional training and oversight for medical directors.

RESPONSE 25: Oversight and training of medical directors is already provided by the board.

COMMENT 26: Two commenters expressed concern that the role of medical directors is unclear under the proposed rules.

RESPONSE 26: The board respectfully disagrees and feels that the rules clarify the role of medical directors.

COMMENT 27: One commenter expressed concern that the proposed rules do not provide any application process to conduct exams.

RESPONSE 27: The board believes this is a misunderstanding of the current process as the rule changes do not alter anything in the exam process.

COMMENT 28: Two commenters expressed concern that the board is relinquishing power to NREMT.

RESPONSE 28: There is no intent by the board or within the amendments to transfer regulatory authority over ECPs to NREMT or any other department or entity.

COMMENT 29: One commenter stated it is necessary to retain an alternative way to get licensed in Montana (other than through NREMT certification).

RESPONSE 29: The process for the alternative state exams is not changed in this rule project.

COMMENT 30: One commenter questioned why the Statewide Protocols are being removed under this rules package.

RESPONSE 30: The Statewide Protocols are not being removed under this project but are being renamed "Montana ECP Practice Guidelines" to more clearly describe the use and purpose of the document.

Comments 31 through 39 relate to ARM 24.156.2701:

COMMENT 31: Four commenters disagreed with clinical experience being part of a curriculum and suggested the board amend ARM 24.156.2701(1)(c) to clarify this.

RESPONSE 31: The board believes that this is a misunderstanding of the term "curriculum" and is amending the rule accordingly.

COMMENT 32: One commenter recommended that ARM 24.156.2701(1)(e) be corrected to "National EMS Education Standards and Instructional Guidelines" as the accurate name of the document.

RESPONSE 32: The board appreciates the suggestion and is amending the rule accordingly.

COMMENT 33: Two commenters were concerned regarding the amendment to the definition of "curriculum" in ARM 24.156.2701(1)(e). One commenter asked if the board could set standards for substantially equivalent education as referenced and disregard federal education standards and instructional guidelines. Another asked why the board would consider any standard other than the federal DOT standard.

RESPONSE 33: The board recognizes that the rule section may be confusing as written and is amending the rule for further clarity.

COMMENT 34: Several commenters stated concerns about how the proposed rules address endorsements in general. One commenter asserted that a license endorsement does not move them from one level to the next but is designed to provide further care for a patient when needed, based on a skill set approved by the board. Another commenter stated the definition of "endorsement" in ARM 24.156.2701(1)(j) implies that endorsements are levels of licensure when that was never the intent.

RESPONSE 34: The board concluded that the proposed definition of "endorsement" clarifies and more accurately reflects what an endorsement is and how it is utilized. The board is amending ARM 24.156.2701(1)(j) for additional clarification.

COMMENT 35: One commenter suggested clarification of "endorsement" under ARM 24.156.2701(1)(j) to specify that an endorsement should not be included in initial training but sought after additional training.

RESPONSE 35: The board determined this is already addressed in the rule changes. Additionally, the board cannot make significant amendments to the rule in

this notice but will consider amendments to the new rule once it is published and effective.

COMMENT 36: Several commenters disagreed with "lead instructor" being an endorsement and argued that it does not expand the scope of practice. Commenters hoped that the board did not intend to expand lead instructors' scope of practice and suggested deleting the last sentence from the current definition of lead instructor to address supervision. A commenter suggested the board retain "authorized" in ARM 24.156.2701(1)(k) and not change it to "competent."

RESPONSE 36: The board intentionally defined "lead instructor" as an endorsement because it allows the ECP to conduct courses, which is an expansion of practice. The board is amending the definition per the comment and for clarity.

COMMENT 37: One commenter stated that "lead instructor" as defined in ARM 24.156.2701(1)(k) is a privilege granted by the board and is not an endorsement.

RESPONSE 37: All endorsements are privileges granted by the board.

COMMENT 38: Three commenters noted that "NAEMSE" is defined in ARM 24.156.2701(1)(n) but does not appear elsewhere in the rules and suggested the definition be eliminated.

RESPONSE 38: The board agrees this was an oversight and is removing the definition as suggested.

COMMENT 39: Several commenters suggested amendments to ARM 24.156.2701(1)(p) to either strike "NREMT" and replace it with "National EMS Certification" or add a separate definition of "National EMS Certification" noting that such certification is issued by NREMT. The commenters stated the amendment would be consistent with federal government publications and believed the board should identify NREMT as a private company in the definition.

RESPONSE 39: The board cannot make significant amendments to the rule in this final notice but will consider amendments to the new rule once it is published and effective. The board does not believe it is necessary to identify NREMT as a private company.

COMMENT 40: One commenter stated that the definition of "refresher" in ARM 27.156.2701(1)(r) is difficult to understand and questioned whether it can meet curriculum requirements. The commenter offered suggested language.

RESPONSE 40: The board agrees with the comment and is amending the rule accordingly.

Comments 41 and 42 relate to ARM 24.156.2705:

COMMENT 41: A commenter was concerned that the changes to ARM 24.156.2705 remove the ability of ECPs to report unprofessional conduct to the board.

RESPONSE 41: The board believes this is a misreading of the rule changes, which simply make it not mandatory to report. Under both the current and proposed rules, any individual or entity can report unprofessional conduct of any licensee through the department's complaint process.

COMMENT 42: Several commenters recommended the board amend ARM 24.156.2705 to add irregular behavior in an examination, including fraud or unauthorized possession of exam content, as unprofessional conduct.

RESPONSE 42: The board notes that the suggested conduct is already defined as unprofessional conduct under 37-1-316(3), MCA, and to add it to the rule would unnecessarily duplicate statute in violation of 2-4-305, MCA.

Comments 43 through 45 relate to ARM 24.156.2711:

COMMENT 43: One commenter disagreed with the department no longer requiring a physical copy of a high school diploma or equivalent in ARM 24.156.2711.

RESPONSE 43: The board is making this change in compliance with standardized department rules. Applicants continue to be required to attest to the fact that they have received a high school diploma or equivalent.

COMMENT 44: One commenter asked who the "first" and "second" parties are relative to the "third-party exam" contained in ARM 24.156.2711(1)(b). The commenter stated "third party" is too nebulous and that it is vital for Montana to retain the ability for someone to obtain licensure through a method other than current state licensure or NREMT certification. The commenter suggested defining "third-party exam."

RESPONSE 44: "Third party" refers to an entity outside of the department and is common terminology. An example of a third party in these rules would be NREMT or the alternative state exam. These rules maintain the alternative state exam process.

COMMENT 45: One commenter suggested that National EMS Certification (current active or inactive) equal to or greater than the level applied for should be the only requirement under ARM 24.156.2711(1)(b) and 24.156.2713(1)(b). The commenter suggested the change would align Montana with national standards and simplify many board processes.

RESPONSE 45: The board cannot make significant amendments to the rule in this final notice but will consider amendments to the rule once it is published and effective.

Comment 46 relates to ARM 24.156.2713:

COMMENT 46: One commenter suggested the board amend ARM 24.156.2713(3) to require only an application, fees, and documentation of current active or inactive National EMS Certification.

RESPONSE 46: The board cannot make significant amendments to the rule in this final notice but will consider amendments to the rule once it is published and effective.

Comment 47 relates to ARM 24.156.2715:

COMMENT 47: Several commenters recommended the board repeal ARM 24.156.2715 in its entirety and suggested Montana only require current National EMS Certification (i.e., through NREMT).

RESPONSE 47: The board cannot make significant amendments to the rule in this final notice but will consider amendments to the rule once it is published and effective.

Comments 48 through 54 relate to ARM 24.156.2718:

COMMENT 48: Numerous commenters recommended significant amendments to ARM 24.156.2718 including amending (1) to only require presentation of current completion of NREMT certification or completion of Montana-administered continuing education, striking all remaining language of this rule, and adopting NREMT's continuing education requirements.

RESPONSE 48: The board cannot make significant amendments to the rule in this final notice but will consider amendments to the rule once it is published and effective.

COMMENT 49: Two commenters asked why the board is removing the requirement to document continued competence from ARM 24.156.2718(1)(a) through (1)(d).

RESPONSE 49: The board does want to continue documenting knowledge and skills of ECPs. The terminology noted by the commenter was moved to the definition of "refresher" under ARM 24.156.2701(1)(r).

COMMENT 50: Two commenters suggested the board change "assess" to "assess and document" in ARM 24.156.2718(2)(b) and (c).

RESPONSE 50: Because the definition of "refresher" in ARM 24.156.2701(1)(r) includes documentation, the board is not amending per the comment.

COMMENT 51: One commenter expressed concern that the board cannot determine or influence what NREMT will allow to be used for credit for continuing

education and referenced ARM 24.156.2718(4). The commenter suggested that CE and refresher credits reported to NREMT may be reported to the board to meet requirements for continuing education.

RESPONSE 51: These rules already accept NREMT CE and the board cannot dictate what NREMT accepts. Additionally, the rules allow the board discretion as to whether CE credits will be accepted or not, regardless of what CE is approved or accepted by NREMT.

COMMENT 52: Two commenters asked what will happen if an ECP is audited after ARM 24.156.2718(6) is stricken.

RESPONSE 52: ARM 24.156.2718(6) refers to a lead instructor or medical director being audited about a refresher course the individual conducted. The responsibilities of these individuals are clearly stated under ARM 24.156.2718(5) and New Rule I. An ECP licensee may still be audited for CE compliance by the department under ARM 24.156.2718(7) and (8).

COMMENT 53: One commenter recommended several changes to ARM 24.156.2718 including changing "ECP licensure level" in (2) to "ECP scope of practice" and amending (6) to state that a medical director is responsible for assuring continued competency of endorsements.

RESPONSE 53: The board respectfully disagrees with the suggested change to (2) and concluded the proposed rule is clear. Additionally, the medical director's responsibilities regarding endorsement competency are clearly stated in ARM 24.156.2732, specifically in (6).

COMMENT 54: One commenter suggested the ability to conduct onsite visits should be retained in ARM 24.156.2718 and 24.156.2732.

RESPONSE 54: The board maintains the ability to attend courses and to conduct investigations through the complaint process.

Comment 55 relates to ARM 24.156.2732:

COMMENT 55: Two commenters suggested that ARM 24.156.2732 should only allow medical directors to delegate duties to other medical directors and not to any unrestricted licensed physician or physician assistant.

RESPONSE 55: The board respectfully disagrees and concluded that another physician or a physician assistant who is licensed and in good standing in Montana is able to accept delegable duties from a medical director. The suggestion would have a negative effect on medical directors in general, especially in rural areas. Furthermore, this comment exceeds the scope of this rules project.

Comment 56 relates to ARM 24.156.2761:

COMMENT 56: One commenter suggested clarification of ARM 24.156.2761 as to whether a medical director can petition to change things other than practice guidelines. The commenter asked whether a medical director can propose different standards for "substantially equivalent" curricula.

RESPONSE 56: The board appreciates the comment and is amending ARM 24.156.2761(1), (4)(b), and the rule's title accordingly.

Comments 57 through 59 relate to ARM 24.156.2771:

COMMENT 57: One commenter suggested a significant amendment to ARM 24.156.2771(3)(b) to conform with DPHHS EMS licensing statutes that require licensure or an interstate agreement for an out-of-state service to legally respond in Montana.

RESPONSE 57: The board cannot make significant amendments to the rule in this notice but will consider amendments to the rule once it is published and effective.

COMMENT 58: One commenter requested the board clarify what level "basic" refers to in ARM 24.156.2771(7)(c).

RESPONSE 58: The board agrees with the commenter and is amending (7)(c) to clarify further.

COMMENT 59: One commenter suggested that ARM 24.156.2771(9) can be removed because utilization of antidote kits is taught in all curriculum and refreshers.

RESPONSE 59: The board cannot make significant amendments to the rule in this final notice but will consider amendments to the rule once it is published and effective.

Comments 60 through 66 relate to NEW RULE I:

COMMENT 60: Two commenters asked if the requirements of New Rule I apply to every ECP course or just initial courses and if it applies to all courses, would it include endorsement courses. One commenter suggested adding "initial" prior to "ECP" in the second sentence of (1).

RESPONSE 60: The board intends this rule to apply to all ECP courses.

COMMENT 61: One commenter requested clarification in New Rule I as to how specific a course list must be on a certificate of completion. The commenter noted that a paramedic certificate could be several pages long if all topics are listed in detail.

RESPONSE 61: The board intends the course level completed be clearly stated on the certificate and is amending New Rule I (1)(e)(ii) for further clarity.

COMMENT 62: One commenter suggested the board amend New Rule I (2)(c) to only require that a paramedic program be accredited by the Commission on Accreditation of Education Programs for the Emergency Medical Services Professions (CoAEMSP). The commenter suggested that requiring accreditation by one independent body will be more efficient and may limit the board's liability.

RESPONSE 62: The board cannot make significant amendments to the rule in a final notice but will consider amendments to the new rule once it is effective.

COMMENT 63: One commenter stated the clinical component should not be in the rule as it will be difficult to change and suggested requiring a form instead. The commenter also suggested the board reword New Rule I (4) to show intent that endorsements require medical director oversight.

RESPONSE 63: Forms for the clinical component currently exist on the web site and these changes do not alter that. Additionally, the role of the medical director regarding endorsements is clearly stated in ARM 24.156.2732.

COMMENT 64: Two commenters asked if there is an "EMT with endorsement" course included in New Rule I (4) and (5) and if not, one commenter suggested deleting the language from those sections.

RESPONSE 64: The board appreciates the comment and recognizes the improper terminology was mistakenly added. The board is amending New Rule I (4) and (5)(b) accordingly.

COMMENT 65: Several commenters expressed concern that New Rules I and II will lead to a lack of supervision and quality control over courses and exams.

RESPONSE 65: The board disagrees and concluded that New Rules I and II help to clarify the standards for courses and exams by setting specific criteria in rule. Nothing in the rules alters the supervision and quality control over exams but helps clarify the standards that already exist.

COMMENT 66: One commenter expressed concern that the rules do not state who will be responsible for "verifying testing to NREMT" and that NREMT "requires someone from the state to report who passes ECP classes and practicals." The commenter also suggested that EMT and EMR exams may not count as New Rule I and New Rule II are proposed, because there is confusion about whether the board or NREMT coordinates those exams. The commenter questioned the board delegating authority to a private company and asked who will provide guidance on exams. Several commenters stated that it is unclear who will coordinate EMR and EMT practical exams because NREMT does not offer those exams.

RESPONSE 66: The proposed changes do not alter the processes noted by commenters. This is a misconception. The board already delegates authority to conduct exams to NREMT. Currently, the lead instructor for the ECP course electronically reports to NREMT the names of individuals who pass the course. This system is not changed by these rules. NREMT also currently accepts course completion as proof of a practical exam for EMR and EMT levels and qualifies those individuals to take the NREMT written exam. The process for the alternative state exams is not changed by these rules. The board will continue to provide clear rules to guide all licensees.

Comments 67 through 70 relate to NEW RULE II:

COMMENT 67: One commenter proposed significant amendments to New Rule II, eliminating (2) through (5) and replacing them with two different sections referring to exams required for National EMS Certification examinations. The commenter further recommended removing examination sequencing and the reference to the 2016 psychomotor exam from the rule, and adjusting language regarding psychomotor exams for EMR and EMT, as NREMT does not provide practical exams for certification at those levels.

RESPONSE 67: The board cannot make significant amendments to the rule in this final notice but will consider amendments to the new rule once it is effective.

COMMENT 68: One commenter stated that New Rule II is confusing regarding Montana and NREMT examinations and opined that the board must have oversight over AEMT and paramedic exams in Montana. The commenter further suggested the board establish requirements for exams to include who is responsible, who coordinates, the skills to be evaluated, and the decision-making scenarios used to assure competency.

RESPONSE 68: The board maintains oversight of AEMT and paramedic exams through these rules. The rules already give guidance regarding this comment.

COMMENT 69: One commenter called New Rule II "unusable" and believed it appears to eliminate board-developed EMR and EMT exams that were created with great effort. The commenter asked who the "department" is in the reasonable necessity in the proposal notice and voiced no recollection of any discussion of abandoning the current examination process.

RESPONSE 69: These rules do not eliminate the existing alternative state exam. "Department" in the reasonable necessity statements refers to the Department of Labor and Industry.

COMMENT 70: One commenter stated that New Rule II is not specific enough.

RESPONSE 70: The board respectfully disagrees and is unable to respond to overly broad comments that do not cite to specific issues in a rule.

4. The board has amended ARM 24.156.2705, 24.156.2707, 24.156.2711, 24.156.2713, 24.156.2715, 24.156.2718, 24.156.2719, 24.156.2731, 24.156.2732, 24.156.2751, and 24.156.2752 exactly as proposed.

5. The board has adopted New Rule II (24.156.2721) exactly as proposed.

6. The board has repealed ARM 24.156.2708, 24.156.2717, 24.156.2741, 24.156.2745, 24.156.2754, 24.156.2755, and 24.156.2757 exactly as proposed.

7. The board has amended ARM 24.156.2701, 24.156.2761, and 24.156.2771 with the following changes, stricken matter interlined, new matter underlined:

24.156.2701 DEFINITIONS (1) through (1)(b) remain as proposed.

(c) "Clinical experience" means supervised instruction, observation, or practice in a patient care setting as part of a course curriculum.

(d) remains as proposed.

(e) "Curriculum" means the combination of the National EMS Educational Standards and Instructor Instructional Guidelines prepared by the USDOT, and the Montana ECP Practice Guidelines, ~~or substantially equivalent standards as determined by the board or its designee~~.

(f) through (i) remain as proposed.

(j) "Endorsement" means a supplemental supplement within a level of licensure issued in conjunction with the appropriate standard license type (EMR, EMT, AEMT, or Paramedic). Each endorsement acquired by a licensee indicates the licensee has obtained a defined set of skills and knowledge, determined and approved by the board or its designee, that expands the scope of practice of the ECP.

(k) "Lead instructor" is an endorsement which indicates the endorsed licensee has attended a board-approved instructor training program, and is competent authorized to offer and conduct ECP courses.

(l) and (m) remain as proposed.

(n) ~~"NAEMSE" means the National Association of EMS Educators.~~

(o) through (r) remain as proposed but are renumbered (n) through (q).

(s) ~~(r)~~ "Refresher" means a program, training, or course that reviews and documents the knowledge and skills of the ~~current curriculum, and documents continued competence and meets curriculum requirements an ECP's current licensure level~~.

(t) remains as proposed but is renumbered (s).

24.156.2761 PROCEDURES FOR REVISION OF MONTANA ECP PRACTICE GUIDELINES OR CURRICULUM (1) A medical director may submit a petition for revisions to the Montana ECP Practice Guidelines ~~or curriculum~~.

(2) through (4)(a) remain as proposed.

(b) the board finds that the public's interest in granting the revision clearly outweighs the interest of maintaining uniform Montana ECP Practice Guidelines or curriculum; and
(c) remains as proposed.

24.156.2771 ECP SCOPE OF PRACTICE (1) remains as proposed.

(a) operating independently within the most current version of the ~~Montana~~ Montana ECP Practice Guidelines;

(b) through (7)(b) remain as proposed.

(c) practice at the ~~basic~~ EMR level, even if the ECP is licensed at a higher level in another state, unless the individual is licensed at an EMT with endorsement(s), AEMT, or paramedic level, and the federally managed incident has medical direction provided by a Montana licensed physician approved by the board as a medical director, and the physician authorizes the individual to function beyond the basic level;

(d) through (9) remain as proposed.

8. The board has adopted New Rule I (24.156.2720) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (24.156.2720) ECP TRAINING COURSES (1) through (1)(e)(i) remain as proposed.

(ii) ~~topics taught~~ course level; and

(iii) through (3) remain as proposed.

(4) All ~~EMT with endorsement(s)~~, AEMT, and paramedic level courses must designate a lead instructor and a medical director. The lead instructor is under the supervision of the board and medical director for these courses.

(5) and (5)(a) remain as proposed.

(b) Medical direction of an ~~EMT with endorsement(s)~~, AEMT, or paramedic level course consists of approval of agenda, approval and selection of instructors, involvement in the development and implementation of evaluation tools, participation as an instructor, approval of clinical offerings and objectives to be met by clinical components, and verification of successful course completion for each student.

(6) through (9) remain as proposed.

BOARD OF MEDICAL EXAMINERS
JAMES BURKHOLDER, M.D.
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 April 16, 2019.