

BEFORE THE BOARD OF BARBERS AND COSMETOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.101.413, 24.121.301,)
24.121.403, 24.121.407, 24.121.410,)
24.121.412, 24.121.604, 24.121.605,)
24.121.606, 24.121.607, 24.121.610,)
24.121.611, 24.121.805, 24.121.807,)
24.121.808, 24.121.1103,)
24.121.1105, 24.121.1501,)
24.121.1509, 24.121.1511,)
24.121.1517, 24.121.1522, and)
24.121.1523, the adoption of NEW)
RULES I through V, and the repeal of)
ARM 24.121.405, 24.121.601,)
24.121.602, 24.121.603, 24.121.608,)
24.121.612, 24.121.801, 24.121.803,)
24.121.806, 24.121.809, 24.121.1101,)
24.121.1301, 24.121.1302,)
24.121.1505, 24.121.1507,)
24.121.1513, 24.121.1514,)
24.121.1515, 24.121.1519,)
24.121.1521, 24.121.2101, and)
24.121.2301 pertaining to the Board of)
Barbers and Cosmetologists)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT,
ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On June 27, 2024, at 9:00 a.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/82871801826>
Meeting ID: 828 7180 1826, Passcode: 055181
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 828 7180 1826, Passcode: 055181

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 June 20, 2024, 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 REASONABLE NECESSITY: In support of the Governor's Red Tape Relief Initiative, the Department of Labor and Industry (department) is conducting comprehensive reviews of the administrative rules of the professional licensing boards administratively attached to the department. This review focuses on updating rules to current standards and procedures, and eliminating unnecessary, redundant, and overburdensome regulations and those duplicated in statute. Other changes replace out-of-date terminology for current language and processes, and amend rules and catchphrases for accuracy, consistency, simplicity, better organization, streamlining, and ease of use for customers and staff.

Following consideration of the department's suggested changes, the board determined it is reasonably necessary to amend 23 rules, repeal 22 rules, and adopt five new rules to align with the Red Tape Relief Initiative. The streamlined rules will increase department efficiencies by further standardizing procedures used among all licensing boards and programs. If an additional specific basis for a proposed action exists, the board will identify the reason immediately following the specific rule.

It is reasonably necessary to amend the authority and implementation citations to accurately reflect all statutes implemented through the rules and provide accurate and complete sources of the board's rulemaking authority. Rule titles are amended when necessary to accurately and clearly describe a rule's content.

4. The department proposes to amend the following rule, new matter underlined, deleted matter interlined:

24.101.413 RENEWAL DATES AND REQUIREMENTS (1) through (5)(c) remain the same.

	BOARD OR PROGRAM JURISDICTION	LICENSE CATEGORY	FREQUENCY	RENEWAL DATE
(d)	Barbers and Cosmetologists	Barber	Biennially	March 1
		Barber Shop	Annually	July 1
		Barber School or College	Annually	March 1
		Barbering Instructor <u>Teacher</u>	Biennially	March 1
		Booth Rental	Annually	July 1
		Cosmetologist	Biennially	March 1
		Electrologist	Biennially	March 1
		Esthetician	Biennially	March 1
		Instructor <u>Teacher</u>	Biennially	March 1
		Manicurist	Biennially	March 1
		Salon	Annually	July 1
		School or Course	Annually	March 1

(e) through (7) remain the same.

AUTH: 37-1-101, 37-1-141, MCA

IMP: 37-1-101, 37-1-141, MCA

REASON: The department is amending this rule to align with the change from "instructor" to "teacher" throughout this notice.

5. The board proposes to amend the rules as follows, new matter underlined, deleted matter interlined:

24.121.301 DEFINITIONS ~~(1) "Approved electrical appliances" are any electrical appliances that assist in the performance of services under a defined scope of practice.~~

~~(2) "Approved school" means a school licensed or otherwise approved by a governmental agency of a state or Canadian jurisdiction that issues licenses to practice in the fields of barbering or cosmetology.~~

~~(3) (1) "Barber" and "barbering" include both chemical and nonchemical barbers barber nonchemical and barbering nonchemical, unless otherwise specified in these rules.~~

~~(4) "Beauty culture" means, but is not limited to, hairdressing, manicuring, and esthetics.~~

~~(5) "Blood spill kit" means a kit containing the equipment necessary to follow all of the blood spill procedures as required by ARM 24.121.1522.~~

~~(6) "Board approved exam" means the written and practical examinations, collectively, that are approved by the board.~~

~~(7) (2) "Booth renter" means an independent contractor who operates in a licensed salon or shop and is not an employee or owner of the salon or shop and abides by the requirements of 39-51-204, MCA.~~

~~(8) "Cadet" or "student" instructor means a licensee who is enrolled in a school for the teacher training program.~~

~~(9) "Change in ownership" means when more than 50 percent of the equitable ownership of a salon, shop, mobile salon or shop, or school is transferred to one or more persons or any other legal entity, in a single transaction or in a related series of transactions.~~

~~(10) (3) "Chemical compounds" means professionally formulated makeup or cosmetic preparations, tonics, lotions, creams, waxes, depilatories, antiseptics, and other skin care and beautification products used in the performance provision of esthetics services under a defined scope of practice.~~

~~(11) "Clean" means the absence of, or the removal of, soil, dirt, dust, hair, or foreign material, by washing, sweeping, clearing away, or any other appropriate method rendering a sanitary condition.~~

~~(12) "Clipper cuts" for barbering education are haircuts performed using the free-hand method with a clipper consistent with what is being taught in the industry.~~

~~(13) "Demonstration" means a planned educational instruction that illustrates and explains with examples the merits of products or services to one or more~~

~~enrolled students. Members of the public may not be charged for any service performed in connection with a demonstration.~~

~~(14) "Dermabrasion" or "open dermabrasion" means the surgical application of a wire or diamond frieze by a physician to abrade the skin, vaporizing from the epidermis and possibly down to the papillary layer of the dermis.~~

~~(15) "Dermaplane" means the use of a scalpel or sharp, bladed instrument by a physician to "shave" the upper layers of the epidermis.~~

~~(16) (4) "Direct supervision" means the on-site physical presence of a supervisor in the clinic and basic areas of the school, where students perform educational activities and services requiring licensure, and includes communication, direction, observation, and evaluation on a consistent basis.~~

~~(17) remains the same but is renumbered (5).~~

~~(18) "Distance education" means education such as computer-based training, Internet, video tape, or other mode of distance delivery where the instructor and student are separated by distance and, in some cases, time.~~

~~(19) "Embellishment and beautification" means the improvement of an individual's appearance to meet the individual's need or desire through noninvasive procedures and practices.~~

~~(20) (6) "Employee" means a person employed by a salon, shop, mobile salon or shop, or school licensed premises and paid wages and/or commissions in accordance with federal, state, and local regulations.~~

~~(21) (7) "Exfoliation" means the sloughing off of nonliving (dead) skin cells by very superficial and noninvasive means.~~

~~(22) (8) "Facial shaving" means utilizing a disposable injector straight edge razor designed for barbering. Standard shaving positions and strokes are:~~

- ~~(a) free-hand;~~
- ~~(b) reverse free-hand;~~
- ~~(c) back-hand; and~~
- ~~(d) reverse back-hand.~~

~~(23) "Foreign-educated applicant" means an applicant seeking licensure by the board who obtained a high school diploma, or the equivalent of a high school diploma, or professional training in any country outside of the U.S. or Canada.~~

~~(24) "Free-hand methods" for clipper cuts are:~~

- ~~(a) tapering (toe or teeth, middle, heel);~~
- ~~(b) arching;~~
- ~~(c) clipper over comb, to:~~
 - ~~(i) blend;~~
 - ~~(ii) remove bulk; and~~
 - ~~(iii) remove cut lines; and~~
- ~~(d) blending with shear over comb.~~

~~(25) "Hairdressing" means performing any or all of the following on natural or artificial hair including, but not limited to, hairstyling (wet, dry, thermal, and braiding), chemical services (waving, relaxing, hair coloring, and lightening), hair cutting, and shampooing and scalp treatments.~~

~~(26) remains the same but is renumbered (9).~~

~~(27) "Inactive" means the status of any instructor who fails to meet the continuing education requirement.~~

(28) "~~Locker~~" means a chest, drawer, compartment, closet, or the like that is placed in a set location in a school, made of metal or other rigid and sturdy material, and may be locked for storage and safekeeping of clothing, valuables, and other personal belongings of students only, and is not subject to entry by a board inspector.

(29) "~~Member of the public~~" means any person that is not enrolled as a student or employed as an instructor of the school in which the student is attending. Payment or compensation for services shall not be a consideration.

(30) (10) "Microdermabrasion" means a gentle, progressive, ~~very superficial and noninvasive~~ mechanical exfoliation of the uppermost layers of the stratum corneum using a closed-loop vacuum system.

(34) (11) "Mobile salon or shop" means a salon or shop as defined in 37-31-101, MCA, that is readily movable and where ~~barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring are practiced~~ licensed services are provided at other than at a fixed location.

(32) (12) "Needles" mean single-use, presterilized, and disposable needles of various sizes, ~~which that~~ are stored in a sterile manner that will maintain the sterile conditions of contents, away from wetness or extreme humidity.

(a) ~~Needles may not be recapped, bent, or otherwise manipulated by hand prior to disposal, to avoid accidental puncture injury.~~

(b) ~~Needles must be placed in a puncture-resistant sharps container immediately after use, when damaged, when contaminated before use, or when not used before the preprinted expiration date.~~

(33) (13) "Noninvasive" means superficial procedures confined to the nonliving cells of the epidermis, specifically the stratum corneum layer, and through which living cells beneath the stratum corneum are never altered, cut, or ~~damaged~~ scarred. At no time shall individuals licensed in this chapter perform services where the germinative or basal layers of the skin are compromised.

(34) "~~Patch test~~" or "~~predisposition test~~" means a test required by federal law under the Food and Drug Act, whereby a small amount of the chemical preparation is applied to the skin of the arm or behind the ear to determine possible allergies (hypersensitivity) of the client.

(35) "~~Sanitized,~~" "~~sanitary,~~" or "~~sanitation~~" means to significantly reduce the number of pathogens or disease producing organisms found on a surface.

(36) "~~Single use items~~" mean items which shall be discarded after being used one time. These items include, but are not limited to, ~~emery boards, nonmetal files without documentation from the manufacturer stating the file is disinfectable, mandrels, and sanding bands for electric files, orangewood/birchwood sticks, wooden applicator sticks or spatulas, porous foot files, disposable gloves, paraffin liners, cotton balls, cotton strips, cotton swabs, neck strips or muslin strips, and any item that cannot be cleaned and disinfected and remain intact in its original condition.~~

(37) remains the same but is renumbered (14).

(38) "~~Supplemental barbering course~~" means a course of study in a licensed school offering a barbering or barbering nonchemical course, which consists of at least 125 hours in clipper cuts and 25 hours in facial, neck, and outline shaving, to an individual licensed in Montana or another jurisdiction, to meet the required

~~educational needs for a barber or barber nonchemical license prior to taking the board-approved exam.~~

~~(39) "Very superficial" means confined to the uppermost stratum corneum layer of the epidermis.~~

~~(40) "Working area" means the area of a salon, shop, mobile salon or shop, or school where students or licensees perform services upon clients or members of the public.~~

AUTH: 37-31-203, 37-31-204, MCA

IMP: 37-31-101, 37-31-203, 37-31-204, ~~37-31-302, 37-31-303, 37-31-305,~~
37-31-309, 37-31-311, MCA

REASON: The board is striking the definition of "approved electrical appliances" because the board does not track or approve appliances and the term is not used in statutes or rules.

The board is correcting the definition of "barber" and "barbering" to clarify that when the terms are used in rule, they include both chemical and nonchemical barbering types unless otherwise specified.

It is reasonably necessary to strike (2) "approved school" as duplicative with the statutory provisions of 37-31-304, MCA, which require applicants have diplomas from all schools that are authorized to provide qualifying courses of study.

It is reasonably necessary to strike the definition of "beauty culture" as it is circuitous and adds nothing to the statutory definition of "cosmetology" at 37-31-101, MCA.

The board is removing "blood spill kit" from (5) as unnecessary since blood exposure is addressed in ARM 24.121.1522 and this definition adds nothing.

The board is striking (6) as the term "board-approved exam" is self-explanatory.

It is reasonably necessary to amend new (2) "booth renter," and remove an erroneous statutory citation. Licensees are already required to abide by all applicable statutes and rules in their practices.

It is reasonably necessary to strike "cadet" and "student" instructor as the terms are not used in board statutes or rules. The board is amending the rules throughout to use "student teacher" and "teacher" to align with the statutory definitions of 37-31-101, MCA.

The board is striking "change in ownership" from (9) as ARM 24.121.412 adequately addresses requirements for a change in ownership of licensed premises.

It is reasonable to amend new (3) "chemical compounds" to clarify its relation to the practice of esthetics.

The board is removing the overly broad definition of "clean" in (11) as unnecessary and inaccurate since "clean" cannot always be sanitary or sanitized per board rules.

The board is striking (12) "clipper cuts" and (24) "free-hand methods" as unnecessary as the board does not approve individual aspects of educational materials such as methods of clipper cuts.

The board is deleting (13) as "demonstration" is self-explanatory and the board has never disciplined anyone for charging for demonstration-associated services.

The board is striking (14) "dermabrasion" and (15) "dermaplane." No board licensee can practice surgery, so it is not necessary to define surgery types.

It is reasonably necessary to amend the definitions of "exfoliation," "microdermabrasion," and "noninvasive" for clarity and accuracy in today's esthetics industry.

The board is amending new (4) to clarify that "direct supervision" is required for students performing educational activities and services. It is unnecessary to limit or list such activities individually.

It is reasonably necessary to strike (18) as "distance education" is not used in board statute or rule. To align with current practices, the board is clarifying allowable distance education in ARM 24.121.604.

The board is striking (19) as "embellishment" and "beautification" are only contained in the definition of "cosmetology" at 37-31-101, MCA. The definition in rule adds nothing and is not used anywhere in board rules.

The board is amending the definition of "employee" at new (6) to align with other changes throughout the notice to streamline rule language.

It is reasonably necessary to simplify the definition of "facial shaving" at new (8). The term is only used in barbering curricula, and the board does not approve individual shaving educational materials including shaving positions or strokes. "Injection" is removed to align with terminology and razors used in current practice.

The board is removing the unnecessary definition of "hairdressing" at (25). While the term is used in the "cosmetology" definition in 37-31-101, MCA, Montana does not issue separate "hairdressing" licenses, and the definition adds nothing.

The board is striking "inactive" (27) to align with the elimination of inactive status for teachers elsewhere in the rule notice.

It is reasonable to remove (28) as "locker" is self-explanatory and inspectors do not inspect their contents.

The board is striking (23) "foreign educated applicant" and (29) "member of the public" as the terms are self-explanatory.

The board is simplifying "mobile salon or shop" at new (11) for improved readability.

The board is simplifying the definition of "needles" at new (12) since storage in a sterile manner implies no wetness or humidity. Needle handling and disposal provisions are relocated to ARM 24.121.1509.

The board is amending (33) to remove language that is adequately addressed in unprofessional conduct statutes and rules.

The board is striking (35) "sanitized," "sanitary," and "sanitation" as unnecessary. Inspectors do not swab test during inspections, and there are adequate sanitizing procedures in subchapter 15 of the board rules.

The board is striking the "single use items" definition as the term is self-explanatory and providing a non-exclusive list of just some of these items is not helpful or enforceable.

The board is striking (38) and relocating relevant provisions on the supplemental barbering course to ARM 24.121.807.

It is reasonably necessary to strike (39) as "very superficial" is adequately explained in the definition of microdermabrasion in this rule.

It is reasonably necessary to strike (34) "patch test" and "predisposition test" and (40) "working area" as the terms are not used anywhere in board statutes or rules.

24.121.403 GENERAL APPLICATION AND LICENSE DISPLAY

REQUIREMENTS (1) All licensees, including salons, shops, mobile salons or shops, and schools shall must display all current licenses conspicuously in public view. Addresses on personal licenses may be ~~covered~~ redacted.

(2) Booth renters must shall also:

~~(a) post a legible sign, of at least six inches by three inches, that the booth/station is a booth rental and is rented by the booth renter; and~~

~~(b) clearly label all other areas of the salon or shop maintained by the renter including, but not limited to, such as retail, "roll-about," carts, and manicure tables.~~

~~(3) Mobile salons or shops shall also conspicuously post the mobile salon or shop license on the exterior of the mobile salon or shop.~~

~~(4) Licensees seeking to offer mechanical exfoliation or microdermabrasion services shall obtain an endorsement by the board prior to practicing.~~

~~(a) To obtain an endorsement, licensees shall complete an additional 50 hours of continuing education in the field of microdermabrasion as follows:~~

~~(i) histology of the skin;~~

~~(ii) bacteriology;~~

~~(iii) client consultation and protection;~~

~~(iv) client pre-care and post-care;~~

~~(v) product knowledge;~~

~~(vi) theory of technical application of microdermabrasion;~~

~~(vii) sanitation and safety;~~

~~(viii) disposal of waste products; and~~

~~(ix) practical application and observation.~~

~~(b) A minimum of 50 percent of the required hours must be taught in theory.~~

~~(5) Licensees shall submit to the board a notarized copy of a certificate of completion of training for each machine or device to be used by the licensee. Each certificate must include:~~

~~(a) licensee name;~~

~~(b) date training was completed;~~

~~(c) number of hours of training;~~

~~(d) name of manufacturer; and~~

~~(e) model number of the machine.~~

~~(6) Licensees shall advise clients of the necessity for protection of the skin prior to and following an exfoliation procedure.~~

AUTH: 37-31-203, MCA

IMP: 37-31-203, ~~37-31-301, 37-31-302, 37-31-303, 37-31-305, 37-31-309, 37-31-311~~, MCA

REASON: The board is amending this rule to simplify and streamline provisions for ease of use including substituting "licensed premises" throughout the rules instead of listing the individual types of licensed premises. It is reasonable to strike the requirement that mobile shops have their licenses on the shop's exterior since all licensees must post their licenses in their work areas for the public to view.

Mechanical exfoliation endorsement provisions in (4) are relocated to a stand-alone rule, NEW RULE I, for clarity and ease of use. It is reasonable to remove (5) as the board does not collect or monitor device training certificates. Board staff would inquire if a question arose about a licensee's qualification to use a certain device. The board is removing (6) as unnecessary since advising esthetics clients regarding skin protection is part of generally accepted standards of practice.

24.121.407 GENERAL PREMISES REQUIREMENTS AND PROHIBITIONS – SALONS, SHOPS, MOBILE SALONS OR SHOPS, AND SCHOOLS (1) ~~The premises of all salons, shops, mobile salons or shops, and schools must be kept in clean and safe conditions at all times per the requirements in statute and this chapter.~~

~~(2) (1) No services connected with a salon, shop, mobile salon or shop, or school licensed premises can be conducted in any room used as living or sleeping quarters.~~

~~(3) (2) No other business, service, businesses or services outside the scopes of practice licensed by the board may be conducted or provided in a salon, shop, mobile salon or shop, or school any licensed premises unless that area is separated by at least a full-length partition, except those:~~

~~(a) regulated by the board; or~~

~~(b) related to the industries regulated by the board.~~

~~(4) (3) Animals are permitted on the licensed premises of a salon, shop, or mobile salon or shop only as follows:~~

~~(a) and (b) remain the same.~~

~~(c) Fish are permitted in enclosed tanks or aquariums only.~~

~~(d) (c) All other animals are prohibited on the licensed premises of salons, shops, or mobile salons or shops at any time, unless the licensee has submitted a request for a variance that has been approved by the board as provided in rule.~~

AUTH: 37-31-203, 37-31-204, MCA

IMP: 37-31-204, 37-31-311, MCA

REASON: The board is relocating the prohibition on the use of fish in their practice to ARM 24.121.1517. Premises sanitation is addressed in ARM 24.121.1501. Variance language is stricken to align with the repeal of ARM 24.121.405.

24.121.410 INSPECTIONS – SALONS, SHOPS, AND MOBILE SALONS OR SHOPS (1) ~~A board designated inspector will Department inspectors conduct annual on-site inspections of all licensed salons, shops, booths, and mobile salons or shops premises.~~

~~(a) Inspections may be conducted during business hours, with or without advance notice to the licensee.~~

~~(b) Results of the inspection will be provided to the licensee.~~

~~(c) (a) If there are any items of noncompliance, the licensee must submit a written response which addresses those items of noncompliance. The response must be received by the board Licensees must respond to inspection violations within ten days of the licensee receiving notification of noncompliance notice of violations.~~

~~(d) (b) A report of significant noncompliance will be reviewed by the board screening panel per Noncompliance will be subject to the department's standard compliance process.~~

~~(2) Sanitizing and disinfecting agents must be available for inspection and clearly labeled to disclose contents and manufacturer's directions.~~

~~(3) Inspectors may seize and remove prohibited items or products per ARM 24.121.1517 that are discovered during an inspection. Licensees are responsible for and must pay for any disposal costs within 30 days of being notified of the costs.~~

~~(2) The following inspection process applies to applicants for licensure as a salon, shop, and mobile salon or shop.~~

~~(a) (4) Applicants Premises applicants, except for school applicants, meeting who meet all license licensure requirements with the exception of having passed an except passage of the initial inspection may be issued receive a temporary operating permit per 37-31-312, MCA.~~

~~(b) Applicants must pass an initial inspection of the facility by a board-designated inspector prior to a license being issued.~~

~~(c) Results of the inspection will be provided to the applicant or licensee.~~

~~(d) (a) If there are any items of noncompliance, the applicant or licensee must submit a written response which addresses those items of noncompliance. The response must be received by the department Following inspection, applicants must respond to and correct inspection violations per 37-31-312, MCA, within 30 days of receiving notification of noncompliance or the temporary permit will terminate.~~

~~(e) If issues of noncompliance are not corrected within 30 days of the date of notice of noncompliance the temporary operating permit shall terminate and a license shall not be granted without board review.~~

~~(i) When a temporary permit terminates, the salon, shop, or mobile salon or shop must cease operation unless a license is issued by the board.~~

~~(ii) A subsequent temporary operating permit is not available unless the application times out pursuant to ARM 24.121.403 and a new application is filed.~~

AUTH: 37-31-203, 37-31-204, MCA

IMP: ~~37-31-101, 37-31-203, 37-31-204, 37-31-302, 37-31-309, 37-31-312,~~
MCA

REASON: It is reasonably necessary to amend this rule to eliminate several provisions that unnecessarily duplicate statutory provisions and more clearly set forth the inspection requirements. The board is removing (2)(e)(ii) as unnecessary and because it contains an erroneous internal citation. The board is relocating the provisions on sanitizing and disinfecting agents from ARM 24.121.1513 and 24.121.1514 which are being repealed.

The board is relocating the prohibited items information from ARM 24.121.1517 to (3) as a more logical location.

24.121.412 NAME CHANGE, CLOSURE, OR CHANGE OF OWNERSHIP

~~(1) Using forms provided by the department, salons, shops, mobile salons or shops, and schools Licensed premises must notify the board within ten days of any of the following occurring: a change in business name, business closure, or change in ownership.~~

~~(a) change of business name;~~

~~(b) closure; and~~

~~(c) change of ownership as defined in these rules.~~

~~(2) When there is a change in 50 percent or more of ownership, the license issued to the previous owner is void and a new license must be obtained. The new owner must apply for a license per the applicable requirements in this chapter.~~

AUTH: 37-31-203, MCA

IMP: 37-31-203, MCA

24.121.604 LICENSURE EQUIVALENCY FOR PROFESSIONAL EDUCATION ACCEPTABLE COURSES OF STUDY CONTENT ~~(1) The board recognizes the fragmentation of license types among states making it difficult to determine license type and scope of practice from state to state. The following is a breakdown of scopes of practice and is to be used to assist out of state applicants and the board in determining appropriate licensure, if any, regardless of the name or title of the out of state license that is equivalent to Montana licensure.~~

~~(1) To qualify for licensure by examination or as an out-of-state applicant, an applicant's course of study must consist of the hours specified in 37-31-304, MCA, and include the following minimum training content:~~

~~(2) (a) The scope of training required for the practice of barbering is as follows Barbering:~~

~~(a) (i) haircutting with proper uses of tools (e.g., shears, razor, clippers, and thinning shears);~~

~~(b) through (e) remain the same but are renumbered (ii) through (v).~~

~~(f) (vi) facial shaving with straight edge razor; and~~

~~(g) (vii) skin care; or~~

~~(viii) if applicant is a Montana-licensed cosmetologist, completion of a supplemental barbering course per ARM 24.121.807.~~

~~(3) (b) The scope of training required for the practice of barbering Barbering nonchemical is as follows:~~

~~(a) (i) haircutting with proper uses of tools (e.g., shears, razor, clippers, and thinning shears);~~

~~(b) through (d) remain the same but are renumbered (ii) through (iv).~~

~~(e) (v) facial shaving with straight edge razor; and~~

~~(f) remains the same but is renumbered (vi).~~

~~(4) (c) The scope of training required for the practice of cosmetology is as follows Cosmetology:~~

~~(a) through (g) remain the same but are renumbered (i) through (vii).~~

(h) (viii) haircutting with proper uses of tools (~~e.g., shears, razor, clippers, and thinning shears~~).

~~(5) (d) The scope of training required for the practice of electrology is as follows~~ Electrology:

(a) through (e) remain the same but are renumbered (i) through (v).

~~(6) (e) The scope of training required for the practice of manicuring is as follows~~ Manicuring:

(a) through (c) remain the same but are renumbered (i) through (iii).

~~(7) (f) The scope of training required for the practice of esthetics is as follows~~ Esthetics:

(a) through (e) remain the same but are renumbered (i) through (v).

(2) All board-issued license types have scopes that are limited to noninvasive procedures.

(3) Teacher applicants see ARM 24.121.607.

(4) An individual's theory and classroom practical education for licensure may be obtained through distance learning. All practical distance learning must be two-way, interactive, and real time. All floor work on the general public must occur in-person.

AUTH: ~~37-1-131~~, 37-31-203, 37-31-304, MCA

IMP: ~~37-1-131~~, 37-31-203, 37-31-304, MCA

REASON: The board is amending this rule to clarify that applicants' education per 37-31-304, MCA, must include minimum course content as specified in this rule. This content is currently referenced in ARM 24.121.603 and used to determine acceptable courses of study for licensure by examination applicants. The board is amending this rule to apply to all license applicants and repealing ARM 24.121.601 and 24.121.603. Any remaining relevant provisions are relocated to this rule. The board is striking the introductory advisory statement as the clarified rule language adequately explains the analysis of acceptable education course content.

The board is removing unnecessary language requiring specific haircutting teaching techniques. The board expects that schools will follow appropriate, standard educational techniques.

Facial shaving is updated to use a straight edge razor to align with the amended definition in ARM 24.121.301(8).

The board is adding (2) to clarify that regardless of what an applicant's out-of-state license allows for practice in that state, all of the board's licensees are limited to noninvasive procedures per ARM 24.121.301.

The board is adding (4) to clarify the acceptance of distance learning in applicants' education. This has been the policy since the pandemic, and the board is now putting it in rule.

24.121.605 APPLICATION FOR POSTSECONDARY SCHOOL LICENSURE

BONDS ~~(1) The board may give preliminary approval to applicants for school applicants licensure before inspections are scheduled and conducted. If preliminary approval is denied, the applicant shall correct any deficiencies and resubmit the~~

application. Failure to resubmit within 90 days shall be treated as a voluntary withdrawal of the application and the fees shall be forfeited.

(2) Applicants shall designate the type of school and which courses are to be offered as follows:

- (a) barbering school;
- (b) barbering nonchemical school;
- (c) school of cosmetology, consisting of a cosmetology course and one or more of the following:

- (i) barbering course;
 - (ii) barbering nonchemical course;
 - (iii) esthetics course;
 - (iv) manicuring course; or
 - (v) supplemental barbering course.
- (d) school of electrology;
 - (e) school of esthetics;
 - (f) school of manicuring; or
 - (g) teacher training course.

(3) (1) School applicants shall present must obtain a bond or other security for each course in the amount of \$5000 and in a form and manner prescribed by the board. The bond or other security may only be used to provide a refund of prepaid tuition to enrolled students in the event if the school ceases to operate or otherwise is unable to complete the course of instruction.

(4) (2) Schools shall not allow the bond or other security to be cancelled or to expire as long as the school is licensed, and shall must submit to the board proof of continuous annual renewal of the bond or other security.

(5) As part of the application, the school applicant shall submit a financial report prepared by a certified public accountant (CPA). The CPA must affirm that the financial statements and documentation provided by the applicant to the CPA show that the school is reasonably projected to be solvent.

(6) Schools shall provide true and accurate copies of all current school policies, procedures, rules, student contracts, tuition costs, and required deposits including, but not limited to, those policies, procedures, and rules addressing:

- (a) students;
- (b) school operating standards;
- (c) disciplinary procedures;
- (d) permissible attire;
- (e) ethics/conduct;
- (f) leaves of absence;
- (g) attendance;
- (h) holidays and school closures;
- (i) hours of operation;
- (j) refunds;
- (k) withdrawals;
- (l) grounds for termination;
- (m) grading standards;
- (n) final practical examination and passing score;
- (o) requirements for satisfactory progress;

- ~~(p) release of information; and~~
- ~~(q) instructional demonstrations.~~

~~(7) Schools shall be subject to unscheduled on-site inspections or audits by a designee directed by the board to determine:~~

- ~~(a) compliance with board statutes, rules, policies, and procedures; and/or~~
- ~~(b) adequacy of student files and required school documentation.~~

~~(8) As part of the inspection, investigation, or audit process, the board may use information found by or prepared for the Department of Education or other applicable national accrediting associations' or commissions' reviews.~~

~~(9) To qualify for licensure, a school shall be recognized by the board as an institution of postsecondary study under ARM 24.121.806.~~

~~(10) Each school shall be located in a structure that meets all applicable local and state building codes requirements.~~

~~(11) Applicants shall furnish the board with a blueprint or detailed scale drawing of the floor plan as part of the application for licensure. Floor plans lacking detailed scaled dimensions, including square footage, will not be accepted.~~

AUTH: ~~37-1-131~~, 37-31-203, 37-31-311, MCA

IMP: ~~37-1-131~~, ~~37-31-101~~, ~~37-31-302~~, 37-31-311, ~~37-31-312~~, MCA

REASON: The board is amending this rule to clearly set forth the requirements for school licensure bonds. The board is removing confusing and incorrect language regarding license approval prior to school inspection. The board is striking (2) as it is not necessary to restate the types of school licenses which are clearly stated in the applications. It is reasonable to strike (8) as it is not necessary to state what types of information may be requested or utilized in an audit or disciplinary proceeding. Provisions on school policies and procedures are adequately addressed in ARM 24.121.805.

The board is striking (9) to align with the repeal of ARM 24.121.806 in this notice. See REASON for the ARM 24.121.806 repeal.

The board is striking (5), (10), and (11) to no longer require financial reports or detailed floor plans and instead allow the provisions of 37-31-311, MCA, to guide school license requirements. The board does not analyze or monitor a school's fiscal stability and the department's Building Codes Program is responsible for ensuring compliance with Montana's building code requirements.

24.121.606 FOREIGN-EDUCATED APPLICANTS (1) remains the same.

(2) All documents submitted by a foreign-educated applicant in support of applying for licensure must be certified by a ~~board-approved~~ credential-evaluating service.

(3) Foreign document evaluations must be delivered directly from the credential-evaluating service to the ~~board~~ department.

(4) Applicants shall must pay the credential-evaluating service for all costs of the evaluation.

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

IMP: ~~37-1-131~~, 37-31-203, 37-31-304, 37-31-305, MCA

REASON: It is reasonably necessary to amend (1) to allow the department to determine qualifications of foreign-educated applicants. The board does not have expertise in "approving" credential-evaluating entities. The board is amending (3) as it is department staff that receive and process application materials.

24.121.607 APPLICATION FOR INSTRUCTOR TEACHER LICENSE (1) ~~In addition to a complete application, an applicant for an instructor license shall submit the following documentation. Per 37-31-305(1)(c), MCA, teacher applicants must attest to either:~~

~~(a) proof of high school diploma or its equivalent;~~

~~(b) proof of passage of the board approved instructor exam; and~~

~~(c) either:~~

~~(i) (a) an attestation of having been employed and working for at least 1500 hours, in the particular area of practice that they will teach, during any one-year period prior to applying and a diploma evidencing completion of the 650-hour student teacher-training course required by 37-31-305, MCA; or~~

~~(ii) (b) an attestation of having been employed and working for at least 1500 hours per year, in the particular area of practice that they will teach, for any three years prior to applying (a total of at least 4500 hours). An applicant granted a license based on licensed under this subsection may not renew the license for any period beyond two years after initial licensure, nor be granted a second license under this subsection, unless the applicant completes the board approved coursework related to must complete the teaching methodology coursework set forth in ARM 24.121.1105 within two years of licensure.~~

~~(2) The board shall accept hours of instruction from out-of-state approved schools towards fulfillment of the hour requirements for licensure.~~

~~(3) (2) A licensee may not To renew an instructor a teacher license, unless at the time of renewal, the licensee has must hold at least one currently active license pursuant to which the licensee may engage in a particular area of practice.~~

~~(4) (3) A licensed instructor teacher may only offer instruction teach in the particular areas of practice in which the instructor teacher is currently and actively licensed to practice.~~

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

IMP: ~~37-1-131, 37-31-302, 37-31-303, 37-31-305, 37-31-308, MCA~~

REASON: The board is striking (2) as nonsensical and unnecessary since education from out-of-state schools has always been accepted toward Montana licensure.

24.121.610 GRANTING EXCEPTION TO HIGH SCHOOL DIPLOMA OR EQUIVALENCY EQUIVALENT EXCEPTION (1) ~~Exceptions to providing a high school diploma or equivalency recognized by the State Superintendent of Public Instruction at the Office of Public Instruction (OPI) pursuant to 37-31-304, MCA, may be made upon the following documentation: The board will consider requests for an exception to a high school diploma or its equivalent per 37-31-304, MCA.~~

- ~~(a) high school transcripts with graduation date;~~
- ~~(b) college, university, or vocational technical school diploma or transcripts with graduation date;~~
- ~~(c) diploma from an Associates, Bachelors, or higher degree;~~
- ~~(d) diploma or transcripts from a home school program;~~
- ~~(e) proof of service in the armed forces, such as a copy of DD214, indicating high school equivalency;~~
- ~~(f) original verification/letter from high school or alterative school sent directly from the school to the board office indicating completion through grade 12; or~~
- ~~(g) by submitting a request in writing and any experience or documentation to support the applicant that meets the intent of the requirement such as, but not limited to:~~
 - ~~(i) adult education courses completed;~~
 - ~~(ii) college or university courses completed;~~
 - ~~(iii) work experience; and~~
 - ~~(iv) previous licensure in this or other jurisdictions.~~

AUTH: ~~37-1-131, 37-31-203, 37-31-304, MCA~~

IMP: ~~37-1-131, 37-31-203, 37-31-304, MCA~~

REASON: The board is amending this rule to simply state the process for requesting an exception to the diploma requirement of 37-31-304, MCA. Requests for this exception are very rare and staff will gather the applicant's relevant information for the board's consideration. It is not necessary to provide a "laundry list" of potentially relevant documentation.

24.121.611 EXAMINATION REQUIREMENTS AND PROCESS

~~(1) Applicants sitting for the board approved exam shall adhere to the standards and requirements for admission to the examinations, including the payment of appropriate fees. Per 37-31-304 and 37-31-305, MCA, applicants must pass the National Interstate Council of State Boards of Cosmetology (NIC) theory and practical examinations or their equivalents that align with the license sought.~~

~~(a) Applicants must submit the testing eligibility letter to the examination vendor in order to schedule their examination.~~

~~(b) Applicants must provide a photo ID at the examination location to be admitted to the examination.~~

~~(2) (a) Applicants shall obtain a scale score of at least Minimum examination scores are 75 percent to pass on the written theory examination and 75 percent to pass on the practical examination.~~

~~(3) Applicants who have failed either the written or practical examination shall apply to retake the failed examination and pay the necessary examination fees as required.~~

~~(4) Applicants who fail the written examination three times must wait 60 days before each subsequent reexamination.~~

~~(5) Applicants must have an examination eligibility letter in order to schedule and take both the written and practical board approved exam.~~

~~(a) (2) Montana enrolled students or graduates of Students enrolled in a~~

~~Montana-licensed school under this chapter will receive their testing eligibility letter from may be made eligible to test by the school. Students are eligible to take the written and practical portion of the board approved exam following completion of 90 percent completion of their educational requirements have been met.~~

~~(b) Applicants licensed by credentialing who are required to take the board-approved exam will receive their testing eligibility letter from the board office, once the proof of graduation or license verification in another state is received.~~

~~(6) The testing eligibility letter is valid for 180 days from the date of the letter.~~

~~(7) Once the applicant has taken and passed the examination the applicant shall notify the board office. The board office will verify the examination scores directly with the vendor.~~

~~(8) Instructor applicants applying for a license under 37-31-305(2)(d)(ii), MCA, are required to provide an affidavit of three years of experience in a particular area of practice to the board office in order to receive a testing eligibility letter.~~

AUTH: ~~37-1-131, 37-31-203, 37-31-303, MCA~~

IMP: ~~37-31-303, 37-31-304, 37-31-305, 37-31-308, MCA~~

REASON: The department is simplifying and streamlining this rule to set forth the required licensure examination per 37-31-304 and 37-31-305, MCA. Since the board contracts with the examination administrator, all processes are the contractor's, and all examination fees are set and collected by the contractor. The required examinations and processes are not changed.

24.121.805 SCHOOL OPERATING STANDARDS ~~(1) Schools shall not advertise, enroll, or admit students until preliminary approval for school licensure is granted.~~

~~(2) Schools shall not use deceptive statements or false promises to induce students to enroll. All advertising must clearly disclose that the establishment is a school.~~

~~(3) (1) School licenses are not transferable. Upon a 50 percent or more change in ownership and/or or a change in location, schools shall must submit a new school application accompanied by the appropriate fees.~~

~~(4) (2) Schools shall must adopt, maintain, and provide students access to written all school administration policies and procedures.~~

~~(a) The policies and procedures must describe the following:~~

~~(i) areas of responsibility;~~

~~(ii) administrative lines of authority; and~~

~~(iii) school administration operating procedures.~~

~~(b) The policies must include provisions:~~

~~(i) allowing students access to their records;~~

~~(ii) requiring written requests for all information;~~

~~(iii) requiring student written consent for release of student records to third parties, unless required by law; and~~

~~(iv) requiring maintenance of records for no less than five years.~~

~~(5) Schools shall make available for student review:~~

~~(a) a copy of the student contract; and~~

~~(b) a complete and current copy of all school policies, procedures, and rules.~~
~~(6) (3) Schools shall must securely maintain for not less than five years, and protect from loss, damage, and tampering, a registration from the last year of enrollment, complete attendance files file on each every student who attended the school. Each file must include:~~

- ~~(a) name, address, and phone number;~~
- ~~(b) copy of a birth certificate or other verifiable evidence of applicant's birth date;~~
- ~~(c) copy of high school diploma or its recognized equivalent, or a signed statement that the person was admitted or enrolled on the basis that the student was beyond the compulsory age of education as provided in 20-5-102, MCA;~~
- ~~(d) course of study;~~
- ~~(e) enrollment date;~~
- ~~(f) daily attendance records;~~
- ~~(g) academic records including copies of written progress evaluations signed by the student and the school designee;~~
- ~~(h) grades;~~
- ~~(i) final practical examination with scores;~~
- ~~(j) evaluations;~~
- ~~(k) breakdown of curriculum requirements and completion;~~
- ~~(l) disciplinary action;~~
- ~~(m) student counseling;~~
- ~~(n) original contracts;~~
- ~~(o) tuition costs;~~
- ~~(p) accepted transfer of hours from other schools;~~
- ~~(q) withdrawals; and~~
- ~~(r) leaves of absence.~~

~~(7) The school shall keep accurate, verifiable daily attendance records and shall track the number of hours received by each student within the course curriculum as set forth in rule.~~

~~(4) Schools must provide all exiting students current and accurate transcripts.~~

~~(a) (5) Schools may convert clock hours to credit hours using the conversion rate of 30 clock hours equaling to one credit hour.~~

~~(b) remains the same but is renumbered (6).~~

~~(8) (7) Appropriately licensed ~~instructors shall~~ teachers must directly supervise students at all times on the school premises in the classroom and on the clinic floor. ~~One instructor shall supervise no more than 25 cosmetology, barbering, esthetics, or manicuring students, and no more than ten electrology students, at any time on the clinic floor.~~ No instructor teacher may supervise classroom and clinic floor activities simultaneously.~~

~~(9) Instructors with inactive licenses shall not substitute teach for more than ten days in any calendar year.~~

~~(10) (8) Instructors shall Teachers must wear name badges or insignia indicating they are instructors identifying them as teachers.~~

~~(11) (9) Schools shall must not allow instructors teachers to practice on members of the public, unless solely except for educational demonstration purposes to instruct students in a classroom setting, as defined in rule.~~

~~(12)~~ (10) ~~Each student shall~~ Students must complete the following hours of basic training, ~~prior to working or performing before providing~~ any services on ~~members of the public~~, with or without compensation to the school:

(a) through (f) remain the same.

~~(13) Schools shall not call students out of class to perform services on members of the public.~~

~~(14)~~ (11) Schools ~~shall~~ must not deduct or reduce hours earned by students as a form of disciplinary sanction or for any other reason.

~~(15)~~ (12) ~~Upon completion by students of at least 90 percent of the required course of study, and prior to graduating and receiving a diploma, the student may take the board-approved exam.~~ Schools may approve students to register for the licensing examinations in ARM 24.121.611 upon completion of 90 percent of their educational requirements.

~~(16) A person may submit a license application when the person is no more than 90 days from completing the requisite course of study given the person's current and expected rate of progression.~~

AUTH: ~~37-1-131~~, 37-31-203, 37-31-311, MCA

IMP: 37-31-311, MCA

REASON: It is reasonably necessary to strike all provisions that unnecessarily duplicate statute, including 37-1-316, 37-31-301, and 37-31-311, MCA. Written records and requests are no longer required due to the industry's use of electronic storage and transfer.

The board is amending new (2) to more generally require schools adopt and maintain school policies and procedures. The board is eliminating the specific items required in school policies and will rely on schools to create and maintain policies that are consistent with industry standards and within generally accepted practices.

It is reasonable to amend (3) to clarify that schools must maintain student records for even those students who may not have graduated from that school. The requirement to provide exiting students with their transcripts is being moved from ARM 24.121.809.

The board is amending (6) and (7) regarding student hours and attendance records to remove duplication with 37-31-311, MCA, which requires schools keep accurate attendance records. The board is eliminating the specific items required in student files and will rely on schools to maintain records that are consistent with industry standards and within generally accepted practices. All parties to a contract are legally entitled to a copy of the contract and it is unnecessary to restate that in board rule.

The board is deleting (9) as inactive status does not permit practice of any kind and the board is eliminating inactive status by repealing ARM 24.121.608. It is reasonable to strike (13) as unnecessary since schools direct students' courses and schedules and the board does not regulate this.

It is reasonable to delete (16) as unnecessary since exam registration provisions are adequately described in (11) and ARM 24.121.611.

24.121.807 SCHOOL CURRICULA ~~(1) Barbering, cosmetology, electrology, esthetics, manicuring, and instructor students shall complete the course of study within three years of the student's original enrollment date. Students enrolled in a supplemental barbering course shall complete the course within three months of the student's original enrollment date.~~

~~(2) (1) The minimum required curriculum for an 1100-hour barbering chemical course students is as follows:~~

~~(a) 1100 hours of training, of which including at least 150 hours is in theory, distributed as follows is:~~

~~(i) through (iv) remain the same but are renumbered (a) through (d).~~

~~(v) (e) chemistry, bacteriology, sanitation, sterilization, safety, skin, hair, and scalp anatomy, physiology, blood spill exposure procedure, and diseases and disorders of skin, hair, and scalp, 60 hours; and~~

~~(vi) (f) shop management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, current state board laws and rules, business ethics, and personal grooming, 75 hours; ; and~~

~~(b) (g) 275 hours of barbering chemical instruction shall be at the school's discretion of the school, provided that the hours are within the applicable curriculum.~~

~~(3) (2) The minimum required curriculum for a 900-hour barbering nonchemical course students is as follows:~~

~~(a) 900 hours of training, of which including at least 100 hours is in theory, distributed as follows is:~~

~~(i) through (iii) remain the same but are renumbered (a) through (c).~~

~~(iv) (d) chemistry, bacteriology, sanitation, sterilization, safety, skin, hair, and scalp anatomy, physiology, blood spill exposure procedure, and diseases and disorders of skin, hair, and scalp, 75 hours; and~~

~~(v) (e) shop management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, current state board laws and rules, business ethics, and personal grooming, 90 hours; ; and~~

~~(b) (f) 250 hours of barbering nonchemical instruction shall be at the school's discretion of the school, provided that the hours are within the applicable curriculum.~~

~~(4) (3) The minimum required curriculum for a 1500-hour cosmetology course students is as follows:~~

~~(a) 1500 hours of training, of which including at least 200 hours is in theory, distributed as follows is:~~

~~(i) (a) manicuring, 95 hours to include including:~~

~~(A) (i) manicures (including hand and arm massage and polish);~~

~~(B) (ii) pedicures (including foot, ankle, and lower leg massage, and polish);~~

~~(C) remains the same but is renumbered (iii).~~

~~(D) (iv) the use of manicuring implements including the electric nail file; ;~~

~~(ii) (b) esthetics, 110 hours to include including:~~

~~(A) (i) skin care (including facials, cosmetics, makeup, massage, essential oils, the application and maintenance of artificial eyelashes and extensions, eyelash and eyebrow tinting of the eyelashes and eyebrows, and the chemical curling of the eye lashes);~~

~~(B) (ii) skin exfoliation (including manual, chemical, and mechanical exfoliation);~~

(C) remains the same but is renumbered (iii).

~~(D) (iv) electricity and light therapy; ;~~

~~(iii) (c) shampoo (including with scalp treatment), hair styling (pin curls, finger waving, thermal curling, blow dry styling, braiding, back combing, and wet setting), 195 hours;~~

(iv) remains the same but is renumbered (d).

~~(v) (e) hair cutting (including the with proper uses use of implements, e.g., shears, razors, clippers, thinning shears), 155 hours;~~

~~(vi) (f) salon management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, and current state board laws and rules, 115 hours; and~~

~~(vii) (g) chemistry, bacteriology, sanitation, sterilization, safety, anatomy, physiology, blood spill exposure procedure, and diseases and disorders of hair, scalp, skin, and nails, 60 hours- ; and~~

~~(b) (h) 375 hours of cosmetology instruction shall be at the school's discretion of the school, provided that the hours are within the applicable curriculum.~~

~~(5) (4) The minimum required curriculum for a 600-hour electrology course students is as follows:~~

~~(a) 600 hours of training, of which including at least 120 hours is in theory, distributed as follows is:~~

~~(i) through (iii) remain the same but are renumbered (a) through (c).~~

~~(iv) (d) bacteriology, sanitation, sterilization, safety, anatomy, physiology, blood spill exposure procedures, diseases and disorders of the skin, electricity, chemistry, and light therapy, 70 hours;~~

~~(v) (e) waxing (face, neck, hands, and superfluous hair anywhere on the body, including tweezing), 10 hours; and~~

~~(vi) (f) salon management, general facility sanitation and cleanliness, business methods, appointment book, customer service, professional ethics, and current state board laws and rules, 65 hours- ; and~~

~~(b) (g) 150 hours of electrology instruction shall be at the school's discretion of the school provided that the hours are within the applicable curriculum.~~

~~(6) (5) The minimum required curriculum for a 650-hour esthetics course students is as follows:~~

~~(a) 650 hours of training, of which including at least 65 hours is in theory, distributed as follows is:~~

~~(i) (a) bacteriology, sanitation, sterilization, safety, anatomy, physiology, blood spill exposure procedure, diseases and disorders of the skin, electricity, chemistry, and light therapy, 70 hours;~~

~~(ii) remains the same but is renumbered (b).~~

~~(iii) (c) waxing (face, neck, hands, and superfluous hair anywhere on the body, including tweezing), 50 hours; and~~

~~(iv) (d) salon management, general facility sanitation and cleanliness, business methods, appointment book, customer service, professional ethics, and current state board laws and rules, 70 hours- ; and~~

~~(b) (e) 160 hours of esthetics instruction shall be at the school's discretion of the school provided that the hours are within the applicable curriculum.~~

~~(7)~~ (6) The minimum required curriculum for a 400-hour manicuring course ~~students includes 400 hours of training, of which including at least 40 hours is in theory, distributed as follows is:~~

~~(a)~~ 300 hours of training, distributed as follows:

~~(i)~~ (a) salon management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, and current state board laws and rules, 60 hours;

~~(ii)~~ (b) bacteriology, sanitation, sterilization, safety, anatomy, physiology, blood exposure procedure, diseases and disorders of skin and nails, basic chemistry, nail product chemistry, and electricity, 55 hours;

~~(iii)~~ remains the same but is renumbered (c).

~~(iv)~~ (d) use of the electric nail file, 10 hours; ~~and~~

~~(v)~~ (e) application of monomer liquid and polymer powder nail enhancements, nail tips, nail wraps, UV gels, and nail art, a minimum of 140 hours; ; and

~~(b)~~ (f) 100 hours of manicuring instruction shall be at the school's discretion of the school provided that the hours are within the applicable curriculum.

(7) The minimum required curriculum for a 650-hour teacher-training course is:

(a) teaching methods - 245 hours including:

(i) task analysis;

(ii) developing instructional objectives;

(iii) visual aids and their construction;

(iv) motivational tools;

(v) preparation of instructive materials;

(vi) lesson planning (including practical theory and practical demonstration classes);

(vii) fundamentals of speech and public speaking;

(viii) methods of test construction;

(ix) methods of evaluation or grading; and

(x) curriculum planning and development;

(b) general psychology - 75 hours including:

(i) general teaching and counseling principles;

(ii) conflict resolution;

(iii) student counseling;

(iv) student and teacher relationships; and

(v) public relations;

(c) business methods - 115 hours including:

(i) recruitment;

(ii) job analysis;

(iii) student registration, withdrawal, and hours (tracking, completing, calculating, and verifying);

(iv) ethical employee and employer relationships;

(v) salon/booth rental relationship;

(vi) professional ethics; and

(vii) current board laws and rules;

(d) advanced theory of cosmetology, esthetics, manicuring, barbering, or electrology, and the chemistry, safety, sanitation, bacteriology, physiology, anatomy, and diseases and disorders that apply to each course - 75 hours; and

(e) 140 hours of teacher-training instruction at the school's discretion.

~~(8) Students seeking licensure in a state that requires more hours of training than Montana, may remain enrolled in school and be permitted to work on members of the public without obtaining a license.~~

(8) "Supplemental barbering course" is a course of study in a licensed school offering a barbering or barbering nonchemical course, consisting of at least 125 hours in clipper cuts and 25 hours in facial, neck, and outline shaving, taken by someone licensed in Montana or another jurisdiction to meet the educational requirements for a barber or barber nonchemical license prior to taking the board-approved exam.

AUTH: ~~37-1-131~~, 37-31-203, 37-31-311, MCA

IMP: ~~37-1-131~~, 37-31-101, 37-31-304, 37-31-305, 37-31-311, MCA

REASON: It is reasonably necessary to strike (1) and (8) because as long as the curriculum is within board standards of this rule, the specifics of completing or extending a school's curriculum is set by the school and outside the board's authority.

The board is moving the teacher-training course curriculum from ARM 24.121.1105 to (7) as a better location. The definition of "supplemental barbering course" is being moved to (8) from the definitions rule ARM 24.121.301 as a better location.

It is reasonably necessary to correct "blood spill" to "blood exposure" and align with terminology changes throughout the rules. The board is adding "blood exposure procedure" to the manicuring course requirements as it is a current requirement but was inadvertently omitted from the rule. All licensee curricula must contain this training.

24.121.808 CREDITED HOURS FOR MONTANA-LICENSED INDIVIDUALS LICENSEES IN A COSMETOLOGY OR BARBERING PROGRAM (1) A Montana ~~licensee~~ licensees will receive the following ~~credit~~ of hours towards course requirements upon enrollment in a cosmetology course in Montana:

(a) through (e) remain the same.

~~(2) A Montana-licensed cosmetologist may apply for a barber license after completion of a supplemental barbering course.~~

AUTH: ~~37-1-131~~, 37-31-203, 37-31-304, MCA

IMP: ~~37-1-131~~, 37-31-203, 37-31-304, MCA

REASON: It is reasonable to strike (2) as the provisions for cosmetologists to become licensed barbers are addressed in ARM 24.121.604 and 24.121.807.

24.121.1103 INSTRUCTOR REQUIREMENTS- TEACHER-TRAINING PROGRAMS (1) Schools licensed to offer teacher-training programs ~~shall employ~~

~~must have at least one full-time licensed instructor~~ teacher per student or cadet instructor teacher continuously on the premises of the school at all times during school hours.

(2) ~~Instructors, student instructors, and cadet instructors~~ Student teachers ~~must shall~~ wear badges or insignia indicating their appropriate instructor student teacher status.

(3) ~~Student or cadet instructors~~ teachers ~~must shall~~ be under the direct on-site supervision of a full-time licensed instructor teacher while practice teaching and ~~shall not be allowed to work on members of the public during their teacher-training program.~~

(4) ~~Upon application by the student or cadet instructor enrolled in a licensed school of barbering, cosmetology, electrology, esthetics, or manicuring, the board may grant credit for hours toward the teacher training curriculum when the student or cadet instructor has completed, with not less than a "C" grade, a teacher training course offered by an accredited postsecondary educational institution. Schools with teacher-training courses may accept transfer credits from accredited colleges or universities for credits earned at those schools which overlap with required teacher-training course requirements under board laws and rules.~~

~~(5) Schools shall keep and maintain on the school's premises daily records of curriculum, attendance, and classes taught and practiced by the student or cadet instructor, until the applicant has become a licensed instructor.~~

~~(6) Upon completion by the student of at least 90 percent of the required course of study, and prior to graduating and receiving a diploma, the student may take the board-approved exam.~~

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA

IMP: 37-1-131, 37-31-305, 37-31-311, MCA

REASON: The board is changing "instructors" to "teachers" to align with appropriate statutory terminology. It is reasonable to amend (3) to eliminate duplicating language in 37-31-301, MCA.

The board is eliminating confusing language and rewriting the provisions for transferring teaching credits from other accredited colleges and universities at (4). As long as a curriculum is within board standards of this rule, the timing and acceptance of completed hours is set by the school and outside the board's authority.

Provisions of (5) and (6) are relocated to ARM 24.121.805 and 24.121.611 respectively.

24.121.1105 TEACHER TRAINING CURRICULUM AND TEACHING METHODOLOGY COURSEWORK ~~(1) The teacher training course shall consist of 650 hours and include the following:~~

- ~~(a) teaching methods — 245 hours including:~~
- ~~(i) task analysis;~~
- ~~(ii) developing instructional objectives;~~
- ~~(iii) visual aids and their construction;~~
- ~~(iv) motivational tools;~~

- ~~(v) preparation of instructive materials;~~
 - ~~(vi) lesson planning including:~~
 - ~~(A) practical theory classes; and~~
 - ~~(B) practical demonstration classes.~~
 - ~~(vii) fundamentals of speech and public speaking;~~
 - ~~(viii) methods of test construction;~~
 - ~~(ix) methods of evaluation or grading; and~~
 - ~~(x) curriculum planning and development.~~
 - ~~(b) general psychology – 75 hours including:~~
 - ~~(i) general principles in relation to teaching and counseling;~~
 - ~~(ii) conflict resolution;~~
 - ~~(iii) student counseling;~~
 - ~~(iv) student and teacher relationships; and~~
 - ~~(v) public relations.~~
 - ~~(c) business methods – 115 hours including:~~
 - ~~(i) recruitment;~~
 - ~~(ii) job analysis;~~
 - ~~(iii) student registration, withdrawal, and hours (tracking, completing, calculating, and verifying);~~
 - ~~(iv) ethical employee and employer relationship;~~
 - ~~(v) salon/booth rental relationship;~~
 - ~~(vi) professional ethics; and~~
 - ~~(vii) current state board laws and rules.~~
 - ~~(d) advanced theory of cosmetology, esthetics, manicuring, barbering, or electrology, and the chemistry, safety, sanitation, bacteriology, physiology, anatomy, and diseases and disorders that apply to each course – 75 hours; and~~
 - ~~(e) 140 hours of instruction shall be at the discretion of the school.~~
- ~~(2) (1) The board approved coursework related to teaching methodology shall consist of 135 hours and include the following: Teachers licensed under ARM 24.121.607(1)(b) must complete 135 hours of teaching methodology coursework within two years of licensure that includes:~~
- ~~(a) through (a)(ix) remain the same.~~
 - ~~(x) curriculum planning and development; and~~
 - ~~(b) educational psychology three credits or 45 hours; and~~
 - ~~(c) (2) coursework Coursework may be completed through:~~
 - ~~(i) remains the same but is renumbered (a).~~
 - ~~(ii) (b) self-study to be if observed and documented by a licensed school the administrator of the school employing the instructor; or~~
 - ~~(iii) (c) class studies pre-approved by the board courses from a teacher course curriculum at a Montana licensed school.~~
 - ~~(d) (3) prior to renewal of Before renewing the instructor license, documentation of completed coursework must be submitted to the board for board approval on a form provided by the department to include:~~
 - ~~(i) coursework taken;~~
 - ~~(ii) date taken;~~
 - ~~(iii) coursework offered by;~~
 - ~~(iv) topics covered;~~

- ~~(v) hours or credits received for each topic;~~
 - ~~(vi) hours certified by;~~
 - ~~(vii) signed completion certificate or transcript for coursework; and~~
 - ~~(viii) total hours completed.~~
- (3) remains the same but is renumbered (4).

AUTH: ~~37-1-131~~, 37-31-203, 37-31-311, MCA

IMP: ~~37-1-131~~, 37-31-305, 37-31-311, MCA

REASON: For clarity the board is moving the provisions of (1) to ARM 24.121.807. The board is rewording (2)(c) to clarify this applies to instructor courses licensed by this board. The board and department do not pre-approve any curriculum outside of its licensed courses. A teacher submitting proof of 135 qualifying hours of courses from a school with a licensed instructor course will have met the requirement without further review by staff or the board.

24.121.1501 GENERAL PREMISES, FIXTURES, AND GENERAL SANITATION – SALONS, SHOPS, MOBILE SALONS OR SHOPS, AND SCHOOLS

~~(1) The following applies to salons, shops, mobile salons or shops, and schools: All areas, fixtures, furniture, floors, walls, windows, doors, receptacles, and restrooms must be clean, safe, and adequately lighted.~~

~~(a) floors, walls, ceilings, doors, windows, screens, entrances, and receptacles, including those in the restrooms, must be maintained in clean and safe conditions at all times;~~

~~(b) all areas within the facility must be adequately lighted and light fixtures must be kept clean;~~

~~(c) there must be direct entry from a public access area; and~~

~~(d) furniture must be kept in clean and safe conditions at all times.~~

(2) remains the same.

~~(a) Salons, shops, and schools Premises licensed prior to this date must use appropriate, nonabsorbent floor covering ~~to cover over~~ over the existing carpet.~~

~~(b) Upon alteration or remodeling of the ~~salon, shop, or school,~~ premises, ~~carpeted flooring~~ carpet must be removed and replaced with appropriate, nonabsorbent floor covering.~~

(3) All premises must have:

(a) at least one restroom (with a sink):

(i) on or near the salon or shop premises; or

(ii) within the confines of the mobile salon or shop; and containing:

(A) a posted hand washing sign;

(B) a liquid soap dispenser;

(C) single service towels or an air dryer;

(D) a covered garbage container; and

(E) a locked closet or cabinet if storing chemicals in the restroom;

(b) one sink convenient to the work areas, but not within a restroom, with hot and cold running water and:

(i) connected to a sewer or septic system; or

- (ii) connected to a wastewater holding tank and meeting applicable wastewater laws; and
- (iii) a liquid soap dispenser and single service towels or an air dryer;
- (c) one covered soiled linen container;
- (d) one covered garbage container; and
- (e) one enclosed cabinet for storing clean towels and linens.
- (4) Licensees must:
 - (a) place garbage in easily cleanable, leak proof, plastic lined, nonabsorbent covered containers and dump frequently to prevent overflow;
 - (b) sweep hair clippings after each client; and
 - (c) dispose of chemicals, liquids, implements, aluminum oxide crystals, or approved corundum in accordance with federal, state, and local regulations.

AUTH: 37-31-203, 37-31-204, MCA

IMP: 37-31-204, MCA

REASON: Provisions regarding restrooms, sinks, cabinets, and containers, and garbage are relocated to this rule from ARM 24.121.1505, 24.121.1507, and 24.121.1519 respectively. These rules are being repealed.

The board is amending the requirements for the non-bathroom sinks at (3)(b) to allow for modern portable sinks to be used without relying on a board variance. Because such sinks now can have hot water for washing, it is not necessary to require a traditional city water and sewer connection for these non-bathroom sinks. This aligns with the repeal of the variance rule, ARM 24.121.405, in this notice.

24.121.1509 IMPLEMENTS, INSTRUMENTS, SUPPLIES, AND EQUIPMENT – SALONS, SHOPS, MOBILE SALONS OR SHOPS, AND SCHOOLS

- ~~(1) Licensees must ensure the machines, devices, and implements they use fall within their scope(s) of practice.~~
- ~~(2) All machines, devices, implements, shelves, tables, sinks, and other equipment used in connection with the operation of a salon, shop, mobile salon or shop, or school must be:~~
 - ~~(a) constructed to be easily cleaned; and~~
 - ~~(b) maintained in sanitary and safe conditions at all times.~~
- ~~(3) (1) Salons, shops, mobile salons or shops, and schools All premises must maintain copies of the manufacturers'/owners' manuals on-site for all equipment in service.~~
- ~~(4) (2) For the practice of manicuring, only electric file machines specifically manufactured for use in the nail industry are permitted. Modified craft or hobby tools are prohibited.~~
 - (a) and (b) remain the same.
- ~~(5) (3) For the practice of esthetics:~~
 - (a) Only microdermabrasion machines specifically manufactured for use in esthetics services are permitted. Modified or medical machines may not be used. Microdermabrasion machines must be:
 - (i) through (d) remain the same.
- (4) For electrology:

(a) A high frequency generator, galvanic generator, or electrolysis machine is required (dispersive or inactive electrode with connections to the machine, such as wet pad, metal rod, or water jar, necessary for electrolysis treatments).

(b) Only presterilized, disposable needles may be used for electrolysis services in a licensed premises unless a properly installed, serviced, and operated autoclave is utilized for sterilization of reusable needles.

(i) Needles may not be recapped, bent, or otherwise manipulated by hand prior to disposal, to avoid accidental puncture injury.

(ii) Needles must be placed in a puncture-resistant sharps container immediately after use, when damaged, when contaminated before use, or when not used before the preprinted expiration date.

(c) Fine-pointed epilation forceps, draping sheets or towels, and covered containers for lotions, soaps, and cotton are required.

AUTH: 37-31-203, 37-31-204, MCA
IMP: 37-31-204, MCA

REASON: The board is striking (1) as practicing within one's scope is addressed in unprofessional conduct statute and rule. The board is deleting (2) as sanitary rules are addressed elsewhere and it is impractical to require licensees to control how their furniture and machines are made.

The board is eliminating redundant language from (2) and (3) that prohibits hobby tools and certain machines. The clear language provides the only equipment that is allowed in manicuring and esthetics. There is no need to add to that.

Electrology provisions are relocated to (4) from ARM 24.121.301 and 24.121.1302. Language throughout is simplified and streamlined and redundancies removed.

24.121.1511 SANITIZING AND DISINFECTING IMPLEMENTS AND EQUIPMENT – SALONS, SHOPS, MOBILE SALONS OR SHOPS, AND SCHOOLS

(1) All implements, equipment, and electrical instruments must be thoroughly cleaned and subjected to approved sanitizing and disinfecting processes as described in per this rule and ARM 24.121.1513 and 24.121.1514.

(2) ~~Sanitizing and disinfecting containers~~ Containers must be large enough to completely cover all implements with sanitizing and disinfecting agents.

~~(a) (3) After removing all hair from implements debris, the implements must be thoroughly washed in clean water and detergent solution in a clean sink or container.~~

~~(b) After scrubbing with soap and water, implements must be thoroughly and rinsed in clean water.~~

~~(3) (4) All implements, including metal, must be completely immersed in a board approved disinfecting agent of proper strength and for the necessary time period according to manufacturer instructions. All equipment and implements must be cleaned and disinfected by complete immersion in an EPA-registered, bactericidal, virucidal, and fungicidal disinfectant that is mixed and used according to the manufacturer's directions.~~

~~(a) (5)~~ All nonimmersible equipment must be sanitized with a ~~detergent solution and wiped or sprayed with a board approved disinfecting agent.~~ one of the following:

~~(a) detergent solutions;~~

~~(b) alcohol used at 70 percent or higher strength may be used as a sanitizer with a minimum of 20 minutes contact time;~~

~~(c) standard industry disinfectant; or~~

~~(d) chlorine compounds, hypochlorited in liquid or powder form (household bleach), may be used as a sanitizing agent at one part per 100 concentration with a five-minute contact time.~~

~~(4) (6)~~ After sanitizing and disinfecting, implements must be stored in a clean, disinfected, dry, covered ~~container and separated~~ containers, separate from used or soiled implements.

~~(5) (7)~~ Electrical equipment, whether professional or consumer designed, ~~which provides~~ providing circulating, whirlpool, or vacuum effects shall be:

~~(a) remains the same.~~

~~(b) flushed, cleaned, and disinfected on a regular basis. The licensee must maintain~~ detailed cleaning records ~~which document the following:~~ documentation.

~~(i) licensee name;~~

~~(ii) client name;~~

~~(iii) date;~~

~~(iv) cleaning service start and end times;~~

~~(v) whether the item was cleaned; and~~

~~(vi) whether the item was disinfected.~~

~~(6) (8)~~ In addition to the above requirements in ~~(1) through (5)~~, the following applies to the ~~practice of~~ electrology:

~~(a) remains the same.~~

~~(b) before each use, electrolysis tweezers and other nondisposable implements must first be cleansed with warm water and soap, rinsed thoroughly, and placed into an ultrasonic cleanser or chemical sterilant presoak, and then sterilized by one of the following methods:~~

~~(i) and (ii) remain the same.~~

~~(c) equipment for steam or dry heat methods must be checked weekly for~~ determining equipment to be in proper working order ensure functionality and reaching required temperature;

~~(d) remains the same.~~

~~(e) licensees must utilize~~ outside biological monitors ~~shall be used~~ quarterly to ensure proper mechanical function of sterilizers ~~on no less than a quarterly basis.~~ The licensee must and maintain records of the results.

~~(7) (9)~~ Sanding bands used on electric file mandrels are for single use purposes and must be discarded after ~~each~~ one use.

~~(8) remains the same but is renumbered (10).~~

~~(9) (11)~~ Paraffin treatments must be administered ~~in a safe and sanitary manner~~ by a single service or sanitized method of application to avoid cross contamination.

~~(10) (12)~~ Foot bath basins must be sanitized and disinfected after each use.

~~(a) Sanitizing and disinfecting of all All screens, tubing, other removable parts, and the areas behind each must be done at the end of each business day.~~

~~(11) remains the same but is renumbered (13).~~

~~(12) (14) Single service items must be used only once and properly disposed of after use.~~

AUTH: 37-31-203, 37-31-204, MCA

IMP: 37-31-204, MCA

REASON: The board is repealing ARM 24.121.1513 and 24.121.1514 and incorporating their provisions on sanitizing and disinfecting agents into this rule. It is reasonable to generalize the requirements for documentation of electrical equipment cleaning as the board trusts licensees to keep adequate records. Additional language changes and reorganization are for clarity and ease of use.

It is reasonably necessary to amend (3) to require cleaning of all debris from implements prior to sanitizing or disinfection and not solely hair.

The board is removing the requirement for a disinfectant to be "formulated for hospitals" as the board has no way to know of or check this. Additionally, the board believes the rest of the requirements in (4) ensure adequate protection of the public.

24.121.1517 IMPLEMENTS, EQUIPMENT, AND PREPARATIONS
STORAGE, HANDLING, AND -- PROHIBITED ITEMS -- SALONS, SHOPS,
MOBILE SALONS OR SHOPS, AND SCHOOLS

~~(1) All salon, shop, mobile salon or shop, and school preparations must be:
(a) stored, handled, and applied to protect against contamination; and
(b) dispensed from containers to prevent contamination of the unused portion, either by use of pump, spray, or single-service spatulas.~~

(1) Licensees must:

(a) store soiled implements and equipment separately from those that have been sanitized and disinfected;

(b) use clean towels for each client. Soiled towels must be kept in an appropriate container and laundered regularly;

(c) use sanitary neck strips, towels, or a freshly laundered cape to keep hair clippings from contacting the client's neck;

(d) not place implements, instruments, or other equipment onto garments or in garment pockets;

(e) sanitize and disinfect implements, instruments, and other equipment dropped on the floor before reusing;

(f) maintain and make available to the public all Safety Data Sheets (SDS) for products used on the premises;

(g) store, handle, and apply all preparations to protect against contamination and dispense preparations from containers by pump, spray, or single-service spatulas;

(h) when using bulk products in secondary storage containers, label the new storage container with product name, ingredients, and warnings;

(i) store and apply liquid or powder astringent with a clean sterilized gauze or cotton pad;

(j) use acids for chemical exfoliation only in concentrations of 30 percent or less, with a pH level of not less than 3.0; and

(k) use only commercially available products for chemical exfoliation and not mix or combine any skin exfoliation products.

~~(2) Safety Data Sheets (SDS) relative to product ingredients, proper use, storage, disposal, and hazards for products in use at salons, shops, mobile salons or shops, and schools shall be kept on the premises and available upon need or request by the public, the board, or the board-designated inspector.~~

~~(3) Liquid or powder astringent must be stored and applied with a separate clean-sterilized gauze or cotton pad.~~

~~(4) All acids for use in chemical exfoliation must be used in concentrations of 30 percent or less, a pH level of not less than 3.0, and shall be applied in a manner and for a duration as recommended by the manufacturer.~~

~~(5) Only commercially available products may be used for chemical exfoliation purposes. The mixing or combining of skin exfoliation products or services is strictly prohibited.~~

~~(6) When using bulk products poured into another or smaller storage container, the new storage container must be labeled with the same product name, ingredients, and warnings as the original container.~~

~~(7) (2) Possession or use of the following items by a licensee and/or on the premises of a salon, shop, or mobile salon or shop, or school is prohibited. Licensees may not use or possess the following items in a licensed premises:~~

~~(a) through (d) remain the same.~~

~~(e) phenol, resorcinol, trichloroacetic acid (TCA), or Jessner's solution for chemical exfoliation; ; and~~

~~(i) phenol;~~

~~(ii) resorcinol;~~

~~(iii) trichloroacetic acid (TCA); and~~

~~(iv) Jessner's solution; and~~

~~(f) cosmetic products containing hazardous substances which have been banned by the U.S. Food and Drug Administration (FDA) for use in cosmetic products.~~

~~(3) Fish may not be utilized in the provision of any licensed service.~~

~~(8) If the board inspector obtains evidence that a product or item prohibited by this rule is being used in a salon, shop, mobile salon or shop, or school, the inspector may seize the product or item and remove it from the facility immediately. If a prohibited product or item is seized by an inspector, the licensee will be responsible for the costs of disposing of the product or item. The licensee will be mailed a notice that sets forth the disposal costs incurred by the board in relation to the product or item, and the licensee shall pay such costs within 30 days of the date the notice is mailed to the licensee.~~

AUTH: 37-31-203, 37-31-204, MCA

IMP: 37-31-204, MCA

REASON: It is reasonably necessary to simplify and reorganize the provisions formerly in (1) through (6) into (1). General implements language is being moved

from ARM 24.121.1515 (to be repealed) to (1) as well. The prohibition on use of fish in practice is clarified and relocated from ARM 24.121.407. The board is relocating (8) to the inspection rule, ARM 24.121.410, as a more logical location.

24.121.1522 BLOOD SPILLS EXPOSURE ~~(1) If there is a blood spill or exposure to other body fluids during a service, licensees and students shall stop the service and:~~

- ~~(a) before returning to service, clean the wound with an antiseptic solution;~~
- ~~(b) cover the wound with a sterile bandage;~~
- ~~(c) if the wound is on a licensee's or student's hand in an area that can be covered by a glove or finger cover, the licensee or student shall wear a clean, fluid-proof protective glove or finger cover. If the wound is on the client, the licensee or student providing service to the client shall wear gloves on both hands;~~
- ~~(d) blood-stained tissue, cotton, or other blood-contaminated material shall be bagged and disposed of in the trash;~~
- ~~(e) all implements, instruments, supplies, and equipment that have come in contact with blood or other body fluids shall be disinfected per ARM 24.121.1514; and~~

~~(f) electrical equipment shall be disinfected in the same manner as nonimmersible equipment and metal implements per ARM 24.121.1511.~~

~~(2) The blood spill procedure described in this rule must be posted in all salons, shops, mobile salons or shops, and schools.~~

(1) If there is exposure to blood or other body fluids during a service, licensees and students must stop the service and before returning to service, clean the wound with an antiseptic solution and cover the wound with a sterile bandage.

(2) If the hand wound is in an area that can be covered, the licensee or student shall wear a clean, fluid-proof protective glove or finger cover. If the wound is on the client, the licensee or student must wear gloves on both hands.

(3) Blood-contaminated material must be disposed of in the garbage and blood-contaminated implements, instruments, supplies, equipment, and electrical equipment must be disinfected per ARM 24.121.1511.

(4) Licensees must post the blood exposure procedure of this rule in all licensed premises.

AUTH: 37-31-203, 37-31-204, MCA

IMP: 37-31-204, MCA

REASON: The board is streamlining and reorganizing this rule for clarity and ease of use. Blood spill is being changed to exposure as exposure includes spills and other potential blood contact and is the standard industry terminology. The procedures and requirements are not changing.

24.121.1523 DISEASE CONTROL (1) A licensee or student ~~shall not be required to~~ must not provide services to a client ~~while~~ if the licensee, student, or client has an infectious, contagious, or a communicable disease or condition that ~~has been epidemiologically demonstrated to~~ can be transmitted through casual contact.

(2) A licensee or student having an infectious, contagious, or communicable disease or condition, ~~epidemiologically demonstrated to be transmitted through casual contact, shall~~ must take all reasonable and necessary steps to avoid transmitting ~~such a~~ disease or condition to clients and coworkers.

(3) A licensee or student with a discharging or infected sore on any exposed portion of the body shall must be excluded from ~~salons, shops or schools~~ all premises while such sore is present, unless the sore is adequately covered to prevent transmission of the infection.

(4) If a licensee or student detects that a client has pediculosis capitis (head lice), the licensee or student shall must refuse to provide service and may provide necessary information and/or products for home self-treatment.

AUTH: ~~37-1-131~~, 37-31-203, 37-31-204, MCA

IMP: 37-31-204, MCA

REASON: The board is removing the unnecessarily specific standard for a disease's transmission through casual contact. If such a question resulted from an inspection or a complaint, proper investigation would be utilized to determine a disease's transmission.

6. The proposed new rules are as follows:

NEW RULE I LICENSE ENDORSEMENT (1) Licensees seeking to offer mechanical exfoliation or microdermabrasion services shall obtain an endorsement by the board prior to practicing.

(a) To obtain an endorsement, licensees shall complete an additional 50 hours of continuing education in the field of microdermabrasion as follows:

- (i) histology of the skin;
- (ii) bacteriology;
- (iii) client consultation and protection;
- (iv) client pre-care and post-care;
- (v) product knowledge;
- (vi) theory of technical application of microdermabrasion;
- (vii) sanitation and safety;
- (viii) disposal of waste products; and
- (ix) practical application and observation.

(b) A minimum of 50 percent of the required hours must be taught in theory.

AUTH: 37-31-203, MCA

IMP: 37-31-203, MCA

REASON: The board is relocating language from ARM 24.121.403(4) as it is better suited to a stand-alone rule.

NEW RULE II SCHOOL EQUIPMENT (1) All schools must provide:

(a) a separate classroom, other than the clinic floor, for theory or basic classes;

- (b) adequate restroom facilities for students and faculty;
 - (c) one sink for hand washing, not in a restroom;
 - (d) one serviceable school first aid kit;
 - (e) a fire extinguisher;
 - (f) one locker per two students;
 - (g) one protective covering per student; and
 - (h) for the first 15 enrolled students:
 - (i) two covered wet sanitizers;
 - (ii) one closed cabinet for clean linens;
 - (iii) one covered soiled linen container; and
 - (iv) two covered garbage containers.
 - (i) The required equipment in (h) must be doubled for 16 to 30 students and tripled for 31 to 45 students.
- (2) All barbering, barbering nonchemical, or cosmetology schools offering separate barbering, barbering nonchemical, or supplemental barbering courses must provide:
- (a) one barber style chair and workstation with mirror per student on the clinic floor; and
 - (b) for the first 15 enrolled students:
 - (i) two shampoo bowls;
 - (ii) one hair dryer (stationary or portable "roll-about"); and
 - (iii) one hot lather machine.
 - (c) The required equipment in (b) must be doubled for 16 to 30 students and tripled for 31 to 45 students.
- (3) Cosmetology schools must provide:
- (a) one styling chair and workstation with mirror per student on the clinic floor; and
 - (b) for the first 15 enrolled students:
 - (i) two shampoo bowls;
 - (ii) one hair dryer (stationary or portable "roll-about");
 - (iii) two manicure tables; and
 - (iv) one facial chair.
 - (c) The required equipment in (b) must be doubled for 16 to 30 students and tripled for 31 to 45 students.
- (4) Electrology schools must provide:
- (a) an autoclave or dry heat sterilizer;
 - (b) stainless steel and gold needles of various sizes per student; and
 - (c) a clinical area divided into a minimum of two workstations for the first three enrolled students (one additional station for each additional two students) enclosed by partitions or curtains, and at least ten feet by eight feet in area. Each workstation must include:
 - (i) one treatment table or chair;
 - (ii) one magnifying lamp;
 - (iii) one or more epilators offering either thermolysis, electrolysis, or the blend; and
 - (iv) one puncture-resistant sharps container.

(d) Only presterilized, disposable needles may be used for electrolysis services in a school, unless reusable needles are sterilized using an autoclave.

(5) Esthetics schools or cosmetology schools offering a separate esthetics course must provide for the first five students:

(a) one facial bed or chair;

(b) one magnifying lamp; and

(c) one facial unit consisting of a vaporizer, high frequency unit, massage brush, vacuum spray, galvanic unit, magnifying lamp, and woods lamp.

(d) Beds or chairs, and lamps must be increased by one for each additional five students.

(6) Manicuring schools or cosmetology schools offering a separate manicure course must provide:

(a) one manicure table with chairs per student; and

(b) electric nail file and appropriate bits.

AUTH: 37-31-203, 37-31-311, MCA

IMP: 37-31-311, MCA

REASON: The board is repealing ARM 24.121.803 and replacing it with a more streamlined, simplified, and reorganized new rule. The board is adding the requirements for a clean linen cabinet and two covered garbage containers for all students for consistency and sanitation.

The board is no longer requiring a separate lunch or break room because in today's industry, many schools are housed in shopping centers or malls with immediate access to restaurants and other areas used for breaks and resting.

The board is removing the requirement for separate bathrooms based on sex since unisex bathrooms are allowed in Montana. The board is removing the excessive signage requirements as overly restrictive and unnecessary. All licensees are required by 37-1-316, MCA, to ensure their advertising and signage is accurate and not misleading. The board believes schools will provide adequate signage without specifying each required sign.

It is reasonably necessary to strike the provision requiring schools to provide students with sufficient equipment and supplies since 37-31-311, MCA, already requires schools to provide adequate equipment and qualifying courses.

The board is striking the requirement to provide a "current board law and rule book" for each student. The board no longer creates these books and instead provides all relevant laws and rules on the board website.

NEW RULE III CONTINUING EDUCATION – TEACHERS (1) Teachers must:

(a) complete 30 hours of continuing education (CE) per renewal period with a minimum of eight hours in teaching methodology per ARM 24.121.1105;

(b) affirm an understanding of the duty to comply with CE requirements at renewal;

(c) select quality programs that focus on protecting the health, safety, and welfare of the public and contribute to professional knowledge and competence.

Acceptable CE activities:

- (i) directly relate to the teacher's scope of practice;
 - (ii) review current concepts and techniques;
 - (iii) convey information beyond basic professional education;
 - (iv) update knowledge on practice and advances in the profession; or
 - (v) reinforce professional conduct or ethical obligations of the teacher; and
- (d) maintain CE documentation that includes the following for three years and provide documentation to the board upon request:
- (i) licensee name;
 - (ii) course title and description of content;
 - (iii) presenter or sponsor;
 - (iv) course completion date(s); and
 - (v) CE hours earned.
- (2) CE requirements do not apply until after the first renewal.
- (3) CE hours will not be granted for teaching a course.
- (4) The department may randomly audit up to 50 percent of renewed teachers.
- (5) Noncompliance with CE requirements may result in administrative suspension.
- (6) CE hours used to complete delinquent CE requirements cannot be applied toward the next reporting period.
- (7) CE hours required by disciplinary order cannot be applied toward the biennial 30 hours required in this rule.

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

IMP: 37-1-141, 37-1-306, 37-1-319, 37-1-321, MCA

REASON: The board is repealing ARM 24.121.2101 and replacing it with this new more streamlined and simplified continuing education (CE) rule. The CE requirements, timelines, and audit processes are not changing.

The board will no longer grant CE credit for attendance at full board meetings to standardize with most DLI licensing boards. There is no assurance that every board meeting will contain educational material that would qualify under this rule.

It is reasonably necessary to amend the requirement in (1)(c)(i) for acceptable CE to relate to a teacher's scope of practice. The current rule specifies that the scope is "defined" in statute and rule, which is not accurate.

NEW RULE IV UNPROFESSIONAL CONDUCT (1) In addition to the provisions of 37-1-316, MCA, it is unprofessional conduct for board licensees to:

- (a) violate a federal, state, or local law or rule relating to the conduct of the profession;
- (b) fail to cooperate with or respond to a department request or investigation;
- (c) fail to report an incident of unsafe practice or unethical conduct of another licensee to the licensing authority;
- (d) perform services or use machines or devices that are outside of the licensee's scope of practice;
- (e) practice under unsanitary or unsafe conditions;

(f) commit any act of sexual abuse, misconduct, or exploitation whether or not it is related to the licensee's practice; and

(g) use the traditional symbol known as the "barber pole," or any likeness thereof, in any manner that may lead the public to believe either that barbering was being practiced in, or that a licensed barber was employed by, a salon or shop that does not employ barbers.

AUTH: 37-1-319, MCA

IMP: 37-1-316, 37-1-319, MCA

REASON: The department is repealing ARM 24.121.2301 and replacing it with this rule to replace overly specific language with more broadly applicable statements to facilitate use and eliminate more detailed "laundry lists." These amendments will facilitate the board's disciplinary processes by utilizing standard language among the licensing boards and programs.

This new rule further eliminates unnecessary duplication with the unprofessional conduct statute, 37-1-316, MCA. Instead of stating specific state or federal regulations to follow, the department is including (1)(a) to require licensees comply with all applicable laws and regulations. The board is eliminating failure to comply with continuing education requirements as this is addressed under administrative suspension law, procedure, and NEW RULE V.

NEW RULE V ADMINISTRATIVE SUSPENSION (1) The board authorizes the department to:

(a) administratively suspend licenses for deficiencies set forth in 37-1-321(1)(a) through (e), MCA; or

(b) file a complaint pertaining to the deficiencies in (1) that are based on repeated or egregious conduct, or that have co-occurring misconduct allegations that directly implicate public safety and may warrant formal disciplinary action.

(2) An administrative suspension is not a negative, adverse, or disciplinary action under Title 37, MCA, and is not reportable under federal law and regulations implementing the Healthcare Practitioner Databank or the department's licensee lookup and license verification databank.

AUTH: 37-1-131, MCA

IMP: 37-1-321, MCA

REASON: Section 37-1-321, MCA, permits the board to authorize the department to take certain non-disciplinary actions regarding licensees who are out of compliance with administrative licensure requirements such as not meeting continuing education requirements, failing to respond to continuing education audits, not paying required fees, not meeting initial licensing requirements, and noncompliance with board final orders. The board authorized the department to take these actions previously by motion. It is reasonably necessary to adopt this rule to reiterate that authorization formally, publicly, and accessibly, so the public and licensees are aware of the authorization.

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

24.121.405 VARIANCE REQUESTS – SALONS, SHOPS, MOBILE SALONS OR SHOPS, AND SCHOOLS

AUTH: 37-1-131, 37-31-203, 37-31-204, MCA

IMP: 37-1-134, 37-31-204, MCA

REASON: The board determined it is reasonably necessary to repeal this rule as it is no longer necessary to provide for a variance process. The majority of requests are about use of portable sinks in salons and shops and outside entrances to residential salons. Due to modern technology, hot water is available in these sinks without specifically requiring a hook-up to a city sewer system. See the REASONS for repealing ARM 24.121.1302 and 24.121.1505.

24.121.601 LICENSURE BY EXAMINATION

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-1-131, 37-31-303, 37-31-304, 37-31-308, MCA

REASON: The board is repealing this rule and relocating all relevant provisions to ARM 24.121.604 for simplicity and ease of use. It is reasonably necessary to remove language that unnecessarily duplicates statutory provisions as well as processes that are addressed in standardized department application procedures for all boards. Licensure qualifications and application procedures remain unchanged.

24.121.602 MILITARY TRAINING OR EXPERIENCE

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: The 2023 Montana Legislature enacted Chapter 390, Laws of 2023 (House Bill 583), an act generally revising licensing and certification laws for military members, military spouses, and veterans. The bill was signed by the Governor on May 3, 2023, and will be effective July 1, 2024.

It is reasonably necessary to repeal this rule to align with the bill's amendments to 37-1-145, MCA. The amended statute provides for all boards and programs to accept relevant military education, training, or service toward license qualifications. Specific board or program rules are no longer needed.

24.121.603 LICENSURE BY CREDENTIALING WITH AN OUT-OF-STATE LICENSE

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-1-304, 37-31-303, 37-31-304, 37-31-305, 37-31-308, MCA

REASON: The board is repealing this rule and relocating all relevant provisions to ARM 24.121.604 for simplicity and ease of use. It is reasonably necessary to remove language that unnecessarily duplicates statutory provisions as well as processes that are addressed in standardized application procedures for all boards.

Following repeal and amendments, applicants will no longer be able to submit practice experience in lieu of an approved course of training per 37-31-304, MCA, and ARM 24.121.604. Statutory language only allows applicants for teacher licensure to utilize prior practice experience per 37-31-305, MCA.

24.121.608 INACTIVE INSTRUCTOR LICENSE

AUTH: 37-1-131, 37-1-319, 37-31-203, MCA

IMP: 37-1-131, 37-1-319, 37-31-203, 37-31-305, MCA

REASON: It is reasonably necessary to repeal this rule and eliminate inactive status for instructors. The historically consistent small number of inactive instructor licensees does not justify the staffing and costs associated with monitoring and renewing them. There is no inactive status for any other board licensees.

24.121.612 LICENSEE AND APPLICANT CONTACT INFORMATION

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-1-131, 37-1-309, 37-31-203, MCA

REASON: It is reasonably necessary to repeal this rule as it unnecessarily repeats the statutory provisions of 37-1-309, MCA, which apply to all licensing boards.

24.121.801 INSPECTION - SCHOOL LAYOUT

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA

IMP: 37-1-131, 37-31-311, 37-31-312, MCA

REASON: The board is repealing this rule as unnecessary and exceeding the scope of 37-31-311, MCA. Additionally, the board does not analyze floor plans or blueprints and is striking this requirement for all premises applications. The board also has no authority to inspect for building codes compliance as this is done by another department program.

24.121.803 SCHOOL REQUIREMENTS

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA

IMP: 37-31-311, MCA

REASON: The board is repealing this rule and replacing it with a streamlined, simplified, and reorganized NEW RULE II. See REASON for NEW RULE II.

24.121.806 POSTSECONDARY EDUCATION STATUS

AUTH: 37-1-131, 37-31-203, MCA
IMP: 37-31-101, 37-31-302, 37-31-311, MCA

REASON: The board determined it is reasonably necessary to repeal this unnecessarily restrictive rule and instead allow the governing statute, 37-31-311, MCA, to guide school licensure. The statute contains minimum standards for equipment, student-to-teacher ratio, record-keeping, and hours required for qualifying training courses. Further, schools are required to obtain and maintain a bond or security to reimburse students should a program cease.

24.121.809 STUDENT WITHDRAWAL, TRANSFER, OR GRADUATING

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA
IMP: 37-31-311, MCA

REASON: It is reasonably necessary to repeal this rule and relocate relevant provisions to other rules. The requirement to furnish transcripts, which include a student's standing, is moved to ARM 24.121.805.

The board is simplifying this rule because as long as a curriculum is within board standards of this rule, the timing for accepting completed hours is set by the school and outside the board's authority.

Because a transferred student's timing to practice on the public is addressed in contract terms between schools and transferred students, it is unnecessary to address this in the rule. Also, the board does not monitor or regulate this.

24.121.1101 APPLICATIONS TO OFFER TEACHER-TRAINING COURSES

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA
IMP: 37-31-305, 37-31-311, MCA

REASON: The board is repealing this rule since relevant teacher-training provisions are addressed in ARM 24.121.807, 24.121.1102, and 24.121.1105.

24.121.1301 SALON, SHOP, MOBILE SALON OR SHOP LICENSES – GENERAL INFORMATION

AUTH: 37-31-203, 37-31-204, MCA
IMP: 37-31-204, 37-31-302, 37-31-312, MCA

REASON: The board determined it is reasonably necessary to repeal this rule to avoid duplication with 37-31-312, MCA, regarding temporary permits. Additionally, the board does not analyze floor plans or blueprints and has no authority to enforce building codes compliance. Change of ownership is addressed in ARM 24.121.412.

24.121.1302 SALON, SHOP, BOOTH RENTAL, AND MOBILE SALON OR SHOP OPERATION STANDARDS

AUTH: 37-31-203, 37-31-204, MCA
IMP: 37-31-204, 37-31-302, 37-31-309, 37-31-312, MCA

REASON: The board is repealing this rule as relevant provisions have been moved to better locations. Additionally, it is reasonably necessary to delete provisions that unnecessarily duplicate statute, including 37-31-101, 37-31-204, and 37-31-309, MCA. It is unnecessary to require licensees abide by specific mobile business and building codes laws since all licensees must abide by all relevant laws and regulations per the unprofessional conduct rule, NEW RULE IV.

The board is relocating provisions on electrology to ARM 24.121.1509. Restroom requirements are relocated to ARM 24.121.1501. The board is changing the time for mobile shops to report address changes to 30 days to align with requirements for other licensed premises.

The board is eliminating the overly restrictive requirements for outside entrances to residential salons and shops. It is not a public safety issue for customers to briefly cross a living space to enter a residential salon. Costs to create another separate exterior entrance to a residential salon would be an unnecessary constraint on a residential shop's owner and not balanced with any public safety concerns. This aligns with the repeal of the variance rule, ARM 24.121.405, in this notice.

24.121.1505 RESTROOMS

AUTH: 37-31-203, 37-31-204, MCA
IMP: 37-31-204, MCA

REASON: The board is repealing this rule and combining relevant restroom provisions into ARM 24.121.1501, the general premises and sanitation rule.

It is reasonable to eliminate the overly restrictive requirements for bathroom access in residential salons and shops. Current sanitation rules adequately address normal safety issues for residential salon bathrooms. It is not a public safety issue for customers to briefly cross a living space to access a residential salon's bathroom. This aligns with the repeal of the variance rule, ARM 24.121.405, in this notice.

24.121.1507 SINKS, SANITIZERS, CONTAINERS, AND CABINETS – SALONS, SHOPS, MOBILE SALONS OR SHOPS, AND SCHOOLS

AUTH: 37-31-203, 37-31-204, MCA
IMP: 37-31-204, MCA

REASON: The board is repealing this rule and relocating relevant provisions to ARM 24.121.1501. Sanitizer requirements are adequately set forth in ARM 24.121.1511.

24.121.1513 SANITIZING AGENTS

AUTH: 37-1-131, 37-31-203, 37-31-204, MCA
IMP: 37-31-204, MCA

REASON: Relevant provisions are relocated to ARM 24.121.1511 as a more logical placement.

24.121.1514 DISINFECTING AGENTS

AUTH: 37-1-131, 37-31-203, 37-31-204, MCA
IMP: 37-31-204, MCA

REASON: Provisions are relocated to ARM 24.121.1511.

24.121.1515 IMPLEMENTS AND EQUIPMENT STORAGE AND HANDLING

AUTH: 37-1-131, 37-31-203, 37-31-204, MCA
IMP: 37-31-204, MCA

REASON: The board is repealing this rule and incorporating its provisions into ARM 24.121.1517 so all storage and handling provisions will be in a single location.

24.121.1519 WASTE DISPOSAL

AUTH: 37-1-131, 37-31-203, 37-31-204, MCA
IMP: 37-31-204, MCA

REASON: The board is repealing this rule and moving its provisions to ARM 24.121.1501.

24.121.1521 PERSONAL HYGIENE

AUTH: 37-1-131, 37-31-203, 37-31-204, MCA
IMP: 37-31-204, MCA

REASON: The board is repealing this rule as unnecessarily overbroad and difficult to enforce. The board has sanitation and safety rules for blood exposure and requires handwashing signs posted in restrooms. Maintaining clean hands is common sense for sanitation, and the board is not able to monitor or regulate consistent hand washing. The language regarding hand sanitizer use is unnecessary as it is not a requirement, but merely an unenforceable advisement. Dress codes are not the board's jurisdiction.

24.121.2101 CONTINUING EDUCATION – INSTRUCTORS

AUTH: 37-1-131, 37-1-319, MCA
IMP: 37-1-141, 37-1-306, 37-1-319, 37-1-321, MCA

REASON: The board is repealing this rule and replacing it with NEW RULE III. See REASON for NEW RULE III.

24.121.2301 UNPROFESSIONAL CONDUCT

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-31-203, MCA

IMP: 37-1-136, 37-1-137, 37-1-316, 37-1-319, 37-31-301, 37-31-331, MCA

REASON: The board is repealing this rule and replacing it with NEW RULE IV. See REASON for NEW RULE IV.

8. 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., July 5, 2024.

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

10. 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.

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

12. 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.

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

BOARD OF BARBERS AND
COSMETOLOGISTS
ANGELA PRINTZ, PRESIDING OFFICER

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

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

Certified to the Secretary of State May 28, 2024.