
BOARD OF PHARMACY RULES

AS OF JUNE 30, 2021

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DEPARTMENT OF LABOR AND INDUSTRY

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Subchapter 1

Organizational Rules

24.174.101 BOARD ORGANIZATION (1) The board of pharmacy hereby adopts and incorporates the organizational rules of the department of labor and industry as listed in chapter 1 of this title. (History: 37-7-201, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 904.)

Subchapter 2

Procedural Rules

24.174.201 PROCEDURAL RULES (1) The board of pharmacy hereby adopts and incorporates the procedural rules of the department of labor and industry as listed in chapter 2 of this title. (History: 37-7-201, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; AMD, Eff. 11/4/76; TRANS, from Dept. of Prof & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.202 PUBLIC PARTICIPATION RULES (1) The board of pharmacy hereby adopts and incorporates by this reference the public participation rules of the department of commerce as listed in chapter 2 of this title. (History: 37-7-201, MCA; IMP, 2-3-103, MCA; Eff. 12/31/72; AMD, Eff. 11/4/76; TRANS, from Dept. of Prof & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 904.)

Subchapter 3

Definitions

24.174.301 DEFINITIONS (1) "Airborne particulate cleanliness classification" means the level of cleanliness defined by the maximum allowable number of particles per cubic meter of air as specified in the International Organization of Standardization (ISO) "Classification of Air Cleanliness" (ISO 14644-1) for Class 5, Class 7, and Class 8.

(a) ISO Class 5 is an atmospheric environment that contains less than 3,520 particles 0.5 microns in diameter per cubic meter of air;

(b) ISO Class 7 is an atmospheric environment that contains less than 352,000 particles 0.5 microns in diameter per cubic meter of air; and

(c) ISO Class 8 is an atmospheric environment that contains less than 3,520,000 particles 0.5 microns in diameter per cubic meter of air.

(2) "Beyond use date" (BUD) means the date after which the preparation may not be dispensed or administered to a patient. BUD also means expiration date.

(3) "Biological safety cabinet" means a ventilated cabinet with an inward airflow for personnel protection; a downward, High Efficiency Particulate Arresting (HEPA) filtered, laminar airflow for product protection; and HEPA filtered exhaust system for environmental protection.

(4) "Class 100 environment" means an atmospheric environment which contains fewer than 100 particles 0.5 microns in diameter per cubic foot of air, according to Federal Standard 209E.

(5) "Clean room" means a room in which the concentration of airborne particles is controlled.

(6) "Compounded sterile preparation" (CSP) means:

(a) a preparation prepared according to the manufacturer's labeled instructions and other manipulations when preparing sterile products that expose the original contents to potential contamination, and includes all preparations compounded in a sterile environment; or

(b) a preparation containing nonsterile ingredients or employing nonsterile components and devices that must be sterilized before administration.

(7) "Contingency kit" means a secured kit containing those drugs which may be required to meet the short-term therapeutic need of patients within an institution not having an in-house pharmacy or 24-hour access to dispensing services, and which would not be available from any other authorized source in sufficient time, and without which would compromise the quality of care of the patient.

(8) "Cytotoxic" means a pharmaceutical agent capable of killing living cells.

(9) "DEA" means the Drug Enforcement Administration of the United States Department of Justice.

(10) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for a consideration.

(11) "Device" is defined in 37-2-101, MCA, and is required under federal law to bear the label "Caution: Federal law requires dispensing by or on the order of a physician" or "Rx only."

(12) "Drug order" means a written or electronic order issued by an authorized practitioner, or a verbal order promptly transcribed, for the compounding and dispensing of a drug or device to be administered to patients within the facility.

(13) "Drug room" means a secure, lockable temperature-controlled location within a facility that does not have an institutional pharmacy and which contains drugs and devices for administration to patients within the facility pursuant to a valid drug order.

(14) "Electronic signature" means a confidential personalized method of affixing a signature to an electronic document that will guarantee the identity of the prescriber.

(15) "Emergency drug cart" or "crash cart" means a secure lockable cart containing drugs and devices necessary to meet the immediate therapeutic needs of inpatients or outpatients and which cannot be obtained from any other authorized source in sufficient time to prevent risk or harm or death to patients.

(16) "Emergency kits" are sealed kits containing those drugs which may be required to meet the immediate therapeutic needs of patients within an institution not having an in-house pharmacy, and which would not be available from any other authorized source in sufficient time to prevent risk or harm or death to patients.

(17) "Facility" means an outpatient center for surgical services, a hospital and/or long-term care facility, or a home infusion facility.

(18) "Floor stock" means prescription drugs not labeled for a specific patient, which are maintained at a nursing station or other hospital department other than the pharmacy, and which are administered to patients within the facility pursuant to a valid drug order. Floor stock shall be maintained in a secure manner pursuant to written policies and procedures, which shall include, but not be limited to, automated dispensing devices.

(19) "Formulary" means a current compilation of pharmaceuticals authorized for use within the institution by representatives of the medical staff and pharmacy department.

(20) "Home infusion facility" means a facility where parenteral solutions are compounded and distributed to outpatients for home infusion pursuant to a valid prescription or drug order.

(21) "Immediate use" means a preparation compounded pursuant to the conditions in ARM 24.174.1121 and whose administration must begin within one hour of preparation.

(22) "Institutional pharmacy" means that physical portion of an institutional facility where drugs, devices, and other material used in the diagnosis and treatment of injury, illness, and disease are dispensed, compounded, and distributed to other healthcare professionals for administration to patients within or outside the facility, and pharmaceutical care is provided.

(23) "Labeling" means the process of preparing and affixing a label to any drug container exclusive, however, of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and Montana law or rule.

(24) "Laminar airflow hood" (LAF) means a workspace where the work surface is subjected to a constant HEPA filtered airflow that is directed towards the user.

(25) "Long-term care facility" has the same meaning as provided in 50-5-101, MCA, and means a facility or part of a facility that provides skilled nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more individuals, or that provides personal care.

(26) "Medical gas" means any gaseous substance that meets medical purity standards and has application in a medical environment. Examples of medical gases include, but are not limited to, oxygen, carbon dioxide, nitrous oxide, cyclopropane, helium, nitrogen, and air.

(27) "Medical gas distributor" is a person engaged in the manufacture, processing, packaging, labeling, or distribution of a medical gas to a person other than a consumer or patient.

(28) "Medical gas supplier" is a person engaged in selling, transferring, or delivering to a patient or a patient's agent one or more doses of medical gas in the manufacturer's or distributor's original container for subsequent use by the patient.

(29) "Multi-dose vial" means a vial of liquid medication intended for parenteral administration, whether by injection or infusion, that contains more than one dose of medication; is labeled as containing more than one dose of medication by the manufacturer; and typically contains an antimicrobial preservative to help prevent the growth of bacteria.

(30) "Night cabinet" means a secure locked cabinet or other enclosure located outside the pharmacy, containing drugs which authorized personnel may access in the absence of a pharmacist.

(31) "Nonprescription drug" means a drug which may be sold without a prescription and which is labeled for consumer use in accordance with the requirements of the laws and rules of Montana and the federal government.

(32) "Outpatient center for surgical services" is as defined at 50-5-101, MCA.

(33) "Parenteral" means a sterile preparation of drugs for injection through one or more layers of skin.

(34) "Pharmacist-in-charge" means a pharmacist licensed in Montana who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy, who assures that the pharmacy and all pharmacy personnel working in the pharmacy have current and appropriate licensure and certification, and who is personally in full and actual charge of such pharmacy. The pharmacist-in-charge at an out-of-state mail service pharmacy does not have to be licensed in Montana.

(35) "Provisional pharmacy" means a pharmacy licensed by the Montana Board of Pharmacy and includes, but is not limited to, federally qualified health centers as defined in 42 CFR 405.2401, where prescription drugs are dispensed to appropriately screened, qualified patients.

(36) "Qualified patients" mean patients who are uninsured, indigent, or have insufficient funds to obtain needed prescription drugs.

(37) "Remote pharmacy" means a licensed pharmacy at which prescriptions may be filled or transmitted to a central hub pharmacy for filling and subsequent delivery to the remote site or the patient's home. Patient counseling by a pharmacist may occur at this site.

(38) "Remote telepharmacy dispensing machine site" means a licensed site containing prescription inventory which is secured in an automated dispensing device and which has access to its parent pharmacy and registered pharmacists via computer, video, and audio link at all times during business hours.

(39) "Remote telepharmacy site" means a licensed site staffed by a registered pharmacy technician with access to its parent pharmacy and registered pharmacists via computer, video, and audio link at all times during business hours.

(40) "Risk levels for sterile preparations" means the three risk levels of CSP recognized by the United States Pharmacopeia (USP) in USP Chapter 797 "Pharmaceutical Compounding - Sterile Preparations" that are based on the probability of contamination by microbial, chemical, or physical agents. Pursuant to the conditions set forth in ARM 24.174.1121, the three risk levels are low-risk, medium-risk, and high-risk.

(41) "Same-day use" means that the administration of the preparation shall commence within 24 hours from the time of preparation.

(42) "Satellite pharmacy" means a specialized inpatient pharmacy staffed by a pharmacist which is adjacent to or near the department served and is connected via computer to the central institutional pharmacy.

(43) "Security" or "secure system" means a system to maintain the confidentiality and integrity of patient records, which are being sent electronically.

(44) "Single-dose vial" means a sterile medication in a vial without preservatives.

(45) "Sterile pharmaceutical" means any dosage form containing no viable microorganisms including, but not limited to, parenterals and ophthalmics.

(46) "Verification audit" means a comparison and verification of written patient orders with medications removed for that patient. (History: 37-1-131, 37-7-201, 50-32-314, MCA; IMP, 37-7-102, 37-7-201, 37-7-301, 37-7-321, 37-7-406, 37-7-603, 37-7-604, 37-7-605, 50-32-314, MCA; Eff. 6/9/61; AMD, Eff. 2/27/72; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1993 MAR p. 293, Eff. 2/26/93; AMD, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2002 MAR p. 3605, Eff. 12/27/02; AMD, 2006 MAR p. 1615, Eff. 6/23/06; AMD, 2007 MAR p. 1936, Eff. 11/22/07; AMD, 2008 MAR p. 1151, Eff. 6/13/08; AMD, 2010 MAR p. 74, Eff. 1/15/10; AMD, 2012 MAR p. 506, Eff. 3/9/12; AMD, 2012 MAR p. 896, Eff. 4/27/12; AMD, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.302 HOSPITAL/HEALTH CARE FACILITY DEFINITIONS

(REPEALED) (History: 37-7-201, MCA; IMP, 37-7-321, MCA; NEW, Eff. 3/21/71; AMD, Eff. 8/4/76; AMD, Eff. 1/3/77; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2000 MAR p. 460, Eff. 2/11/00; AMD, 2001 MAR p. 783, Eff. 5/11/01; TRANS, from Commerce, 2002 MAR p. 904; REP, 2002 MAR p. 3605, Eff. 12/27/02.)

24.174.303 INTERNSHIP PROGRAM DEFINITIONS

(1) "Approved program" means that time credited toward the training period which begins from the date of intern registration and continues under the requirements of the approved program.

(2) "Approved training area" means a place for instructing an intern for licensure subject to requirements of the board.

(3) "Computed time" means that time credited toward the training period which begins from the date of intern registration and continues under the requirements of the approved program.

(4) "Intern" means a qualified [under ARM 24.174.602] pharmacy student or a graduate from an accredited school of pharmacy, and registered in an approved program of supervised training.

(5) "Intern certificate of registration" means that certificate furnished by the board upon approval of the intern application form, received from the intern applicant.

(6) "Internship period" means 1500 hours of practical experience in an approved pharmacy, hospital, or other facility. The intern may acquire a maximum of 48 hours experience per calendar week. The student may acquire up to 1500 hours concurrently with school attendance in approved courses, introductory pharmacy practice experience, and advanced pharmacy practice experience, or demonstration projects in the Pharm.D. program.

(7) "Preceptor" means a pharmacist or other approved individual who meets those requirements for the supervision and training of an intern.

(8) "Reporting period" means at the completion of internship or introductory pharmacy practice experience in a given site or after 500 hours, whichever comes first, or at the completion of advanced pharmacy practice experience.

(9) "Supervising Pharmacist" means the registered pharmacist who is in charge of the day-to-day supervision of the intern.

(10) "Supervision" means that all drug distribution or dispensing activities shall be performed by the intern under the direction of a registered pharmacist and that the preceptor shall have overall responsibility for the required training of the intern. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, Eff. 5/20/72; AMD, 1977 MAR p. 106, Eff. 9/23/77; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1983 MAR p. 344, Eff. 4/29/83; AMD, 1997 MAR p. 163, Eff. 11/18/97; AMD, 2001 MAR p. 783, Eff. 5/11/01; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06; AMD, 2007 MAR p. 1936, Eff. 11/22/07; AMD, 2011 MAR p. 1148, Eff. 6/24/11.)

Subchapter 4

General Provisions

24.174.401 FEE SCHEDULE

(1) Application for licensure transfer	\$180
(2) Original registration for pharmacist	70
(3) Pharmacist annual renewal fee	65
(4) Original registration for clinical pharmacist practitioner	25
(5) Clinical pharmacist practitioner annual renewal fee	25
(6) Certified pharmacy original certification (includes original, change in location, and change in ownership)	240
(7) Certified pharmacy annual renewal fee	150
(8) Family planning limited pharmacy facility, certified pharmacy license (original and renewal)	45
(9) Intern registration	50
(10) Montana NAPLEX examination processing fee (a separate exam fee is paid directly to NABP)	35
(11) Montana multistate pharmacy jurisprudence examination (MPJE) exam fee (a separate exam fee is paid directly to NABP)	25
(12) Utilization plan approval fee	75
(13) Annual utilization plan renewal fee	75
(14) Pharmacy technician registration fee	35
(15) Pharmacy technician renewal fee	30
(16) Wholesale drug distributor license	240
(17) Annual wholesale drug distributor renewal	240
(18) Out-of-state mail service pharmacy/telepharmacy initial license	240
(19) Out-of-state mail service pharmacy/telepharmacy renewal	240
(20) Certification of grades/transfer of internship hours	20
(21) Inactive pharmacist annual renewal fee	15
(22) Outpatient center for surgical services (original or renewal)	45
(23) Additional standardized fees are specified in ARM 24.101.403. (History: 37-1-134, 37-7-201, 50-32-314, MCA; <u>IMP</u> , 37-1-134, 37-1-305, 37-7-201, 37-7-302, 37-7-306, 37-7-321, 37-7-604, 37-7-605, 37-7-703, 50-32-314, MCA; <u>NEW</u> , 1980 MAR p. 126, Eff. 1/18/80; <u>AMD</u> , 1980 MAR p. 1279, Eff. 4/25/80; <u>AMD</u> , 1981 MAR p. 625, Eff. 6/26/81; <u>TRANS</u> , from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; <u>AMD</u> , 1983 MAR p. 344, Eff. 4/29/83; <u>AMD</u> , 1984 MAR p. 1567, Eff. 10/26/84; <u>AMD</u> , 1987 MAR p. 478, Eff. 5/1/87; <u>AMD</u> , 1988 MAR p. 271, Eff. 2/12/88; <u>AMD</u> , 1992 MAR p. 1608, Eff. 7/31/92; <u>AMD</u> , 1992 MAR p. 1754, Eff. 8/14/92; <u>AMD</u> , 1994 MAR p. 571, Eff. 3/18/94; <u>AMD</u> , 1995 MAR p. 2689, Eff. 12/8/95; <u>AMD</u> , 1997 MAR p. 2060, Eff. 11/18/97; <u>AMD</u> , 1998 MAR p. 3103, Eff. 11/20/98; <u>RESCIND</u> , (CI-75), 1998 MAR p. 3200, Eff. 12/4/98; <u>AMD</u> , 1999 MAR p. 1124, Eff. 5/21/99; <u>AMD</u> , 2002 MAR p. 178, Eff. 2/1/02; <u>TRANS</u> , from Commerce, 2002 MAR p. 904; <u>AMD</u> , 2006 MAR p. 1615, Eff. 6/23/06; <u>AMD</u> , 2006 MAR p. 1583, Eff. 7/1/06; <u>AMD</u> , 2006 MAR p. 2134, Eff. 9/22/06; <u>AMD</u> , 2007 MAR p. 1936, Eff. 11/22/07; <u>AMD</u> , 2008 MAR p. 631, Eff. 4/11/08; <u>AMD</u> , 2008 MAR p. 1151, Eff. 6/13/08; <u>AMD</u> , 2010 MAR p. 2968, Eff. 12/24/10; <u>AMD</u> , 2017 MAR p. 1653, Eff. 9/23/17; <u>AMD</u> , 2019 MAR p. 1633, Eff. 9/21/19.)	

24.174.402 DANGEROUS DRUG FEE SCHEDULE (1) The fees to be assessed for registration to manufacture, distribute, dispense, conduct research, or analyze a dangerous drug shall be assessed according to the following schedule:

<u>REGISTRATION</u>	<u>ANNUAL FEE</u>
(a) manufacture	\$100
(b) distribute	100
(c) dispense	
(i) pharmacies	75
(ii) outpatient centers for surgical services	75
(d) conduct research or analyze	100

(History: 37-1-134, 37-7-201, 50-32-103, 50-32-314, MCA; IMP, 37-1-134, 37-7-201, 37-7-321, 50-32-103, 50-32-314, MCA; NEW, Eff. 8/4/74; AMD, Eff. 2/4/75; AMD, Eff. 12/5/75; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1983 MAR p. 344, Eff. 4/29/83; AMD, 1987 MAR p. 478, Eff. 5/1/87; AMD, 1998 MAR p. 3103, Eff. 11/20/98; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 2134, Eff. 9/22/06; AMD, 2007 MAR p. 1936, Eff. 11/22/07; AMD, 2012 MAR p. 896, Eff. 4/27/12.)

24.174.403 CHANGE IN ADDRESS AND/OR EMPLOYMENT (1) All licensees shall notify the board in writing within 30 days of any change in employment and/or any change of business or personal address. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, Eff. 3/21/55; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06; AMD, 2010 MAR p. 2968, Eff. 12/24/10.)

24.174.404 FEE ABATEMENT (1) The Board of Pharmacy adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301. (History: 37-1-131, MCA; IMP, 17-2-302, 17-2-303, 37-1-134, MCA; NEW, 2006 MAR p. 1615, Eff. 6/23/06.)

Rules 24.174.405 and 24.174.406 reserved

24.174.407 QUALITY ASSURANCE PROGRAM REQUIREMENTS

(1) Each pharmacy shall implement or have in place a quality assurance program to detect, identify, and prevent prescription errors. The quality assurance program shall include necessary documentation, internal reporting, and assessment of prescription errors to determine the cause and an appropriate response.

(2) The primary purpose of the quality assurance program shall be to advance error prevention by analyzing, individually and collectively, investigative and other pertinent data collected in response to a prescription error to assess the cause and any contributing factors such as system or process failures.

(3) Each pharmacy, corporation, or health system shall use the findings of its quality assurance program to develop pharmacy systems and workflow processes designed to prevent prescription errors, as well as communicate those findings to all pharmacy personnel. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2015 MAR p. 302, Eff. 3/27/15.)

Rules 24.174.408 through 24.174.410 reserved

24.174.411 PHARMACIST MEAL/REST BREAKS

(1) In any pharmacy staffed by a single pharmacist, the pharmacist shall take a meal/rest break for a period of up to 30 minutes per shift without closing the pharmacy and removing support personnel, provided the pharmacist reasonably believes that the security of prescription drugs will be maintained in the pharmacist's absence.

(2) The time of the meal/rest break will be conspicuously posted in clear view of patients approaching the prescription area.

(3) In the pharmacist's absence a sign indicating that no pharmacist is on duty will be conspicuously displayed in clear view of patients approaching the prescription area.

(4) The pharmacist will remain on the premises if the prescription area is to remain open, and be available for emergencies.

(5) When authorized by the pharmacist, only registered technicians and interns directly involved in the process of filling prescriptions may remain in the prescription department to perform nondiscretionary duties as delineated by the pharmacist.

(6) Upon returning, the pharmacist shall review any work performed in the pharmacist's absence.

(7) In the pharmacist's absence there may be no dispensing of new prescriptions that the pharmacist has checked and that are waiting to be picked up, nor may counseling be provided.

(8) At the discretion of the pharmacist, previously checked medication refills may be handed to patients or their agents by registered technicians in the pharmacist's absence, and the technicians must offer the patient counseling by the pharmacist. If the patient desires counseling, the patient may wait for the pharmacist to return or may leave a telephone number for the pharmacist to call upon return.

(9) Telephoned new prescriptions must not be accepted by support personnel in the pharmacist's absence.

(10) New hardcopy prescriptions may be accepted and processed by registered technicians in the pharmacist's absence. These prescriptions may not be dispensed until the pharmacist has performed prospective drug review and completed the final check.

(11) If two or more pharmacists are on duty, the pharmacists shall stagger their breaks so that the prescription department is not left without a pharmacist on duty.

(12) The pharmacist-in-charge shall develop written policies and procedures for operation of the prescription department in the temporary absence of the pharmacist. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2002 MAR p. 3605, Eff. 12/27/02; AMD, 2015 MAR p. 302, Eff. 3/27/15.)

Subchapter 5

Licensing

24.174.501 EXAMINATION FOR LICENSURE AS A REGISTERED

PHARMACIST (1) The board has selected the National Association of Boards of Pharmacy (NABP) licensure examination (NAPLEX) to be administered to candidates for licensure in Montana. The examination shall be prepared to measure the competence of the applicant to engage in the practice of pharmacy. A score of 75 shall be a passing score for this examination. A candidate who does not attain this score may retake the examination pursuant to NABP requirements.

(2) In addition, the NABP shall administer a multistate pharmacy jurisprudence examination (MPJE). This examination shall be prepared to measure the competence of the applicant regarding the statutes and rules governing the practice of pharmacy. A score of not less than 75 shall be a passing score for this examination. A candidate who does not attain this score may retake the examination after a 30-day waiting period from the date of the exam.

(3) Pharmacy graduates from outside the 50 states, the District of Columbia, or Puerto Rico, who seek certification of educational equivalency in order to sit for the North American pharmacist licensure examination must also complete the following:

- (a) an interview before the Board of Pharmacy or its designee;
- (b) 1500 hours of internship in the United States;
- (c) receive a Foreign Pharmacy Graduate Examination Committee (FPGEC)

Certification from NABP, which includes the following:

- (i) Foreign Pharmacy Graduate Equivalency Examination (FPGEE);
- (ii) Test of Spoken English (TSE); and
- (iii) Test of English as a Foreign Language (TOEFL).

(4) NABP minimum passing scores must be achieved on all tests and examinations. (History: 37-1-131, 37-7-201, MCA; IMP, 37-1-131, 37-7-201, 37-7-302, MCA; NEW, Eff. 11/25/77; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1983 MAR p. 344, Eff. 4/29/83; AMD, 1986 MAR p. 945, Eff. 5/30/86; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2002 MAR p. 3605, Eff. 12/27/02; AMD, 2007 MAR p. 1936, Eff. 11/22/07; AMD, 2011 MAR p. 1148, Eff. 6/24/11; AMD, 2016 MAR p. 1696, Eff. 9/24/16; AMD, 2018 MAR p. 1825, Eff. 9/8/18.)

24.174.502 TRANSFER OF LICENSE FROM ANOTHER STATE

(1) Applicants seeking a license on the basis of having taken the NAPLEX examination and then issued a license by another state shall submit the following information to the board:

- (a) NABP transfer of licensure application;
- (b) proof of passing examination score on the NAPLEX examination;
- (c) verification of current licensure in good standing from all other states where licensed; and
- (d) appropriate fees.

(2) An applicant who has been registered as a pharmacist by examination in another state but who has not taken the NAPLEX examination shall appear before the board for consideration of transfer of licensure and submit the following information to the board:

- (a) transfer of licensure application;
- (b) proof of passing examination score;
- (c) verification of current licensure in good standing from all other states where licensed; and
- (d) appropriate fees.

(3) In addition to the requirements in (1) and (2), the applicant will be required to pass the MPJE, to measure the competence of the applicant regarding the statutes and rules governing the practice of pharmacy. A score of not less than 75 shall be a passing score for this examination.

(4) The applicant has one year from the date of the NABP application in which to complete the licensure process. An applicant who does not obtain a license in one year will be required to file a new application and pay the appropriate fees. (History: 37-7-201, MCA; IMP, 37-1-304, MCA; NEW, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2007 MAR p. 1936, Eff. 11/22/07.)

24.174.503 ADMINISTRATION OF VACCINES BY PHARMACISTS

(1) An immunization-certified pharmacist may prescribe and administer those immunizations listed in 37-7-105, MCA, without a collaborative practice agreement in place, as required by the statute.

(2) An immunization-certified pharmacist must have a collaborative practice agreement with a practitioner authorized to prescribe drugs to administer immunizations not listed in 37-7-105, MCA, to persons seven years of age or older, as provided in the most recent guidelines by vaccine and age group published by the U.S. Centers for Disease Control and Prevention (CDC) and as determined within a collaborative practice agreement; or, in the case of a public health emergency, a directive from the State Medical Officer of the Montana Department of Public Health and Human Services.

- (3) An immunization-certified pharmacist, as defined in 37-7-101, MCA, shall:
- (a) provide a copy of the immunization certificate and current basic cardiopulmonary resuscitation (CPR) certification to the board for initial endorsement on license; and
 - (b) maintain documentation of immunization endorsement and current CPR certification on file at the practice site.
- (4) In order to administer immunizations, with or without a collaborative practice agreement, an immunization-certified pharmacist must meet the requirements of 37-7-105, MCA, and:
- (a) administer vaccinations in accordance with established protocol that includes site-specific emergency measures;
 - (b) have access to a current edition of the CDC reference "Epidemiology and Prevention of Vaccine-Preventable Diseases";
 - (c) maintain the following:
 - (i) written policies and procedures for the types of immunizations administered;
 - (ii) specific description of the procedures, methods, and decision criteria to follow for administering the immunization;
 - (iii) a detailed description of the procedures and patient activities to follow in the course of administering immunizations;
 - (iv) training for staff procedures and record keeping requirements; and
 - (v) disposal of used or contaminated supplies; and
 - (d) maintain the following information in the patient's medical records as required by 37-7-105, MCA, which shall be considered confidential information:
 - (i) the patient's name, address, allergies, and date of birth;
 - (ii) the product's name, dose, manufacturer, lot number, and expiration date;
 - (iii) the date of administration;
 - (iv) the site and route of administration; and
 - (v) the administering pharmacist's name or identifiable initials and the pharmacy's address.
- (5) The authority of a pharmacist to administer immunizations may not be delegated; however, a pharmacy intern may immunize under the direct supervision of an immunization-certified pharmacist or other healthcare provider qualified in vaccine administration and deemed appropriate by the preceptor upon meeting the immunization-certified requirements listed in 37-7-105, MCA, and this rule.
- (6) The board shall randomly select renewal notice forms of immunization-certified pharmacists for audit and verification of the requirements listed in this rule. (History: 37-7-201, MCA; IMP, 37-7-101, 37-7-105, 37-7-201, MCA; NEW, 2002 MAR p. 794, Eff. 2/1/02; AMD, 2006 MAR p. 1615, Eff. 6/23/06; AMD, 2007 MAR p. 1936, Eff. 11/22/07; AMD, 2010 MAR p. 74, Eff. 1/15/10; AMD, 2011 MAR p. 1148, Eff. 6/24/11; AMD, 2012 MAR p. 896, Eff. 4/27/12; AMD, 2015 MAR p. 1491, Eff. 9/25/15; AMD, 2019 MAR p. 2240, Eff. 12/7/19.)

24.174.504 INACTIVE LICENSE (1) A pharmacist may obtain an inactive license through a written request to the board, if the pharmacist holds an active Montana pharmacist license in good standing, and will not practice in Montana for the period of inactive licensure.

(2) A pharmacist with an inactive status of three years or less, whether or not the pharmacist has been in practice in another state, wishing to return to active status in Montana shall:

(a) submit a written request for status change to the board;

(b) pay either:

(i) the difference between the current inactive and active license renewal fees if the change occurs between renewal periods; or

(ii) the full active license renewal fee if the change occurs during the regular renewal period;

(c) certify that:

(i) no disciplinary action has been taken by any state or federal jurisdiction which would prevent or restrict the pharmacist's practice of the profession; and

(ii) the pharmacist has not surrendered any credential or privilege in the practice of the profession in lieu of or to avoid formal action;

(d) submit verification of active practice from the state(s) in which practice occurred; and

(e) provide proof that continuing education requirements for the period of inactive licensure have been satisfied.

(3) A pharmacist with an inactive status of three to five years, who has not been in active practice in another U.S. state, wishing to return to active status in Montana shall:

(a) comply with the requirements of (2);

(b) complete an appropriate internship of 300 hours or take and pass the North American Pharmacist Licensure Examination (NAPLEX); and

(c) take and pass the Multistate Pharmacy Jurisprudence Examination (MPJE) for the state of Montana.

(4) A pharmacist with an inactive status of five years or more, who has not been in active practice in another U.S. state, wishing to return to active status in Montana shall:

(a) comply with the requirements of (2);

(b) complete an appropriate internship of 300 hours;

(c) take and pass the NAPLEX; and

(d) take and pass the MPJE for the state of Montana.

(5) A pharmacist with an inactive status for more than three years, who has been in active practice in another U.S. state, wishing to return to active status in Montana shall:

(a) comply with the requirements of (2); and

(b) take and pass the MPJE for the state of Montana. (History: 37-1-319, 37-7-201, MCA; IMP, 37-1-319, 37-7-201, MCA; NEW, 2006 MAR p. 1615, Eff. 6/23/06.)

Rules 24.174.505 and 24.174.506 reserved

24.174.507 MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure by the Board of Pharmacy.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements of the Board of Pharmacy. Satisfactory evidence includes:

(a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);

(b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and

(c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements. (History: 37-1-145, MCA; IMP, 37-1-145, MCA; NEW, 2014 MAR p. 1261, Eff. 6/13/14; AMD, 2019 MAR p. 1633, Eff. 9/21/19.)

24.174.508 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. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2021 MAR p. 556, Eff. 5/15/21.)

24.174.509 APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2021 MAR p. 556, Eff. 5/15/21.)

24.174.510 PRESCRIPTION REQUIREMENTS (TRANSFERRED) (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-505, MCA; NEW, 1985 MAR p. 1017, Eff. 7/26/85; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2010 MAR p. 74, Eff. 1/15/10; AMD, 2011 MAR p. 1148, Eff. 6/24/11; AMD and TRANS, to ARM 24.174.831, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.511 LABELING FOR PRESCRIPTIONS (TRANSFERRED) (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, Eff. 7/19/68; AMD, 1978 MAR p. 393, Eff. 3/25/78; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2001 MAR p. 783, Eff. 5/11/01; TRANS, from Commerce, 2002 MAR p. 904; TRANS, to ARM 24.174.832, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.512 RECORDS OF DISPENSING (TRANSFERRED) (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 1985 MAR p. 1017, Eff. 7/26/85; TRANS, from Commerce, 2002 MAR p. 904; TRANS, to ARM 24.174.833, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.513 COPY OF PRESCRIPTION (TRANSFERRED) (History: 37-7-201, MCA; IMP, 37-7-101, MCA; NEW, Eff. 6/7/66; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; TRANS, to ARM 24.174.834, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.514 TRANSFER OF PRESCRIPTIONS (TRANSFERRED) (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 1985 MAR p. 1017, Eff. 7/26/85; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06; AMD and TRANS, to ARM 24.174.835, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.515 EMERGENCY PRESCRIPTION REFILLS (TRANSFERRED) (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12; TRANS, to ARM 24.174.836, 2015 MAR p. 302, Eff. 3/27/15.)

Rules 24.174.516 through 24.174.519 reserved

24.174.520 PRESCRIPTION REQUIRED FOR SCHEDULE V
(TRANSFERRED) (History: 37-7-201, MCA; IMP, 37-7-102, 37-7-201, MCA; NEW, Eff. 9/16/71; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 904; TRANS, to ARM 24.174.837, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.521 RETURNED PRESCRIPTION (TRANSFERRED) (History: 37-7-201, 37-7-1401, MCA; IMP, 37-7-201, 37-7-1401, MCA; NEW, Eff. 6/12/57; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06; TRANS, to ARM 24.174.838, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.522 ALTERNATE DELIVERY OF PRESCRIPTIONS
(TRANSFERRED) (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-301, MCA; NEW, Eff. 9/24/61; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06; TRANS, to ARM 24.174.839, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.523 TRANSMISSION OF PRESCRIPTIONS BY ELECTRONIC MEANS (TRANSFERRED) (History: 37-7-201, 50-32-103, MCA; IMP, 37-7-102, 37-7-201, 50-32-208, MCA; NEW, 1995 MAR p. 2689, Eff. 12/8/95; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06; AMD, 2010 MAR p. 74, Eff. 1/15/10; AMD, 2012 MAR p. 896, Eff. 4/27/12; AMD and TRANS, to ARM 24.174.840, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.524 COLLABORATIVE PRACTICE AGREEMENT REQUIREMENTS

- (1) A pharmacist engaged in collaborative practice must:
 - (a) maintain an executed written copy of the collaborative practice agreement at the pharmacy and any other location in which the practice is occurring; and
 - (b) make the agreement available for inspection by the board.
- (2) The collaborative practice agreement must include:
 - (a) the identification and signature of individual practitioner(s) authorized to prescribe drugs and responsible for the delegation of drug therapy management;
 - (i) the practitioner as defined in 37-2-101, MCA, must be licensed in good standing in Montana;
 - (b) the identification and signature of individual pharmacist(s) authorized to dispense drugs and engage in drug therapy management;
 - (c) the types of drug therapy management decisions that the pharmacist is allowed to make which may include:
 - (i) a specific description of the types of diseases and drugs involved, and the type of drug therapy management allowed in each case; and
 - (ii) a specific description of the procedures and methods, decision criteria and plan the pharmacist is to follow.
 - (d) a detailed description of the procedures and patient activities the pharmacist is to follow in the course of the protocol, including the method for documenting decisions made and a plan or mechanism for communication, feedback and reporting to the practitioner concerning specific decisions made. Documentation shall be recorded within 24 hours following each intervention and may be recorded on the patient medication record, patient medical chart, or a separate log book. Documentation of drug therapy management must be kept as part of the patient's permanent record and shall be considered confidential information;
 - (e) a method by which adverse events shall be reported to the practitioner;
 - (f) a method for the practitioner to monitor clinical outcomes and intercede when necessary;
 - (g) a provision that allows the practitioner to override protocol agreements when necessary;
 - (h) a provision that allows either party to cancel the agreement by written notification;
 - (i) the effective date of the protocol. The duration of each protocol shall not exceed one year;
 - (j) the annual date by which review, renewal, and revision, if necessary, will be accomplished;
 - (k) the addresses where records of collaborative practice are maintained;
 - and
 - (l) the process for obtaining the patient's written consent to the collaborative practice agreement.

(3) Patient records shall be maintained by the pharmacist for a minimum of seven years and may be maintained in an automated system pursuant to ARM 24.174.817.

(4) Collaborative practice agreements approved by an institutional committee such as the pharmacy and therapeutics committee and that will be used solely for inpatients are exempt. (History: 37-7-201, MCA; IMP, 37-7-101, 37-7-201, MCA; NEW, 2002 MAR p. 794, Eff. 2/1/02; AMD, 2006 MAR p. 1615, Eff. 6/23/06; AMD, 2007 MAR p. 1936, Eff. 11/22/07; AMD, 2019 MAR p. 1633, Eff. 9/21/19.)

24.174.525 DEFINITIONS (1) "Board of Pharmaceutical Specialties" (BPS) means an independent nongovernmental certification body that provides recognition of persons involved in the advanced practice of pharmacy specialties through development and administration, a certification process that is consistent with public policy regarding the credentialing of healthcare professionals.

(2) "Clinical practice experience" means working in a pharmacy practice setting which includes at least 50 percent of time spent in:

(a) communication with healthcare professionals and patients regarding drug therapy, wellness, and health promotion;

(b) designing, implementing, monitoring, evaluating, and modifying or recommending modifications in drug therapy to optimize patient care;

(c) identifying, assessing, and solving medication-related problems and providing a clinical judgment as to the continuing effectiveness of the therapeutic plan;

(d) conducting physical assessment applicable to the area of practice, evaluating patient problems, ordering and monitoring medications, and/or laboratory tests in accordance with established standards of practice;

(e) referring patients to other healthcare professionals as appropriate;

(f) integrating relevant diet, exercise, and other non-drug therapy with pharmaceutical care;

(g) retrieving, evaluating, utilizing, and managing data and professional resources;

(h) documenting interventions and evaluating outcomes; and

(i) integrating national standards for the quality of healthcare.

(3) "Collaborative practice agreement" is defined as set forth in ARM 24.174.524. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-306, MCA; NEW, 2010 MAR p. 2968, Eff. 12/24/10.)

24.174.526 REQUIREMENTS TO BECOME A CLINICAL PHARMACIST PRACTITIONER (1) An applicant for a clinical pharmacist practitioner registration shall:

- (a) submit an application on a form prescribed by the board;
 - (b) pay a registration fee as prescribed by the board;
 - (c) hold an active, unrestricted Montana pharmacist license;
 - (d) have completed the years of clinical practice experience that meet the requirements for Board of Pharmacy Specialties (BPS) certification or other equivalent national certification, and hold one of the following active certifications:
 - (i) BPS certification; or
 - (ii) nationally recognized certification equivalent to BPS certification standards in an area of practice as approved by the board and the Board of Medical Examiners (BME).
 - (e) submit a signed collaborative practice agreement to the board that includes a description of the type of supervision the collaborating practitioner will exercise over the clinical pharmacist practitioner;
 - (f) following approval of the board, submit the application and collaborative practice agreement to the BME for approval; and
 - (g) appear before the board and/or BME if requested.
- (2) Within ten days of discontinuing work under an approved collaborative drug therapy agreement, the pharmacist shall notify the board and the clinical pharmacist practitioner's registration shall be inactive, until such time as a new application is approved. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-306, MCA; NEW, 2010 MAR p. 2968, Eff. 12/24/10; AMD, 2018 MAR p. 1825, Eff. 9/8/18.)

24.174.527 REQUIREMENTS TO MAINTAIN CLINICAL PHARMACIST PRACTITIONER REGISTRATION (1) In addition to completing the annual renewal requirements for a pharmacist's license, a clinical pharmacist practitioner must pay a clinical pharmacist practitioner annual renewal fee to the board.

(2) The board shall randomly select renewal notice forms of clinical pharmacist practitioners for audit of current certification and requirements for continued registration. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-306, MCA; NEW, 2010 MAR p. 2968, Eff. 12/24/10.)

24.174.528 UNPROFESSIONAL CONDUCT (1) A clinical pharmacist practitioner's registration may be disciplined by the board for unprofessional conduct as defined by the board in ARM 24.174.2301.

(2) The BME may take appropriate action for the unlicensed practice of medicine under 37-3-101 and 37-1-317, MCA, if a clinical pharmacist practitioner exceeds the scope of practice as defined in 37-7-306, MCA. (History: 37-1-319, 37-7-201, MCA; IMP, 37-1-316, 37-7-306, MCA; NEW, 2010 MAR p. 2968, Eff. 12/24/10.)

Subchapter 6

Internship Regulations

24.174.601 SUMMARY OF OBJECTIVES (1) The practical experiences required prior to professional licensure shall be referred to as internship. The purpose of pharmacy internship is to provide an intern with the knowledge and practical experience necessary for professional licensure. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, Eff. 5/20/72; AMD, 1977 MAR p. 106, Eff. 9/23/77; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1997 MAR p. 2060, Eff. 11/18/97; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2010 MAR p. 74, Eff. 1/15/10.)

24.174.602 INTERNSHIP REQUIREMENTS (1) The experience required to obtain licensure as a pharmacist shall be that instruction period composed of computed time obtained under the supervision of the preceptor in an approved site.

(2) An intern may practice only under the immediate personal supervision of a supervising pharmacist.

(3) Application shall be made on the intern application form prescribed by the board. Registration must be obtained prior to commencing work as an intern.

(4) The intern shall make such reports and certifications as required under the approved program and as required by the board.

(5) The intern is responsible for the knowledge and observation of the extent of the intern's legal liability and legal restrictions applicable under the federal, state, and municipal laws and rules.

(6) The intern shall be responsible for ensuring that the preceptor has proper certification.

(7) The intern is responsible for properly submitting all forms and hour reports under the approved program directly to the school of pharmacy.

(8) Employment and the intern training periods are not to be interpreted as being the same. An intern may work in excess of the computed time.

(9) An intern shall be:

(a) a student currently enrolled in an accredited pharmacy program;

(b) a graduate of an accredited pharmacy program serving an internship; or

(c) a graduate of a pharmacy program located outside the United States of America which is not accredited and who is licensed pursuant to ARM 24.174.605.

(10) Intern registration based on enrollment in or graduation from an accredited pharmacy program shall expire not later than 12 months after the date of graduation or at the time of professional licensure, whichever comes first. Intern registration based on graduation from a pharmacy program located outside of the United States of America which is not accredited shall expire not later than 12 months after the date of issuance of the registration or at the time of professional licensure, whichever comes first.

(11) An intern registration may be issued to a student who:

(a) is currently enrolled in an accredited pharmacy program;

(b) has submitted a completed application to the board;

(c) has paid the required fee; and

(d) has completed at least one day of the accredited pharmacy program.

(12) The intern shall notify the board of any change of permanent address within 30 days.

(13) Intern certificate of registration shall be displayed in the approved training area.

(14) An intern registration may be extended, subject to approval by the board, upon application by the intern, if extenuating circumstances are present. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, Eff. 5/20/72; AMD, 1977 MAR p. 106, Eff. 9/23/77; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1997 MAR p. 2060, Eff. 11/18/97; AMD, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2007 MAR p. 1936, Eff. 11/22/07; AMD, 2010 MAR p. 74, Eff. 1/15/10; AMD, 2011 MAR p. 1148, Eff. 6/24/11; AMD, 2015 MAR p. 302, Eff. 3/27/15; AMD, 2017 MAR p. 1653, Eff. 9/23/17; AMD, 2019 MAR p. 1633, Eff. 9/21/19.)

24.174.603 OUT-OF-STATE INTERNSHIP REQUIREMENTS (1) Written request by the intern must be made to the board prior to commencing training at an out-of-state site.

(2) The intern must comply with the rules relating to internship and the approved program.

(3) The intern must obtain certification of the training area and the preceptor from the out-of-state's board and must submit the same directly to the Montana Board of Pharmacy. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, Eff. 5/20/72; AMD, 1977 MAR p. 106, Eff. 9/23/77; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06.)

- 24.174.604 PRECEPTOR REQUIREMENTS (1) Each pharmacist preceptor shall:
- (a) apply for board approval to be a preceptor;
 - (b) have been actively engaged in:
 - (i) the practice of pharmacy for one year, unless otherwise approved by the board; or
 - (ii) other approved disciplines;
 - (c) be engaged in active practice while acting as preceptor;
 - (d) not have been convicted of violation of any statutes or rules relating to pharmacy within three years prior to application;
 - (e) be acutely aware of the responsibilities governing professional conduct in this state;
 - (f) have current knowledge of developments in the profession by exhibiting such attendances, readings, and actions, which conform to the best traditions of pharmacy;
 - (g) make such reports and certifications as required under the approved program;
 - (h) notify the board of any change of address or employment within 30 days. Change of employment shall serve to suspend preceptor approval until such time as reevaluation is made by the board;
 - (i) not be permitted to leave an intern work alone to assume the responsibility of a pharmacist; and
 - (j) complete a training course as approved by the board.
- (2) The repackaging, labeling, and dispensing of drugs for distribution shall be under the supervision of a supervising pharmacist.
- (3) A supervising pharmacist or preceptor may precept more than one intern at a time. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, Eff. 5/20/72; AMD, 1977 MAR p. 106, Eff. 9/23/77; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1997 MAR p. 2060, Eff. 11/18/97; AMD, 2001 MAR p. 783, Eff. 5/11/01; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2002 MAR p. 3605, Eff. 12/27/02; AMD, 2007 MAR p. 1936, Eff. 11/22/07; AMD, 2011 MAR p. 1148, Eff. 6/24/11; AMD, 2019 MAR p. 1633, Eff. 9/21/19.)

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

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

(i) Test of Spoken English (TSE);

(ii) Test of English as a Foreign Language (TOEFL); and

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

(b) achieve NABP minimum passing scores on all tests and examinations;

(c) have an internship practice site identified and that practice site must be a licensed pharmacy in good standing with the board; and

(d) have an internship preceptor identified and that preceptor must:

(i) be a licensed pharmacist in good standing with the board; and

(ii) be a registered preceptor in good standing with the board.

(2) The intern and their preceptor must appear before the board.

(3) The intern shall comply with the internship requirements as set forth in ARM 24.174.602.

(4) A graduate of a foreign school of pharmacy must complete 1500 hours of internship in the United States in order to be eligible for pharmacist licensure in Montana. (History: 37-1-131, 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2007 MAR p. 1936, Eff. 11/22/07; AMD, 2017 MAR p. 1653, Eff. 9/23/17.)

Rules 24.174.606 through 24.174.610 reserved

24.174.611 APPROVED TRAINING AREAS (1) Approved training areas will include licensed pharmacy settings plus other health care and research settings approved by the board. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, Eff. 5/20/72; AMD, 1977 MAR p. 106, Eff. 9/23/77; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.612 INTERNSHIP REQUIRED FORMS AND REPORTS (1) Intern and internship documentation, hours, and forms shall be furnished by the school of pharmacy and filed directly to the school of pharmacy.

(a) An intern must be licensed by the board before computed time is credited. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, Eff. 5/20/72; AMD, 1977 MAR p. 106, Eff. 9/23/77; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1997 MAR p. 2060, Eff. 11/18/97; AMD, 2000 MAR p. 2005, Eff. 7/28/00; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2019 MAR p. 1633, Eff. 9/21/19.)

24.174.613 REVOCATION OR SUSPENSION OF CERTIFICATE (1) An intern certificate may be suspended or revoked by the board for violation of any statute or rule, or failure to comply with the approved program after due notice.

(2) Suspension of an intern from university or college attendance concurrently suspends an intern's certificate of registration. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, Eff. 5/20/72; AMD, 1977 MAR p. 106, Eff. 9/23/77; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904.)

Subchapter 7

Pharmacy Technicians

24.174.701 PHARMACY TECHNICIAN REGISTRATION REQUIREMENTS

(1) To be registered as a pharmacy technician in this state, the applicant shall:

- (a) be at least 18 years old;
- (b) be a high school graduate or have attained an equivalent degree;
- (c) be of good moral character;
- (d) submit application on a form prescribed by the board;
- (e) pay application fees as prescribed by the board; and
- (f) submit a copy of proof of certification by the Pharmacy Technician Certification Board (PTCB), National Healthcareer Association (ExCPT), or other board-approved certifying entity.

(2) An applicant for registration as a pharmacy technician in this state may apply for a temporary practice permit as authorized by 37-1-305, MCA, valid for one year from the date the permit was issued.

(3) No pharmacist or intern whose license has been denied, revoked, suspended, or restricted for disciplinary purposes shall be eligible to be registered as a pharmacy technician. (History: 37-1-131, 37-7-201, MCA; IMP, 37-1-305, 37-7-201, MCA; NEW, 2002 MAR p. 86, Eff. 1/18/02; AMD, 2010 MAR p. 74, Eff. 1/15/10; AMD, 2015 MAR p. 302, Eff. 3/27/15; AMD, 2019 MAR p. 1633, Eff. 9/21/19.)

24.174.702 QUALIFICATIONS OF PHARMACY TECHNICIAN (REPEALED)

(History: 37-7-201, MCA; IMP, 37-7-201, 37-7-301, 37-7-307, MCA; NEW, 1992 MAR p. 1608, Eff. 7/31/92; AMD, 2002 MAR p. 86, Eff. 1/18/02; TRANS, from Commerce, 2002 MAR p. 904; REP, 2019 MAR p. 1633, Eff. 9/21/19.)

24.174.703 USE OF PHARMACY TECHNICIAN (1) A pharmacy technician may not perform tasks which require the exercise of the pharmacist's independent professional judgment, including but not limited to, patient counseling, drug product selection, drug interaction review or drug regimen review.

(2) A pharmacy technician must work under the provisions of a technician utilization plan and the plan must be made available for inspection by the board.

(3) When a pharmacist is not in the prescription department, there shall be no dispensing of new prescriptions that the pharmacist has checked and that are waiting to be picked up, nor shall counseling be provided by the pharmacy technician.

(4) No medication may be released to a patient without review by a registered pharmacist for the accuracy and appropriateness of the prescription drug order.

(5) All technicians and auxiliary staff shall be made visually identifiable by name and job title utilizing letters of 16 point or larger on a name badge.

(6) All pharmacy technician licenses must be conspicuously displayed at all times in the place of business. (History: 37-7-201, MCA; IMP, 37-7-101, 37-7-201, 37-7-301, 37-7-307, MCA; NEW, 1992 MAR p. 1608, Eff. 7/31/92; AMD, 2000 MAR p. 2005, Eff. 7/28/00; AMD, 2002 MAR p. 86, Eff. 1/18/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2010 MAR p. 74, Eff. 1/15/10; AMD, 2019 MAR p. 1633, Eff. 9/21/19.)

24.174.704 PHARMACY TECHNICIAN TRAINING (1) A supervising pharmacist shall:

(a) provide initial training to a pharmacy technician that relates to the tasks the technician may perform pursuant to the supervising pharmacist's utilization plan; and

(b) prepare and maintain a written record of initial and inservice training for on-site inspection by the board. The record shall contain the following information:

(i) name and signature of the person receiving the training;

(ii) dates of the training;

(iii) general description of the topics covered; and

(iv) name and signature of the person supervising the training.

(2) An initial training program must include on-the-job practical training and didactic education that is commensurate with the tasks and functions a pharmacy technician may perform. A supervising pharmacist must obtain the board's approval of an initial training program prior to undertaking the training of a pharmacy technician pursuant to the program.

(3) Verification of completion of training, by test or otherwise, shall be recorded by the supervising pharmacist, and shall be available for inspection with the training record. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-307, MCA; NEW, 1992 MAR p. 1608, Eff. 7/31/92; AMD, 2002 MAR p. 86, Eff. 1/18/02; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.705 TASKS AND FUNCTIONS OF PHARMACY TECHNICIAN

(1) Only a registered pharmacy technician may perform the following tasks or functions under the provisions of an approved utilization plan:

(a) remove a stock bottle from the shelf and count or pour the contents into a suitable container. The stock bottle must be quarantined together with the prescription until the supervising pharmacist performs a final check or bar coding or other available technology verifies the bottle contents;

(b) type a prescription label and affix it and auxiliary labels to a prescription bottle, with final review by the registered pharmacist;

(c) enter prescription information into an automated system under the supervision of a pharmacist who must be able to check all entries;

(d) maintain prescription records, including prescription numbers, refill data and other information on the patient profile system;

(e) prepackage unit dose drugs for internal distribution. These prepackage unit dose drugs must be quarantined together with bulk containers until the supervising pharmacist performs a final check and maintains appropriate records.

(f) answer the telephone, properly identify themselves as a technician, accept verbal orders for refill prescriptions from medical practitioners or their designated agents and issue refill requests to the prescriber;

(g) a pharmacy technician may act as agent in charge of the pharmacy to assure its integrity when a registered pharmacist is not physically present, but may not perform any duties which require the exercise of the pharmacist's independent professional judgment. The technician may not be left in charge for more than 30 minutes; and

(h) compounding if a mechanism for verification by the supervising pharmacist exists that includes checking of: the original order; additives; dosages; and clarity of IV solution, where appropriate.

(2) The board reserves the right to evaluate and amend the functions allowable by a pharmacy technician, with final determination in the sole discretion of the board. (History: 37-7-201, MCA; IMP, 37-7-101, 37-7-201, 37-7-301, 37-7-307, MCA; NEW, 1992 MAR p. 1608, Eff. 7/31/92; AMD, 2002 MAR p. 86, Eff. 1/18/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06.)

Rules 24.174.706 through 24.174.710 reserved

24.174.711 RATIO OF PHARMACY TECHNICIANS AND INTERNS TO SUPERVISING PHARMACISTS (1) A registered pharmacist in good standing may supervise the services of no more than four pharmacy technicians at any time. The 1:4 pharmacist to pharmacy technician ratio may be revised by the board at any time for good cause. A pharmacist intern does not count against the pharmacist to pharmacy technician ratio.

(2) Registered pharmacists in good standing in the state of Montana may supervise a maximum of four registered pharmacy technicians, provided:

(a) in the professional judgment of the pharmacist on duty, the policy and procedures of the pharmacy must allow for safe and accurate filling and labeling of prescriptions;

(b) the policy and procedures shall be reviewed annually. All affected supervising pharmacists and pharmacy technicians must be familiar with the contents and any changes made must be reported to the board; and

(c) a copy of the policy and procedures must be available for inspection by the board compliance officer.

(3) If a pharmacy desires more than four technicians to work under the supervision, direction, and control of one pharmacist, the pharmacy shall obtain the prior written approval of the board. To apply for approval, the pharmacist-in-charge shall submit a pharmacy services plan to the board. The pharmacy services plan submitted shall demonstrate how the plan facilitates the provision of pharmaceutical care and shall include, but shall not be limited to the following:

(a) design and equipment;

(b) information systems;

(c) work flow; and

(d) quality assurance procedures.

(4) The board shall grant approval of a pharmacy service plan only when the board is satisfied that the provision of pharmaceutical care by the pharmacy will be enhanced by the increased use of technicians. An exception may be revoked by the board at any time for good cause.

(5) No pharmacy shall modify a board approved pharmacy service plan without the prior written approval of the board.

(6) Nothing in this rule shall prevent a pharmacy from terminating a service plan upon written notification to the board. (History: 37-7-201, MCA; IMP, 37-7-101, 37-7-201, 37-7-307, 37-7-308, 37-7-309, MCA; NEW, 1992 MAR p. 1608, Eff. 7/31/92; AMD, 1997 MAR p. 2060, Eff. 11/18/97; AMD, 2002 MAR p. 86, Eff. 1/18/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2002 MAR p. 3605, Eff. 12/27/02; AMD, 2006 MAR p. 1615, Eff. 6/23/06; AMD, 2019 MAR p. 1633, Eff. 9/21/19.)

24.174.712 APPLICATION FOR APPROVAL OF UTILIZATION PLAN (1) A registered pharmacist in good standing in the state of Montana may apply to the board for permission to use the services of a pharmacy technician by submitting to the board:

- (a) an application on a form prescribed by the board;
- (b) a summary of the utilization plan, to include information showing compliance with all requirements set forth in these rules, plus all other requirements of 37-7-307, 37-7-308, and 37-7-309, MCA, and this chapter;
- (c) the appropriate fee for initial approval of the plan;
- (d) any changes in the utilization plan, including technician training, must be resubmitted to the board for approval before implementation of the changes by the supervising pharmacist.

(2) Any number of registered pharmacists employed in the same pharmacy may sign as supervising pharmacist of a pharmacy technician on a single utilization plan submitted for approval to the board by that pharmacy.

(3) A registered pharmacist in good standing in the state of Montana may apply to the board to designate that pharmacy as a technician training site for a board-approved academic program curriculum. If the pharmacy training site does not have an approved technician utilization plan in place, the pharmacy may substitute an academic program training plan, assessment criteria and periodic contact plan for board approval, for the purpose of providing on-the-job experience for technician trainees. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-308, 37-7-309, MCA; NEW, 1992 MAR p. 1608, Eff. 7/31/92; AMD, 1997 MAR p. 2060, Eff. 11/18/97; AMD, 2002 MAR p. 86, Eff. 1/18/02; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.713 CONTENTS OF TRAINING COURSE (1) A pharmacy technician training course must include instruction in:

- (a) orientation to the practice of pharmacy;
- (b) pharmacy terminology and basic pharmaceuticals;
- (c) state and federal laws relating to the practice of pharmacy;
- (d) pharmaceutical calculations;
- (e) processing prescription drug orders;
- (f) telephone procedure and communication including taking refill requests;
- (g) pharmaceutical compounding;
- (h) intravenous admixture, if applicable; and
- (i) use of pharmacy computer systems, if applicable. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-307, MCA; NEW, 1992 MAR p. 1608, Eff. 7/31/92; AMD, 2002 MAR p. 86, Eff. 1/18/02; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.714 INSPECTION OF UTILIZATION PLAN AND TRAINING RECORD (1) The supervising pharmacist shall make the utilization plan available for inspection by the board during the normal business hours of the pharmacy.

(2) The pharmacy technician shall make their training record available for inspection by the board during the normal business hours of the pharmacy. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-308, MCA; NEW, 1992 MAR p. 1608, Eff. 7/31/92; AMD, 2002 MAR p. 86, Eff. 1/18/02; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.715 TECHNICIAN CHECK TECHNICIAN PROGRAM (1) To participate in a technician check technician (TCT) program an institutional pharmacy within a hospital must meet the following requirements:

(a) the pharmacy must include TCT as a technician duty, submitted to the Board of Pharmacy by the pharmacist-in-charge as part of the technician utilization plan;

(b) develop a site-specific training program tailored to the patient population and medication distribution system;

(c) designate one pharmacist to be responsible for meeting the TCT program training and validation requirements;

(d) staffing must be adequate to support a consistent utilization of the TCT program;

(e) a pharmacist must review all orders against a medication profile containing pertinent clinical information about the patient (allergies, current medication, etc.);

(f) the medication description on the batch fill list must contain the same description as the labeling on the unit dose package;

(g) the drug distribution system must be structured so that at least one additional check of dispensed medications is completed prior to administration;

(h) develop policies and procedures which include a list of the types of work that a technician may check and the types of work that are excluded from being checked by a technician; and

(i) utilize the TCT program as a tool to redirect pharmacists from distributive tasks to cognitive and patient centered activities.

(2) In order to participate in a TCT program a technician must:

(a) be a registered pharmacy intern in good standing with the board with at least three months experience in unit dose filling; or

(b) be a certified pharmacy technician in good standing with the board working full or part time with six months equivalent experience in unit dose filling; and

(c) complete site specific training in the TCT program.

(3) A TCT training program must include:

(a) didactic lecture (or equivalent training with a self-learning packet);

(b) practical sessions (one-on-one training) which consist of observation of a pharmacist checking a unit dose medication batch and/or cart;

(c) initial validation (and revalidation if needed); and

(d) regular quality assurance audits performed quarterly for the first year then every six months thereafter.

(4) Approval from the Board of Pharmacy or designee is required prior to program implementation.

(5) If at any time a technician loses their validation, that individual must not function as a TCT until they are retrained and revalidated.

(6) All TCT program materials should be readily retrievable for review by the board inspector.

(7) Any facility that is not within an institutional pharmacy within a hospital must come before the board. (History: 37-7-201, MCA; IMP, 37-7-101, 37-7-201, 37-7-301, 37-7-307, MCA; NEW, 2007 MAR p. 1936, Eff. 11/22/07.)

Subchapter 8

Pharmacies

24.174.801 GENERAL LICENSE REQUIREMENTS (1) The board shall grant a license for the operation of a pharmacy in the state of Montana when it is plainly shown that:

(a) the owner of the pharmacy is a registered pharmacist in good standing in the state of Montana; or

(b) the manager or supervisor of the pharmacy is a registered pharmacist in good standing in the state of Montana and that the pharmacist will be actively and regularly engaged and employed in, and responsible for the management, supervision and operation of such pharmacy.

(2) The license registers the pharmacy to which it is issued and is not transferable. It is issued on the application of the registered pharmacist in charge, and which contains the sworn statement that the pharmacy will be operated in accordance with the provisions of the law.

(3) To operate, maintain, open, or establish more than one pharmacy, separate applications shall be made and separate licenses issued for each. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-321, MCA; NEW, Eff. 3/21/55; AMD, 1980 MAR p. 126, Eff. 1/18/80; AMD, 1980 MAR p. 970, Eff. 3/14/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2007 MAR p. 1936, Eff. 11/22/07.)

24.174.802 NEW PHARMACY (1) Prior to conducting business, a pharmacy must secure a license and be registered with the board. Application for a license to operate a new pharmacy must be reviewed by the board or its designee before the license may be issued.

(2) A corporation or unregistered owner, may secure a license on the affidavit of the registered pharmacist charged with the management and supervision of the pharmacy.

(3) All new pharmacies shall be in compliance with ARM 24.174.814 at the time the pharmacy is opened for business. (History: 37-7-201, MCA; IMP, 37-7-321, MCA; NEW, Eff. 3/21/55; AMD, 1980 MAR p. 126, Eff. 1/18/80; AMD, 1980 MAR p. 970, Eff. 3/14/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1983 MAR p. 344, Eff. 4/29/83; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.803 CHANGE IN LOCATION (1) Whenever a pharmacy changes its physical location, including within the existing business location, it shall submit a new schematic or floor plan, for board approval.

(2) Whenever a pharmacy changes its physical location outside of its then existing business location, its original license becomes void and must be surrendered. The pharmacy shall submit a new license application, including a new schematic and floor plan of the new location, for the board's approval at least 30 days before such change occurs. (History: 37-7-201, MCA; IMP, 37-7-321, MCA; NEW, Eff. 3/21/55; AMD, 1980 MAR p. 126, Eff. 1/18/80; AMD, 1980 MAR p. 970, Eff. 3/14/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1983 MAR p. 344, Eff. 4/29/83; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.804 CHANGE IN OWNERSHIP (1) When a pharmacy changes ownership, the original license becomes void and must be surrendered to the board, and a new license obtained by the new owner or owners. The owner shall submit a new license application at least 30 days prior to the change in ownership. The application must be reviewed by the board or its designee before the license may be issued.

(2) A change in ownership for the purposes of this rule shall be deemed to occur when more than 50 percent of the equitable ownership of a business is transferred in a single transaction or in a related series of transactions to one or more persons or any other legal entity.

(3) The board must be notified in writing when five to 50 percent of the equitable ownership of a business is transferred in a single transaction or in a related series of transactions to one or more persons or any other legal entity. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-321, MCA; NEW, Eff. 3/21/55; AMD, 1980 MAR p. 126, Eff. 1/18/80; AMD, 1980 MAR p. 970, Eff. 3/14/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1983 MAR p. 344, Eff. 4/29/83; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2007 MAR p. 1936, Eff. 11/22/07.)

24.174.805 CHANGE OF PHARMACIST-IN-CHARGE (1) When the pharmacist-in-charge of a pharmacy ceases to be the pharmacist-in-charge, the pharmacist will be held responsible for notifying the board in writing of such termination of services.

(2) Within 72 hours of termination of services of the pharmacist-in-charge, a new pharmacist-in-charge must be designated in writing on the appropriate board-approved form and filed with the board. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-321, MCA; NEW, Eff. 3/21/55; AMD, 1980 MAR p. 126, Eff. 1/18/80; AMD, 1980 MAR p. 970, Eff. 3/14/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2010 MAR p. 2968, Eff. 12/24/10.)

24.174.806 LICENSES TO BE POSTED (1) The pharmacy license must be posted in a conspicuous place in the pharmacy. (History: 37-7-201, MCA; IMP, 37-7-321, MCA; NEW, Eff. 3/21/55; AMD, 1980 MAR p. 126, Eff. 1/18/80; AMD, 1980 MAR p. 970, Eff. 3/14/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06.)

24.174.807 CLOSURE OF A PHARMACY (1) Upon permanent closure of a pharmacy, the original license becomes void and must be surrendered to the board within ten days.

(2) Whenever a pharmacy permanently closes, the owner shall notify the board of the closing no later than 15 days prior to the anticipated date of closing. The notice shall be submitted in writing and shall include the following information:

- (a) the date the pharmacy will close;
- (b) the names and addresses of the persons who will have custody of the closing pharmacy's:
 - (i) prescription files;
 - (ii) bulk compounding records;
 - (iii) repackaging records; and
 - (iv) controlled substance inventory records.
- (c) the names and addresses of any persons who will acquire any legend drugs from the closing pharmacy, if known at the time the notice is filed.

(3) No later than 15 days after the pharmacy has closed, the owner shall submit to the board written confirmation that:

- (a) all legend drugs have been either:
 - (i) destroyed; or
 - (ii) transferred to an authorized person(s), including the names and addresses of the person(s) to whom the legend drugs were transferred.
- (b) controlled substances were transferred, including:
 - (i) names and addresses of the person(s) to whom the substances were transferred;
 - (ii) the substances transferred;
 - (iii) the amount of each substance transferred; and
 - (iv) the date on which the transfer took place.
- (c) the DEA registration and all unused DEA 222 forms (order forms) were returned to the DEA;
- (d) all pharmacy labels and blank prescriptions which were in the possession of the pharmacy were destroyed; and
- (e) all signs and symbols indicating the presence of the pharmacy have been removed. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-321, MCA; NEW, 2007 MAR p. 1936, Eff. 11/22/07.)

Rules 24.174.808 and 24.174.809 reserved

24.174.810 CLASS I FACILITY (REPEALED) (History: 37-7-201, MCA; IMP, 37-7-201(2), 37-7-321(2), MCA; NEW, Eff. 3/21/71; AMD, Eff. 8/4/76; AMD, Eff. 1/31/77; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 904; REP, 2002 MAR p. 3605, Eff. 12/27/02.)

24.174.811 CLASS II FACILITY (REPEALED) (History: 37-7-201, MCA; IMP, 37-7-201(2), 37-7-321(2), MCA; NEW, Eff. 3/21/71; AMD, Eff. 8/4/76; AMD, Eff. 1/31/77; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 904; REP, 2002 MAR p. 3605, Eff. 12/27/02.)

24.174.812 CLASS III FACILITY (REPEALED) (History: 37-7-201, MCA; IMP, 37-7-201(2), 37-7-321(2), MCA; NEW, Eff. 3/21/71; AMD, Eff. 8/4/76; AMD, Eff. 1/31/77; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 904; REP, 2002 MAR p. 3605, Eff. 12/27/02.)

24.174.813 CLASS IV FACILITY (REPEALED) (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-321, MCA; NEW, Eff. 3/21/71; AMD, Eff. 8/4/76; AMD, Eff. 1/31/77; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1983 MAR p. 344, Eff. 4/29/83; TRANS, from Commerce, 2002 MAR p. 904; REP, 2012 MAR, p. 896, Eff. 4/27/12.)

24.174.814 SECURITY OF PHARMACY (1) Each pharmacist, while on duty, shall be responsible for the security of the pharmacy, including provisions for effective control against theft or diversion of drugs.

(a) A Schedule II controlled substance perpetual inventory shall be maintained and routinely reconciled in all pharmacies.

(2) The pharmacy shall be secured at all times by either a physical barrier with suitable locks and/or an electronic barrier to detect entry by unauthorized persons at any time. Such barrier shall be approved by the board or its designee before being put into use.

(3) Prescription and other patient health care information shall be maintained in a manner that protects the integrity and confidentiality of such information as provided by the rules of the board.

(4) Sections (1) and (2) of this rule shall be effective February 1, 2004. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2002 MAR p. 794, Eff. 2/1/02; AMD, 2006 MAR p. 1615, Eff. 6/23/06.)

Rules 24.174.815 and 24.174.816 reserved

24.174.817 AUTOMATED RECORD KEEPING SYSTEMS (1) An automated system may be employed for the record keeping system, if the following conditions have been met:

(a) The system shall have the capability of producing legible documents of all original and refilled prescription information. During the course of an on-site inspection the records must be accessible for viewing or printing.

(b) The individual pharmacist responsible for completeness and accuracy of the entries to system must provide documentation of the fact that prescription information entered into the computer is correct. In documenting this information, the pharmacy shall have the option to either:

(i) maintain a bound log book, or separate file, in which each individual pharmacist involved in such dispensing shall sign a statement each day, attesting to the fact that the prescription information entered into the computer that day has been reviewed and is correct as shown. Such a book or file must be maintained at the pharmacy employing such a system for a period of at least two years after the date of last dispensing; or

(ii) provide a printout of each day's prescription information. That printout shall be verified, dated and signed by the individual pharmacist verifying that the information indicated is correct and then sign this document in the same manner as signing a check or legal document (e.g., J. H. Smith, or John H. Smith). Such printout must be maintained at least two years from the date of last dispensing; or

(iii) utilize a software system which requires a unique log in for each function such that it can be easily and accurately determined who performed every function within the prescription dispensing process. The records must be readily accessible for viewing or printing at the request of the board.

(c) An auxiliary recordkeeping system shall be established for the documentation of refills if the automated system is inoperative for any reason. The auxiliary system shall insure that all refills are authorized by the original prescription and that the maximum number of refills is not exceeded. When this automated system is restored to operation, the information regarding prescriptions filled and refilled during the inoperative period shall be entered into the automated system within 96 hours. However, nothing in this section shall preclude the pharmacist from using his professional judgment for the benefit of a patient's health and safety.

(d) Any pharmacy using an automated system must comply with all applicable state and federal laws and regulations. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 1985 MAR p. 1017, Eff. 7/26/85; AMD, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2010 MAR p. 74, Eff. 1/15/10.)

24.174.818 SECURITY (1) The system shall contain adequate safeguards or security of the records to maintain the confidentiality and accuracy of the prescription or drug order information. Safeguards against unauthorized changes in data after the information has been entered and verified by the registered pharmacist shall be provided by the system. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 1985 MAR p. 1017, Eff. 7/26/85; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.819 SANITATION AND EQUIPMENT REQUIREMENTS

(1) Pharmacies shall at all times be operated by a registered pharmacist in a sanitary manner. There must be in use a safe and pure water supply and facilities for the proper storage and handling of supplies and stocks.

(2) Pharmacies shall have adequate space where prescriptions are filled or drugs compounded, containing suitable equipment in order to provide for an efficient pharmacy operation.

(3) Pharmacies shall contain and have ready for use all up-to-date items which are necessary in filling prescriptions, compounding drugs and the efficient operation of the pharmacy. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, Eff. 3/21/55; AMD, 1980 MAR p. 126, Eff. 1/18/80; AMD, 1980 MAR p. 970, Eff. 3/14/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1983 MAR p. 344, Eff. 4/29/83; AMD, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904.)

Rules 24.174.820 and 24.174.821 reserved

24.174.822 CENTRAL FILLING BY HUB PHARMACIES (REPEALED)

(History: 37-7-201, MCA; IMP, 37-7-201, 37-7-321, MCA; NEW, 2006 MAR p. 1615, Eff. 6/23/06; REP, 2007 MAR p. 1936, Eff. 11/22/07.)

24.174.823 CENTRALIZED PRESCRIPTION FILLING AND PROCESSING OF DRUG ORDERS

(1) A pharmacy may outsource prescription drug order filling or processing to a central filling or processing pharmacy provided the pharmacies:

(a) have the same owner or have entered into a written contract or agreement that outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws, rules, and regulations; and

(b) share a common electronic file.

(2) A pharmacy that outsources prescription drug order filling or processing to another pharmacy shall, prior to outsourcing a prescription drug order:

(a) notify the patient or the patient's agent that prescription filling or processing may be outsourced to another pharmacy;

(b) provide the name of the pharmacy that will be filling or processing the prescription or, if the pharmacy is part of a network of pharmacies under common ownership and any of the network pharmacies may fill or process the prescription, the patient shall be notified of this fact; and

(c) clearly show the name, address, and telephone number of the delivering pharmacy on the prescription container.

(3) The patient shall have the choice not to have the prescription outsourced.

(4) Each pharmacy engaging in centralized prescription processing shall be jointly responsible for properly filling the prescription.

(5) The delivering pharmacy is responsible for providing patient counseling.

(6) All central filling or processing of prescription drug orders must be completed in a licensed pharmacy.

(7) Pharmacies providing central processing or central filling services to pharmacies in the state of Montana must be licensed in Montana.

(8) An out-of-state pharmacy providing central processing or central filling services to pharmacies in the state of Montana must be registered as an out-of-state mail service pharmacy and comply with all Montana statutes and rules regulating mail order pharmacies.

(9) A policy and procedure manual relating to centralized filling or processing activities shall be maintained at all pharmacies involved in centralized filling or processing. An electronic copy of the policy and procedure manual shall be submitted to the board. Thereafter the manual shall be available for inspection and copying by the board. The policies and procedures shall:

(a) outline the responsibilities of each of the pharmacies which must include but is not limited to:

- (i) receiving, interpreting, or clarifying prescription orders;
- (ii) entering data and transferring prescription information;
- (iii) obtaining refill and substitution authorization information;
- (iv) performing drug regimen review;
- (v) interpreting clinical data for prior authorization dispensing;
- (vi) performing therapeutic interventions; and
- (vii) providing drug information.

(b) include a list of the name, address, telephone numbers, and license or registration number of the pharmacies participating in central filling or processing; and

(c) include policies and procedures for:

- (i) protection of the confidentiality and integrity of patient information;
- (ii) maintenance of appropriate records to identify the names, initials, or identification codes and specific activities of each of the pharmacists and/or technicians who performed any processing; and
- (iii) compliance with federal, DEA, and state laws and regulations;
- (iv) operation of a continuous quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems; and

(v) annual review of the written policies and procedures and documentation of such review. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-321, MCA; NEW, 2007 MAR p. 1936, Eff. 11/22/07.)

Rules 24.174.824 through 24.174.829 reserved

24.174.830 LIMITED SERVICE PHARMACY (1) A limited service pharmacy is defined as a family planning clinic:

(a) operating under contract with the Department of Public Health and Human Services (DPHHS); or

(b) providing pharmaceutical care under the review of a consulting pharmacist and dispensing legend drugs, but which is not under contract with DPHHS.

(2) Each limited service pharmacy must apply for a license from the board and submit the required fee.

(3) The board shall grant a license to operate a limited service pharmacy to qualified applicants. A licensed family planning clinic may operate satellite locations under the same license if identified on the application.

(4) A limited service pharmacy must display its license in a conspicuous place at the facility.

(5) A limited service pharmacy is not required to employ a licensed pharmacist.

(6) A limited service pharmacy dispensing legend drugs other than factory, prepackaged contraceptives must disclose the name, address, telephone number, and title of the designated person in charge of the limited service pharmacy. The person in charge is responsible for the limited service pharmacy's compliance with all applicable state and federal statutes and rules. A person in charge may be responsible for multiple sites.

(7) The board may annually inspect limited service pharmacies, including any satellite locations. The board may inspect more often for cause. Such inspections must include assurance that the limited service pharmacy provides adequate:

(a) drug labeling;

(b) counseling materials to all patients, including the name of the limited service pharmacy's consulting pharmacist, where required;

(c) contact information of a knowledgeable individual at the clinic in the event of an adverse reaction;

(d) records maintenance and retention; and

(e) drug storage and security.

(8) Nothing in this rule is meant to limit or restrict the authority of a registered nurse employed by a family planning clinic, operating under contract with DPHHS, from dispensing factory, prepackaged contraceptives as authorized by 37-2-104, 37-7-103, or 50-31-307, MCA.

(9) A registered nurse or provider with prescriptive authority, employed by a family planning clinic operating under contract with DPHHS, may dispense oral antibiotics used to treat Chlamydia to a patient diagnosed with Chlamydia and to a sexual contact or partner of a patient diagnosed with Chlamydia. All appropriate records shall be maintained on-site. The antibiotics dispensed must:

- (a) be prepackaged and properly labeled in accordance with state law;
- (b) include appropriate counseling materials informing the patient of the potential risks involved in taking the drug; and
- (c) contain contact information for the healthcare provider or a consulting pharmacist to provide advice or answer questions. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-321, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12.)

24.174.831 PRESCRIPTION REQUIREMENTS (1) Prescriptions [or drug orders] shall include, but not be limited to:

- (a) patient's name;
- (b) name of drug, device, or biological;
- (c) strength of drug or biological, if applicable;
- (d) dosage form of drug or biological, if applicable;
- (e) quantity of drug, device, or biological prescribed;
- (f) directions for use;
- (g) date of issuance;
- (h) prescriber's name;
- (i) if the prescription is written, it must contain the prescriber's hand-written signature and the name of the prescriber stamped, typed, printed, or clearly handwritten in addition to the signature;
- (ii) if the prescription is written, it must be tamper-resistant and contain all of the following characteristics:
 - (A) one or more industry-recognized features designed to prevent unauthorized copying of a completed or blank prescription form;
 - (B) one or more industry-recognized features designed to prevent the erasure or modification of information written on the prescription pad by the prescriber; and
 - (C) one or more industry-recognized features designed to prevent the use of counterfeit prescription forms.
 - (i) number of refills authorized;
 - (i) when the refill designation on the prescription is prn or Pro re nata, such designation, unless otherwise limited, means a refill for one year;
 - (ii) if a prescription is for a controlled substance in Schedules III, IV, or V, refill five times in the six months from the date of issuance;
 - (iii) if a prescription is for a noncontrolled drug, device, or biological, refill for 12 months from the date of issuance;
 - (iv) controlled substances in Schedule II cannot be refilled and a refill designation for a controlled substance in Schedule II has no meaning.

(j) if the prescription is for a controlled substance, the following additional information is required to be on the prescription:

- (i) patient's address;
- (ii) prescriber's address; and
- (iii) prescriber's Drug Enforcement Administration (DEA) registration number.

(2) Prescription or refill authorization issued by a prescriber may be communicated to a pharmacist or a pharmacist intern by an employee or agent of the prescriber.

(3) "Brand name medically necessary" shall be handwritten (or printed if electronically generated) on the face of the prescription if it is medically necessary that an equivalent drug product not be selected.

(4) "Chart order" means a lawful order entered on the chart or a medical record of a patient or resident of a facility by a practitioner, or his or her designated agent, for a drug or device and shall be considered a prescription. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-505, MCA; NEW, 1985 MAR p. 1017, Eff. 7/26/85; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2010 MAR p. 74, Eff. 1/15/10; AMD, 2011 MAR p. 1148, Eff. 6/24/11; AMD and TRANS, from ARM 24.174.510, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.832 LABELING FOR PRESCRIPTIONS (1) On prescription drugs, the label shall contain the name, address and phone number of the dispenser, name of prescriber, name of patient, name and strength of the drug, directions for use and date of filling.

(2) The prescription label must be securely attached to the outside of the container in which the prescription is dispensed. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, Eff. 7/19/68; AMD, 1978 MAR p. 393, Eff. 3/25/78; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2001 MAR p. 783, Eff. 5/11/01; TRANS, from Commerce, 2002 MAR p. 904; TRANS, from ARM 24.174.511, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.833 RECORDS OF DISPENSING (1) Records of dispensing for original and refill prescriptions are to be made and kept by pharmacies for at least two years and shall include, but not be limited to:

- (a) quantity dispensed, if different;
- (b) date of dispensing;
- (c) serial number [or equivalent if an institution];
- (d) the identification of the pharmacist responsible for dispensing;
- (e) documentation of satisfaction of state requirements for drug product selection;
- (f) records of refills to date.

(Note: Information presented in brackets [] represents institutional pharmacy requirements.) (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 1985 MAR p. 1017, Eff. 7/26/85; TRANS, from Commerce, 2002 MAR p. 904; TRANS, from ARM 24.174.512, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.834 COPY OF PRESCRIPTION (1) A pharmacist giving a copy of a prescription, must issue the same on a prescription blank showing the name and address of the pharmacy. It must be an accurate and correct copy and have the original number and date of the prescription on it.

(2) It shall be unlawful for any pharmacist or other person to fill a prescription for a legend drug from a pharmacy-produced copy. (History: 37-7-201, MCA; IMP, 37-7-101, MCA; NEW, Eff. 6/7/66; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; TRANS, from ARM 24.174.513, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.835 TRANSFER OF PRESCRIPTIONS (1) The transfer of prescription information for the purpose of dispensing is permissible between pharmacies subject to DEA regulations and the following requirements:

- (a) the transfer is communicated directly between two licensed pharmacists/interns; and
 - (b) a retrievable audit trail, including the date of transfer and initials or code of the transferring parties, is maintained for a period of two years.
- (2) The transferring pharmacy shall:
- (a) render the prescription void;
 - (b) enter the name, address, and DEA number if required of the receiving pharmacy into the database of the transferring pharmacy;
 - (c) inform the receiving pharmacy of:
 - (i) the date on which the prescription was written;
 - (ii) the original number of refills;
 - (iii) the number of refills remaining; and
 - (iv) the date of the most recent refill.
 - (3) The receiving pharmacy shall maintain documentation including:
 - (a) a notation that the prescription was received by transfer;
 - (b) the date on which the prescription was written;
 - (c) the original prescription number of the transferred prescription;
 - (d) the original number of refills, number of refills remaining, and the date of the most recent refill;
 - (e) the name, address, and DEA number if required of the transferring pharmacy;
 - (f) all other prescription information required by state and federal laws and regulations; and
 - (g) a nonfading hard copy record of each prescription drug order transferred.

(4) Pharmacies accessing a common or shared electronic file or database used to maintain required dispensing information are not required to transfer prescription drug orders or information for dispensing purposes between or among pharmacies participating in the common or shared prescription file, provided, however, that any such common or shared file shall contain complete records of each prescription drug order and refill dispensed. A hard copy record of each prescription drug order accessed for purposes of refilling shall be generated if necessary and maintained at the refilling pharmacy. An easily retrievable audit trail which documents the location of each filling must be maintained and provisions must be made to assure that the number of authorized refills is not exceeded.

(a) Any pharmacy which establishes an electronic file for prescription records, which is shared with or accessible to other pharmacies, shall post in a place conspicuous to and readily readable by prescription drug consumers a notice in substantially the following form:

"NOTICE TO CONSUMERS:

This pharmacy maintains its prescription information in an electronic file which is shared by or accessible to the following pharmacies: (list names of all pharmacies which share the prescription information).

By offering this service, your prescriptions may also be refilled at the above locations. If for any reason you do not want your prescriptions to be maintained this way, please notify the pharmacist-in-charge."

(b) Whenever a consumer objects to their prescription records being made accessible to other pharmacies through the use of electronic prescription files, it is the duty of the pharmacy to assure that the consumer's records are not shared with or made accessible to another pharmacy except as provided in this rule.

(5) In an emergency, a pharmacy may transfer original prescription drug order information for a noncontrolled substance to a second pharmacy for the purpose of dispensing up to a seven-day supply, without voiding the original prescription drug order. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 1985 MAR p. 1017, Eff. 7/26/85; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06; AMD and TRANS, from ARM 24.174.514, 2015 MAR p. 302, Eff. 3/27/15; AMD, 2019 MAR p. 1633, Eff. 9/21/19.)

24.174.836 EMERGENCY PRESCRIPTION REFILLS (1) A pharmacist may refill a prescription without practitioner authorization when:

(a) the pharmacist is unable to contact the practitioner after reasonable effort; and

(b) in the professional judgment of the pharmacist, failure to refill the prescription may result in an interruption of a therapeutic regimen or cause patient suffering.

(2) If a prescription is not refillable, a pharmacist dispensing an emergency refill:

(a) may exercise professional judgment to dispense a minimum sufficient quantity until authorization can be obtained from a prescriber:

(i) for drugs which must be dispensed in their original containers, the pharmacist may dispense the smallest trade size available;

(b) may not dispense a prescription medication listed in Schedule II;

(c) must inform the patient or the patient's representative at the time of dispensing that the refill is being provided without the practitioner's authorization, and that practitioner authorization is required for any future refill;

(d) must inform the practitioner of the emergency refill at the earliest reasonable time; and

(e) comply with all applicable record-keeping requirements. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12; TRANS, from ARM 24.174.515, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.837 PRESCRIPTION REQUIRED FOR SCHEDULE V (1) All products which are presently defined as exempt narcotics (Schedule V) of the Comprehensive Controlled Substances Act, Public Law (91-513) shall require a prescription from one with the authority to prescribe. (History: 37-7-201, MCA; IMP, 37-7-102, 37-7-201, MCA; NEW, Eff. 9/16/71; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 904; TRANS, from ARM 24.174.520, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.838 RETURNED PRESCRIPTION (1) In the best interest of, and for the safety and protection of public health and the pharmacy, no pharmacist shall place in stock for reuse or resale the contents of any prescription, which has been returned after leaving the pharmacy except as provided in ARM 24.174.1141. (History: 37-7-201, 37-7-1401, MCA; IMP, 37-7-201, 37-7-1401, MCA; NEW, Eff. 6/12/57; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06; TRANS, from ARM 24.174.521, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.839 ALTERNATE DELIVERY OF PRESCRIPTIONS (1) Under the provisions of 37-7-301, MCA, it shall be deemed a violation of the pharmacy law for any person or corporation holding a pharmacy license to participate in any arrangement or agreement whereby prescriptions may be left at, picked up from, accepted by or delivered to any store, shop or any other establishment not licensed by the board as a "pharmacy".

(a) Nothing in this rule shall prohibit a licensed pharmacy from picking up prescriptions or delivering prescriptions at the office or home of the prescriber, and at the residence of the patient or at the hospital in which a patient is confined, by means of an employee or a common carrier.

(b) Nothing in this rule shall prohibit a registered pharmacist from installing an appropriate secure device as an alternate delivery system, when the pharmacy is closed. The system and counseling methods must have the prior approval of the board or its designee. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-301, MCA; NEW, Eff. 9/24/61; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06; TRANS, from ARM 24.174.522, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.840 TRANSMISSION OF PRESCRIPTIONS BY ELECTRONIC MEANS (1) A pharmacist may dispense directly any legend drug, which requires a prescription to dispense (except as provided in (2) and (3) below for Schedule II, III, IV, and V, controlled substances) pursuant to either a written prescription signed by a practitioner or a prescription transmitted by the practitioner or the practitioner's agent to the pharmacy by electronic means, or pursuant to an oral prescription made by an individual practitioner and promptly reduced to hardcopy by the pharmacist, containing all information required. The prescription shall be maintained in accordance with ARM 24.174.512.

(2) A pharmacist may dispense directly a controlled substance in Schedule II, which is a prescription drug as determined by the Federal Food, Drug, and Cosmetic Act (FD&C Act), pursuant to a written prescription signed by the practitioner. In addition, a prescription for a Schedule II controlled substance may be transmitted by the practitioner or the practitioner's agent to a pharmacy by electronic means, provided the original written, signed prescription is presented to the pharmacist for review prior to the actual dispensing of the controlled substance or by electronic means that meet all of the federal guidelines for controlled substances that are electronically prescribed. The original prescription shall be maintained in accordance with ARM 24.174.512.

(a) A signed prescription for a Schedule II narcotic substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion may be transmitted by the practitioner or the practitioner's agent to the pharmacy by electronic means. The electronic transmission serves as the original written prescription for the purpose of this rule and it shall be maintained in accordance with ARM 24.174.512.

(b) A signed prescription for a Schedule II substance for a resident of a long-term care facility may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by electronic means. The electronic transmission serves as the original written prescription for purposes of this rule and it shall be maintained in accordance with ARM 24.174.512.

(c) A signed prescription for a Schedule II substance for a patient enrolled in a hospice care program, certified and/or paid for by Medicare under Title XVIII of the Social Security Act, or a hospice program which is licensed by the state of Montana, may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by electronic means. The practitioner or the practitioner's agent shall note on the prescription that the patient is a hospice patient. The electronic transmission serves as the original written prescription for purposes of this rule and it shall be maintained in accordance with ARM 24.174.512.

(3) A pharmacist may dispense directly a controlled substance listed in Schedule III, IV, or V, which is a prescription drug as determined under the FD&C Act, only pursuant to either a written prescription signed by a practitioner or a copy of a written, signed prescription transmitted by the practitioner or the practitioner's agent to the pharmacy by electronic means, or pursuant to an oral prescription made by an individual practitioner and promptly reduced to hardcopy by the pharmacist, containing all information required or by electronic means that meet all of the federal guidelines for controlled substances that are electronically prescribed. The prescription shall be maintained in accordance with ARM 24.174.512.

(4) Prescriptions may be transmitted electronically directly from an authorized prescriber or his/her authorized agent to the pharmacy of the patient's choice without alteration by any other party, providing the following requirements are met:

(a) Both prescriber and pharmacist must have a secure (encrypted or encoded) system for electronic transmission from computer to computer that ensures patient confidentiality;

(b) The receiving electronic device shall be located within the pharmacy department to ensure security and confidentiality;

(c) An electronically transmitted prescription shall contain all information required by state and federal law, including the date and time of transmission, the prescriber's telephone number for verbal confirmation, and the name of the prescriber's agent transmitting the order, if other than the prescriber;

(d) The prescriber's electronic signature or other secure (encrypted or encoded) method of validation shall be provided with the electronically transmitted order. Faxed prescription orders shall contain the identifying number of the sending fax machine;

(e) A printed, nonfading copy of an electronically transcribed prescription will be maintained in the pharmacy for a period of two years;

(f) The prescription shall be marked "electronically transmitted prescription" or be otherwise identified for easy retrieval;

(g) An electronically transmitted prescription shall be transmitted only to the pharmacy of the patient's choice;

(h) The pharmacist is responsible for assuring the validity of the electronically transmitted prescription;

(i) A pharmacist or pharmacy shall not enter into any agreement to provide or receive a computer or computer modem, personal digital assistant, facsimile machine, or any other electronic device which would adversely affect a patient's freedom to select the pharmacy of the patient's choice; and

(j) A pharmacist or pharmacy shall not provide a computer or computer modem, personal digital assistant, facsimile machine, or any other electronic device to a prescriber or healthcare facility for the purpose of providing an incentive to refer patients to a particular pharmacy.

(5) Computer-generated, electronically signed prescriptions that are handed directly to a patient or to a patient's agent must be authenticated by the prescriber with the prescription hand-signed, with the actual signature of the prescriber.

(6) Two or more pharmacies sharing common electronic files to maintain dispensing information are not required to transfer prescription information between these pharmacies, providing all common electronic files maintain complete and accurate records of each prescription and refill dispensed, and the total number of refills authorized is not exceeded.

(a) Any pharmacy sharing a common electronic file for prescription records shall post the following notice in readily readable form in a conspicuous place within the pharmacy:

"This pharmacy maintains its prescription information in a secure electronic file that is shared by the following pharmacies: (list names of pharmacies which share the prescription information). If refills are authorized, your prescriptions may be refilled at any of the above locations. If you do not want your prescriptions to be maintained in this way, please notify the pharmacist at the time of filling."

(b) Pharmacies sharing common electronic files will have policies and procedures in place for handling these exceptions. (History: 37-7-201, 50-32-103, MCA; IMP, 37-1-101, 37-7-102, 37-7-201, 50-32-208, MCA; NEW, 1995 MAR p. 2689, Eff. 12/8/95; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06; AMD, 2010 MAR p. 74, Eff. 1/15/10; AMD, 2012 MAR p. 896, Eff. 4/27/12; AMD and TRANS, from ARM 24.174.523, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.841 STERILE PRODUCTS (1) Policies and procedures must be prepared for the compounding, dispensing, delivery, administration, storage, and use of sterile pharmaceutical products. The policies must include a quality assurance program for monitoring personnel qualifications and training in sterile technique, product storage, stability standards, and infection control. Policies and procedures must be current and available for inspection by a designee of the Board of Pharmacy.

(2) An institutional pharmacy compounding sterile products must have an isolated area designed to avoid unnecessary traffic and airflow disturbances.

(3) An institutional pharmacy compounding sterile products must utilize an appropriate aseptic environmental control device such as a laminar flow biological safety cabinet capable of maintaining Class 100 conditions during normal activity, or have policies and procedures in place limiting the pharmacy's scope of sterile product preparation.

(4) An institution preparing cytotoxic drugs must have a vertical flow Class II biological safety cabinet. Cytotoxic drugs must be prepared in a vertical flow Class II biological safety cabinet.

(a) Protective apparel including nonvinyl gloves, gowns, and masks must be available, and gloves must be worn at all times.

(b) Appropriate containment techniques must be used in addition to aseptic techniques required for sterile product preparation.

(c) Prepared doses of cytotoxic drugs must be clearly identified, labeled with proper precautions, and dispensed in a manner to minimize risk of cytotoxic spills.

(d) Disposal of cytotoxic waste must comply with all applicable local, state, and federal laws.

(e) Written procedures for handling cytotoxic spills must be included in the policies and procedures manual.

(5) All parenteral admixtures must be labeled with date of preparation and expiration date clearly indicated, patient name and room number, name and strength and/or amount of drug and base solution, and any special handling or storage instructions.

(6) All aseptic environmental control devices must be certified by an independent contractor for operational efficiency at least every 12 months or when relocated, according to Federal Standard 209E. Prefilters must be inspected periodically and replaced if needed.

(7) Inspection and replacement dates must be documented and maintained for a period of at least two years.

(8) Documented records of ongoing quality assurance programs, justification of expiration dates chosen, and employee training records and technique audits must be available for inspection by the Board of Pharmacy.

(9) The board expects pharmacies/pharmacists engaged in compounding to have policies and procedures to adhere to those guidelines that apply to their practice setting and in all situations to comply with the spirit of United States Pharmacopeia (USP) Chapter 795 "Compounding Nonsterile Preparations" and USP Chapter 797 "Pharmaceutical Compounding-Sterile Preparations."

(10) Immediate use compounds defined in ARM 24.174.301(21) are prepared in an air quality environment that does not meet International Organization of Standardization (ISO) Class 5 or better conditions. A preparer of immediate use compounds is not required to wear gloves or gown if the compounds are prepared using aseptic manipulation, only sterile ingredients, products, components, and devices, and the following conditions are met:

(a) no more than three sterile ingredients, products, components, and devices are used;

(b) only simple manipulation techniques are employed;

(c) the preparer completes the preparation without interruption and with no direct contact contamination;

(d) the administration must begin within one hour of preparation;

(e) if prepared by someone other than the person who will administer the drug, labeling must include patient name, name and quantity of ingredients, name of person who prepared it, and exact one hour "beyond use date"; and

(f) preparations do not involve the use of hazardous materials.

(11) Multi-dose vial defined in ARM 24.174.301(29) may be used until the expiration date noted on the vial. The beyond use date (BUD) may be up to one month or the manufacturer's assigned BUD, whichever is shorter from the time of initial entry, in accordance with the pharmacy policies and procedures.

(12) A same-day use product, defined in ARM 24.174.301(41), that is prepared using aseptic manipulation in a controlled environment with ISO 5 or better class air quality conditions, using only sterile ingredients, products, components, and devices, may be classified as low- or medium-risk provided that it meets all of the following conditions:

- (a) only simple manipulation techniques employed;
- (b) the environment meets or exceeds the following conditions:
 - (i) the mixing cabinet is located in an area that restricts airflow to prevent drafts and reduce particle counts;
 - (ii) there is a partitioned area around the mixing cabinet to create a buffer zone, which must be at least the width of the hood in front of the mixing cabinet; and
 - (iii) the buffer zone must be clearly identified to prevent cardboard or outer packing material intruding into the buffer zone and to prevent any intrusion during the compounding process.
- (c) the environment is cleaned daily;
- (d) batch preparation will not exceed eight CSPs;
- (e) administration of the preparation must begin within 24 hours of preparation; and
- (f) the preparer must use gloves, shoe covers or dedicated shoes, hair covers, gown, and a mask.

(13) The beyond use date (BUD), as defined in ARM 24.174.301(2), for a single-dose vial:

- (a) shall be no greater than one hour from the time of initial entry if accessed in an environment of less than ISO 5; or
- (b) may be up to 24 hours from the time of initial entry if appropriately stored and accessed only in an environment equal to or better than ISO 5.

(14) Low-risk and medium-risk level compounded sterile preparation (CSP) is determined by the potential for microbial contamination during preparation, and high-risk level CSP by the potential for not being properly sterilized before administration to patients.

- (a) Low-risk conditions:
 - (i) CSPs prepared using aseptic manipulation with an air quality environment that is equal to or better than ISO Class 5, using only sterile ingredients, products, components, and devices;
 - (ii) no more than three commercially manufactured sterile products and entries into one container of sterile product during preparation;
 - (iii) manipulations limited to:
 - (A) aseptically opening ampoules;
 - (B) penetrating sterile stoppers on vials with sterile needles and syringes;
- and
- (C) transferring sterile liquids in sterile syringes to sterile administration devices, package containers of other sterile products, and sterile containers for storage and dispensing.

- (iv) in the absence of sterility testing, preparations must be properly stored prior to administration as follows:
 - (A) BUD less than or equal to 48 hours at controlled room temperature;
 - (B) BUD up to 14 days under refrigeration; or
 - (C) BUD up to 45 days in solid frozen state at minus 20 degrees centigrade.
- (b) Medium-risk conditions:
 - (i) CSPs compounded aseptically under low-risk conditions, but with the addition of one or more of the following conditions:
 - (A) multiple individual or small doses of sterile precuts are combined or pooled to prepare a CSP that will be administered either to multiple patients or to one patient on multiple occasions;
 - (B) the compounding process includes complex aseptic manipulations other than single volume transfer; or
 - (C) the compounding process requires unusually long duration, such as that required to complete dissolution or homogenous mixing.
 - (ii) In the absence of sterility testing, preparations must be properly stored prior to administration as follows:
 - (A) BUD less than or equal to 30 hours at controlled room temperature;
 - (B) BUD up to nine days under refrigeration; or
 - (C) BUD up to 45 days in solid frozen state at minus 20 degrees centigrade.
 - (c) High-risk conditions:
 - (i) CSPs compounded from nonsterile ingredients including products manufactured for other routes of administration, or a nonsterile device is employed before terminal sterilization;
 - (ii) exposure to an air quality environment that does not meet ISO 5 or better conditions for more than one hour for any of the following:
 - (A) sterile contents of commercially manufactured products;
 - (B) CSPs that lack effective antimicrobial preservatives; or
 - (C) sterile surfaces of devices and containers for the preparation, transfer, sterilization, and packaging of CSPs.
 - (iii) Prior to terminal sterilization:
 - (A) nonsterile procedures including weighing and mixing occur in an air quality environment that does not meet ISO 7 or better conditions;
 - (B) compounding personnel are improperly gloved or garbed; or
 - (C) water containing preparations are stored for more than six hours.
 - (iv) in the absence of sterility testing, preparations must be properly stored prior to administration as follows:
 - (A) BUD less than or equal to 24 hours at controlled room temperature;
 - (B) BUD up to three days under refrigeration; or
 - (C) BUD up to 45 days in solid frozen state at minus 20 degrees centigrade.
 - (v) all nonsterile devices must be rinsed thoroughly with sterile, pyrogen-free water, then thoroughly drained or dried immediately before use.

(vi) terminal sterilization is required as follows:

(A) CSP solutions passed through a filter with a nominal porosity not larger than 1.2 micron preceding or during filling into their final containers to remove particulate matter; or

(B) sterilization of high-risk level CSPs by filtration must be performed with a sterile 0.22 micron pore filter entirely within an air quality environment better than or equal to ISO 5. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-307, 37-7-308, MCA; NEW, 2002 MAR p. 3605, Eff. 12/27/02; AMD and TRANS, from ARM 24.174.1121, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.842 POSITIVE IDENTIFICATION FOR CONTROLLED SUBSTANCE PRESCRIPTIONS (1) The board authorizes the following allowable identifications in addition to those listed in 37-7-410, MCA:

(a) a valid government-issued photo identification, including but not limited to passport, military, or state-issued identification. (History: 37-7-201, 37-7-410, MCA; IMP, 37-7-410, MCA; NEW, 2020 MAR p. 43, Eff. 1/18/20.)

Subchapter 9

Patient Counseling

24.174.901 PATIENT RECORDS (1) A patient record system shall be maintained by all pharmacies for patients for whom prescription drug orders are dispensed. The patient record system shall provide for the immediate retrieval of information necessary for the dispensing pharmacist to identify previously dispensed drugs at the time a prescription drug order is presented for dispensing. The pharmacist or pharmacy technician under a board-approved utilization plan, shall make a reasonable effort to obtain, record, and maintain the following information:

- (a) full name of the patient for whom the drug is intended;
- (b) address and telephone number of the patient;
- (c) patient's age or date of birth;
- (d) patient's gender;
- (e) pharmacist comments relevant to the individual's drug therapy, including any other information peculiar to the specific patient or drug.

(2) The pharmacist or pharmacy technician under a board-approved utilization plan, shall make a reasonable effort to obtain from the patient or the patient's agent and shall record any known allergies, drug reactions, idiosyncrasies, and chronic conditions or disease status of the patient and the identity of any other drugs, including over-the-counter drugs, or devices currently being used by the patient which may relate to prospective drug review.

(3) A patient record shall be maintained for a period of not less than three years from the date of the last entry in the profile record. This record may be a hard copy or a computerized form. (History: 37-7-201, MCA; IMP, 37-7-406, MCA; NEW, 1993 MAR p. 293, Eff. 2/26/93; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.902 PROSPECTIVE DRUG REVIEW (1) A pharmacist shall review the patient record and each prescription drug order presented for dispensing for purposes of promoting therapeutic appropriateness by identifying:

- (a) overutilization or underutilization;
- (b) therapeutic duplication;
- (c) drug-disease contraindications;
- (d) drug-drug interactions;
- (e) incorrect drug dosage or duration of drug treatment;
- (f) drug-allergy interactions;
- (g) clinical abuse/misuse.

(2) Upon recognizing any of the above, the pharmacist shall take appropriate steps to avoid or resolve the problem which shall, if necessary, include consultation with the prescriber. (History: 37-7-201, MCA; IMP, 37-7-406, MCA; NEW, 1993 MAR p. 293, Eff. 2/26/93; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.903 PATIENT COUNSELING (1) Upon receipt of a new prescription drug order or refill prescription drug order if deemed necessary by the pharmacist, and following a review of the patient's record, a pharmacist shall personally offer to discuss matters which will enhance or optimize drug therapy with each patient or caregiver of such patient. Such discussion shall be in person, whenever practicable, or by telephone, and shall include appropriate elements of patient counseling. Such elements may include the following:

- (a) the name and description of the drug;
- (b) the dosage form, dose, route of administration, and duration of drug therapy;
- (c) intended use of the drug and expected action;
- (d) special directions and precautions for preparation, administration, and use by the patient;
- (e) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;
- (f) techniques for self-monitoring drug therapy;
- (g) proper storage;
- (h) prescription refill information;
- (i) action to be taken in the event of a missed dose; and
- (j) pharmacist comments relevant to the individual's drug therapy, including any other information peculiar to the specific patient or drug.

(2) Each pharmacy shall have at least one area that offers appropriate visual and auditory patient confidentiality for patient counseling.

(3) Alternative forms of patient information shall be used to supplement patient counseling when appropriate. Examples include written information leaflets, pictogram labels, video programs, etc.

(4) Patient counseling, as described above and defined in this Act shall not be required for inpatients of a hospital or institution where other licensed health care professionals are authorized to administer the drug(s). Any pharmacist dispensing medication to be self-administered outside an institution shall comply with all patient counseling statutes and rules.

(5) A pharmacist shall not be required to counsel a patient or caregiver when the patient or caregiver refuses such consultation. A record of the refusal shall be maintained by the pharmacist. (History: 37-7-201, MCA; IMP, 37-7-406, MCA; NEW, 1993 MAR p. 293, Eff. 2/26/93; AMD, 2000 MAR p. 2005, Eff. 7/28/00; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2015 MAR p. 302, Eff. 3/27/15.)

Subchapter 10

Out-of-State Mail Service Pharmacies

24.174.1001 REGISTRATION OF OUT-OF-STATE MAIL SERVICE

PHARMACIES (1) No out-of-state pharmacy shall ship, mail or deliver prescription drugs and/or devices to a patient in this state unless registered by the Montana Board of Pharmacy. (History: 37-7-712, MCA; IMP, 37-7-703, MCA; NEW, 1994 MAR p. 571, Eff. 3/18/94; AMD, 1996 MAR p. 1297, Eff. 5/10/96; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.1002 CONDITIONS OF REGISTRATION (1) As conditions of

registration, the out-of-state mail service pharmacy must comply with the following:

- (a) be a legal entity registered and in good standing with the Montana Secretary of State with a registered agent in Montana for service of process designated;
- (b) be registered and in good standing with the National Association of Boards of Pharmacy verified internet pharmacy practice sites (VIPPS) if registered after June 1, 2001;
- (c) maintain, in readily retrievable form, records of legend drugs and/or devices dispensed to Montana patients;
- (d) supply upon request, all information needed by the Montana Board of Pharmacy to carry out the board's responsibilities under the statutes and regulations pertaining to out-of-state mail service pharmacies;
- (e) maintain pharmacy hours that permit the timely dispensing of drugs to Montana patients and provide reasonable access for the Montana patients to consult with a licensed pharmacist about such patients' medications;
- (f) provide toll-free telephone communication consultation between a Montana patient and a pharmacist at the pharmacy who has access to the patient's records, and ensure that said telephone number(s) will be placed upon the label affixed to each legend drug container. A toll-free telephone number shall also be provided to the board to allow for compliance with all information requests by the board. (History: 37-7-201, 37-7-712, MCA; IMP, 37-7-701, 37-7-702, 37-7-703, 37-7-704, 37-7-706, MCA; NEW, 1994 MAR p. 571, Eff. 3/18/94; AMD, 1996 MAR p. 1297, Eff. 5/10/96; AMD, 2001 MAR p. 783, Eff. 5/11/01; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06; AMD, 2010 MAR p. 74, Eff. 1/15/10.)

24.174.1003 IDENTIFICATION OF PHARMACIST-IN-CHARGE OF DISPENSING TO MONTANA (1) Each out-of-state mail service pharmacy that ships, mails, delivers prescription drugs and/or devices and oversees the pharmacy services provided to patients in Montana shall identify a pharmacist-in-charge of dispensing prescriptions for shipment to Montana and oversee the pharmacy services provided. Each pharmacist so identified shall meet the following requirements:

(a) be licensed in good standing in the state in which the out-of-state mail service pharmacy is located;

(b) be properly listed on the application form prescribed by the board;

(c) comply with all applicable Montana laws and rules; and

(d) notify the Montana board promptly in writing of any changes in the licensure status of the pharmacist-in-charge and any disciplinary actions initiated and/or finalized against the pharmacist's license.

(2) When the pharmacist-in-charge of an out-of-state mail service pharmacy ceases to be the pharmacist-in-charge, the pharmacist will be held responsible for notifying the board in writing of such termination of services.

(3) Within 72 hours of termination of services of the pharmacist-in-charge, a new pharmacist-in-charge must be designated in writing on the appropriate board-approved form and filed with the board. (History: 37-7-201, 37-7-712, MCA; IMP, 37-7-101, 37-7-201, 37-7-703, MCA; NEW, 1994 MAR p. 571, Eff. 3/18/94; AMD, 1996 MAR p. 1297, Eff. 5/10/96; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2010 MAR p. 2968, Eff. 12/24/10; AMD, 2012 MAR p. 896, Eff. 4/27/12.)

24.174.1004 CHANGE IN LOCATION (1) Whenever a mail service pharmacy changes its physical location outside of its then existing business location, its original license becomes void and must be surrendered. The mail service pharmacy shall submit a new license application for the new location at least 30 days before such change occurs. (History: 37-7-201, 37-7-712, MCA; IMP, 37-7-701, 37-7-702, 37-7-703, 37-7-704, 37-7-706, MCA; NEW, 2007 MAR p. 1936, Eff. 11/22/07.)

24.174.1005 CHANGE IN OWNERSHIP (1) When a mail service pharmacy changes ownership, the original license becomes void and must be surrendered to the board, and a new license obtained by the new owner. The owner shall submit a new license application at least 30 days prior to the change in ownership.

(2) A change in ownership for the purposes of this rule shall be deemed to occur when more than 50 percent of the equitable ownership of a business is transferred in a single transaction or in a related series of transactions to one or more persons or any other legal entity.

(3) The board must be notified in writing when five to 50 percent of the equitable ownership of a business is transferred in a single transaction or in a related series of transactions to one or more persons or any other legal entity. (History: 37-7-201, 37-7-712, MCA; IMP, 37-7-701, 37-7-702, 37-7-703, 37-7-704, 37-7-706, MCA; NEW, 2007 MAR p. 1936, Eff. 11/22/07.)

Rule 24.174.1006 reserved

24.174.1007 AGENT OF RECORD (REPEALED) (History: 37-7-712, MCA; IMP, 37-7-703, MCA; NEW, 1994 MAR p. 571, Eff. 3/18/94; AMD, 1996 MAR p. 1297, Eff. 5/10/96; TRANS, from Commerce, 2002 MAR p. 904; REP, 2010 MAR p. 74, Eff. 1/15/10.)

24.174.1008 USE OF PHARMACY TECHNICIANS BY OUT-OF-STATE MAIL SERVICE PHARMACIES (1) Any application for out-of-state mail service pharmacy registration from a facility located in a state which does not regulate the use of pharmacy technicians may not allow a pharmacist to supervise more than one supportive person at any one time in the compounding or dispensing of prescription drugs, unless approved by the board.

(2) Any application for out-of-state mail service pharmacy licensure from a facility located in a state which does regulate the use of pharmacy technicians shall provide information on the supervisor to technician ratio allowed in the resident state, and submit a utilization plan for the employment of pharmacy technicians. (History: 37-7-712, MCA; IMP, 37-7-703, MCA; NEW, 1994 MAR p. 571, Eff. 3/18/94; AMD, 1996 MAR p. 1297, Eff. 5/10/96; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.1009 COMPLIANCE (1) Each out-of-state mail service pharmacy shall comply with the following:

(a) all statutory and regulatory requirements of the state of Montana for controlled substances, including those that are different from federal law or regulation, unless compliance would violate the pharmacy drug laws or regulations of the state in which the pharmacy is located;

(b) all statutory and regulatory requirements of the state of Montana regarding drug product selection laws, unless compliance would violate the laws or regulations of the state in which the pharmacy is located;

(c) labeling of all prescriptions dispensed, to include but not be limited to identification of the product and quantity dispensed;

(d) all the statutory and regulatory requirements of the state of Montana for dispensing prescriptions in accordance with the quantities indicated by the prescriber, unless compliance would violate laws or regulations of the state in which the pharmacy is located. (History: 37-7-712, MCA; IMP, 37-7-701, 37-7-703, MCA; NEW, 1994 MAR p. 571, Eff. 3/18/94; AMD, 1996 MAR p. 1297, Eff. 5/10/96; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.1010 DISCIPLINARY ACTION (REPEALED) (History: 37-7-712, MCA; IMP, 37-7-703, 37-7-704, 37-7-711, MCA; NEW, 1994 MAR p. 571, Eff. 3/18/94; AMD, 1996 MAR p. 1297, Eff. 5/10/96; TRANS, from Commerce, 2002 MAR p. 904; REP, 2011 MAR p. 1148, Eff. 6/24/11.)

Subchapter 11

Institutional Pharmacies

24.174.1101 PERSONNEL (1) Each institutional pharmacy must be directed by a pharmacist-in-charge who is licensed to engage in the practice of pharmacy in Montana and who is responsible for the storage, compounding, repackaging, dispensing, and distribution of drugs within the facility. Depending upon the needs of the facility, pharmacy services may be provided on a full or part-time basis, with a mechanism for emergency service provided at all times. Contractual providers of pharmacy services shall meet the same requirements as pharmacies located within the institution.

(2) Registered pharmacy technicians or technicians-in-training may be utilized pursuant to the written policies and procedures of the institutional pharmacy. Exemptions to established ratios as defined in ARM 24.174.711 may be granted with board approval.

(3) Personnel shall be provided with appropriate training before beginning to prepare sterile and nonsterile compounded pharmaceuticals, including training in the theoretical principles and practical skills of aseptic manipulations when performing compounded sterile preparation (CSP). The pharmacist-in-charge shall establish pharmacy policies and procedures that contain protocols in accordance with the guidelines in the United States Pharmacopeia (USP) Chapter 797 "Pharmaceutical Compounding - Sterile Preparations" for the initial training and testing of all personnel and for annual retesting in aseptic manipulative skills for those personnel involved in low- and medium-risk compounding.

(4) Personnel involved in high-risk compounding must be retested in aseptic manipulative skills at least semi-annually. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-307, MCA; NEW, 2002 MAR p. 3605, Eff. 12/27/02; AMD, 2015 MAR p. 302, Eff. 3/27/15.)

Rules 24.174.1102 and 24.174.1103 reserved

24.174.1104 INSTITUTIONAL PHARMACIST AND PHARMACIST-IN-CHARGE RESPONSIBILITY (1) The pharmacy director/pharmacist-in-charge shall provide for applicable policies and procedures to ensure:

- (a) mechanisms for receiving and verifying drug orders from prescribers and evaluating them for safety and therapeutic appropriateness based on patient parameters and dosing guidelines;
- (b) appropriate filling and proper labeling of all containers from which drugs are to be dispensed or administered on an inpatient or outpatient basis;
- (c) a system for the admixture of parenteral products accomplished within the pharmacy, and verification that the facility's department of nursing will provide education and training of nursing personnel regarding sterile technique, stability and compatibility of parenteral products not mixed within the pharmacy;
- (d) appropriate clinical services and monitoring of outcomes, and the development of new areas of pharmaceutical care appropriate for that institution;
- (e) a policy by which an offer is made to convey the discharge medication regimen to a patient's pharmacies;
- (f) maintaining and distributing a list of emergency drugs, antidotes, and their doses throughout the institution;
- (g) pharmacy participation in formulary development;
- (h) participation in drug utilization review and monitoring of adverse drug reactions and development of procedures to avoid problems identified;
- (i) evaluation of reported medication errors and development of procedures to prevent those errors;
- (j) proper acquisition and secure, temperature-controlled storage of all prescription drugs;
- (k) quality control of sterile and nonsterile pharmaceutical products, including procedures for identifying, removing and destroying outdated products;
- (l) pharmacy safety and security;
- (m) utilization of registered technicians or technicians in training;
- (n) accurate distribution systems and secure, temperature-controlled storage of pharmaceutical products throughout the institution;
- (o) unit-dosing of bulk pharmaceuticals, compounding and sterilization of drug products if applicable;
- (p) the appropriate use, security and accountability of controlled substances;
- (q) staff development and competency evaluation;
- (r) maintenance of all required records; and
- (s) compliance with all other requirements of the Montana Board of Pharmacy. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-307, 37-7-308, MCA; NEW, 2002 MAR p. 3605, Eff. 12/27/02.)

Rules 24.174.1105 and 24.174.1106 reserved

24.174.1107 ABSENCE OF PHARMACIST IN INSTITUTIONAL SETTINGS

(1) During times that an institutional pharmacy does not have a pharmacist in attendance, arrangements must be made in advance by the pharmacist-in-charge for provision of drugs to the medical staff and other authorized personnel by use of night cabinets, floor stock and, in emergency circumstances, by access to the pharmacy. A mechanism for providers and nursing to obtain pharmacy consultation must be available at all times in accordance with ARM 24.174.1101.

(2) If night cabinets are used to store drugs in the absence of a pharmacist, they must be locked and sufficiently secure to deny access to unauthorized persons, and must be located outside of the pharmacy area. Contents of night cabinets must be prepackaged. Only specifically authorized personnel may obtain access by key or combination, pursuant to a valid prescription order. The pharmacist-in-charge shall, in conjunction with the appropriate committee of the facility, develop inventory listings of drugs included in these cabinets and determine who may have access.

(3) A complete verification audit of all inpatient orders and activity concerning the night cabinet or after-hours pharmacy entry must be conducted by a pharmacist, pharmacy technician, or other licensed designee of that pharmacist within 72 hours of the drugs having been removed from the night cabinet or pharmacy.

(4) Whenever any drug is not available from floor stock or night cabinets, and that drug is required to treat the immediate needs of a patient whose health would otherwise be jeopardized, the drug may be obtained from the pharmacy by an authorized registered nurse or licensed practical nurse in accordance with established policies and procedures. The responsible nurse shall be designated by the appropriate committee of the institutional facility.

(a) Removal of any drug from the pharmacy, floor stock, or night cabinet by an authorized nurse must be recorded on a suitable form showing the following information:

- (i) patient name;
- (ii) the patient's room number if applicable;
- (iii) the name, strength, and quantity of drug removed;
- (iv) the date and time the drug was removed;
- (v) the signature of the nurse removing the drug; and
- (vi) documentation of pharmacy review.

(b) in cases of medication not unit-dosed, the NDC number of the drug removed must also be recorded.

(5) The pharmacist-in-charge shall ensure that:

- (a) written policies and procedures are established to implement the requirements of this rule;
- (b) all drugs are properly labeled; and
- (c) only prepackaged drugs are available, in amounts sufficient for immediate therapeutic requirements.

(6) A copy of the original drug order with the NDC number or other identifying code of the drug(s) provided may be faxed to the pharmacist. If the patient is an inpatient, a patient profile containing the patient's name, location, allergies, current medication regimen, and relevant laboratory values must be reviewed by a pharmacist within 72 hours. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2002 MAR p. 3605, Eff. 12/27/02; AMD, 2006 MAR p. 1615, Eff. 6/23/06.)

Rules 24.174.1108 through 24.174.1110 reserved

24.174.1111 DRUG DISTRIBUTION AND CONTROL IN AN INSTITUTIONAL FACILITY

(1) The pharmacist-in-charge shall establish written policies and procedures for the safe and efficient distribution of drugs and provision of pharmaceutical care, including the mechanism by which drug review will be accomplished and documented. A current copy of such procedures must be on hand for inspection by the Board of Pharmacy.

(2) Automated dispensing devices must be stocked with drugs only by or under the supervision of a registered pharmacist. At the time of removal of any drug, the device must automatically make an electronic record indicating the date of removal, the name, strength, and quantity of drug removed, name of the patient for whom the drug was ordered, and the name or other identification of the person removing the drug. These records must be maintained for a period of two years.

(3) Drugs or herbal/alternative food supplement products brought into an institutional facility by a patient must not be administered, unless they can be identified and their quality assured by a pharmacist and their use has been authorized by the attending physician. If such drugs are not to be administered, the pharmacist-in-charge shall develop policies and procedures for storing them for return to the patient upon discharge or transferring them to an adult member of the patient's immediate family.

(4) Investigational drugs must be stored in and dispensed from the pharmacy only pursuant to written policies and procedures.

(a) Complete information regarding these drugs and their disposition must be maintained in the facility prior to their initial dispensing.

(b) The drug monograph and a signed patient consent form must be obtained and made available in accordance with state and federal guidelines.

(5) A sample drug policy must be established if samples are used.

(6) The safe handling, storage, and administration of medications within jails, correctional facilities, and detention facilities without onsite pharmacies shall be regulated as follows:

(a) Jails, correctional facilities, and detention facilities must have written policies and procedures in place, written by the responsible practitioner or authority, for the safe handling, storage, and administration of medications. Such policies shall address security of medications, procurement, proper storage and disposal of medications, training for those administering medication, methods for documenting that medications were given or refused, procedures for confirming that the inmate has ingested each medication, and the disposition of medications at discharge. Medications brought by or with an inmate upon admission to the jail, correctional facility, or detention facility must not be used unless specifically authorized by a physician at the jail, correctional facility, or detention facility or that physician's designee, and medication identity has been confirmed by a licensed health care professional. Prescription medications brought by an inmate from outside must be recorded on the inmate property record. If they are not used while the patient is incarcerated, they must be stored in a secure area until the inmate's release.

(b) Patient medications may be transferred from one jail, correctional facility, or detention facility to another if there is a secure method for ensuring that individual inmate prescriptions are not tampered with between locations and that containers are properly labeled. During transfer, medications requiring storage at room temperature should be subjected to external temperatures no greater than 86 degrees Fahrenheit. A method of transferring refrigerated medications from one jail, correctional facility, or detention facility to another must be addressed in policy and procedure. Medications transferred pursuant to the above regulations, in control of the transferring official at all time, may continue to be used for that patient.

(c) Emergency kits supplied and maintained by a registered pharmacist may be utilized if policies and procedures regulating their use are in place. Such emergency kits will comply with the requirements of ARM 24.174.1114.

(d) Jails, correctional facilities, and detention facilities without an on-site pharmacy that procures, stores, and administers prescription medications may request technical assistance from the board. (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-307, 37-7-308, 37-7-406, MCA; NEW, 2002 MAR p. 3605, Eff. 12/27/02; AMD, 2006 MAR p. 1615, Eff. 6/23/06; AMD, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.1112 REMOTE MEDICATION ORDER PROCESSING SERVICES

(1) A hospital pharmacy may outsource medication order processing to another pharmacy provided the pharmacies have the same owner or the pharmacy has entered into a written contract or agreement with an outsourcing company that outlines the services to be provided and the responsibilities and accountabilities of each party to the contract or agreement in compliance with federal and state statutes and regulations.

(2) The hospital pharmacy must provide a copy of the contract or agreement to the board and receive approval from the board or its designee prior to initiation of remote order entry services.

(3) A hospital pharmacy utilizing remote order entry shall ensure that all pharmacists providing such services have been trained on the pharmacy's policies and procedures relating to medication order processing. The training of each pharmacist shall be documented. Such training shall include, but is not limited to, policies on drug and food allergy documentation, abbreviations, administration times, automatic stop orders, substitution, and formulary compliance. The pharmacy and the pharmacy/outsourcing company shall jointly develop a procedure to communicate changes in formulary and changes in policies and procedures related to medication order processing.

(4) A hospital pharmacy utilizing a remote order entry pharmacist shall maintain a record of the name and address of such pharmacist, evidence of current licensure in Montana, and the address of each location where the pharmacist will be providing remote order entry services.

(5) The director of pharmacy shall ensure that any remote order entry pharmacist shall have secure electronic access to the hospital pharmacy's patient information system and to other electronic systems that the on-site pharmacist has access to when the pharmacy is open.

(6) The remote order entry pharmacist must be able to contact the prescribing practitioner to discuss any concerns identified during the pharmacist's review of patient information and the drug order. A procedure must be in place to communicate any problems identified with the practitioner and the nursing staff providing direct patient care.

(7) Each remote entry record must comply with all recordkeeping requirements and shall identify by name or other unique identifier, the pharmacist involved in the review and verification of the drug order.

(8) A pharmacy utilizing remote order entry processing services is responsible for maintaining records of all orders entered into their information system, including orders entered from a remote location. The system shall have the ability to audit the activities of the individuals remotely processing medication orders.

(9) All records shall be readily available upon request by the board, its designee, or agent of the board for inspection, copying, or production.

(10) A pharmacy utilizing remote order entry processing services shall maintain a policy and procedure manual. A remote pharmacy/order processing company shall maintain a copy of those portions of the policy and procedure manual that relate to that pharmacy's operations. Each manual shall:

(a) outline the responsibilities of the pharmacy and the remote pharmacy/order processing company;

(b) include a list of the names, addresses, telephone numbers, and all license numbers of the pharmacies/pharmacists involved in remote order entry processing; and

(c) include policies and procedures for:

(i) protecting the confidentiality and integrity of patient information;

(ii) maintaining appropriate records of each pharmacist involved in order processing;

(iii) complying with federal and state statutes and regulations;

(iv) annually reviewing the written policies and procedures and documentation of the annual review; and

(v) annually reviewing the competencies of pharmacists providing remote order entry processing services. (History: 37-7-201, MCA, IMP, 37-7-201, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12.)

Rule 24.174.1113 reserved

24.174.1114 USE OF EMERGENCY DRUG KITS IN CERTAIN INSTITUTIONAL FACILITIES (1) In an institutional facility that does not have an in-house pharmacy, drugs may be provided for use by authorized personnel through emergency kits prepared by the registered pharmacist providing pharmaceutical services to the facility. Such emergency drug kits must meet all of the following requirements:

- (a) a registered pharmacist shall prepare and seal the kit;
 - (b) the supplying pharmacist and the designated practitioner or appropriate committee of the institutional facility shall jointly determine the identity and quantity of drugs to be included in the kit. Such drugs shall then be approved in advance of placement in the emergency kit by the board; unless such drugs are included on a general list of drugs previously approved by the board for use in emergency kits;
 - (c) the kit must be locked and stored in a secure area to prevent unauthorized access and to ensure a proper storage environment for the drugs contained therein. The kit shall be secured with a seal to be of such a nature that it can be easily identified if it has been broken;
 - (d) all drugs in the kit must be properly labeled, including lot number and expiration date, and shall possess any additional information that may be required to prevent risk of harm to the patient;
 - (e) the exterior of the kit must be clearly labeled to indicate:
 - (i) its use and expiration date of its contents;
 - (ii) the name, address and telephone number of the supplying pharmacist;
- and
- (iii) a statement indicating that the kit is to be used in emergency situations only pursuant to a valid drug order.

(2) Drugs shall be removed from emergency kits only by the supplying pharmacist or by authorized personnel pursuant to a valid drug order.

(3) Upon notice of any entry into the kit, the supplying pharmacist or another pharmacist designated by the supplying pharmacist shall restock and refill the kit, reseal the kit, and update the drug listing on the exterior of the kit within 72 hours.

(4) The expiration date of a kit must be the earliest date of expiration of any drug supplied in the kit. On or before the expiration date, the supplying pharmacist shall replace the expired drug.

(5) The supplying pharmacist shall, in conjunction with the appropriate institutional committee, be responsible for development of policies and procedures for safe and appropriate use and maintenance of emergency drug kits. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2002 MAR p. 3605, Eff. 12/27/02; AMD, 2010 MAR p. 74, Eff. 1/15/10.)

24.174.1115 USE OF CONTINGENCY KITS IN CERTAIN INSTITUTIONAL FACILITIES (1) In an institutional facility that does not have an in-house pharmacy or 24-hour access to dispensing services, medications may be provided for use by authorized personnel through contingency kits, prepared by the registered pharmacist, providing pharmaceutical services to the facility. Such contingency kits must meet all of the following requirements:

- (a) the supplying or consultant pharmacist and director of nursing shall designate nursing personnel who may obtain access to the drug supply;
 - (b) the supplying or consultant pharmacist and the designated practitioner or appropriate committee of the institutional facility shall jointly determine the contents and quantity of drugs to be included in the kit;
 - (c) the kit must be locked and stored in a secure area to prevent unauthorized access and to ensure a proper storage environment for the drugs contained therein;
 - (d) the supplying pharmacist and director of nursing will provide adequate controls to prevent drug diversion;
 - (e) medications in the kit must be prepackaged and properly labeled, including lot number and expiration date, and shall possess any additional information that may be required to prevent risk of harm to the patient; and
 - (f) the exterior of the kit must be clearly labeled to indicate:
 - (i) its contents and expiration date; and
 - (ii) the name, address, and telephone number of the supplying pharmacy.
- (2) Drugs shall be removed from kits only:
- (a) by the supplying pharmacist; or
 - (b) by authorized nursing personnel pursuant to a valid drug order and reviewed by a pharmacist; or
 - (c) during inspection of the kit.
- (3) Removal of any drug from the contingency kit by authorized nursing or pharmacy personnel must be recorded on a suitable form showing the following information:
- (a) patient name;
 - (b) name, strength, and quantity of drug removed;
 - (c) date and time the drug was removed; and
 - (d) signature of the authorized personnel removing the drug.

- (4) The supplying pharmacist shall ensure that:
- (a) written policies and procedures are established to implement the requirements of this rule;
 - (b) all drugs are properly labeled;
 - (c) only prepackaged drugs are available in amounts sufficient for short-term therapeutic requirements to meet the needs of the facility when dispensing pharmacy services are unavailable;
 - (d) replacement of medications is performed in a timely manner by authorized personnel;
 - (e) at a minimum, the kit shall be inspected annually; and
 - (f) at least one copy of the documentation for all drugs that have been removed from the contingency kit shall be kept at the long-term care facility and one copy at the supplying pharmacy.
- (5) The expiration date of a kit must be the earliest date of expiration of any drug supplied in the kit. On or before the expiration date, the supplying pharmacist shall replace the expired drug.
- (6) The contents of the contingency kit and all related records shall be made freely available and open for inspection to representatives of the board and when information of possible violations is received. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2012 MAR p. 506, Eff. 3/9/12; AMD, 2015 MAR p. 302, Eff. 3/27/15.)

Rules 24.174.1116 through 24.174.1120 reserved

24.174.1121 STERILE PRODUCTS (TRANSFERRED) (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-307, 37-7-308, MCA; NEW, 2002 MAR p. 3605, Eff. 12/27/02; AMD and TRANS, to ARM 24.174.841, 2015 MAR p. 302, Eff. 3/27/15.)

24.174.1122 OUTPATIENT CENTERS FOR SURGICAL SERVICES

(1) The board shall annually register and inspect all outpatient centers for surgical services in Montana, regardless of pharmacy status.

(2) In an outpatient center for surgical services without an on-site pharmacy, drug distribution must be directed by a physician or consulting pharmacist licensed to practice in Montana and who is responsible for the security, storage, and distribution of drugs within the facility.

(3) The physician director or consulting pharmacist shall provide for applicable policies and procedures to ensure:

(a) proper acquisition and secure, temperature-controlled storage of all pharmaceuticals;

(b) security and accountability of controlled substances;

(c) quality control of sterile and nonsterile pharmaceutical products including procedures for identifying, removing, and destroying outdated products;

(d) evaluation of reported medication errors and development of procedures to prevent those errors;

(e) maintenance of all required records; and

(f) compliance with all requirements of the board.

(4) Ambulatory surgical centers that store and/or administer controlled substances shall register with the board and with the DEA, and shall comply with all applicable state, local, and DEA regulations. (History: 50-32-314, MCA; IMP, 50-32-314, MCA; NEW, 2006 MAR p. 1615, Eff. 6/23/06; AMD, 2007 MAR p. 1936, Eff. 11/22/07; AMD, 2008 MAR p. 1151, Eff. 6/13/08.)

Rules 24.174.1123 through 24.174.1140 reserved

24.174.1141 RETURN OF MEDICATION FROM LONG TERM CARE FACILITIES - DONATED DRUG PROGRAM

(1) In facilities licensed by the Montana Department of Public Health and Human Services where United States pharmacopeia storage requirements are assured, unit-dosed legend drugs, with the exception of controlled substances, no longer needed by the patient for whom they were prescribed, may be transferred to a provisional permitted pharmacy for relabeling and dispensing free of charge to patients who are uninsured, indigent or have insufficient funds to obtain needed prescription drugs. Prescription medications may be dispensed pursuant to a valid prescription order. A usual and customary dispensing fee may be charged at the pharmacist's discretion.

(2) The pharmacist-in-charge of the provisional permitted pharmacy shall be responsible for determining the suitability of the legend drug for use. Medications must be unopened in sealed, unaltered unit dose containers that meet USP standards for light, moisture and air permeation. No product in which drug integrity cannot be assured shall be accepted for redispensing by the pharmacist.

(3) A redispensed prescription medication must be assigned the expiration date stated on the unit dose packaging. Medications packaged in unit dose form within a pharmacy must be given an expiration date of one year or actual date of expiration of the medication, whichever comes first, and must not be repackaged.

(4) No medication can be redistributed more than once.

(5) Only authorized personnel shall carry out the physical transfer of medication in either facility, pursuant to established policies and procedures.

(6) The patient's name and other identifying marks must be obliterated from packaging prior to transfer. The drug name, strength, lot number and expiration date must remain clearly visible on the packaging.

(7) An inventory list of drugs transferred, including expiration dates, must accompany the drugs, and must be maintained in the provisional permitted pharmacy for a period of two years.

(8) Policies and procedures to document safe storage and transfer of unneeded medications must be written and adhered to by the facilities involved, and must be available for inspection by an authorized representative of the Montana Board of Pharmacy or Department of Public Health and Human Services. (History: 37-7-201, 37-7-1401, MCA; IMP, 37-7-201, 37-7-1401, 37-7-1402, MCA; NEW, 2002 MAR p. 3605, Eff. 12/27/02.)

Subchapter 12

Wholesale Drug Distributors Licensing

24.174.1201 WHOLESALE DRUG DISTRIBUTOR LICENSING (1) Every person engaged in manufacturing, wholesale distribution, which includes reverse wholesale distribution, or selling of drugs, medicines, chemicals, poisons for medicinal purposes, medical gases, or legend devices other than to the consuming public or patient in the state of Montana, shall be licensed annually by the board. Each applicant shall:

(a) be a legal entity registered and in good standing with the Montana Secretary of State;

(b) file an application on a form prescribed by the board;

(c) pay the appropriate licensing and registration fees; and

(d) meet the requirements of 37-7-604, MCA.

(2) The wholesale drug distributor license shall be posted in a conspicuous place in the wholesaler's place of business for which it is issued.

(3) No license may be issued to any wholesale distributor whose intended place of business is a personal residence.

(4) Wholesale drug distributors located in Montana, applying for initial licensure, shall pass an inspection by a pharmacy inspector or other agent of the Board of Pharmacy before a license is issued.

(5) A separate license is required for each separate location where drugs are stored. If a wholesaler distributes prescription drugs from more than one facility, the wholesaler must obtain a license for each facility.

(6) Wholesale drug distributors shall operate in compliance with applicable federal, state, and local laws and regulations. Wholesale drug distributors who deal in controlled substances shall register with the board and with the DEA, and shall comply with all applicable state, local, and DEA regulations.

(7) Manufacturers, distributors, and suppliers of medical gases shall operate in compliance with applicable federal, state, and local laws and regulations. Manufacturers, distributors, and suppliers of medical gases shall register with the board to obtain the appropriate endorsement on their wholesale drug distributor license. (History: 37-7-201, 37-7-610, MCA; IMP, 37-7-603, 37-7-604, 37-7-605, 37-7-606, MCA; NEW, 1992 MAR p. 2135, Eff. 8/14/92; AMD, 1999 MAR p. 2438, Eff. 10/22/99; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06; AMD, 2007 MAR p. 1936, Eff. 11/22/07; AMD, 2010 MAR p. 2968, Eff. 12/24/10; AMD, 2012 MAR p. 506, Eff. 3/9/12.)

24.174.1202 MINIMUM INFORMATION REQUIRED FOR LICENSURE

(1) The following information shall be supplied by each applicant for wholesale drug distributor licensure or renewal:

- (a) the name, full business address, and telephone number of the licensee;
- (b) all trade or business names used by the licensee;
- (c) the name, address, telephone number, and title of the designated person in charge of the facility who will serve as the responsible individual of the wholesale drug distributor with the board and who is actively involved in and aware of the actual daily operation of the wholesale drug distributor;
- (d) whether the ownership or operation is a partnership, corporation, or sole proprietorship;
- (e) proof of registration with the Montana Secretary of State;
- (f) if out-of-state, proof of corresponding licensure in good standing in the state in which the applicant resides;
- (g) the federal tax identification number of the company; and
- (h) written documentation in compliance with the information required under 37-7-604, MCA.

(2) Any changes in information contained in (1) shall be submitted to the board within 30 days of the change. Any changes in location or ownership require that a new license application be filed with the board at least 30 days prior to the change. (History: 37-7-201, 37-7-610, MCA; IMP, 37-7-201, 37-7-604, 37-7-605, MCA; NEW, 1992 MAR p. 2135, Eff. 8/14/92; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06; AMD, 2007 MAR p. 1936, Eff. 11/22/07; AMD, 2012 MAR p. 896, Eff. 4/27/12.)

24.174.1203 PERSONNEL (1) Each wholesale drug distributor shall require each person employed in any prescription drug wholesale activity to have sufficient education, training and experience in any combination, sufficient for that person to:

- (a) complete assigned work in a manner which maintains the quality, safety and security of the drug products in accordance with Title 37, MCA;
- (b) assume responsibility for compliance with the licensing requirements of Title 37, MCA. (History: 37-7-201, 37-7-610, MCA; IMP, 37-7-604, MCA; NEW, 1992 MAR p. 2135, Eff. 8/14/92; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.1204 MEDICAL GAS DISTRIBUTOR (1) Every person engaged in the manufacture or distribution of medical gases other than to the consuming public or a patient, in the state of Montana, shall register annually with the board. Each applicant shall:

- (a) provide proof of registration with the Food and Drug Administration (FDA) as a medical gas manufacturer and comply with all FDA requirements;
- (b) register with the board as a wholesale drug distributor;
- (c) file an application to register as a medical gas distributor on a form prescribed by the board; and
- (d) pay the appropriate registration fee.

(2) The wholesale drug distributor license with the medical gas distributor endorsement shall be posted in a conspicuous place in the wholesaler's place of business for which it is issued.

(3) A medical gas distributor shall establish and implement written procedures for maintaining records pertaining to medical gas production, processing, labeling, packaging, quality control, distribution, complaints, and any information required by federal or state law.

(a) Records shall be retained for at least two years after distribution or one year after the expiration date of the medical gas, whichever is longer.

(b) Records shall be readily available for review by the board, its inspector, or the FDA. (History: 37-1-134, 37-7-201, 37-7-610, MCA; IMP, 37-7-604, 37-7-605, MCA; NEW, 2007 MAR p. 1936, Eff. 11/22/07.)

24.174.1205 MEDICAL GAS SUPPLIER (1) Every person engaged in supplying medical gases to the consuming public, or to a patient or a patient's agent, in the state of Montana that is not a licensed pharmacy shall register annually with the board. Each applicant shall:

- (a) register with the board as a wholesale drug distributor;
- (b) file an application to register as a medical gas supplier on a form prescribed by the board; and
- (c) pay the appropriate registration fee.

(2) The wholesale drug distributor license with the medical gas supplier endorsement shall be posted in a conspicuous place in the wholesaler's place of business for which it is issued.

(3) A medical gas supplier shall not:

(a) supply prescription medications, except medical gases, without appropriate licensure as a pharmacy;

(b) manufacture or distribute medical gases without appropriate licensure as a medical gas distributor; or

(c) instruct patients regarding clinical use of equipment, or provide any monitoring, assessment, or other evaluation of therapeutic effects without appropriate licensure as a respiratory care practitioner.

(4) A medical gas supplier shall supply medical gas only pursuant to prescription order by an authorized prescriber.

(5) A medical gas supplier must label each medical gas container with the name, address, and telephone number of the supplier.

(6) A medical gas supplier shall establish and implement written procedures for maintaining records pertaining to the acquisition and supply of, and complaints related to, medical gases.

(7) Records shall be retained for at least three years after supply to a patient or one year after the expiration date of the medical gas, whichever is longer.

(8) Records shall be readily available for review by the board or its inspector. (History: 37-1-134, 37-7-201, 37-7-610, MCA; IMP, 37-7-604, 37-7-605, MCA; NEW, 2007 MAR p. 1936, Eff. 11/22/07.)

24.174.1206 MEDICAL GAS FEE SCHEDULE (1) The fees for registration to manufacture, distribute, or supply medical gases shall be assessed according to the following schedule:

REGISTRATION

ANNUAL FEE

(a) medical gas distributor

\$75

(b) medical gas supplier

75

(History: 37-1-134, 37-7-201, 37-7-610, MCA; IMP, 37-7-604, 37-7-605, MCA; NEW, 2007 MAR p. 1936, Eff. 11/22/07.)

24.174.1207 CHANGE IN LOCATION (1) Whenever a wholesale drug distributor facility changes its physical location outside of its then existing business location, its original license becomes void and must be surrendered. The wholesale drug distributor facility shall submit a new license application for the new location at least 30 days before such change occurs. (History: 37-7-201, 37-7-610, MCA; IMP, 37-7-604, 37-7-605, MCA; NEW, 2007 MAR p. 1936, Eff. 11/22/07.)

24.174.1208 CHANGE IN OWNERSHIP (1) When a wholesale drug distributor changes ownership, the original license becomes void and must be surrendered to the board, and a new license obtained by the new owner. The owner shall submit a new license application at least 30 days prior to the change in ownership.

(2) A change in ownership for the purposes of this rule shall be deemed to occur when more than 50 percent of the equitable ownership of a business is transferred in a single transaction or in a related series of transactions to one or more persons or any other legal entity.

(3) The board must be notified in writing when five to 50 percent of the equitable ownership of a business is transferred in a single transaction or in a related series of transactions to one or more persons or any other legal entity.

(History: 37-7-201, 37-7-610, MCA; IMP, 37-7-604, 37-7-605, MCA; NEW, 2007 MAR p. 1936, Eff. 11/22/07.)

Rules 24.174.1209 and 24.174.1210 reserved

24.174.1211 MINIMUM REQUIREMENTS FOR STORAGE AND HANDLING OF DRUGS (1) All facilities at which prescription drugs are stored, warehoused, handled, held, offered, marketed, or displayed shall:

(a) be of suitable size and construction to facilitate cleaning, maintenance, and proper operations;

(b) have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions;

(c) have a physically separate area for storage of all prescription drugs that are outdated, damaged, deteriorated, misbranded, or adulterated, or that are in immediate or sealed, secondary containers that have been opened;

(d) be maintained in a clean and orderly condition; and

(e) be free from infestation by insects, rodents, birds, or vermin of any kind.

(2) All facilities used for wholesale drug distribution shall be secure from unauthorized entry as provided for in 37-7-604, MCA, and as follows:

(a) access from outside the premises shall be kept to a minimum and be well-controlled;

(b) the outside perimeter of the premises shall be well-lighted; and

(c) entry into areas where prescription drugs are held shall be limited to authorized personnel.

(3) All facilities shall be equipped with a security system to detect entry after hours.

(4) All facilities shall be equipped with a security system that will provide suitable protection against theft and diversion. When appropriate, the security system shall provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records.

(5) All drugs shall be stored at temperatures and under conditions in accordance with the requirements, if any, in the labeling of such drugs, or with requirements in the current edition of the United States Pharmacopeia/National Formulary, published by the United States Pharmacopeia Convention Inc., which is available for inspection at the pharmacy library at the University of Montana School of Pharmacy and Allied Health Sciences, Missoula, MT 59812-1075.

(a) If no storage requirements are established for a drug, the drug may be held at "controlled room temperature," as defined in the United States Pharmacopeia/National Formulary, to help ensure that its identity, strength, quality and purity are not adversely affected.

(b) Manual, electromechanical, or electronic temperature and humidity recording equipment, devices, or logs shall be used to document proper storage of prescription drugs.

(c) The record keeping requirements in these rules shall be followed for all stored drugs.

(6) A stock of prescription drugs, adequate to service the ordinary needs of practitioners and pharmacies with which the wholesaler transacts business, must be maintained.

(7) A wholesaler may not maintain a stock of controlled substances unless the wholesaler ordinarily sells controlled substances to practitioners and pharmacies with which the wholesaler transacts business. (History: 37-7-201, 37-7-610, MCA; IMP, 37-7-604, MCA; NEW, 1992 MAR p. 2135, Eff. 8/14/92; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06.)

24.174.1212 MINIMUM REQUIREMENTS FOR ESTABLISHMENT AND MAINTENANCE OF DRUG DISTRIBUTION RECORDS (1) Wholesale drug distributors shall establish and maintain inventories and records of all transactions regarding the receipt and distribution of or other disposition of drugs. These records shall include the following information:

- (a) the source of the drugs, including the name and principal address of the seller or transferor, and the address of the location from which the drugs were shipped;
- (b) the identity and quantity of the drugs received and distributed or disposed of;
- (c) the dates of receipt and distribution or other disposition of the drugs;
- (d) evidence of the existence of a written franchise, license, or other agreement between a manufacturer and wholesaler to distribute prescription drugs;
- (e) evidence of completion of two or more purchases of prescription drugs in any six month period; and
- (f) a complete list of all wholesale distributors and manufacturers from whom the wholesaler purchased prescription drugs within the last year.

(2) Inventories and records shall be made available for inspection and photocopying by authorized federal, state, or local law enforcement agency officials for a period of two years following disposition of the drugs.

(3) Records described in this part that are kept at the inspection site or that can be immediately retrieved by computer or other electronic means shall be readily available for authorized inspection during the retention period. Records kept at central locations apart from the inspection site and not electronically retrievable shall be made available for inspection within two working days of a request by an authorized official of a federal, state, or local law enforcement agency.

(4) Wholesale drug distributors shall establish, maintain, and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory and distribution of drugs. They must include policies and procedures for identifying, recording and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories.

(5) Wholesale drug distributors shall include the following written policies and procedures:

(a) a procedure where the oldest approved stock of a drug product is distributed first. The procedure may permit deviation from this requirement, if the deviation is temporary and appropriate;

(b) a procedure to be followed for handling recalls and withdrawals of drugs. The procedure shall be adequate to deal with recalls and withdrawals due to:

(i) an action initiated at the request of the Food and Drug Administration, or other federal, state or local law enforcement or other government agency, including the Board of Pharmacy;

(ii) any voluntary action by the manufacturer to remove defective or potentially defective drugs from the market; or

(iii) any action undertaken to promote public health and safety by replacing of existing merchandise with an improved product or new package design.

(c) a procedure to ensure that wholesale drug distributors prepare for, protect against, and handle any crisis that affects security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state, or national emergency.

(d) a procedure to ensure that any outdated prescription drugs shall be segregated from other drugs and either returned to the manufacturer or destroyed. This procedure shall provide for written documentation of the disposition of the drugs. This documentation shall be maintained for two years after disposition of the outdated drugs. (History: 37-7-201, 37-7-610, MCA; IMP, 37-7-604, 37-7-609, MCA; NEW, 1992 MAR p. 2135, Eff. 8/14/92; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06.)

24.174.1213 NATIONAL CLEARINGHOUSE FOR WHOLESALE DRUG DISTRIBUTOR LICENSING (1) Any wholesale drug distributor may apply for a license in Montana through a national clearinghouse for licensing of wholesale drug distributors, which has been approved by the board, by meeting the minimum requirements for licensure in Title 37, MCA, and complying with all requirements of the approved national clearinghouse. (History: 37-7-201, 37-7-610, MCA; IMP, 37-7-604, 37-7-605, 37-7-606, 37-7-607, MCA; NEW, 1992 MAR p. 2135, Eff. 8/14/92; TRANS, from Commerce, 2002 MAR p. 904.)

Subchapter 13

Telepharmacy

Rule 24.174.1301 reserved

24.174.1302 TELEPHARMACY OPERATIONS (1) A remote telepharmacy site shall be connected to its parent pharmacy via computer, video, and audio link.

(2) A site cannot be licensed as a remote telepharmacy site if it is located within a twenty-mile radius of an existing pharmacy.

(3) A remote telepharmacy site manned by a registered pharmacy technician shall access and use the parent pharmacy's central processing unit or common database.

(4) A remote telepharmacy site shall comply will all the requirements of pharmacy rules and statutes of Montana. The remote telepharmacy site is considered to be under the personal charge of the pharmacist at the parent pharmacy.

(a) The remote telepharmacy site must have a registered pharmacy technician present and a working computer, video, and audio link to a pharmacist at the parent pharmacy to have the prescription area open.

(b) The technician at the remote telepharmacy site must:

(i) be currently registered with the board;

(ii) be currently certified with the Pharmacy Technician Certification Board (PTCB), or Exam for the Certification of Pharmacy Technicians (ExCPT), or other board-approved certifying entity; and

(iii) have at least 500 hours experience as a pharmacy technician, technician-in-training, or experience deemed as equivalent by the board.

(c) The technician may unlock the prescription and storage areas. While the technician is on duty, the prescription area may remain open. Security standards for pharmacies shall be maintained at all times pursuant to ARM 24.174.814.

(d) The technician will be subject to all rules of ARM 24.174.701 through 24.174.714.

(e) All prescription records and consecutive prescription numbers must be maintained at the parent pharmacy or remote site. The remote telepharmacy site must transmit copies of new prescriptions via secure electronic means to the parent pharmacy, keeping the original prescription blank at the remote telepharmacy site.

(f) Prescriptions filled at the remote telepharmacy site must be distinguishable in some manner from those filled at the parent pharmacy.

(g) Daily reports for both the parent pharmacy and remote telepharmacy site must be maintained at the parent pharmacy or telepharmacy site.

(h) The remote telepharmacy site may have a prescription inventory. Prescription medications including controlled substances shall be securely maintained at the remote telepharmacy site in accordance with current Montana pharmacy statutes and rules.

(i) If controlled substances are dispensed or handled, both the remote telepharmacy site and the parent pharmacy must be registered with the DEA and must obtain individual DEA numbers.

(j) All records must be stored at the parent pharmacy or telepharmacy site, except those required by DEA to be at a DEA registered site.

(k) The software system utilized must be able to generate labels from the parent pharmacy or at the remote telepharmacy site.

(l) The input of drug information may be done by a pharmacist at the parent pharmacy or a technician at either location if verified by a pharmacist.

(m) New prescriptions may be received at the parent pharmacy and entered there with a label printing at the remote telepharmacy site.

(n) New prescriptions received at the remote telepharmacy site may be entered into the computer system at the remote telepharmacy site. The pharmacist at the parent pharmacy remains responsible for all verification, interaction checking, and profile review.

(o) All filled prescriptions must have a label meeting the requirements of ARM 24.174.511 attached to the final drug container before the pharmacist verifies the dispensing process.

(p) Unless the remote telepharmacy site is a remote telepharmacy dispensing machine site, a pharmacist shall compare via video link the stock bottle, drug dispensed, and strength. The entire label must be checked for accuracy on the video link.

(q) The computer, video, and audio link must be operational at all times. In the event of connectivity loss to the parent location, no new prescriptions may be processed, filled, or dispensed from the telepharmacy site until connectivity is reestablished. Refill prescriptions that have a final check by the pharmacist may be dispensed..

(r) A code containing both the pharmacist's and technician's initials must appear on the fill screen, patient profile, and prescription label.

(s) No prescription medication may be released to a patient until approved by a pharmacist in person or via the computer, video, and audio link.

(t) The pharmacist shall offer to counsel the patient or the patient's agent via video and/or audio link on all new prescriptions.

(u) When the technician is not present, dispensing and counseling via video and audio link may be done using a secure alternate delivery system with prior approval of the board.

(v) The license holder, agent of the parent pharmacy, or the pharmacist-in-charge of the parent pharmacy, or the pharmacist-in-charge of the remote site, if different from the parent pharmacist-in-charge, shall apply for a license for the remote telepharmacy site.

(w) As dispensing is considered to be done by the pharmacist, the pharmacist shall be responsible for and held accountable for dispensing at the remote telepharmacy site.

(x) Policies and procedures must be in place to ensure the safe and effective distribution of pharmaceutical products and delivery of required pharmaceutical care.

(y) The pharmacist at the parent pharmacy shall perform an ongoing analysis of incident reports and outcomes, with appropriate corrective action taken when necessary, to ensure patient safety.

(z) The pharmacist at the parent pharmacy or that person's designee shall conduct and complete monthly inspections of the remote telepharmacy site. Inspection criteria must be included in the policies and procedures for the site. The inspection report must be available for review at the next board inspection. (History: 37-7-201, MCA; IMP, 37-7-101, 37-7-201, 37-7-321, MCA; NEW, 2006 MAR p. 1615, Eff. 6/23/06; AMD, 2010 MAR p. 2968, Eff. 12/24/10; AMD, 2012 MAR p. 896, Eff. 4/27/12.)

24.174.1303 REMOTE TELEPHARMACY DISPENSING MACHINE SITES

(1) Remote telepharmacy dispensing machine sites contain prescription inventory which is secured in an automated dispensing device connected to the central processing unit at the parent pharmacy.

(2) A site cannot be licensed as a remote telepharmacy dispensing machine site if it is located within a ten mile radius of an existing pharmacy.

(3) A pharmacist must approve all outpatient prescriptions before they are dispensed, unless the prescription is directly dispensed by a person authorized to prescribe.

(4) All filled prescriptions must have a label that meets the requirements of ARM 24.174.511 attached to the final drug container.

(5) A licensed pharmacist at the parent site shall perform counseling and professional consultation via audio and video link as required by ARM 24.174.903, unless the prescription is directly dispensed by a person authorized to prescribe.

(6) Registered technicians involved in stocking and removal of prescription medications under this rule must have at least 80 hours of pretraining in bar coding technology. All requirements of ARM 24.174.701 through 24.174.714 will apply, excluding the technician certification requirement of ARM 24.174.702.

(7) Policies and procedures of the parent pharmacy and the remote telepharmacy dispensing machine site must address all aspects of the telepharmacy operation, including stocking procedures and removal of outdated prescription medications.

(8) The pharmacist at the parent pharmacy shall perform an ongoing analysis of incident reports and outcomes, with appropriate corrective action taken when necessary to ensure patient safety.

(9) The pharmacist-in-charge of the parent pharmacy or that person's designee shall conduct and complete monthly inspections of the remote telepharmacy dispensing machine site. Inspection criteria must be included in the policies and procedures for the site. The inspection reports must be available for review at the next board inspection.

(10) Remote telepharmacy dispensing machine sites must be licensed with the board by November 30 of each year, and will be subject to random inspection by board inspectors.

(11) This rule does not apply to institutional satellite pharmacies as defined in ARM 24.174.301. (History: 37-7-201, MCA; IMP, 37-7-101, 37-7-201, 37-7-321, MCA; NEW, 2006 MAR p. 1615, Eff. 6/23/06.)

Subchapter 14

Dangerous Drug Act

24.174.1401 REQUIREMENTS FOR REGISTRATION (1) The board shall register a person to manufacture dangerous drugs (as defined in 50-32-101, MCA) included in Schedules I through V upon the following conditions:

(a) applicant is registered for such purposes pursuant to the Federal Controlled Substances Act of 1970;

(b) the applicant has made proper application and has paid the applicable fee; and

(c) the category of manufacturer as above-stated shall include only those applicants who are engaged in the manufacturing of dangerous drugs within the state of Montana.

(2) The board shall register a person or entity to distribute dangerous drugs included in Schedules I through V under the following conditions:

(a) applicant is registered for such purpose pursuant to the Federal Controlled Substances Act of 1970;

(b) the applicant has made proper application and paid the applicable fee;

(c) the category of distributor as above-stated shall include any person or entity who distributes dangerous drugs or samples thereof within the state of Montana and may include a manufacturer not otherwise required to be registered if such manufacturer also distributes dangerous drugs or samples thereof within the state of Montana; and

(d) representatives of drug manufacturers who distribute controlled substance samples to licensed practitioners shall be exempt from the requirement of registration.

(3) The board shall register a person to analyze or conduct research with narcotic dangerous drugs in Schedules II through V upon making proper application and paying the applicable fee.

(4) The board shall register a person to analyze or conduct research with dangerous drugs in Schedule I, if:

(a) the applicant is a practitioner licensed under the laws of this state;

(b) the applicant has furnished the board evidence of registration for such purpose pursuant to the Federal Controlled Substances Act of 1970;

(c) the applicant has furnished the board a complete resume of all research proposed relative to any dangerous drugs. Such resume must be a duplicate of an application submitted to the DEA; and

(d) the applicant has made proper application and paid the applicable fee.

(History: 50-32-103, MCA; IMP, 50-32-306, 50-32-308, MCA; NEW, Eff. 8/4/74; AMD, Eff. 2/4/75; AMD, Eff. 12/5/75; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06.)

24.174.1402 RENEWALS (1) All applications for registration shall be made on forms provided by the board and shall be filed with the board.

(2) Renewal notices will be sent as specified in ARM 24.101.414.

(3) The provisions of ARM 24.101.408 apply.

(4) The registrant shall prominently display the certificate of registration to be visible to the public. (History: 50-32-103, MCA; IMP, 37-1-141, 50-32-301, MCA; NEW, Eff. 8/4/74; AMD, Eff. 2/4/75; AMD, Eff. 12/5/75; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 1999 MAR p. 2438, Eff. 10/22/99; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

24.174.1403 APPLICATION FORMS (1) If any person is required to be registered and is not so registered and is applying for registration to manufacture or distribute dangerous drugs in Schedules I through V, the person shall apply on a form prescribed by the board.

(2) If any person is required to be registered and is not so registered and is applying for registration to dispense dangerous drugs in Schedules II through V, the person shall apply on a form prescribed by the board.

(3) If any person is required to be registered and is not so registered and is applying for registration to analyze or conduct research with dangerous drugs in Schedules I through V, the person shall apply on a form prescribed by the board.

(4) Any licensee applying for renewal of registration to manufacture or distribute dangerous drugs in Schedules I through V, the licensee shall apply on a form prescribed by the board.

(5) Any licensee applying for renewal to dispense dangerous drugs in Schedules II through V, the licensee shall apply on a form prescribed by the board. (History: 50-32-103, MCA; IMP, 50-32-306, 50-32-308, MCA; NEW, Eff. 8/4/74; AMD, Eff. 2/4/75; AMD, Eff. 12/5/75; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.1404 REQUIRED RECORDS (1) As used in this subchapter, the term "records" means:

(a) those records and inventories maintained by persons registered to manufacture, distribute, analyze or dispense dangerous drugs or samples thereof in conformance with record keeping and inventory requirements of federal statute and regulation, (21 CFR 304), and as they may be amended from time-to-time.

(2) Manufacturers and distributors shall be required to keep such records as are required by federal statutes and regulations, (21 CFR 304), and as they may be amended from time-to-time.

(3) Separate records required:

(a) registrants' inventories and records of dangerous drugs listed in Schedules I and II shall be maintained separately from all records of the registrant; and

(b) registrants' inventories and records of dangerous drugs listed in Schedules III through V shall be maintained according to federal statutes and regulations as they may be amended from time-to-time. (History: 50-32-103, MCA; IMP, 50-32-309, MCA; NEW, Eff. 8/4/74; AMD, Eff. 2/4/75; AMD, Eff. 12/5/75; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1998 MAR p. 3103, Eff. 11/20/98; TRANS, from Commerce, 2002 MAR p. 904.)

Rules 24.174.1405 through 24.174.1410 reserved

24.174.1411 SECURITY REQUIREMENTS (1) All applicants and registrants shall establish and maintain effective written controls and procedures to guard against theft and diversion of dangerous drugs into other than legitimate medical, scientific or industrial channels.

(2) The registrant shall not employ as an agent or employee any person who has access to dangerous drugs, who has had a federal or state application for registration denied or his registration revoked at any time, or has been convicted of a felony offense under any state or federal law relating to dangerous drugs or convicted of any other felony.

(3) The registrant shall notify the Board of Pharmacy in writing by forwarding a copy of the applicable DEA form reporting the theft or loss of any dangerous drugs upon discovery of such theft or loss. The notification shall contain a list of all dangerous drugs stolen or lost.

(4) The registrant shall notify law enforcement officials of any theft or loss of any dangerous drug promptly upon discovery of such theft or loss. (History: 50-32-103, MCA; IMP, 50-32-106, MCA; NEW, Eff. 8/4/74; AMD, Eff. 2/4/75; AMD, Eff. 12/5/75; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2002 MAR p. 3605, Eff. 12/27/02.)

24.174.1412 ADDITIONS, DELETIONS, AND RESCHEDULING OF DANGEROUS DRUGS (1) In addition to those dangerous drugs scheduled in 50-32-222, 50-32-224, 50-32-226, 50-32-229, and 50-32-232, MCA, the board adds the following to dangerous drug schedules after considering federal regulations and/or the criteria enumerated in Title 50, chapter 32, part 2, MCA:

- (a) Schedule I:
 - (i) none at this time;
- (b) Schedule II:
 - (i) none at this time;
- (c) Schedule III:
 - (i) methasterone;
 - (ii) perampanel; and
 - (iii) prostanazol;
- (d) Schedule IV:
 - (i) tramadol;
 - (ii) alfaxalone;
 - (iii) suvorexant; and
 - (iv) lorcaseerin;
- (e) Schedule V:
 - (i) ezogabine.

(2) The board deletes the following dangerous drugs from the schedules in 50-32-222, 50-32-224, 50-32-226, 50-32-229, and 50-32-232, MCA, after considering federal regulations and/or the criteria enumerated in Title 50, chapter 32, part 2, MCA:

- (a) Schedule I:
 - (i) none at this time;
- (b) Schedule II:
 - (i) naloxegol;
- (c) Schedule III:
 - (i) 50-32-226(4)(c) and (d), MCA (hydrocodone combination products);
- (d) Schedule IV:
 - (i) none at this time;
- (e) Schedule V:
 - (i) none at this time.

(3) After considering federal regulations and/or the criteria enumerated in Title 50, chapter 32, part 2, MCA, the board reschedules the following dangerous drugs from those scheduled in 50-32-222, 50-32-224, 50-32-226, 50-32-229, and 50-32-232, MCA:

- (a) Schedule I:
 - (i) none at this time;
- (b) Schedule II:
 - (i) none at this time;
- (c) Schedule III:
 - (i) none at this time;
- (d) Schedule IV:
 - (i) modafinil;
- (e) Schedule V:
 - (i) none at this time. (History: 50-32-103, 50-32-203, MCA; IMP, 50-32-103, 50-32-202, 50-32-203, 50-32-209, 50-32-222, 50-32-223, 50-32-224, 50-32-225, 50-32-226, 50-32-228, 50-32-229, 50-32-231, 50-32-232, MCA; NEW, Eff. 9/16/71; EMERG, AMD, Eff. 5/5/74; AMD, Eff. 9/4/75; AMD, Eff. 2/5/76; AMD, Eff. 3/7/76; AMD, Eff. 4/5/76; AMD, Eff. 9/5/76; AMD, 1978 MAR p. 393, Eff. 3/25/78; AMD, 1978 MAR p. 1740, Eff. 12/29/78; AMD, 1979 MAR p. 199, Eff. 3/1/79; AMD, 1980 MAR p. 1720, Eff. 6/27/80; AMD, 1981 MAR p. 625, Eff. 6/26/81; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 589, Eff. 4/13/84; AMD, 1984 MAR p. 1567, Eff. 10/26/84; AMD, 1985 MAR p. 1017, Eff. 7/16/85; AMD, 1986 MAR p. 1957, Eff. 11/29/86; AMD, 1988 MAR p. 271, Eff. 2/12/88; AMD, 1989 MAR p. 1193, Eff. 8/18/89; AMD, 1995 MAR p. 2689, Eff. 12/8/95; AMD, 1999 MAR p. 344, Eff. 11/20/98; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2010 MAR p. 2968, Eff. 12/24/10; AMD, 2015 MAR p. 1491, Eff. 9/25/15.)

Rules 24.174.1413 through 24.174.1419 reserved

24.174.1420 SCHEDULE I DANGEROUS DRUGS (REPEALED) (History: 50-32-103, MCA; IMP, 50-32-103, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12; REP, 2015 MAR p. 1491, Eff. 9/25/15.)

24.174.1421 SCHEDULE II DANGEROUS DRUGS (REPEALED) (History: 50-32-103, MCA; IMP, 50-32-103, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12; REP, 2015 MAR p. 1491, Eff. 9/25/15.)

24.174.1422 SCHEDULE III DANGEROUS DRUGS (REPEALED) (History: 50-32-103, MCA; IMP, 50-32-103, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12; REP, 2015 MAR p. 1491, Eff. 9/25/15.)

24.174.1423 SCHEDULE IV DANGEROUS DRUGS (REPEALED) (History: 50-32-103, MCA; IMP, 50-32-103, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12; REP, 2015 MAR p. 1491, Eff. 9/25/15.)

24.174.1424 SCHEDULE V DANGEROUS DRUGS (REPEALED) (History: 50-32-103, MCA; IMP, 50-32-103, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12; REP, 2015 MAR p. 1491, Eff. 9/25/15.)

Subchapter 15

Cancer Drug Repository

24.174.1501 PARTICIPATION (1) A pharmacy or facility may fully participate in the cancer drug repository program by accepting, storing and dispensing, or administering donated drugs and supplies, or may limit its participation to only accepting and storing donated drugs and supplies. If a pharmacy or facility chooses to limit its participation, the pharmacy or facility shall distribute any donated drugs to a fully participating repository.

(2) A pharmacy or facility may withdraw from participation in the cancer drug repository program at any time, upon notification to the board. A notice to withdraw shall be in writing.

(3) Any patient who is diagnosed with cancer is eligible to receive drugs or supplies under the cancer drug repository program.

(4) Cancer drugs may be donated to a pharmacy or facility.

(5) Participation in the program is voluntary.

(6) There is no limitation on the number of doses that can be donated to the program as long as the donated drugs meet the requirements of these regulations. (History: 37-7-1401, MCA; IMP, 37-7-1401, 37-7-1403, MCA; NEW, 2010 MAR p. 2968, Eff. 12/24/10.)

24.174.1502 DONATION OF CANCER DRUGS (1) Any person or entity may donate cancer drugs to the program. Any person or entity who donates to the program must contact a pharmacy or facility to obtain a form on which the donor must specify the cancer drug to be donated. The board will supply the form to be used which will include:

(a) name of the cancer drug;

(b) quantity of the cancer drug;

(c) the name of the person to whom the cancer drug was originally prescribed;

(d) the relationship between the person or entity donating the cancer drug and the person to whom the drug was prescribed;

(e) signature of the person donating the cancer drug; and

(f) date the form was signed. (History: 37-7-1401, MCA; IMP, 37-7-1401, 37-7-1403, MCA; NEW, 2010 MAR p. 2968, Eff. 12/24/10.)

24.174.1503 ACCEPTABLE CANCER DRUGS (1) The following categories of drugs are acceptable for dispensing or distribution under the program:

(a) a cancer drug that is in its original, unopened, sealed, and tamper-evident packaging;

(b) a cancer drug packaged in single unit doses if the outside packaging is opened, but the single unit dose packaging is unopened;

(c) a cancer drug that does not require refrigeration, freezing, or other special temperature requirements beyond controlled room temperature; and

(d) an injectable cancer drug if it does not have temperature requirements other than controlled room temperature.

(2) Any cancer drug donated to the program cannot be used past its expiration date. (History: 37-7-1401, MCA; IMP, 37-7-1401, 37-7-1404, 37-7-1405, MCA; NEW, 2010 MAR p. 2968, Eff. 12/24/10.)

24.174.1504 NONACCEPTABLE CANCER DRUGS (1) The following categories of drugs are not acceptable for dispensing or distribution under the program, because the effectiveness and safety of the cancer drug cannot be ensured or is otherwise prohibited:

(a) a cancer drug that is adulterated or misbranded;

(b) a cancer drug in packaging that has been opened, unsealed, or tampered with, or that is no longer in its original container;

(c) a cancer drug packaged in single unit doses if the outside packaging is opened and the single unit dose packaging is also opened;

(d) a cancer drug that requires refrigeration, freezing, or other special temperature requirements beyond controlled room temperature;

(e) controlled substances; and

(f) a cancer drug that has expired before dispensing to the patient. (History: 37-7-1401, MCA; IMP, 37-7-1401, 37-7-1404, 37-7-1405, MCA; NEW, 2010 MAR p. 2968, Eff. 12/24/10.)

24.174.1505 DISPENSING AND DISTRIBUTION OF CANCER DRUGS

(1) A pharmacy or facility must comply with all applicable provisions of state and federal law relating to the storage, distribution, and dispensing of donated cancer drugs.

(2) A pharmacy or facility must inspect all such drugs prior to dispensing or distributing to determine if they are adulterated, misbranded, or expired.

(3) The following are authorized to dispense drugs:

(a) practitioners with prescriptive authority; and

(b) licensed pharmacists.

(4) Cancer drugs may only be dispensed pursuant to a prescription issued by a prescribing practitioner. Cancer drugs may be:

- (a) dispensed to an ultimate user of the cancer drug; or
- (b) distributed to another pharmacy or facility for dispensing.

(5) Cancer drugs donated under the program may not be resold.

(6) Patients for whom cancer drugs are dispensed under the program must be notified by the prescribing practitioner that the cancer drugs they received were originally dispensed to another patient and were returned for redispensing through the program. (History: 37-7-1401, MCA; IMP, 37-7-1401, 37-7-1405, MCA; NEW, 2010 MAR p. 2968, Eff. 12/24/10.)

24.174.1506 STORAGE REQUIREMENTS (1) The pharmacy or facility that receives donated cancer drugs for dispensing or distribution must:

(a) provide equipment for the storage of cancer drugs donated to the program at controlled room temperature;

(b) maintain the inventory of donated cancer drugs separate from all other drug inventory of the pharmacy or facility; and

(c) establish a secure location for the storage of the donated cancer drugs.

(History: 37-7-1401, MCA; IMP, 37-7-1401, 37-7-1404, MCA; NEW, 2010 MAR p. 2968, Eff. 12/24/10.)

24.174.1507 RECORD-KEEPING REQUIREMENTS (1) A pharmacy or facility must maintain a perpetual inventory log book of all donated cancer drugs received, dispensed, or distributed.

(2) The perpetual inventory log book must contain the following information regarding all donated cancer drugs received, dispensed, or distributed:

- (a) name of the cancer drug;
- (b) quantity of the cancer drug;
- (c) expiration date of the cancer drug;
- (d) lot number of the cancer drug;
- (e) name of pharmacy or facility;
- (f) name of person who donated the cancer drug;
- (g) name of the person to whom the cancer drug was dispensed;
- (h) date the cancer drug was dispensed;

(i) name of the prescribing practitioner who wrote the prescription for the cancer drug to be dispensed under the program;

(j) name of the pharmacy or facility which the cancer drug was distributed;

(k) date the cancer drug was distributed to another pharmacy or facility;

(l) date of destruction of the expired cancer drug; and

(m) the amount of the handling fee charged, if any. (History: 37-7-1401, MCA; IMP, 37-7-1401, 37-7-1405, MCA; NEW, 2010 MAR p. 2968, Eff. 12/24/10.)

24.174.1508 HANDLING FEE (1) A pharmacy or facility that receives donated cancer drugs may charge a handling fee to the patient for dispensing or distribution of cancer drugs under the program.

(2) The handling fee must not exceed the applicable Medicaid dispensing fee. (History: 37-7-1401, MCA; IMP, 37-7-1401, 37-7-1405, MCA; NEW, 2010 MAR p. 2968, Eff. 12/24/10.)

24.174.1509 PHARMACY OR FACILITY REGISTRY (1) The board shall establish and maintain a pharmacy or facility registry for the program.

(2) The pharmacy or facility registry shall include:

- (a) pharmacy's or facility's name;
- (b) pharmacy's or facility's address;
- (c) pharmacy's or facility's telephone number; and

(d) whether the pharmacy or facility is in a practitioner's office, a pharmacy, a clinic, or a hospital.

(3) It is the responsibility of the pharmacy or facility to:

- (a) notify the board of the desire to participate in the program; and
- (b) provide the required registry information to the board.

(4) Any pharmacy or facility in the program will be entered on the pharmacy or facility registry by the board.

(5) It is the responsibility of the pharmacy or facility to notify the board:

- (a) of any change of name, address, telephone number; and
- (b) when it no longer wants to participate in the program.

(6) The board will make the pharmacy or facility registry information available to any person or entity wishing to donate cancer drugs to the program.

(7) The board will provide public access to the pharmacy or facility registry information on the board web site, or by contacting the board office. (History: 37-7-1401, MCA; IMP, 37-7-1401, 37-7-1403, MCA; NEW, 2010 MAR p. 2968, Eff. 12/24/10.)

24.174.1510 INSPECTIONS AND TERMINATION FROM PROGRAM

(1) The board may, in its discretion, inspect pharmacy or facilities in the program for compliance with the storage and record-keeping requirements of this subchapter.

(2) In the event of noncompliance with the storage and record-keeping requirements of this subchapter, the board may terminate the pharmacy's or facility's participation in the program. (History: 37-7-1401, MCA; IMP, 37-7-1401, MCA; NEW, 2010 MAR p. 2968, Eff. 12/24/10.)

Subchapter 16

Professional Assistance Program

24.174.1601 MEDICAL ASSISTANCE PROGRAM PURPOSE (1) The Montana Board of Pharmacy has established a medical assistance program which provides assistance, rehabilitation, and aftercare monitoring to pharmacists, pharmacist interns, certified pharmacy technicians, and pharmacy technicians-in-training under the jurisdiction of the board, who are suspected and/or found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance, or by mental or chronic physical illness.

(2) The board encourages and shall permit the rehabilitation of licensees if, in the board's opinion, public health, safety, and welfare can be assured. Early intervention and referral are paramount to promoting public health, safety, and welfare. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12.)

24.174.1602 REPORTING OF SUSPECTED IMPAIRMENT (1) Individuals, entities, or associations may report information to the board of suspected impairment of a licensee or license applicant, as provided in 37-7-201, MCA.

(2) Individuals, entities, or associations may report information of suspected impairment of a licensee or license applicant to the appropriate personnel of the medical assistance program established by the board, in lieu of reporting to the board, as provided in 37-7-201, MCA.

(3) Reports received by the board of suspected impaired licensees may be referred to the medical assistance program at the board's discretion through the nondisciplinary track, without formal disciplinary action against the licensee. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12.)

24.174.1603 PROTOCOL FOR SELF-REPORTING TO A BOARD-ESTABLISHED MEDICAL ASSISTANCE PROGRAM (1) If a licensee chooses to self-report to the board-established medical assistance program, and the medical assistance program has determined that the licensee needs assistance or supervision, the licensee shall be required to:

(a) enter into a contractual agreement with the medical assistance program for the specified length of time determined by the medical assistance program; and
(b) abide by all the requirements set forth by the medical assistance program.

(2) Self-reporting by a licensee may still result in disciplinary action by the board if:

(a) the medical assistance program determines that the self-reporting licensee poses a danger to themselves or to the public;

(b) the licensee is noncompliant with a contractual agreement with the medical assistance program;

(c) the licensee has not completed evaluation, treatment, or aftercare monitoring as recommended by the medical assistance program; or

(d) the screening panel otherwise determines that disciplinary action is warranted.

(3) The medical assistance program shall notify the board, disclose the identity of the licensee involved, and provide all facts and documentation to the board whenever:

(a) the licensee:

(i) has committed an act described in ARM 24.174.2301;

(ii) is noncompliant with a recommendation of the medical assistance program for evaluation, treatment, or aftercare monitoring contract; or

(iii) is the subject of credible allegations that the licensee has put a patient or the public at risk or harm; or

(b) the screening panel otherwise determines disciplinary action is warranted.

(History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12.)

24.174.1604 RESPONSIBILITIES OF MEDICAL ASSISTANCE PROGRAM

(1) The medical assistance program established by the board as set forth in 37-7-201, MCA, shall fulfill the terms of its contract with the board, which will include, but not be limited to, the following:

- (a) providing two tracks for assistance of licensees:
 - (i) a disciplinary track; and
 - (ii) a nondisciplinary track;
- (b) providing recommendations to licensees for appropriate evaluation and treatment facilities;
- (c) recommending to the board terms and conditions of treatment, rehabilitation, and monitoring of licensees known to the board; and
- (d) monitoring all aftercare of participants under contract to ensure public safety and compliance with agreed treatment recommendations propounded by one or more of the following:

- (i) the board, through stipulations and/or final orders;
- (ii) treatment centers; or
- (iii) the medical assistance program established by the board.

(2) The medical assistance program shall consult with the board regarding medical assistance program processes and procedures to ensure program responsibilities are met, consistent with board orders, requests, and contract terms.

(3) The medical assistance program shall provide information to and consult with the board upon the board's request. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12.)

24.174.1605 PROTOCOL FOR DISCIPLINARY TRACK

(1) All licensees who participate in the medical assistance program under the disciplinary track shall be reported to the board by name.

(2) A licensee is placed in the disciplinary track by one or more of the following:

- (a) as a condition of licensure imposed by a board final order;
- (b) as a result of a sanction imposed by a board final order;
- (c) as a result of noncompliance with the licensee's contractual agreement with the program; or
- (d) pursuant to an agreement between the licensee and the screening panel or the full board upon licensure. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12.)

24.174.1606 PROTOCOL FOR NONDISCIPLINARY TRACK (1) A licensee who participates in the medical assistance program under the nondisciplinary track shall be reported to the board by participant number.

(2) The identity of the participant who is noncompliant or refuses a reasonable request by the medical assistance program shall be reported to the board.

(3) If the board determines that a participant does not abide by all terms and conditions of the medical assistance program, the participant will be referred to the screening panel of the board for appropriate action under the disciplinary track. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12.)

24.174.1607 REPORTING TO THE BOARD (1) The screening panel of the board must receive a written compliance status report from the medical assistance program at intervals established by the contract between the program and the board regarding each program participant:

- (a) under a monitoring agreement;
- (b) referred to the program; or
- (c) in the process of evaluation or treatment.

(2) The full board shall receive a written compliance status report from the medical assistance program at intervals established by contract between the program and the board regarding each participant:

- (a) under a monitoring agreement;
- (b) referred to the program; or
- (c) in the process of evaluation or treatment.

(3) The identity of a participant in the nondisciplinary track must be reported to the full board by participant number except as required by ARM 24.174.1603 and 24.174.1606.

(4) The identity of a participant in the disciplinary track must be reported to the full board by name. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12.)

24.174.1608 PARTICIPANT DISCHARGE REQUIREMENTS (1) The medical assistance program shall facilitate participant discharge from the program.

(2) The discharge criteria must be determined by the board in conjunction with the recommendations of the medical assistance program.

(3) The following are required upon discharge of a participant from the endorsed medical assistance program:

(a) report of the discharge of the participant to the board:

(i) verification of satisfactory completion of monitoring, program requirements, and appropriate assurance of public safety;

(ii) completion of board final order terms and conditions with medical assistance program recommendation for discharge and release; and

(iii) request by a participant to transfer assistance into an appropriate endorsed medical assistance program in another jurisdiction; such transfer to be confirmed by the program. (History: 37-7-201, MCA; IMP, 37-7-201, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12.)

24.174.1609 RELAPSE REPORTING (1) The medical assistance program shall define what constitutes "relapse" for each particular participant and determine if and when relapse has occurred.

(a) A participant who has a single episode of relapse and/or early detection of relapse with nominal substance abuse may be reported to the board by the medical assistance program.

(b) A participant who has a second or severe relapse must be reported by the medical assistance program to the board screening panel for review.

(c) The board shall take disciplinary action against the license of a person in a medical assistance program if, in the period under contract, the licensee has on three separate occasions returned to the use of a prohibited or proscribed substance.

(2) Any of the following may be required by the board upon the recommendation of the medical assistance program when a participant suffers a relapse:

(a) the participant may be required to withdraw from practice;

(b) the participant may undergo further recommended evaluation and/or treatment as determined by the medical assistance program;

(c) the participant's monitoring agreement required by the medical assistance program must be reassessed and may be modified;

(d) the participant may be required to comply with other recommendations of the medical assistance program; or

(e) the participant may be subject to discipline as imposed by a board final order. (History: 37-1-131, 37-7-201, MCA; IMP, 37-1-131, 37-7-201, MCA; NEW, 2012 MAR p. 896, Eff. 4/27/12.)

Subchapter 17

Prescription Drug Registry

24.174.1701 DEFINITIONS (1) "Authorized user" means a prescriber, pharmacist, Board of Pharmacy staff, Montana Medicare or Medicaid programs, Tribal Health, Indian Health Service, and Veterans Affairs.

(2) "Authorized agent" means a designated person authorized access by an authorized user. An authorized agent for a pharmacist must be a pharmacy intern or certified pharmacy technician. (History: 37-7-1512, MCA; IMP, 37-7-1512, MCA; NEW, 2012 MAR p. 506, Eff. 3/9/12.)

24.174.1702 INFORMATION REQUIRED FOR SUBMISSION (1) Each entity registered by the board as a certified pharmacy or as an out-of-state mail service pharmacy that dispenses to patients in Montana shall provide the following controlled substances dispensing information to the board:

(a) pharmacy name, address, telephone number, and drug enforcement administration number;

(b) full name, address, telephone number, gender, and date of birth for whom the prescription was written;

(c) full name, address, telephone number, and drug enforcement administration registration number of the prescriber;

(d) date the prescription was issued by the prescriber;

(e) date the prescription was filled by the pharmacy;

(f) indication of whether the prescription dispensed is new or a refill;

(g) name, national drug code number, strength, quantity, dosage form, and days' supply of the actual drug dispensed;

(h) prescription number assigned to the prescription order; and

(i) source of payment for the prescription that indicates one of the following:

(i) cash;

(ii) insurance; or

(iii) government subsidy. (History: 37-7-1512, MCA; IMP, 37-7-1502, 37-7-1503, 37-7-1512, MCA; NEW, 2012 MAR p. 506, Eff. 3/9/12.)

24.174.1703 ELECTRONIC FORMAT REQUIRED FOR THE TRANSMISSION OF INFORMATION (1) All prescription information submitted to the board pursuant to ARM 24.174.1702, must be transmitted in the format specified by the American Society for Automation in Pharmacy (ASAP), version 4.1, dated 2009, which is adopted and incorporated by reference. A copy of the ASAP standards may be obtained through the Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana, 59620-0513. (History: 37-7-1512, MCA; IMP, 37-7-1503, 37-7-1512, MCA; NEW, 2012 MAR p. 506, Eff. 3/9/12.)

24.174.1704 REQUIREMENTS FOR SUBMITTING PRESCRIPTION REGISTRY INFORMATION TO THE BOARD (1) All prescription drug order information for controlled substances shall be submitted to the board pursuant to this subchapter.

(2) A pharmacy shall submit all prescription drug order information for a controlled substance to the board no later than close of the next business day after the date of dispensing the controlled substance.

(3) If a pharmacy that dispenses controlled substances has not dispensed any controlled substances during a calendar month, the pharmacy shall verify that no controlled substances were dispensed for that month by submitting a "zero report" to the board. A "zero report" is due on or before the fifth day of the next month.

(4) A pharmacy that does not dispense controlled substances shall notify the board by submitting an appropriate board-approved form attesting that the pharmacy does not dispense controlled substances.

(a) The form submitted by a pharmacy that does not dispense controlled substances shall be maintained on file with the board and at the pharmacy's location.

(b) If a pharmacy does dispense a controlled substance, it shall then comply with the reporting requirements of this rule.

(5) In the event that a pharmacy cannot submit the required information as described in this rule, the pharmacy must timely report that fact to the board on or before the date the submission is due. The board office may grant an extension, at their discretion, when a pharmacy notifies the board that they are unable to submit their report.

(6) It is the responsibility of the submitting pharmacy to address any errors or questions about information that the pharmacy has submitted to the prescription drug registry and resubmit corrected data no later than close of the next business day after the date of the original submission. (History: 37-7-1512, MCA; IMP, 37-7-1503, 37-7-1512, MCA; NEW, 2012 MAR p. 506, Eff. 3/9/12; AMD, 2015 MAR p. 302, Eff. 3/27/15; AMD, 2018 MAR p. 1825, Eff. 9/8/18.)

24.174.1705 FAILURE TO REPORT PRESCRIPTION INFORMATION

(1) A pharmacy that fails to submit prescription information to the board as required is deemed to have committed unprofessional conduct for which discipline may be imposed under 37-1-312, MCA. (History: 37-1-319, 37-7-1512, MCA; IMP, 37-1-312, 37-7-1513, MCA; NEW, 2012 MAR p. 506, Eff. 3/9/12.)

24.174.1706 REGISTRY INFORMATION REVIEW AND UNSOLICITED PATIENT PROFILES (1) The board or their designee(s) may review and compile information contained in the registry to identify evidence of possible misuse or diversion of controlled substances.

(2) In instances of possible misuse or diversion, the executive director will promptly report by telephone, e-mail, or postal mail the patient's profile information to practitioners and pharmacists who have provided care to that patient.

(3) The following factors are suggestive, but not conclusive evidence of misuse or diversion:

(a) four or more prescribers in a 60-day period; or

(b) four or more pharmacies in a 60-day period. (History: 37-7-1512, MCA; IMP, 37-7-1502, 37-7-1504, MCA; NEW, 2012 MAR p. 506, Eff. 3/9/12.)

Rule 24.174.1707 reserved

24.174.1708 ACCESS TO PRESCRIPTION DRUG REGISTRY INFORMATION (1) The following persons may have direct online access to prescription drug registry information:

(a) licensed practitioners having authority to prescribe controlled substances, or that practitioner's authorized agent, for the purpose of providing medical and/or pharmaceutical care for their patients, or for patients referred for medical care and/or pharmaceutical care;

(b) licensed pharmacists authorized to dispense controlled substances, or that pharmacist's authorize agent, for the purpose of providing pharmaceutical care for their patients or for patients referred for care;

(c) designated representatives from the Montana Medicare or Medicaid programs, Tribal Health, Indian Health Service, and Veterans Affairs regarding program recipients;

(d) board staff, including executive director, inspectors, and program manager; and

(e) any vendor or contractor establishing or maintaining the prescription drug registry.

(2) To access registry information, each user must first:

(a) successfully complete the board's educational program;

(b) complete the registration form and confidentiality agreement provided by the board;

(c) complete a written agreement assuring that the user's access and use of the prescription drug registry is limited to that authorized by law;

(i) in the case of a licensed practitioner having authority to prescribe controlled substances, or that practitioner's authorized agent, access is restricted to:

(A) the practitioner's own prescribing information; or

(B) prescription records for a patient of the practitioner to whom the practitioner is providing or considering providing medical and/or pharmaceutical care;

(ii) in the case of a licensed pharmacist, pharmacy intern, or certified pharmacy technician, access is restricted to prescription records for a patient for whom the pharmacy is actually dispensing or considering dispensing a prescription;

(iii) in the case of a designated representative of the Montana Medicare or Medicaid programs, Tribal Health, Indian Health Service, and Veteran Affairs, access is restricted to prescription records related to a participant in the program;

(iv) in the case of authorized representatives of the board, access is restricted to:

(A) that necessary to respond to legitimate inquiries; or

(B) that necessary for legitimate inquiries under ARM 24.174.1706;

(v) in the case of an authorized vendor or contractor, access is restricted to technical work necessary to establish or maintain the prescription drug registry databank; or

(vi) in every user's case:

(A) information accessed from the prescription drug registry must be kept confidential;

(B) information accessed from the prescription drug registry must not be disclosed to any unauthorized person; and

(C) user account information, login names, and passwords must not be shared with any person, regardless of whether that person is also an authorized user of the prescription drug registry.

(3) Prior to granting access to the registry, the board shall verify that the applicant is licensed to prescribe or dispense controlled substances or legend drugs, or in the case of an agency applicant, the board shall verify that the applicant is the designated representative of the Montana Medicare or Medicaid programs, Tribal Health, Indian Health Service, or Veterans Affairs.

(4) Upon verification of all requirements, the board shall issue the appropriate information necessary for online access to the prescription drug registry.

(5) Upon receipt of written notification that an authorized user no longer possesses authority to prescribe, dispense, or represent Medicare or Medicaid programs, Tribal Health, Indian Health Services, Veterans Affairs, or the board, the board shall terminate the user's access to the prescription drug information.

(6) Persons authorized in 37-7-1506(1)(d) and (e), MCA, to obtain information from the prescription drug registry must apply for that information by:

(a) completing the form provided by the board and returning the completed form, along with proof of identification and authorization required by the board, to the board's office; or

(b) serving upon the board or its designee, an investigative subpoena directing the board to release a profile to the county coroner or a peace officer employed by a federal, state, tribal, or local law enforcement agency.

(7) Individual patients may request their own prescription registry information from the board or their provider. If requesting from the board, the requestor shall personally appear at the program office and produce a positive photo identification at the time of their request. A single copy of the information will be provided at no charge to the individual.

(8) If the prescription drug registry receives evidence of inappropriate or unlawful use or disclosure of prescription registry information by an authorized user, the board shall file a complaint with the user's licensing board. (History: 37-7-1506, 37-7-1512, MCA; IMP, 37-7-1506, 37-7-1512, MCA; NEW, 2012 MAR p. 506, Eff. 3/9/12.)

24.174.1709 REGISTRY INFORMATION RETENTION (1) Patient information contained in the registry shall be destroyed three years after the original date of submission of the information to the registry.

(2) Pursuant to 37-7-1508, MCA, a government entity or law enforcement agency may request that specific information in the registry, related to an open investigation, be retained beyond the three-year destruction requirement by submitting a written request to the board on a form provided by the board. (History: 37-7-1512, MCA; IMP, 37-7-1508, MCA; NEW, 2012 MAR p. 506, Eff. 3/9/12.)

Rule 24.174.1710 reserved

24.174.1711 ADVISORY GROUP (1) The board shall establish a prescription drug registry advisory group, to provide information and advice about the development and operation of the prescription drug registry.

(2) The advisory group shall consist of, but is not limited to, representatives of:

- (a) Montana boards of pharmacy, medical examiners, nursing, and dentistry;
- (b) Montana pharmacy associations, medical associations, nursing associations, dental associations, and associations that advocate for patients;
- (c) tribal health, Medicaid and Medicare, and public health agencies;
- (d) the Department of Justice; and
- (e) the Montana Legislature.

(3) The members of the advisory group shall serve at the pleasure of their respective appointing authorities.

(4) The members of the advisory group shall elect a chair and a vice chair whose duties shall be established by the advisory group.

(5) The advisory group shall establish policies and procedures necessary to carry out duties.

(6) The board shall establish a time and a place for regular meetings of the advisory group, which shall meet at least once a year. (History: 37-7-1510, 37-7-1512, MCA; IMP, 37-7-1510, MCA; NEW, 2012 MAR p. 506, Eff. 3/9/12.)

24.174.1712 PRESCRIPTION DRUG REGISTRY FEE (1) Every person licensed under Title 37, MCA, to prescribe or dispense prescription drugs shall pay a fee to the board for the purpose of establishing and maintaining the prescription drug registry.

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

(3) The annual prescription drug registry fee is \$30. (History: 37-1-134, 37-7-1511, 37-7-1512, MCA; IMP, 37-1-134, 37-1-141, 37-7-1511, 37-7-1512, MCA; NEW, 2012 MAR p. 506, Eff. 3/9/12; AMD, 2017 MAR p. 1144, Eff. 7/22/17; AMD, 2019 MAR p. 2240, Eff. 12/7/19.)

24.174.1713 RELEASE OF PRESCRIPTION DRUG REGISTRY INFORMATION TO OTHER ENTITIES (1) The board shall provide prescription registry information to public or private entities for public research, policy, or educational purposes, but only after removing information that identifies or could reasonably be used to identify individuals or entities whose information is contained in the registry.

(2) The board may charge a fee to a person who requests information under this rule. (History: 37-7-1512, MCA; IMP, 37-7-1506, MCA; NEW, 2012 MAR p. 506, Eff. 3/9/12.)

Rule 24.174.1714 reserved

24.174.1715 INTERSTATE EXCHANGE OF REGISTRY INFORMATION

(1) The board may enter into agreements with other states to exchange prescription drug registry information if the other states restrict disclosure and maintain confidentiality to the same extent as provided in 37-7-1506, MCA, and this subchapter. (History: 37-7-1512, MCA; IMP, 37-7-1506, MCA; NEW, 2012 MAR p. 506, Eff. 3/9/12.)

Subchapters 18 through 20 reserved

Subchapter 21

Renewals and Continuing Education

24.174.2101 PHARMACIES-ANNUAL RENEWAL (REPEALED) (History: 37-7-201, MCA; IMP, 37-7-321, MCA; NEW, Eff. 3/21/55; AMD, 1980 MAR p. 126, Eff. 1/18/80; AMD, 1980 MAR p. 970, Eff. 3/14/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1999 MAR p. 2438, Eff. 10/22/99; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06; REP, 2019 MAR p. 1633, Eff. 9/21/19.)

24.174.2102 PHARMACY TECHNICIAN-RENEWAL (REPEALED) (History: 37-7-201, MCA; IMP, 37-1-141, 37-7-201, MCA; NEW, 2002 MAR p. 86, Eff. 1/18/02; AMD, 2010 MAR p. 74, Eff. 1/15/10; REP, 2019 MAR p. 1633, Eff. 9/21/19.)

24.174.2103 RENEWALS (REPEALED) (History: 37-1-319, 37-7-201, MCA; IMP, 37-1-131, 37-1-141, 37-1-306, 37-7-201, MCA; NEW, 1978 MAR p. 1740, Eff. 12/29/78; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 1999 MAR p. 2438, Eff. 10/22/99; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2010 MAR p. 74, Eff. 1/15/10; REP, 2019 MAR p. 1633, Eff. 9/21/19.)

24.174.2104 REGISTERED PHARMACIST CONTINUING EDUCATION-REQUIREMENTS (1) The nationally accepted measurement of continuing education, the continuing education unit (CEU), will be the measurement employed by the board. Ten hours of approved continuing education credit equal one CEU.

(2) The board will require:

(a) 1.5 CEU for each fiscal year if a pharmacist takes at least 0.5 CEU in an approved group program; or

(b) 2.0 CEU for each fiscal year if a pharmacist does not take at least 0.5 CEU in an approved group program.

(3) The annual CEU requirement will not pertain to a pharmacist applying as a new graduate for his or her first license renewal.

(4) Only an additional 1.5 CEU may be accumulated and applied to the following year.

(5) All licensees shall affirm an understanding of their recurring duty to comply with CE requirements as a part of annual license renewal.

(6) The board may randomly audit up to 50 percent of renewed licensees' CE hours.

(7) Licensees found to be in noncompliance with CE requirements may be subject to administrative suspension. (History: 37-1-319, MCA; IMP, 37-1-306, MCA; NEW, 1978 MAR p. 1740, Eff. 12/29/78; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2011 MAR p. 1148, Eff. 6/24/11; AMD, 2019 MAR p. 1633, Eff. 9/21/19.)

24.174.2105 REGISTERED PHARMACIST CONTINUING EDUCATION–SUBJECTS (1) Continuing pharmaceutical education will include, but will not be limited to, appropriate professional post graduate education in any of the following subjects:

- (a) properties and actions of drugs and dosage forms;
 - (b) etiology, pathophysiology, clinical course, therapy and prognosis of diseases;
 - (c) pharmacy practice; and
 - (d) legal, psychological and socioeconomic aspects of health care delivery.
- (History: 37-1-319, MCA; IMP, 37-1-306, MCA; NEW, 1978 MAR p. 1740, Eff. 12/29/78; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1998 MAR p. 3103, Eff. 11/20/98; TRANS, from Commerce, 2002 MAR p. 904.)

24.174.2106 REGISTERED PHARMACIST CONTINUING EDUCATION–APPROVED PROGRAMS (1) Continuing education programs sponsored by providers that are approved by the following organizations will automatically qualify for continuing education credit:

- (a) the American Council on Pharmaceutical Education (ACPE);
 - (b) programs that have been approved for Continuing Medical Education (CME) by a state Board of Medical Examiners or its equivalent; or
 - (c) the American Board of Medical Specialties.
- (2) Pharmacists may receive CEU for programs other than those on the ACPE list of providers by applying for prior approval by the board or its designee on board-approved forms.
- (3) Pharmacists participating in programs that have not received prior approval risk disallowance of credit. (History: 37-1-319, MCA; IMP, 37-1-306, MCA; NEW, 1978 MAR p. 1740, Eff. 12/29/78; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1986 MAR p. 945, Eff. 5/30/86; AMD, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 2002 MAR p. 178, Eff. 2/1/02; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2003 MAR p. 109, Eff. 12/27/02; AMD, 2011 MAR p. 1148, Eff. 6/24/11.)

24.174.2107 REGISTERED PHARMACIST CONTINUING EDUCATION–NONCOMPLIANCE (REPEALED) (History: 37-1-319, MCA; IMP, 37-1-141, 37-1-306, MCA; NEW, 1978 MAR p. 1740, Eff. 12/29/78; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 1999 MAR p. 2438, Eff. 10/22/99; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2012 MAR p. 506, Eff. 3/9/12; REP, 2019 MAR p. 1633, Eff. 9/21/19.)

Subchapter 22 reserved

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Subchapter 23

Unprofessional Conduct

- 24.174.2301 UNPROFESSIONAL CONDUCT (1) The board defines "unprofessional conduct" as follows:
- (a) engaging in any activity which violates state and federal statutes and rules governing the practice of pharmacy;
 - (b) dispensing an outdated or questionable product;
 - (c) dispensing a cheaper product and charging for a more expensive product;
 - (d) charging for more dosage units than are actually dispensed;
 - (e) altering prescriptions or other records which the law requires pharmacies and pharmacists to maintain;
 - (f) dispensing medication without proper authorization;
 - (g) defrauding any persons or government agency receiving pharmacy services;
 - (h) placing a signature on any affidavit pertaining to any phase of the practice of pharmacy which the pharmacist knows to contain false information;
 - (i) any act performed in the practice of pharmacy which is hostile to the public health and which is knowingly committed by the holder of a license;
 - (j) buying, selling, purchasing or trading any prescription drug samples or offering to sell, purchase or trade drug samples. A "drug sample," as used herein, is defined to mean a unit of a prescription drug which is not intended to be sold and is intended to promote the sale of a drug;
 - (k) conviction, including conviction following a plea of nolo contendere, of an offense involving moral turpitude, whether misdemeanor or felony, and whether or not an appeal is pending;
 - (l) fraud, misrepresentation, deception or concealment of a material fact in applying for or securing a license, or license renewal, or in taking an examination required for licensure; as used herein, "material" means any false or misleading statement or information;
 - (m) use of a false, fraudulent or deceptive statement in any document connected with the practice of pharmacy;

(n) having been subject to disciplinary action of another state or jurisdiction against a license or other authorization to practice pharmacy, based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for disciplinary actions under Title 37, chapter 7, MCA or these rules; a certified copy of the record of the action taken by the other state or jurisdiction is evidence of unprofessional conduct.

(o) willful disobedience of a rule adopted by the board, or an order of the board regarding evaluation or enforcement of discipline of a licensee;

(p) habitual intemperance or excessive use of an addictive drug, alcohol or any other substance to the extent that the use impairs the user physically or mentally;

(q) failing to furnish to the board or its investigators or representatives information legally requested by the board.

(r) failing to cooperate with a lawful investigation conducted by the board;

(s) conviction or violation of a federal or state law regulating the possession, distribution or use of a controlled substance, as defined by the federal Food and Drug Administration or successors, whether or not an appeal is pending;

(t) failure to transfer pertinent and necessary patient records to another licensed pharmacy, the patient or the patient's representative when requested to do so by the patient or the patient's legally designated representative;

(u) failure to comply with an agreement the licensee has entered into with the impaired pharmacist program. (History: 37-1-319, 37-7-201, MCA; IMP, 37-1-316, MCA; NEW, 1981 MAR p. 625, Eff. 6/26/81; AMD, 1989 MAR p. 1193, Eff. 8/18/89; AMD, 1998 MAR p. 3103, Eff. 11/20/98; AMD, 2001 MAR p. 783, Eff. 5/11/01; TRANS, from Commerce, 2002 MAR p. 904.)

Subchapter 24

Disciplinary/Complaint Procedures

24.174.2401 SCREENING PANEL (REPEALED) (History: 37-7-201, MCA; IMP, 37-1-307, MCA; NEW, 1998 MAR p. 3103, Eff. 11/20/98; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2006 MAR p. 1615, Eff. 6/23/06; REP, 2018 MAR p. 1825, Eff. 9/8/18.)

24.174.2402 COMPLAINT PROCEDURE (REPEALED) (History: 37-7-201, MCA; IMP, 37-1-308, 37-1-309, MCA; NEW, 1998 MAR p. 3103, Eff. 11/20/98; TRANS, from Commerce, 2002 MAR p. 904; REP, 2018 MAR p. 1825, Eff. 9/8/18.)

24.174.2403 LEGAL SUSPENSION OR REVOCATION (REPEALED) (History: 37-7-201, MCA; IMP, 37-7-201, 37-7-311, 37-7-321, MCA; NEW, Eff. 3/21/55; AMD, 1980 MAR p. 126, Eff. 1/18/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1998 MAR p. 3103, Eff. 11/20/98; TRANS, from Commerce, 2002 MAR p. 904; AMD, 2015 MAR p. 302, Eff. 3/27/15; REP, 2018 MAR p. 1825, Eff. 9/8/18.)