

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

In the matter of the amendment of)
ARM 24.126.910 impairment evaluator)
standards, and the repeal of)
24.126.415 participation in disaster and)
emergency care -- liability of)
chiropractor and 24.126.501)
applications)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
REPEAL

TO: All Concerned Persons

1. On July 23, 2021, at 10:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment and repeal of the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/82816124883>
Meeting ID: 828 1612 4883, Passcode: 303676
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 828 1612 4883, Passcode: 303676

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

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Chiropractors no later than 5:00 p.m., on July 16, 2021, to advise us of the nature of the accommodation that you need. Please contact Kevin Bragg, Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2390; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdcchi@mt.gov (board's e-mail).

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

24.126.910 IMPAIRMENT EVALUATOR STANDARDS CONTINUING EDUCATION (1) ~~A minimum of four hours of specialized continuing education (CE) relevant to impairment evaluation shall be obtained every four years.~~ Licensees holding impairment evaluator certificates shall, upon release of an updated American Medical Association Guides to the Evaluation of Permanent Impairment edition, obtain two hours of specialized CE relevant to the updated edition.

(a) remains the same.

~~(b) (2) Acceptable CE approved by the board~~ must directly relate to impairment evaluation and shall be affiliated with or approved by:

~~(a)~~ national, regional, or state chiropractic associations;₁

~~(b)~~ state licensing boards;₁

~~(c)~~ academies;₁

~~(d)~~ colleges of chiropractic;₁ or

~~(e)~~ education approved by the Federation of Chiropractic Licensure Board (FCLB) Providers of Approved Continuing Education (PACE).

(3) Licensees shall affirm an understanding of the recurring duty to comply with CE requirements as part of license renewal.

~~(e) (4) The department shall conduct a random~~ may randomly audit of up to 50 percent of renewed impairment evaluator certificate holders every four years ~~to verify compliance with the requirements.~~

~~(d) A three-month extension will be provided for all licensees who fail to meet the continuing education requirements as a result of an audit. Failure to meet this extension may result in disciplinary action.~~

~~(e) (5) Any impairment evaluator seeking a hardship waiver from the CE requirements shall apply to the board, in writing, as soon as possible after the hardship is identified and prior to the end of the period for completing the continuing education. An impairment evaluator may request exemption from CE requirements due to hardship. Requests will be considered by the board.~~

~~(i) Specific details of the hardship must be included.~~

~~(ii) The board must find that a hardship exists.~~

~~(iii) The waiver may be absolute or conditional.~~

~~(2) (6) Persistent deviation from generally accepted standards for impairment evaluation may be grounds for disciplinary action, which may include revocation of the impairment evaluator certificate. Licensees found to be in noncompliance with CE requirements may be subject to administrative suspension.~~

~~(3) (7) Impairment evaluators must comply with ARM 24.29.1415. This rule is available at www.mtrules.org.~~

~~(4) Impairment evaluator licenses shall be renewed annually.~~

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

IMP: 37-1-131, 37-1-306, 37-1-319, 37-12-201, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify language, processes, and accepted standards. Specifically, the board is reducing the number of additional CE hours that evaluators must obtain during the normal four-year cycle. This is a direct result of the American Medical Association standards having not been updated since 2008. The board concluded that it is reasonable to require additional impairment evaluation CE when the manual is finally updated. Additional changes will align with standard department procedures, maintain continuity with prior changes to the board's other CE rules, and simplify language for ease of use for the reader.

4. The rules proposed to be repealed are as follows:

24.126.415 PARTICIPATION IN DISASTER AND EMERGENCY CARE --
LIABILITY OF CHIROPRACTOR

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

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

REASON: In 2006, the board adopted this rule in response to a department request to provide for emergency response. During the COVID-19 pandemic, the Governor made specific regulatory suspensions which allowed out-of-state volunteer practitioners to receive remuneration during a declared emergency. The division rule, ARM 24.101.417, was amended accordingly.

While reviewing the board's rules, staff noted that this rule's provisions are adequately addressed in the division rule. Further, the board rule does not allow volunteer chiropractors to receive payment during an emergency and as such creates confusion to potential volunteers. The board determined it is reasonably necessary to repeal this rule to achieve standardization throughout the division.

24.126.501 APPLICATIONS

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

IMP: 37-1-131, 37-12-302, 37-12-304, MCA

REASON: While reviewing the rules, board staff noted this rule contains solely administrative processes which are addressed by standardized department application procedures that apply to all licensure boards. The board concluded it is reasonably necessary to repeal this rule as unnecessary.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibschi@mt.gov, and must be received no later than 5:00 p.m., July 23, 2021.

6. An electronic copy of this notice of public hearing is available at chiropractor.mt.gov (department and board's website). Although the department strives to keep its websites accessible at all times, concerned persons should be aware that websites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a website do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate

whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibschi@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

9. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.126.910 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.126.415 and 24.126.501 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-841-2390; facsimile (406) 841-2305; or to dlibschi@mt.gov.

10. Kevin Bragg, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF CHIROPRACTORS
MARCUS NYNAS, DC
PRESIDENT

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

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

Certified to the Secretary of State June 15, 2021.