

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

In the matter of the amendment of)
ARM 24.156.630 and 24.156.635 and)
the repeal of ARM 24.156.632,)
24.156.633, 24.156.634, 24.156.636,)
and 24.156.637 pertaining to Montana)
Health Corps)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
REPEAL

TO: All Concerned Persons

1. On September 15, 2023, at 2:00 p.m., a public hearing will be held via remote conferencing to consider the proposed changes to 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/81634299207>
Meeting ID: 816 3429 9207, Passcode: 704073
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 816 3429 9207, Passcode: 704073

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 department no later than 5:00 p.m., on September 8, 2023, to advise us of the nature of the accommodation that you need. Please contact the department at P.O. Box 1728, Helena, Montana 59624-1728; telephone (406) 444-5466; Montana Relay 711; or e-mail laborlegal@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: In 2023, the Legislature passed Senate Bill (SB) 564, which modernized and expanded the Montana Health Corps Act. Changes from the bill primarily expanded the range of individuals who may perform services under the act as physicians as well as the individuals who could receive services from Health Corps physicians. These rule amendments are reasonably necessary to carry out the purposes of this legislation. In addition, these changes further the Red Tape Relief initiative by reducing, simplifying, and clarifying the number of administrative rules.

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

24.156.630 APPLICATION FOR PARTICIPATION IN HEALTH CORPS

(1) An applicant who holds an active license to practice medicine in the State of Montana and who wants to participate in the health corps program shall:

- (a) complete and return a registration form approved by the board, together with accompanying documentation; and
- (b) submit a registration fee, pursuant to ARM 24.156.631; and
- ~~(c) satisfy all of the requirements set forth in 37-3-804, MCA.~~
- ~~(2) An applicant who does not hold an active license to practice medicine in the State of Montana and wants to participate in the health corps program must submit an application for an active license, in addition to fulfilling the requirements listed above.~~

AUTH: 37-1-131, 37-3-203, 37-3-802, 37-3-804, MCA

IMP: 37-1-131, 37-3-802, 37-3-804, MCA

REASON: There is reasonable necessity to strike the cross-reference in (1)(b) because it is incorrect and unnecessary to state, given all fees are in a unified rule. It is necessary to strike (1)(c) because it is not necessary to state in rule that a statute must be followed. It is necessary to strike (2) because it is not necessary to state that a physician must be licensed in Montana to practice in rule, because it is clear in statute.

24.156.635 SCOPE OF PRACTICE OF HEALTH CORPS PARTICIPANTS

(1) A ~~retired~~ physician who holds an active license to practice medicine in Montana and who is registered with the board as a health corps physician may: as a health corps volunteer, may

~~(a) practice medicine within the scope of their training and experience by providing primary outpatient care through home healthcare visits to eligible patients individuals.; and~~

~~(b) engage in a limited scope of practice under a limitation of liability imposed by 37-3-806, MCA.~~

~~(2) Health corps physicians must report to the board in writing within 90 days, any denial of hospital privileges, restrictions or limitations of practice, or the initiation of any disciplinary action against the certificate or license to practice medicine by any state or territory, in which the licensee is licensed.~~

~~(3) Health corps physicians shall follow the participation guidelines as set forth by the board. Failure to follow participation guidelines may be grounds for discipline.~~

~~(4)(2) Health corps physicians shall provide a written disclosure on the limitation on legal liability to patients referred to in of the health corps program.~~

~~(5) Health corps physicians are subject to each of the grounds for disciplinary action as provided in 37-1-316, MCA, and ARM 24.156.625, in accordance with the procedures set forth in Title 37, chapters 1 and 3, MCA, and the Montana Administrative Procedure Act.~~

~~(6) Health corps physicians shall comply with all laws, rules, and regulations governing the maintenance of patient medical records, including patient confidentiality requirements.~~

~~(7) Health corps physicians shall notify the board of any change in the licensee's address, as contained on the participation registration, within 30 days of such change.~~

~~(8) Health corps physicians shall cooperate in the investigation of any possible grounds for discipline, including revocation or limitation of the license or participation registration, by timely compliance with all inquiries and subpoenas issued by the board for evidence or information. The licensee shall provide, within 21 days of receipt of a written request from the board, clear and legible copies of requested documents, including medical records, which may be related to possible grounds for discipline, including revocation or limitation of a license or participation registration. Failure to timely comply with a board inquiry or subpoena or to provide clear and legible copies of requested records shall be grounds for discipline.~~

AUTH: 37-1-131, 37-3-203, 37-3-802, 37-3-804, MCA

IMP: 37-1-131, 37-3-310, 37-3-802, 37-3-804, 37-3-806, MCA

REASON: Reasonable necessity exists to strike (2) because the subject is addressed in the unprofessional conduct rule. Reasonable necessity exists to strike (3) because it is unnecessary to state in this rule that the law must be followed. To the extent such statement might be necessary, it is set forth at ARM 24.156.405(1). Reasonable necessity exists to strike (5) because it is not necessary to state that a health corps physician may be disciplined for the same bases as discipline of any other licensee. Reasonable necessity exists to strike (6) because it is duplicative of unprofessional conduct requirements applicable to all physician licensees, as set forth in statute and rule. Reasonable necessity exists to strike (7) because it duplicates 37-1-309, MCA, which requires notifications of change of address. Reasonable necessity exists to strike (8) because it is duplicative of requirements to comply with investigations of the board set forth in ARM 24.156.405(2)(a). Reasonable necessity exists to amend the implementation statutes to include 37-3-806, MCA, to specify that (4), pertaining to written disclosure of liability limitations, is an implementation of that statute.

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

24.156.632 FAILURE TO COMPLETE APPLICATION AND REGISTRATION

AUTH: 37-1-131, 37-3-203, MCA

IMP: 37-1-131, 37-3-309, 37-3-802, 37-3-804, MCA

REASON: There is reasonable necessity to repeal this rule because it is a business process which need not be restated in rule.

24.156.633 HEALTH CORP PARTICIPATION REGISTRATION

AUTH: 37-1-131, 37-3-203, 37-3-802, MCA

IMP: 37-1-131, 37-3-802, 37-3-804, MCA

REASON: There is reasonable necessity to repeal this rule because it is not necessary to restate general licensing requirements for this program of licensure.

24.156.634 RENEWALS

AUTH: 37-1-131, 37-3-203, 37-3-802, 37-3-804, MCA

IMP: 37-1-131, 37-1-141, 37-3-802, 37-3-804, MCA

REASON: There is reasonable necessity to repeal this rule because it is duplicative of the renewal requirements set forth in ARM 24.156.615.

24.156.636 SANCTIONS

AUTH: 37-1-131, 37-3-203, MCA

IMP: 37-1-131, 37-3-325, 37-3-807, MCA

REASON: There is reasonable necessity to repeal this rule because a physician may be disciplined pursuant to normal processes without the need for this rule.

24.156.637 REFERRALS TO HEALTH CORPS

AUTH: 37-1-131, 37-3-203, 37-3-802, 37-3-804, 37-3-805, MCA

IMP: 37-3-802, 37-3-805, MCA

REASON: Reasonable necessity exists to repeal this rule because the statutory basis for restricted referrals was repealed by SB 564, Section 6 (2023).

6. Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received no later than 5:00 p.m., September 22, 2023.

7. An electronic copy of this notice of public hearing is available at dli.mt.gov/rules and at sosmt.gov/ARM/register.

8. The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by electronic mail on May 1, 2023.

10. Pursuant to 2-4-111, MCA, the agency has determined that the rule changes proposed in this notice will not have a significant and direct impact upon small businesses.

11. Department staff has been designated to preside over and conduct this hearing.

BOARD OF MEDICAL EXAMINERS
JAMES GUYER, M.D., PRESIDENT

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Rule Reviewer

/s/ SARAH SWANSON
Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State August 15, 2023.