

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY,  
ALTERNATIVE HEALTH CARE BOARD, BOARD OF ARCHITECTS AND  
LANDSCAPE ARCHITECTS, BOARD OF ATHLETIC TRAINERS, BOARD OF  
BARBERS AND COSMETOLOGISTS, BOARD OF BEHAVIORAL HEALTH,  
BOARD OF CHIROPRACTORS, BOARD OF CLINICAL LABORATORY SCIENCE  
PRACTITIONERS, BOARD OF DENTISTRY, STATE ELECTRICAL BOARD,  
BOARD OF FUNERAL SERVICE, BOARD OF HEARING AID DISPENSERS,  
BOARD OF MASSAGE THERAPY, BOARD OF MEDICAL EXAMINERS, BOARD  
OF NURSING, BOARD OF NURSING HOME ADMINISTRATORS, BOARD OF  
OCCUPATIONAL THERAPY PRACTICE, BOARD OF OPTOMETRY, BOARD OF  
OUTFITTERS, BOARD OF PHARMACY, BOARD OF PHYSICAL THERAPY  
EXAMINERS, BOARD OF PLUMBERS, BOARD OF PRIVATE SECURITY, BOARD  
OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS,  
BOARD OF PSYCHOLOGISTS, BOARD OF PUBLIC ACCOUNTANTS, BOARD OF  
RADIOLOGIC TECHNOLOGISTS, BOARD OF REAL ESTATE APPRAISERS,  
BOARD OF REALTY REGULATION, BOARD OF RESPIRATORY CARE  
PRACTITIONERS, BOARD OF SANITARIANS, BOARD OF SPEECH-LANGUAGE  
PATHOLOGISTS AND AUDIOLOGISTS, BOARD OF VETERINARY MEDICINE  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM ) NOTICE OF PUBLIC HEARING ON  
24.111.407, 24.118.502, 24.121.406, ) PROPOSED AMENDMENT AND  
24.126.301, 24.129.606, 24.138.304, ) ADOPTION  
24.141.509, 24.155.613, 24.159.403, )  
24.162.503, 24.165.302, 24.168.407, )  
24.171.403, 24.180.405, 24.182.508, )  
24.189.613, 24.189.911, 24.201.532, )  
24.210.301, 24.210.418, 24.222.405, )  
and 24.225.425, and the adoption of )  
New Rules I through XLVIII pertaining )  
to nonroutine applications and criminal )  
convictions )

TO: All Concerned Persons

1. On April 16, 2021, at 10:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment and adoption of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/98022859401>  
Meeting ID: 980 2285 9401, Passcode: 804677; or
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656  
Meeting ID: 980 2285 9401, Passcode: 804677.

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

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 Business Standards Division (division) no later than 5:00 p.m., on April 9, 2021, to advise us of the nature of the accommodation that you need. Please contact Debra Morrell, Business Standards Division, Department of Labor and Industry, 301 South Park Avenue, P.O. Box 200514, Helena, Montana 59620-0514; telephone (406) 841-2367; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2313; or [dmorrell@mt.gov](mailto:dmorrell@mt.gov).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: In response to recent legislation in other states prohibiting licensing agencies from outright banning professional licensure for applicants with criminal convictions, the department concluded that legislative change is not necessary in Montana because Mont. Const. Art. II, Sec. 28 of the Montana Constitution and Title 37, chapter 1, part 2, MCA, already prohibit these blanket bans and instead require boards to apply relevancy and rehabilitation standards to these licensing decisions.

In MAR Notice No. 24-101-309, effective 11/21/2020, the department adopted a new rule and amended the definitions of "routine" and "nonroutine" applications in the business standards division rules. The new rule, ARM 24.101.406, sets forth the standardized division processes and criteria to apply when considering applications containing criminal convictions. The new rule utilizes the amended definitions to authorize and guide staff to issue licenses with no evidence contradicting an applicant's rehabilitation, while still allowing staff to identify egregious cases that require board review. The division rule changes uniformly and consistently inform potential applicants, the public, and future board members and staff on these licensure standards.

As part of the department's ongoing mission to standardize and simplify the administrative services provided to all licensure boards, staff created a uniform procedure for processing applications with criminal convictions which was recently presented to the boards. Staff also recommended changes to the boards' rules to align with and facilitate the standard procedure by adopting and incorporating the division definitions and criminal convictions rule. The suggested rule changes will create a standard formula for boards to exclude consideration of convictions that are older and less serious where the applicant appears to be rehabilitated.

While boards retain discretion to adopt different time elapse limitations than in ARM 24.101.406, or give more scrutiny to specific convictions of concern to a board, adopting the division rule changes will provide a consistent framework and terminology to standardize and increase efficiency in licensure operations, and reduce costs and processing time of routine applications. Therefore, for efficiency and cost savings the department is publishing this single notice containing similar rule changes proposed by all 32 licensing boards to align with and further facilitate the division's standard procedure for applicants with criminal convictions. Where

additional specific bases for a proposed action exist, the individual board will identify those reasons immediately following that rule.

Authority and implementation citations are being amended throughout to accurately reflect the boards' statutes implemented through the rules and provide the complete sources of the individual board's rulemaking authority.

4. Each board proposing to adopt and amend rules is listed in alphabetical order. New and amended rules are intermingled in this section instead of being grouped by action type. This format is being used to keep all rule changes pertaining to a specific board together to aid licensees, the public, board members, and department staff. The rules proposed to be amended are shown with stricken matter interlined, new matter underlined.

### ALTERNATIVE HEALTH CARE BOARD

24.111.407 NONROUTINE APPLICATIONS (1) ~~All applications for direct-entry midwife licensure and direct-entry midwife apprentice Level III-A and Level III-B licensure must be considered nonroutine in nature and will be reviewed and approved by the board prior to issuance of the license. For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.~~

(2) ~~An application for direct-entry midwife apprentice Level I or Level II licensure will be considered nonroutine in nature and will be reviewed and approved by the board prior to issuance of the license if the applicant: Nonroutine applications must be reviewed and approved by the board before a license may be issued.~~

~~(a) has a prior felony conviction of any nature. Any disposition in a criminal case other than acquittal will be deemed a "conviction" for purposes of this rule without regard to the nature of the plea or whether the applicant received a suspended or deferred sentence;~~

~~(b) has had two or more alcohol-related convictions over any period of time or has had one alcohol-related conviction within the past five years;~~

~~(c) has had any occupational or professional licenses disciplined or has voluntarily surrendered any occupational or professional license in another state or jurisdiction;~~

~~(d) has a pending or completed legal or disciplinary action involving licensure in this state, another state, or jurisdiction;~~

~~(e) has a supervisor or proposed supervisor who has had an occupational or professional license disciplined or voluntarily surrendered in this state or another jurisdiction; or~~

~~(f) has presented an application with any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.~~

~~(3) An application for naturopathic physician licensure must be considered nonroutine in nature requiring board review and approval prior to issuance of the license if it discloses:~~

~~(a) that the applicant has a prior felony conviction of any nature or a prior misdemeanor conviction relating to sex, drugs, or violence. Any disposition in a~~

~~criminal case other than acquittal will be deemed a "conviction" for purposes of this rule without regard to the nature of the plea or whether the applicant received a suspended or deferred sentence;~~

~~(b) that the applicant has had two or more alcohol related convictions over any period of time or has had one alcohol related conviction within the past five years;~~

~~(c) that the applicant's health care professional license was disciplined or was voluntarily surrendered in another state or jurisdiction;~~

~~(d) that the applicant's education program does not have board approval and accreditation or preaccreditation status from the Council on Naturopathic Medicine Education (CNME);~~

~~(e) that the applicant passed a licensing examination other than NPLEX; or~~

~~(f) any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.~~

AUTH: 37-1-131, ~~37-26-201, 37-27-105~~, MCA

IMP: 37-1-101, 37-1-131, ~~37-26-401, 37-26-402, 37-26-403, 37-26-405, 37-27-201, 37-27-203, 37-27-205~~, MCA

NEW RULE I (ARM 24.111.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

ALTERNATIVE HEALTH CARE BOARD  
SHEEHAN EDNIE-ROSEN, DEM  
PRESIDING OFFICER

#### BOARD OF ARCHITECTS AND LANDSCAPE ARCHITECTS

NEW RULE II (ARM 24.114.xxx) NONROUTINE APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

NEW RULE III (ARM 24.114.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF ARCHITECTS AND  
LANDSCAPE ARCHITECTS  
DALE NELSON  
PRESIDENT

BOARD OF ATHLETIC TRAINERS

24.118.502 DEFINITION OF NONROUTINE APPLICATIONS (1) ~~The board considers the following as nonroutine applications for athletic trainer licensure that require full board review and approval: For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.~~

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

~~(a) applications containing any of the criteria in the division's definition of nonroutine application in ARM 24.101.402; or~~

~~(b) applications that disclose:~~

~~(i) an applicant having prior felony convictions of any nature, or prior misdemeanor convictions relating to sex, drugs, or violence;~~

~~(ii) an applicant having two or more alcohol-related convictions over any period of time, or one alcohol-related conviction within the past five years; or~~

~~(iii) that an applicant's professional license in this or another state or jurisdiction was disciplined or voluntarily surrendered.~~

AUTH: 37-1-131, ~~37-36-102~~, MCA

IMP: 37-1-101, 37-1-131, MCA

NEW RULE IV (ARM 24.118.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF ATHLETIC TRAINERS  
JANET TRETHERWEY  
CHAIRPERSON

BOARD OF BARBERS AND COSMETOLOGISTS

24.121.406 NONROUTINE APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

(3) A booth rental application is routine if the applicant holds a current practice license and is not restricted from working as a booth renter.

~~(1) The board shall review an application containing any of the following criteria:~~

~~(a) criminal convictions and charges:~~

~~(i) a felony conviction of any nature if the sentence imposed for any such conviction has not been fully discharged or if the conviction was entered within the past ten years;~~

~~(ii) any conviction involving use or sale of drugs, fraud, deceit, or theft, pursuant to 37-1-316(1), MCA, if the sentence imposed for any such conviction has not been fully discharged or if the conviction was entered within the past five years;~~

~~(iii) a misdemeanor conviction relating to sex or violence, or three or more misdemeanor convictions if the sentence imposed for any such conviction has not been fully discharged or if the convictions were entered within the past five years;~~

~~(iv) a pending criminal charge if, as a conviction, it would cause the application to be "nonroutine" under (a)(i) through (iii); or~~

~~(v) for the purposes of this rule, a criminal charge resulting in a deferred sentence that has not been discharged as of the date of application is considered a conviction for purposes of determining whether the application is nonroutine. Misdemeanor traffic convictions not involving alcohol or drugs will not cause an application to be considered nonroutine.~~

~~(b) other unprofessional conduct:~~

~~(i) an investigation, complaint, consent agreement, or disciplinary action involving the applicant that either:~~

~~(A) resulted in a license or license application that was revoked, suspended, denied, withdrawn, or surrendered; or that was placed on probation or subjected to any condition or restriction for the period of two or more years; or~~

~~(B) resulted in a license or license application that is currently encumbered by a disciplinary sanction, meaning conditions imposed on the license have not been satisfied or are ongoing if the action was based upon the applicant's underlying conduct and not based on another state's or jurisdiction's disciplinary action; or~~

~~(ii) the applicant was diagnosed with an addiction or participated in a chemical dependency or other addiction treatment program within three years of submitting application. However, if treatment has been successfully completed and any recommended follow-up is being complied with, the department may consider the application routine;~~

~~(iii) the applicant answered "yes" on the application regarding a diagnosis for a physical condition or mental health disorder involving a potential health risk to the public; or~~

~~(iv) for a salon operating on a temporary practice permit, an inspection report reflecting three or more sanitation violations, prohibited items, use of machines outside of scope, permitting unlicensed practice, or other grounds constituting unprofessional conduct.~~

~~(c) education:~~

~~(i) the applicant's barbering, cosmetology, electrology, esthetics, or manicuring education was obtained in a foreign jurisdiction other than Canada;~~

~~(d) application discrepancies:~~

- ~~(i) failure to accurately and completely respond to a question on the application form. The department may treat an application as routine under this subsection if the department receives an adequate explanation for such a failure;~~
- ~~(ii) the department may, but is not required to, submit an otherwise "routine" application for board review if:
  - ~~(A) questions arise whether the applicant meets all requirements for licensure, including, but not limited to, the demonstration of good moral character; or~~
  - ~~(B) inconsistencies, irregularities, or other matters of concern, including but not limited to allegations of unlicensed practice, exist in the application or related documentation;~~
  - ~~(e) with the exception of instructor and school licenses, an application will be deemed "routine" if it is "nonroutine" under this policy, based on information previously considered by the board, relative to a prior application that resulted in the issuance of an unencumbered license or if it resulted in a complaint that was resolved without discipline; or~~
  - ~~(f) a booth rental application is always routine, so long as the applicant holds a current practice license and is not restricted from working as a booth renter.~~~~

AUTH: 37-1-131, ~~37-31-203~~, MCA  
IMP: 37-1-101, 37-1-131, ~~37-31-203~~, MCA

REASON: To be consistent with ARM 24.121.1301, the board is clarifying in (3) that all alleged violations against a booth renter are processed against the practice license.

NEW RULE V (ARM 24.121.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with the following modifications:

- (a) Violent misdemeanor or felony convictions in (6) are routine if the conviction date is more than ten years before the application date, unless the applicant is still in custody due to the conviction or staff otherwise determines the applicant engaged in egregious conduct implicating risk to public safety; and/or
- (b) The criteria described in ARM 24.121.406(3).

AUTH: 37-1-131, MCA  
IMP: 37-1-101, 37-1-131, MCA

REASON: The board determined it is reasonably necessary to redefine the period of time in which the board will require review of violent misdemeanors or felony convictions relevant to licensure in (1)(a). This change will further implement licensing reformation which recognizes that even though an applicant may have committed violent felonies or misdemeanors in the past, applicants can and do reform their lives. The board concluded that requiring all prior offenders to appear before the board prior to license issuance fails to acknowledge that potential. The board will still maintain the ability to require board review for egregious conduct implicating risks to public safety.

It is reasonably necessary to include the criteria cited in (1)(b) because the board is again clarifying that all alleged violations against a booth renter, including allegations involving criminal convictions, are processed against the practice license.

BOARD OF BARBERS AND  
COSMETOLOGISTS  
ANGELA PRINTZ  
PRESIDENT

BOARD OF BEHAVIORAL HEALTH

NEW RULE VI (ARM 24.219.xxx) NONROUTINE APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

AUTH: 37-1-131, MCA  
IMP: 37-1-101, 37-1-131, MCA

NEW RULE VII (ARM 24.219.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA  
IMP: 37-1-101, 37-1-131, MCA

BOARD OF BEHAVIORAL HEALTH  
ELAINE MARONICK, LCPC, LMFT  
CHAIRPERSON

BOARD OF CHIROPRACTORS

24.126.301 DEFINITIONS (1) through (4) remain the same.

~~(5) "Nonroutine application" means an application submitted to the division in which the application is defined as nonroutine either by ARM 24.101.402 or by these rules.~~

~~(a) A nonroutine application means that according to the application, the applicant reveals that one or more of the following scenarios apply to the applicant:~~

~~(i) they have voluntarily surrendered, cancelled, forfeited, or failed to renew a license as a result of any of the following:~~

~~(A) a complaint filed against them;~~

~~(B) a consent agreement; or~~

~~(C) an investigation or disciplinary proceedings;~~

~~(ii) they have voluntarily or involuntarily surrendered their privileges to provide services to health maintenance organizations, Medicare/Medicaid, or other payers, or have voluntarily or involuntarily surrendered hospital privileges, health~~



~~maintenance organization participation, Medicare/Medicaid, or other payers during a pending investigation or in anticipation of an investigation, or have had such privileges reprimanded, denied, restricted, suspended, placed on probation, revoked, or subjected to other sanction or action;~~

~~(iii) they have been expelled from or asked to resign from any professional organization, or have been censured by a professional organization;~~

~~(iv) they have had civil or criminal charges pending or have pleaded guilty, forfeited bond, or been convicted of a crime (including plea of no contest or deferred prosecution), whether or not an appeal is pending, with the exception of the following:~~

~~(A) minor in possession charges or convictions;~~

~~(B) one misdemeanor committed more than five years ago; or~~

~~(C) traffic offenses, unless the illegal use or possession of alcohol or drugs are involved;~~

~~(v) the applicant's health care professional license was disciplined or was voluntarily surrendered in another state or jurisdiction; and~~

~~(vi) there are inconsistencies in the application or in the supporting documentation of the application, or any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.~~

(6) remains the same but is renumbered (5).

AUTH: 37-1-131, 37-1-319, 37-12-201, MCA

IMP: 37-1-131, 37-12-104, 37-12-201, MCA

NEW RULE VIII (ARM 24.126.xxx) NONROUTINE APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

NEW RULE IX (ARM 24.126.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF CHIROPRACTORS  
MARCUS NYNAS, DC  
PRESIDENT

BOARD OF CLINICAL LABORATORY SCIENCE PRACTITIONERS

24.129.606 NONROUTINE APPLICATIONS (1) Applications for licensure that disclose any of the following circumstances are nonroutine and must be reviewed and approved by the board before the license may be issued: For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

~~(a) the applicant has a prior felony conviction within the previous ten years. Any disposition in a criminal case other than acquittal will be deemed a "conviction" for purposes of this rule without regard to the nature of the plea or whether the applicant received a suspended or deferred sentence;~~

~~(b) the applicant has pled guilty or no contest to or been convicted of two or more misdemeanors, other than minor traffic violations, within the past five years, regardless of whether an appeal is pending and regardless of whether the sentence was suspended or deferred;~~

~~(c) any of the applicant's occupational or professional licenses have been disciplined or an application for a license was denied in this state, another state, or jurisdiction;~~

~~(d) the applicant has a pending legal or disciplinary action involving licensure in this state, another state, or jurisdiction;~~

~~(e) the applicant has been a respondent in a complaint for unlicensed practice of clinical laboratory science in this state, another state, or jurisdiction that led to communication from the licensing authority to cease and desist or an injunctive action; or~~

~~(f) any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.~~

AUTH: 37-1-131, ~~37-34-201, 37-34-303~~, MCA

IMP: 37-1-101, 37-1-131, ~~37-34-303, 37-34-305~~, MCA

NEW RULE X (ARM 24.129.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF CLINICAL LABORATORY  
SCIENCE PRACTITIONERS  
MATTHEW KALANICK  
CHAIRPERSON

BOARD OF DENTISTRY

24.138.304 DEFINITION OF NONROUTINE APPLICATIONS

(1) "Nonroutine application" means an application defined as nonroutine by ARM 24.101.402 or this rule. For the purpose of processing nonroutine applications,

the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

~~(a) A nonroutine application reveals that the applicant:~~

~~(i) voluntarily surrendered, canceled, forfeited, or failed to renew a license as a result of any of the following:~~

~~(A) a complaint filed against the applicant;~~

~~(B) a consent agreement; or~~

~~(C) an investigation or disciplinary proceedings;~~

~~(ii) voluntarily or involuntarily surrendered privileges to provide services to health maintenance organizations, Medicare/Medicaid, or other payers, or voluntarily or involuntarily surrendered hospital privileges, health maintenance organization participation, Medicare/Medicaid, or other payers during a pending investigation or in anticipation of an investigation, or had such privileges reprimanded, denied, restricted, suspended, placed on probation, revoked, or subjected to other sanction or action;~~

~~(iii) was expelled from or asked to resign from any professional organization, or was censured by a professional organization;~~

~~(iv) had civil or criminal charges pending or pleaded guilty, forfeited bond, or was convicted of a crime (including plea of no contest or deferred prosecution), whether an appeal is pending, with the exception of the following:~~

~~(A) minor in possession charges or convictions;~~

~~(B) one misdemeanor committed more than five years ago; or~~

~~(C) traffic offenses, unless the illegal use or possession of alcohol or drugs was involved; or~~

~~(v) had a health care professional license disciplined or voluntarily surrendered in this state or another state or jurisdiction.~~

~~(b) Department staff may also determine that applications with inconsistencies or substantive irregularities require board review and approval prior to license issuance.~~

~~(2) The board may also consider applications as nonroutine in the following instances:~~

~~(a) the applicant does not meet the license criteria in the specified statute or rule regarding licensure;~~

~~(b) the dental hygiene credentialing applicant does not meet the practice hours required by board rule;~~

~~(c) the applicant has graduated from a nonaccredited school as defined by board statute or rule; or~~

~~(d) any other criteria as determined by the board.~~

AUTH: 37-1-131, ~~37-4-205, 37-29-201~~, MCA

IMP: 37-1-101, 37-1-131, ~~37-4-301, 37-4-402, 37-29-306~~, MCA

NEW RULE XI (ARM 24.138.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with the following modifications:

(a) Nonviolent misdemeanor convictions involving driving under the influence (DUI) in (5)(a) are routine if the conviction date is more than five years before the application date, unless the applicant is still in custody due to the conviction.

(b) Nonviolent felony convictions under (5)(b) are routine if the conviction date is more than ten years before the application date, unless the applicant is still in custody due to the conviction.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

REASON: The board determined that misconduct by its licensees poses an acute risk to public safety given the intimate nature of dental practice and the trust placed in licensees by their patients. Therefore, the board is redefining the period of time in which the board will require review of nonviolent misdemeanors or felony convictions relevant to licensure.

The board is particularly concerned about alcohol and drug abuse by potential licensees. In the board's experience, substance abuse issues account for a significant portion of applicant misconduct, and also in licensees before the board in disciplinary matters. Furthermore, licensed dentists and dental hygienists often have access to controlled substances through their professions. Dentists often have the authority to prescribe controlled substances which increases the risks to the public posed by licensees with substance abuse problems. Because recent DUI convictions are potentially indicative of a substance abuse problem, and given the risks posed by such problems, the board determined it is reasonably necessary to review applicants with nonviolent misdemeanor DUI convictions within the past five years. The board concluded that five years without a DUI conviction is a sufficiently lengthy period to ensure rehabilitation and safe practices and is adding (1)(a) accordingly.

The risks associated with substance abuse also form part of the basis for the board's decision concerning nonviolent felony convictions. In particular, felony drug convictions may indicate a serious substance abuse problem meriting board review. Moreover, the board concluded that other nonviolent felony offenses also are potentially significant to public safety in the context of dental practice. Dental patients are vulnerable to licensees not only physically but also financially, as licensees often have access to patients' sensitive medical and financial information. In addition, as Medicaid providers, many licensees occupy a position of trust relative to the federal government and federal taxpayers. These circumstances make the honesty and integrity of dental licensees especially important. Many nonviolent and non-drug-related felony offenses relate to dishonesty, deception, or the misappropriation or destruction of another's property. For these reasons, the board is adding (1)(b) to require review of applicants with nonviolent felony convictions within the past ten years. The board concluded that ten years without a nonviolent felony conviction is a sufficiently lengthy period to ensure an applicant is rehabilitated and can safely practice.

BOARD OF DENTISTRY  
LESLIE HAYES, DDS

PRESIDENT

STATE ELECTRICAL BOARD

24.141.509 NONROUTINE APPLICATIONS (1) ~~Applications for initial licensure or renewal that disclose any of the following circumstances are nonroutine and must be reviewed and approved by the board before the license may be issued or renewed: For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.~~

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

~~(a) the applicant's electrician's license was disciplined or the application for an electrician's license was denied in another state or jurisdiction;~~

~~(b) the applicant has been convicted of a felony for which the applicant is currently on probation or is otherwise under supervision;~~

~~(c) the applicant has been convicted of any of the following felonies committed within the past five years, regardless of whether the applicant is currently on probation:~~

~~(i) property crimes including, but not limited to, theft or burglary; or~~

~~(ii) crimes of violence including, but not limited to, assault or rape.~~

~~(2) For purposes of this rule, any judgment in a criminal case other than acquittal will be deemed a "conviction" for purposes of this rule, without regard to the nature of the plea or whether the applicant received a suspended or deferred sentence.~~

AUTH: 37-1-131, ~~37-68-201~~, MCA

IMP: 37-1-101, 37-1-131, ~~37-68-201~~, ~~37-68-311~~, MCA

NEW RULE XII (ARM 24.141.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

STATE ELECTRICAL BOARD  
HARRY FREEBOURN  
PRESIDENT

BOARD OF FUNERAL SERVICE

NEW RULE XIII (ARM 24.147.xxx) NONROUTINE APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

AUTH: 37-1-131, MCA  
IMP: 37-1-101, 37-1-131, MCA

NEW RULE XIV (ARM 24.147.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA  
IMP: 37-1-101, 37-1-131, MCA

BOARD OF FUNERAL SERVICE  
JOHN TARR  
PRESIDING OFFICER

BOARD OF HEARING AID DISPENSERS

NEW RULE XV (ARM 24.150.xxx) NONROUTINE APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

AUTH: 37-1-131, MCA  
IMP: 37-1-101, 37-1-131, MCA

NEW RULE XVI (ARM 24.150.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA  
IMP: 37-1-101, 37-1-131, MCA

BOARD OF HEARING AID  
DISPENSERS  
MICHAEL SPINTI  
PRESIDING OFFICER

BOARD OF MASSAGE THERAPY

24.155.613 NONROUTINE APPLICATIONS (1) ~~An application for licensure as a massage therapist must be considered nonroutine in nature requiring board review and approval prior to issuance of the license if the application discloses:~~ For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference with the following modification:

- ~~(a) a total of three or more currently pending charges or past convictions of misdemeanor crimes related to the practice of massage therapy or involving violence, use or sale of drugs, fraud, deceit, or theft if the applicant was sentenced for the past convictions within the five years before the board received the application;~~
- ~~(b) a pending charge of any felony crime or a past conviction of any felony crime for which the applicant was either sentenced within the ten years before the date the board received the application or for which the sentence has not been fully satisfied and discharged;~~
- ~~(c) a pending charge of any crime or a past conviction of any crime relating to sex;~~
- ~~(d) that any professional license held by the applicant was disciplined or was voluntarily surrendered in another state or jurisdiction, or that the applicant's massage therapy license was denied in another state or jurisdiction;~~
- ~~(e) that the applicant's education program does not clearly meet the board's requirements;~~
- ~~(f) that the applicant passed a licensing examination other than MBLEx, NCETMB, NESL, or NCETM;~~
- ~~(g) (a) that the applicant has Applications in which the applicant has, in the preceding five years, been a respondent in a complaint for unlicensed practice of massage therapy that led to a cease and desist letter or an injunctive action are considered nonroutine. ; or~~
- ~~(h) any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.~~
- ~~(2) Any disposition in a criminal case other than acquittal will be deemed a "conviction" for purposes of this rule without regard to the nature of the plea or whether the applicant received a suspended or deferred sentence.~~
- (2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

AUTH: 37-1-131, ~~37-33-405~~, MCA

IMP: 37-1-101, 37-1-131, ~~37-33-501, 37-33-502~~, MCA

REASON: The board determined it is reasonably necessary to incorporate the division's definitions with the addition of a five-year look back for involvement in unlicensed practice complaints. In comparison to other professions, this profession experiences a higher volume of applicants who were previously respondents in complaints regarding the unlicensed practice of massage therapy. The board believes including these applications as nonroutine and requiring board review for licensure will enhance the public's protection.

NEW RULE XVII (24.155.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF MASSAGE THERAPY  
ELIZABETH CAVIN, ND  
CHAIRPERSON

BOARD OF MEDICAL EXAMINERS

NEW RULE XVIII (ARM 24.156.4XX) NONROUTINE APPLICATIONS

(1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

NEW RULE XIX (ARM 24.156.4XX) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with the following modification:

(a) Nonviolent misdemeanor convictions involving driving under the influence (DUI) in (5)(a) are routine if the conviction date is more than five years before the application date, unless the applicant is still in custody due to the conviction.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

REASON: In Montana, first, second, and third DUIs are misdemeanor offenses. Under ARM 24.101.406, an applicant could have a second or third offense DUI two years and one day prior to application, which implicates substance abuse issues, and the board would be unaware of the potential need for monitoring of the applicant to protect the public. Second, scientific studies have shown that the risk of relapse for individuals with substance abuse issues remains high after only two years of sobriety but drops significantly after five years. If an applicant maintains sobriety for five years prior to application, the board concluded the applicant has demonstrated a greater degree of rehabilitation and is at lower risk of relapse than an applicant with only two years' sobriety. Licensed physicians, podiatrists, physician assistants, and emergency care providers also have significant access to, and possible prescriptive authority for, controlled substances through their professions which could increase the relapse risk and, in turn, endanger public safety and welfare. Finally, ECPs who regularly operate emergency response vehicles and have substance abuse issues are highly concerning to the board in the interest of public safety and welfare. The board determined it is reasonably necessary to review applicants with misdemeanor DUI convictions within the past five years rather than the past two.

BOARD OF MEDICAL EXAMINERS  
TAMMY SCOTT, PA-C



PRESIDENT

BOARD OF NURSING

24.159.403 NONROUTINE APPLICATIONS (1) ~~The department may investigate license applications, and require the release of pertinent information or records, to assist the board in determining whether an applicant: For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.~~

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

~~(a) meets licensure qualifications;~~

~~(b) is physically or mentally impaired through habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance to the extent that the use impairs the applicant in the performance of licensed professional duties;~~

~~(c) is impaired by mental illness or chronic physical illness that renders the applicant unable to practice nursing with reasonable skill and safety; or~~

~~(d) has past behavior constituting grounds for disciplinary action and denial or issuance of a probationary license per 37-1-137, MCA.~~

~~(2) The board shall review and make final licensing decisions on all nonroutine applications, which are applications having one or more of the following:~~

~~(a) license discipline, involving any professional license of the applicant, in this state, or another state, territory, country, or jurisdiction, that:~~

~~(i) is unresolved at the time of board review; or~~

~~(ii) resulted in conditions or restrictions against the license or the licensee that are not yet satisfied or discharged;~~

~~(b) voluntary or involuntary surrender of, or the placement of restrictions on the applicant's:~~

~~(i) hospital privileges;~~

~~(ii) health maintenance organization participation;~~

~~(iii) Medicaid/Medicare privileges; or~~

~~(iv) privilege to prescribe or dispense medications;~~

~~(c) diagnosis or other information indicating the applicant's physical or mental impairment by mental illness or chronic physical illness, and for which:~~

~~(i) treatment is ongoing; or~~

~~(ii) symptoms currently exist;~~

~~(d) diagnosis or other information indicating the applicant's physical or mental impairment by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance;~~

~~(e) the applicant's participation in a medical assistance program, known as NAP per subchapter 20 of these rules, or in an addiction treatment program, in this or any other state, territory, or jurisdiction within the past five years;~~

~~(f) the applicant's conviction of:~~

~~(i) a felony crime, unless the conviction occurred more than ten years prior to the date of application and all court-ordered conditions have been fully satisfied or discharged;~~

~~(ii) any crime involving the abuse of children, the elderly, or the disabled, or involving sexual abuse or assault;~~

~~(iii) any crime involving fraud, deceit, theft, or violence, or directly related to or committed during the course of the applicant's licensed practice, unless the conviction occurred more than five years ago and all court-ordered conditions have been fully satisfied or discharged; or~~

~~(iv) two or more misdemeanor convictions involving the use or sale of drugs or alcohol within five years of the date of application;~~

~~(g) the applicant settled or was adjudged liable for a claim of malpractice; or~~

~~(h) the applicant is unable to produce documentation of licensure requirements.~~

~~(3) An application deemed "nonroutine" under (2), based upon matters involving criminal convictions related to the use or sale of drugs or alcohol, substance use disorder/chemical dependency, or mental health, shall be resolved as follows:~~

~~(a) The department may issue a license to an applicant who:~~

~~(i) has satisfied or discharged all conditions of court-ordered sanctions;~~

~~(ii) was not subject to any finding of substance use disorder/chemical dependency; and~~

~~(iii) had no more than two drug or alcohol-related misdemeanor convictions within the past five years.~~

~~(b) The department may issue a license to an applicant with a finding of substance use disorder/chemical dependency if:~~

~~(i) the applicant completed all treatment requirements at least five years ago, including but not limited to monitoring requirements of this or any other state, territory, country, or jurisdiction; and~~

~~(ii) no relapses, no criminal charges filed, and no legal interventions in the past five years, including but not limited to domestic violence or employment actions.~~

~~(c) The Nurses Assistance Program (NAP) shall review all applications that do not result in issuance of a license under (a) or (b) as follows:~~

~~(i) NAP may seek additional documentation from the applicant;~~

~~(ii) NAP may request an applicant to consent to assessments and evaluations; and~~

~~(iii) NAP shall provide recommendations and rationale to the board including:~~

~~(A) an applicant's suitability for the NAP alternative track; or~~

~~(B) the necessity for further assessments or evaluation for substance use disorder/chemical dependency or mental health issues.~~

~~(4) The department may, but is not required to, submit any routine application for board review if the department finds inconsistencies, irregularities, or other matters of concern in the application or related documentation.~~

AUTH: 37-1-131, ~~37-8-202~~, MCA

IMP: 37-1-101, 37-1-131, ~~37-8-405, 37-8-406, 37-8-415, 37-8-416, 37-8-421~~, MCA

NEW RULE XX (ARM 24.159.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with the following modifications:

(a) Nonviolent misdemeanor convictions involving use or sale of drugs or alcohol in (5)(a) are nonroutine and will be processed under NEW RULE XXI (ARM 24.159.xxx) if those convictions totaled two or more for which the conviction date is five years or less from the application date.

(b) Nonviolent felony convictions involving use or sale of drugs or alcohol in (5)(b) are nonroutine and will be processed under NEW RULE XXI (ARM 24.159.xxx) if the conviction date is ten years or less from the application date.

(c) Violent misdemeanor or felony convictions in (6) are routine if the conviction date is more than ten years before the application date, unless the applicant is still in custody due to the conviction or staff otherwise determines the applicant engaged in egregious conduct implicating risk to public safety.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

REASON: See REASON for NEW RULE XXI regarding proposed (1)(a) and (b).

The board determined it is reasonably necessary to redefine the period of time in which the board will require review of violent misdemeanors or felony convictions relevant to licensure in (1)(c). This change will further implement licensing reformation which recognizes that even though an applicant may have committed violent felonies or misdemeanors in the past, applicants can and do reform their lives. The board concluded that requiring all prior offenders to appear before the board prior to license issuance fails to acknowledge that potential. The board will still maintain the ability to require board review for egregious conduct implicating risks to public safety.

NEW RULE XXI (ARM 24.159.xxx) APPLICANTS WITH EVIDENCE OF IMPAIRMENT BY SUBSTANCE USE (1) An application deemed "nonroutine" under ARM 24.159.403 or NEW RULE XX (ARM 24.159.xxx), based upon matters involving criminal convictions related to the use or sale of drugs or alcohol, or substance use disorder/chemical dependency, shall be resolved as follows:

(a) The department may issue a license to an applicant who:

(i) has satisfied or discharged all conditions of court-ordered sanctions; and

(ii) was not subject to any finding of substance use disorder/chemical dependency.

(b) The department may issue a license to an applicant with a finding of substance use disorder/chemical dependency if:

(i) the applicant completed all treatment requirements at least five years before the application date or successfully completed all monitoring requirements of this or any other state, territory, country, or jurisdiction; and

(ii) no criminal charges were filed, and no legal interventions occurred in the past five years, including but not limited to domestic violence or employment actions.

(c) The Nurses Assistance Program (NAP) shall review all applications that do not result in issuance of a license under (a) or (b) as follows:

- (i) NAP may seek additional documentation from the applicant;
- (ii) NAP may request an applicant to consent to assessments and evaluations; and
- (iii) NAP shall provide recommendations and rationale to the board including:
  - (A) an applicant's suitability for the NAP alternative track; or
  - (B) the necessity for further assessments or evaluation for substance use disorder/chemical dependency or mental health issues.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

REASON: The board recognizes substance use issues in licensees and license applicants that are distinctive to the practice of nursing. These issues gravely impact public health, safety, and welfare as it applies to the performance of nursing duties. When an application contains information of past substance use issues that may impair the applicant's practice, the board seeks to balance its mission to protect the public with recognition of the applicant's rehabilitative efforts and the therapeutic value of gainful employment. Therefore, the board is defining parameters for referring applicants to the board's assistance program to effectively investigate whether the applicant's substance use may constitute unprofessional conduct impairing the applicant's ability to practice safely. These clear parameters provide notice of the process to applicants and also assist department staff in determining nonroutine applications.

BOARD OF NURSING  
SHARON SWEENEY FEE, PHD, RN, CNE  
PRESIDENT

#### BOARD OF NURSING HOME ADMINISTRATORS

24.162.503 NONROUTINE APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

~~(1) (2) Applications for active or inactive licensure that disclose any of the following circumstances are nonroutine and Nonroutine applications must be reviewed and approved by the board before the a license may be issued:~~

~~(a) the applicant has a prior felony conviction;~~

~~(i) For purposes of this rule, "conviction" includes any disposition in a criminal case other than acquittal, without regard to the nature of the plea or whether the applicant received a suspended or deferred sentence;~~

~~(b) the applicant has pled guilty or no contest to, or has been convicted of two or more misdemeanors, other than minor traffic violations, within the past five years, regardless of whether an appeal is pending and regardless of whether the sentence was suspended or deferred;~~

~~(c) any of the applicant's occupational or professional licenses have been disciplined, or an application for a license was denied in this state, another state, or jurisdiction;~~

~~(d) the applicant has a pending or completed legal or disciplinary action involving licensure in this state, another state, or jurisdiction;~~

~~(e) the applicant has been a respondent in a complaint for unlicensed practice of nursing home administration in this state, another state, or jurisdiction that led to communication from the licensing authority to cease and desist or an injunctive action; or~~

~~(f) the application contains any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.~~

AUTH: 37-1-131, ~~37-9-203, 37-9-301~~, MCA

IMP: 37-1-101, 37-1-131, ~~37-9-203, 37-9-301~~, MCA

NEW RULE XXII (ARM 24.162.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF NURSING HOME  
ADMINISTRATORS  
KATHRYN BEATY  
PRESIDING OFFICER

#### BOARD OF OCCUPATIONAL THERAPY PRACTICE

24.165.302 DEFINITIONS For the purpose of this chapter the following definitions apply:

(1) through (7) remain the same.

~~(8) "Nonroutine application" means an application for occupational therapist or occupational therapy assistant licensure that is considered nonroutine either by ARM 24.101.402 or these rules. Nonroutine applications require board review and approval prior to issuance of the license if the application shows:~~

~~(a) the applicant has a prior felony conviction of any nature or a prior misdemeanor conviction relating to sex, drugs, or violence. Any disposition in a criminal case other than acquittal will be deemed a "conviction" for purposes of this rule without regard to the nature of the plea or whether the applicant received a suspended or deferred sentence;~~

~~(b) the applicant has had two or more alcohol-related convictions over any period of time, or has had one alcohol-related conviction within the past five years;~~

~~(c) the applicant's health care professional license was disciplined or was voluntarily surrendered in this state or another state or jurisdiction; or~~

~~(d) any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.~~

(9) through (12) remain the same but are renumbered (8) through (11).

AUTH: 37-1-131, 37-24-201, 37-24-202, MCA  
IMP: 37-1-101, 37-24-103, 37-24-105, 37-24-106, 37-24-107, 37-24-108,  
MCA

NEW RULE XXIII (ARM 24.165.xxx) NONROUTINE APPLICATIONS

(1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

AUTH: 37-1-131, MCA  
IMP: 37-1-101, 37-1-131, MCA

NEW RULE XXIV (ARM 24.165.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA  
IMP: 37-1-101, 37-1-131, MCA

BOARD OF OCCUPATIONAL  
THERAPY PRACTICE  
TWYLLA KIRCHEN, OTR/L  
PRESIDING OFFICER, ACTING

BOARD OF OPTOMETRY

24.168.407 NONROUTINE APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

~~(1)~~ (2) Applications for licensure that disclose any of the following circumstances are nonroutine and Nonroutine applications must be reviewed and approved by the board before the a license may be issued:

- ~~(a) the applicant has ever been convicted of a felony;~~
- ~~(b) the applicant has pled guilty or no contest to or been convicted of two or more misdemeanors, other than minor traffic violations, within the past five years, regardless of whether an appeal is pending and regardless of whether the sentence was suspended or deferred;~~
- ~~(c) any of the applicant's occupational or professional licenses have been disciplined or an application for a license was denied in any state or jurisdiction;~~
- ~~(d) a pending or completed legal or disciplinary action involving licensure in this state, another state, territory, or jurisdiction; or~~
- ~~(e) any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.~~

AUTH: 37-1-131, ~~37-10-202~~, MCA

IMP: 37-1-101, 37-1-131, MCA

NEW RULE XXV (ARM 24.168.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF OPTOMETRY  
DOUG KIMBALL, O.D.  
PRESIDENT

### BOARD OF OUTFITTERS

24.171.403 NONROUTINE APPLICATIONS (1) ~~A nonroutine application means an application submitted to the board in which the applicant has one or more of the following: For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.~~

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

~~(a) past convictions or pending charges of state or federal laws relative to fish, wildlife, or parks, but only if those convictions:~~

~~(i) ever resulted in the loss of privileges to hunt or fish;~~

~~(ii) totaled two or more for which the applicant was sentenced no earlier than five years before the board received the application; or~~

~~(iii) total more than three regardless of when the applicant was sentenced;~~

~~(b) a total of three or more currently pending charges or past convictions of misdemeanor crimes if the applicant was sentenced for the past convictions no earlier than five years before the board received the application;~~

~~(c) a diagnosis or other information indicating physical or mental impairment by mental illness or chronic physical illness that may adversely affect the applicant's ability to provide services safely, but only if either the treatment for which is ongoing or the symptoms of which currently exist;~~

~~(d) a pending charge of any felony crime or a past conviction of any felony crime for which the applicant was either sentenced no earlier than ten years before the date the board received the application or for which the sentence has not been fully satisfied and discharged;~~

~~(e) traffic-related convictions if the applicant is deemed a habitual offender on or after the date the board first received the application; or~~

~~(f) an outfitter or guide license in this or any other state that was ever suspended, revoked, surrendered, or subjected to restrictions or other sanctions of a similar gravity.~~

~~(2) The department may, but is not required to, submit any routine application for board review if the department finds inconsistencies, irregularities, or other~~

matters of concern in the application or in the documentation related to the application.

~~(3) For the purposes of this rule, any reference to "pending charges" shall include, but not be limited to, deferred prosecutions that have not been dismissed as of the date that the application is first submitted to the board.~~

(4) ~~(3)~~ Applications that are nonroutine for an outfitter license for the same reason that they were nonroutine as a guide license are, ~~nonetheless,~~ also nonroutine for the outfitter license, which is a privilege to practice at a higher level of public trust.

AUTH: 37-1-131, ~~37-47-201~~, MCA

IMP: 37-1-101, 37-1-131, ~~37-47-201~~, MCA

NEW RULE XXVI (ARM 24.171.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with the following modifications:

(a) Nonviolent misdemeanor and felony convictions in (5) involving violations of laws relative to fish, wildlife, and parks are nonroutine if those convictions:

(i) ever resulted in the loss of privileges to hunt or fish; or

(ii) totaled two or more for which the conviction date is more than five years before the board received the application.

(b) Violent misdemeanor or felony convictions in (6) are routine if the conviction date is more than ten years before the application date, unless the applicant is still in custody due to the conviction or staff otherwise determines the applicant engaged in egregious conduct implicating risk to public safety.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

REASON: It is reasonably necessary to modify the department's rule in (1)(a) to allow more scrutiny for types of convictions that relate to the practice of outfitting and guiding. Under 37-47-343, MCA, the board has specific statutory authority when determining whether to grant or deny a license to consider convictions or bond forfeitures for fish and game violations. Therefore, the board is deviating from the standard department rule on criminal convictions to recognize its duty to consider these violations while also recognizing that the length of time since convictions were entered may show evidence of rehabilitation.

The board determined it is reasonably necessary to redefine the period of time in which the board will require review of violent misdemeanors or felony convictions relevant to licensure in (1)(b). This change will further implement licensing reformation which recognizes that even though an applicant may have committed violent felonies or misdemeanors in the past, applicants can and do reform their lives. The board concluded that requiring all prior offenders to appear before the board prior to license issuance fails to acknowledge that potential. The board will still maintain the ability to require board review for egregious conduct implicating risks to public safety.



BOARD OF OUTFITTERS  
JOHN WAY  
CHAIRPERSON

BOARD OF PHARMACY

NEW RULE XXVII (ARM 24.174.xxx) NONROUTINE APPLICATIONS

(1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

(3) A new application submitted by a business entity is nonroutine when the specific business or facility location applying for licensure, not the entire corporation or parent company, meets any of the nonroutine criteria established by ARM 24.101.402.

(a) A change of ownership application is nonroutine when the new owner listed on the application meets any of the nonroutine criteria established ARM 24.101.402.

(b) A change of location application is routine, provided the applicant meets the requirements in ARM 24.174.803, ARM 24.174.1004, or ARM 24.174.1207.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

REASON: It is reasonably necessary to modify the department's definitions by incorporating nonroutine rules regarding business entities, as the board licenses both individuals and entities and the definition of nonroutine in ARM 24.101.402 does not address business entities.

NEW RULE XXVIII (ARM 24.174.X XX) APPLICANTS WITH CRIMINAL CONVICTIONS

(1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF PHARMACY  
TONY KING, RPh  
PRESIDENT

BOARD OF PHYSICAL THERAPY EXAMINERS

NEW RULE XXIX (ARM 24.177.xxx) NONROUTINE APPLICATIONS

(1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

AUTH: 37-1-131, MCA  
IMP: 37-1-101, 37-1-131, MCA

NEW RULE XXX (ARM 24.177.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA  
IMP: 37-1-101, 37-1-131, MCA

BOARD OF PHYSICAL THERAPY  
EXAMINERS  
KELSEY WADSWORTH, PT, DPT, OCS  
PRESIDING OFFICER

BOARD OF PLUMBERS

24.180.405 NONROUTINE APPLICATIONS (1) ~~Applications for licensure that disclose any of the following circumstances are nonroutine and must be reviewed and approved by the board before the license may be issued: For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.~~

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

- ~~(a) the applicant has ever been convicted of a felony;~~
- ~~(b) the applicant has pled guilty or no contest to or been convicted of two or more misdemeanors, other than minor traffic violations within the past five years, regardless of whether an appeal is pending and regardless of whether the sentence was suspended or deferred;~~
- ~~(c) any of the applicant's occupational or professional licenses have been disciplined or an application for a license was denied in any state or jurisdiction; or~~
- ~~(d) any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.~~

AUTH: 37-1-131, ~~37-69-202~~, MCA  
IMP: 37-1-101, 37-1-131, MCA

NEW RULE XXXI (ARM 24.180.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA  
IMP: 37-1-101, 37-1-131, MCA

BOARD OF PLUMBERS  
JEFF GRUIZENGA  
PRESIDING OFFICER

BOARD OF PRIVATE SECURITY

24.182.508 NONROUTINE APPLICATIONS (1) ~~The department shall process and issue licenses to all applicants who submit complete and routine applications. Complete applications that are nonroutine must be reviewed by the board to determine licensure. For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.~~

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

~~(2) The board shall review an application containing any of the following criteria:~~

- ~~(a) the applicant's conviction, or pending criminal charge, of:
  - ~~(i) a felony crime, unless the conviction was dismissed by the court;~~
  - ~~(ii) any crime related to the illegal use or possession of a dangerous weapon, unless the conviction was dismissed by the court;~~
  - ~~(iii) a misdemeanor crime involving violence, use or sale of drugs, fraud, deceit, or theft, pursuant to 37-1-316(1), MCA, unless the conviction occurred more than five years before application and all court-ordered conditions have been satisfied, discharged, or dismissed; or~~
  - ~~(iv) two or more misdemeanor crimes that have occurred within five years of application, including the traffic-related crimes of reckless driving, driving under the influence (DUI), and hit-and-run;~~~~
- ~~(b) disciplinary action taken against a professional license held by the applicant in this state, another state, or other jurisdiction, in which:
  - ~~(i) the license was revoked, suspended, voluntarily or involuntarily surrendered, or placed on probation for three or more years; or~~
  - ~~(ii) the license is currently encumbered, meaning conditions imposed on the license have not been satisfied or are ongoing; and~~
  - ~~(iii) the disciplinary action originated in that state or jurisdiction because of the applicant's underlying conduct and not in response to another state or jurisdiction's disciplinary action;~~~~
- ~~(c) the applicant has been court-martialed or received a dishonorable discharge from any armed services branch;~~
- ~~(d) a malpractice judgment has been entered against the applicant related to the practice of private security;~~
- ~~(e) the applicant answered "yes" on the application to being diagnosed with chemical dependency or another addiction, or has participated in a chemical dependency or other addiction treatment program (excluding ACT or similar court-ordered program), any of which have occurred within five years of application;~~
- ~~(f) the applicant answered "yes" on the application regarding a diagnosis for a physical condition or mental health disorder involving potential health risk to the public; or~~

~~(g) the applicant failed to disclose a criminal conviction on the application that was discovered during the background check and the criminal conviction is defined as nonroutine under (a)(i) through (iv):~~

~~(3) The department may, but is not required to, submit an otherwise routine application to the board for review if:~~

~~(a) questions arise whether the applicant meets all requirements for licensure under 37-60-303, MCA, including but not limited to the demonstration of good moral character; or~~

~~(b) inconsistencies, irregularities, or other matters of concern exist in the application or related documentation.~~

AUTH: 37-1-131, ~~37-60-202~~, MCA

IMP: 37-1-101, 37-1-131, ~~37-60-202, 37-60-303, 37-60-304~~, MCA

NEW RULE XXXII (ARM 24.182.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF PRIVATE SECURITY  
HOLLY DERSHEM-BRUCE  
PRESIDENT

BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS

NEW RULE XXXIII (ARM 24.183.xxx) NONROUTINE APPLICATIONS

(1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

NEW RULE XXXIV (ARM 24.183.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS

RON DRAKE, PROFESSIONAL ENGINEER  
PRESIDING OFFICER

BOARD OF PSYCHOLOGISTS

24.189.613 NONROUTINE PSYCHOLOGIST APPLICATIONS

~~(1) Applications for licensure that disclose any of the following circumstances are nonroutine and must be reviewed and approved by the board before the license may be issued: For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.~~

~~(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.~~

~~(a) the applicant has a prior felony conviction. Any disposition in a criminal case other than acquittal will be deemed a "conviction" for purposes of this rule without regard to the nature of the plea or whether the applicant received a suspended or deferred sentence;~~

~~(b) the applicant has pled guilty or no contest to or been convicted of two or more misdemeanors, other than minor traffic violations, within the past five years, regardless of whether an appeal is pending and regardless of whether the sentence was suspended or deferred;~~

~~(c) any of the applicant's occupational or professional licenses have been disciplined or an application for any occupational or professional license was denied in this state, another state, or jurisdiction;~~

~~(d) the applicant voluntarily or involuntarily surrendered an occupational or professional license in this state, another state, or jurisdiction;~~

~~(e) the applicant has a pending legal or disciplinary action involving licensure in this state, another state, or jurisdiction;~~

~~(f) the applicant has been a respondent in a complaint for unlicensed practice of psychology in this state, another state, or jurisdiction that led to communication from the licensing authority to cease and desist or an injunctive action;~~

~~(g) the applicant has addiction issues, including active or previous alcohol and/or drug abuse, and treatment for the same;~~

~~(h) the applicant has not been active in the profession of psychology for the preceding three years or more; or~~

~~(i) any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.~~

AUTH: 37-1-131, ~~37-17-202~~, MCA

IMP: 37-1-101, 37-1-131, ~~37-17-302~~, MCA

24.189.911 NONROUTINE BEHAVIOR ANALYST OR ASSISTANT  
BEHAVIOR ANALYST APPLICATIONS

~~(1) Applications for licensure that disclose any of the following circumstances are nonroutine and must be reviewed and approved by the board before the license may be issued: For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.~~

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

~~(a) the applicant has a prior felony conviction. Any disposition in a criminal case other than acquittal will be deemed a "conviction" for purposes of this rule without regard to the nature of the plea or whether the applicant received a suspended or deferred sentence;~~

~~(b) the applicant has pled guilty or no contest to or been convicted of two or more misdemeanors, other than minor traffic violations, within the past five years, regardless of whether an appeal is pending and regardless of whether the sentence was suspended or deferred;~~

~~(c) any of the applicant's occupational or professional licenses have been disciplined or an application for any occupational or professional license was denied in this state, another state, or jurisdiction;~~

~~(d) the applicant voluntarily or involuntarily surrendered an occupational or professional license in this state, another state, or jurisdiction;~~

~~(e) the applicant has a pending legal or disciplinary action involving licensure in this state, another state, or jurisdiction;~~

~~(f) the applicant has been a respondent in a complaint for unlicensed practice of behavior analysis in this state, another state, or jurisdiction that led to communication from the licensing authority to cease and desist or an injunctive action;~~

~~(g) the applicant has addiction issues, including active or previous alcohol and/or drug abuse, and treatment for the same;~~

~~(h) the applicant has not been active in the profession of behavior analysis for the preceding three years or more; or~~

~~(i) any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.~~

AUTH: 37-1-131, ~~37-17-406~~, MCA

IMP: 37-1-101, 37-1-131, ~~37-17-403~~, MCA

NEW RULE XXXV (ARM 24.189.6XX) PSYCHOLOGIST APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

NEW RULE XXXVI (ARM 24.189.9XX) BEHAVIOR ANALYST OR ASSISTANT BEHAVIOR ANALYST APPLICANTS WITH CRIMINAL CONVICTIONS

(1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF PSYCHOLOGISTS

LORETTA BOLYARD, Ph.D.  
CHAIRPERSON

BOARD OF PUBLIC ACCOUNTANTS

24.201.532 APPLICATION REVIEW NONROUTINE APPLICATIONS (1) All applications, except applications for firm registration, out-of-state licensees seeking a Montana license under ARM 24.201.528, and foreign applicants seeking a Montana license under ARM 24.201.529, are considered nonroutine and must be reviewed by the board to determine compliance with qualifications for licensure.

(2) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(3) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

AUTH: 37-1-131, ~~37-50-203~~, MCA

IMP: 37-1-101, 37-1-131, ~~37-50-203~~, ~~37-50-335~~, MCA

REASON: It is necessary for the board to deviate from the standard department definition in (1) to review all applications for applicants not previously licensed elsewhere to determine whether the applicant's experience meets board requirements. As accounting is a highly technical profession, determining whether an applicant's experience qualifies them for licensure requires the professional expertise of board members and cannot be evaluated by department staff.

NEW RULE XXXVII (ARM 24.201.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF PUBLIC ACCOUNTANTS  
JOHN JACOBSEN, CPA  
PRESIDING OFFICER

BOARD OF RADIOLOGIC TECHNOLOGISTS

NEW RULE XXXVIII (ARM 24.204.xxx) NONROUTINE APPLICATIONS

(1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

NEW RULE XXXIX (ARM 24.204.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF RADIOLOGIC  
TECHNOLOGISTS  
MIKE NIELSEN, RPA  
PRESIDING OFFICER

BOARD OF REAL ESTATE APPRAISERS

NEW RULE XL (ARM 24.207.xxx) NONROUTINE APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402.

(2) Applications with appraisal reports that do not meet Uniform Standards of Professional Appraisal Practice are nonroutine.

(3) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

REASON: The board contracts with licensed appraisers to review all appraisal reports submitted by applicants in support of the experience requirements for licensure. An application with appraisal reports tentatively determined to be noncompliant with USPAP is nonroutine because only the professional members of the board have the expertise to apply the USPAP standards to an appraisal report and decide whether an applicant's work product qualifies the applicant for licensure.

NEW RULE XLI (ARM 24.207.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF REAL ESTATE APPRAISERS  
PETER FONTANA  
CERTIFIED RESIDENTIAL APPRAISER  
PRESIDING OFFICER

BOARD OF REALTY REGULATION



24.210.301 DEFINITIONS The terms used in this chapter shall have their common meaning as used in the real estate industry, and unless the context otherwise requires, the following meanings shall also apply:

(1) through (24) remain the same.

~~(25) "Routine application" is a complete application, which shows compliance with board rules and no disciplinary issues. All other complete applications are nonroutine.~~

(26) through (31) remain the same but are renumbered (25) through (30).

AUTH: 37-1-131, 37-51-203, MCA

IMP: 37-1-131, 37-1-136, 37-51-103, 37-51-204, 37-51-301, 37-51-302, 37-51-303, 37-51-306, 37-51-309, 37-51-313, 37-51-314, 37-51-315, 37-51-321, 37-51-324, 37-51-401, MCA

24.210.418 NONROUTINE APPLICATIONS (1) ~~The board shall review an application containing any of the following criteria: For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.~~

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

~~(a) criminal convictions and charges:~~

~~(i) a felony conviction of any nature if the sentence imposed for any such conviction has not been fully discharged or if the sentencing order was entered within the past ten years;~~

~~(ii) any conviction involving use or sale of drugs, fraud, deceit, or theft, pursuant to 37-1-316(1), MCA, if the sentence imposed for any such conviction has not been fully discharged or if the sentencing order was entered within the past five years;~~

~~(iii) a misdemeanor conviction relating to sex or violence;~~

~~(iv) three or more misdemeanor convictions;~~

~~(v) a pending criminal charge if, as a conviction, it would cause the application to be nonroutine under (i) through (iv); or~~

~~(vi) a criminal charge resulting in a deferred sentence that has not been discharged as of the date of application.~~

~~(vii) For the purposes of this rule, a criminal charge resulting in a deferred sentence that has not been discharged as of the date of application is considered a conviction for purposes of determining whether the application is nonroutine. Misdemeanor traffic convictions not involving alcohol or drugs will not cause an application to be considered nonroutine.~~

~~(b) other unprofessional conduct:~~

~~(i) an investigation, complaint, consent agreement, or disciplinary action involving the applicant that either:~~

~~(A) resulted in a license or license application that was revoked, suspended, denied, withdrawn, placed on probation, or subjected to any condition or restriction in the past five years; or~~

~~(B) resulted in a license or license application that is currently encumbered~~

~~by a disciplinary sanction. "Encumbered by a disciplinary sanction" means conditions imposed on the license have not been satisfied or are ongoing if the action was based upon the applicant's underlying conduct and not based on another state's or jurisdiction's disciplinary action;~~

~~(ii) the applicant was diagnosed with an addiction or participated in a chemical dependency or other addiction treatment program within three years of submitting the application. However, if treatment has been successfully completed and any recommended follow-up is being complied with, the department may consider the application routine; or~~

~~(iii) the applicant answered "yes" on the application regarding a diagnosis for a physical condition or mental health disorder involving a potential health risk to the public.~~

~~(c) application discrepancies:~~

~~(i) failure to accurately and completely respond to a question on the application form. The department may treat an application as routine under this subsection if the department receives an adequate explanation for such a failure;~~

~~(ii) the department may, but is not required to, submit an otherwise routine application for board review if:~~

~~(A) questions arise whether the applicant meets all requirements for licensure, including, but not limited to, the demonstration of good moral character; or~~

~~(B) inconsistencies, irregularities, or other matters of concern, including but not limited to allegations of unlicensed practice, exist in the application or related documentation.~~

~~(d) any application which staff believes warrants board review.~~

~~(2) An application which would otherwise be nonroutine under this rule will nevertheless be deemed routine if the application is based solely on information previously considered by the board, but which resulted in the issuance of an unencumbered license or if it resulted in a complaint that was resolved without discipline.~~

AUTH: 37-1-131, ~~37-1-319, 37-51-203, MCA~~

IMP: 37-1-101, ~~37-1-105, 37-1-131, 37-1-136, 37-1-137, 37-1-203, 37-1-307, 37-1-308, 37-51-202, 37-51-302, 37-51-603, MCA~~

NEW RULE XLII (ARM 24.210.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF REALTY REGULATION  
RIC SMITH  
PRESIDING OFFICER

BOARD OF RESPIRATORY CARE PRACTITIONERS

NEW RULE XLIII (ARM 24.213.xxx) NONROUTINE APPLICATIONS

(1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

NEW RULE XLIV (ARM 24.213.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS

(1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF RESPIRATORY CARE  
PRACTITIONERS  
LEONARD BATES, RCP  
PRESIDING OFFICER

BOARD OF SANITARIANS

NEW RULE XLV (ARM 24.216.xxx) NONROUTINE APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

NEW RULE XLVI (ARM 24.216.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS

(1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF SANITARIANS  
MEGAN BULLOCK, R.S.  
PRESIDING OFFICER

BOARD OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

24.222.405 NONROUTINE APPLICATIONS (1) ~~Applications for licensure that disclose any of the following circumstances are nonroutine and~~ For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before the a license may be issued.:

- ~~(a) the applicant has ever been convicted of a felony;~~
- ~~(b) the applicant has pled guilty or no contest to or been convicted of two or more misdemeanors, other than minor traffic violations, within the past five years, regardless of whether an appeal is pending and regardless of whether the sentence was suspended or deferred;~~
- ~~(c) any of the applicant's occupational or professional licenses have been disciplined or an application for a license was denied in any state or jurisdiction;~~
- ~~(d) a pending or completed legal or disciplinary action involving licensure in this state, another state, territory, or jurisdiction; or~~
- ~~(e) any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.~~

AUTH: 37-1-131, ~~37-15-202~~, MCA

IMP: 37-1-101, 37-1-131, ~~37-15-301~~, MCA

NEW RULE XLVII (ARM 24.222.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications.

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

BOARD OF SPEECH-LANGUAGE  
PATHOLOGISTS AND AUDIOLOGISTS  
KELSEY MANN, AuD  
PRESIDING OFFICER, ACTING

BOARD OF VETERINARY MEDICINE

24.225.425 NONROUTINE APPLICATIONS (1) ~~Applications for licensure that disclose any of the following circumstances are nonroutine and must be reviewed and approved by the board before the license may be issued:~~ For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

- ~~(a) the applicant has ever been convicted of a felony;~~
- ~~(b) the applicant has pled guilty or no contest to or been convicted of two or more misdemeanors, other than minor traffic violations, within the past five years, regardless of whether an appeal is pending and regardless of whether the sentence was suspended or deferred;~~

~~(c) any of the applicant's occupational or professional licenses have been disciplined or an application for a license was denied in any state or jurisdiction;~~  
~~(d) a pending or completed legal or disciplinary action involving licensure in this state, another state, territory, or jurisdiction; or~~  
~~(e) any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.~~

AUTH: 37-1-131, ~~37-18-202~~, MCA  
IMP: 37-1-101, 37-1-131, ~~37-18-301~~, MCA

NEW RULE XLVIII (ARM 24.225.xxx) APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with the following modifications:

(a) Nonviolent misdemeanor convictions involving animals in (5)(a) are routine if the conviction date is more than four years before the application date, unless the applicant is still in custody due to the conviction; and  
(b) Nonviolent felony convictions involving animals in (5)(b) are routine if the conviction date is more than ten years before the application date, unless the applicant is still in custody due to the conviction.

AUTH: 37-1-131, MCA  
IMP: 37-1-101, 37-1-131, MCA

REASON: It is reasonably necessary to incorporate the department's criminal convictions rule with modifications to allow more board scrutiny for those convictions involving animals, but that are not within the definition of a violent crime, such as theft. The board is deviating from the department rule to recognize the board's duty to consider convictions relating to animals, as the professions licensed by the board allow for opportunities to repeat such conduct. The board also recognizes that the length of time since a conviction may show evidence of an applicant's rehabilitation.

BOARD OF VETERINARY MEDICINE  
PAUL MCCANN, DVM  
PRESIDENT

5. 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 Business Standards Division, Department of Labor and Industry, 301 South Park Avenue, P.O. Box 200514, Helena, Montana 59620-0514, by facsimile to (406) 841-2313, or e-mail to [damoe@mt.gov](mailto:damoe@mt.gov), and must be received no later than 5:00 p.m., April 23, 2021.

6. An electronic copy of this notice of public hearing is available on the department's web site at <http://bsd.dli.mt.gov>. 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.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions. 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 Business Standards Division 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 Debra Morrell, Business Standards Division, Department of Labor and Industry, 301 South Park Avenue, P.O. Box 200514, Helena, Montana 59620-0514; faxed to the office at (406) 841-2313; e-mailed to [dmorrell@mt.gov](mailto:dmorrell@mt.gov); or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. Regarding the requirements of 2-4-111, MCA, the department has determined that the amendment of ARM 24.111.407, 24.118.502, 24.121.406, 24.126.301, 24.129.606, 24.138.304, 24.141.509, 24.155.613, 24.159.403, 24.162.503, 24.165.302, 24.168.407, 24.171.403, 24.180.405, 24.182.508, 24.189.613, 24.189.911, 24.201.532, 24.210.301, 24.210.418, 24.222.405, and 24.225.425 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the department has determined that the adoption of NEW RULES I through XLVIII will not significantly and directly impact small businesses.

Documentation of the department's above-stated determinations is available upon request to the Business Standards Division, Department of Labor and Industry, 301 South Park Avenue, P.O. Box 200514, Helena, Montana 59620-0514; telephone (406) 841-2327; facsimile (406) 841-2313; or to [damoe@mt.gov](mailto:damoe@mt.gov).

10. Darcee L. Moe, Legal Counsel, has been designated to preside over and conduct this hearing.

/s/ DARCEE L. MOE  
Darcee L. Moe  
Rule Reviewer

/s/ LAURIE ESAU  
Laurie Esau, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State March 16, 2021.