

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

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.141.301, 24.141.405,)	PROPOSED AMENDMENT,
24.141.502, 24.141.503, 24.141.504,)	ADOPTION, AND REPEAL
24.141.505, 24.141.509, 24.141.2102,)	
and 24.141.2301, the adoption of)	
NEW RULES I through III, and the)	
repeal of ARM 24.141.403,)	
24.141.501, 24.141.507, 24.141.511,)	
and 24.141.2401 pertaining to the)	
state electrical board)	

TO: All Concerned Persons

1. On April 16, 2024, at 8:00 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/82956775824>
Meeting ID: 829 5677 5824, Passcode: 812244
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 829 5677 5824, Passcode: 812244

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 April 9, 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. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

24.141.301 DEFINITIONS ~~(1) "Full-time employment" means employment wherein the Montana-licensed responsible electrician is available to procure, perform, administer, and supervise all electrical work being performed by the Montana-licensed electrical contractor.~~

(2) through (8) remain the same but are renumbered (1) through (7).

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

IMP: 37-68-102, 37 68-201, 37-68-304, 37-68-305, 37-68-312, MCA

REASON: The proposed repeal of the definition for "full-time employment" is necessary because the term "full-time" commonly refers to the number of hours an employee must work per week to gain full employee benefits. For example, the term is defined in Montana Code in areas outside the board's jurisdiction: "'full-time job' means a predominantly year-round position requiring an average of at least 35 hours of work each week[.]" pursuant to the department's workforce training statutes, 39-11-103(6), MCA, and for purposes of state employee leave, "'full-time employee' means an employee who normally works 40 hours a week" under 2-18-601(8), MCA. Furthermore, the substance of the definition regarding supervision of electrical work is addressed in other rules, including ARM 24.141.505, and in the board's proposed amendments to ARM 24.141.2301.

24.141.405 FEE SCHEDULE (1) remains the same.

(2) Application fee for a license by examination	
(includes original license fee)	240 <u>190</u>
(3) Contractor - original license fee	300 <u>210</u>
(4) Renewal fee (two years)	
(a) Contractor	300 <u>210</u>
(b) Master	200 <u>140</u>
(c) Journeyman	200 <u>140</u>
(d) Residential	200 <u>140</u>
(5) Application by endorsement or reciprocity -	
(includes original license fee)	250 <u>190</u>
(6) and (7) remain the same.	
(8) Apprentice registration fee	10
(9) through (11) remain the same but are renumbered (8) through (10).	

AUTH: 37-1-101, 37-1-134, 37-68-201, MCA

IMP: 37-1-134, 37-1-141, 37-1-304, 37-1-305, 37-68-304, 37-68-310, 37-68-311, 37-68-312, 37-68-313, MCA

REASON: The proposed removal of the fee to register apprentices is necessary because all apprentices are registered with the department's Montana Registered Apprenticeship program, and not with individual licensing boards. The board is proposing a 30% reduction in fees to stabilize the board's cash balance because the board's account has reached a level of unallowable excess cash. A board is not allowed to carry a balance that is more than two times the board's annual appropriation under 37-1-101(10), MCA. The board's appropriation for Fiscal Year 2023 was \$413,555, and two times that appropriation is \$837,110. At the current rate of fees, the board's current cash balance will exceed \$837,110 starting in Fiscal Year 2024. The proposed fee reduction shall affect 5,285 current licensees and approximately 763 estimated applicants for licensure. The 30% fee reduction is estimated to reduce the board's cash balance by \$285,689 over 5 years. This reduction is estimated to reduce the overall cash balance of the account to \$732,005, which is below the limit of two times the board's appropriation (\$837,110).

24.141.502 TEMPORARY PRACTICE PERMIT ~~(1) A temporary practice permit may be issued to an applicant upon completion of an application, submission of verification of experience, payment of the appropriate fees, and approval by the board or designated board representative. An applicant for a master electrician license may be issued a journeyman temporary practice permit.~~

~~(2)~~ remains the same but is renumbered (1).

~~(3)~~ (2) A temporary practice permit issued to an applicant for an electrician license shall expire 60 90 days from the date of issuance or upon receipt of licensure examination results. If an applicant's temporary practice permit expires before the date of the applicant's scheduled examination, the department may, on a case-by-case basis, extend an applicant's temporary practice permit.

~~(4)~~ remains the same but is renumbered (3).

(4) A second temporary practice permit may be issued to a person who fails the first license examination as provided in 37-68-311, MCA.

~~(5)~~ Applicants who fail an a residential or journeyman-level exam with a score of ~~69~~ 64 percent or less are not eligible for a second temporary practice permit. Applicants who fail a master-level examination with a score of 69 percent or less are not eligible for a second temporary practice permit.

~~(6) Subsequent temporary practice permits may be issued at the discretion of the board.~~

AUTH: 37-1-319, 37-68-201, MCA

IMP: 37-1-305, 37-68-311, MCA

REASON: The proposed amendments to this rule are necessary to remove language that is duplicative of 37-1-305 and 37-68-311, MCA. The board also proposes extending the timeline of temporary practice permits from 60 days to 90 days to allow applicants greater flexibility in scheduling examinations. The board also proposes lowering the accepted test score for a second temporary practice permit for residential or journeyman-level licensure to be commensurate with the proposed amendments to the passing test score in ARM 24.141.503.

24.141.503 EXAMINATIONS (1) An applicant shall have one year from the date of board approval to take and pass the examination for which the application was approved. If the examination is not taken and passed within that one-year period, the applicant must submit a new application and pay the applicable fees.

~~(1)~~ (2) The examination for the residential, journeyman's, or master's license may be administered and graded by a third party. The examination passing grade for all residential and journeyman-level examinations is 75 70 percent. The examination passing grade for master-level examinations is 75 percent.

~~(2)~~ (3) An applicant who fails any examination for which the application was made, may, upon the payment of the appropriate fee, take the next scheduled examination. However, if the applicant fails the exam a second time, the applicant may not take the test again within a six-month period, and in addition, must provide proof of having attended at least one eight-hour electrical code seminar approved by the board, since the initial failure to pass.

~~(3) In the event an applicant fails to pass any examination three or more times, the applicant must:~~

~~(a) wait at least one year from the last failed exam before taking the exam again;~~

~~(b) make reapplication to the board; and~~

~~(c) provide proof of having attended at least two eight-hour electrical code seminars approved by the board.~~

(4) An applicant who fails the master or journeyman examination two or more times may apply for and take a lower-level licensing examination ~~without obtaining the supplementary education and study hours as set forth in (2) and (3) of this rule.~~

~~(5) An applicant who fails to take an examination within 18 months from the date of the last examination that was failed will be required to submit a new application, provide written verification, and pay the applicable fees. Upon receipt of a new application, the board will require the applicant to submit the documentation required in (2) or (3) depending on the number of times the applicant has failed the examination.~~

~~(6)~~ (5) All examinations are open book. Allowed materials may have the applicant's highlights, underlining, and notes. Applicants may only use the following allowed materials during the exam:

(a) remains the same.

(b) a silent, nonprinting, nonprogrammable calculator that is not designed for preprogrammed electrical calculations (e.g., "Electrical Estimate Pal" is not allowed); and

(c) copies of the Montana statutes and rules relating to electricians; and

(d) "Printreading," by David L. Hittinger, based on the applicable NEC code.

~~(7)~~ (6) An applicant for an examination who, due to a ~~specific physical, mental, or sensory impairment~~ disability, requires ~~special~~ reasonable accommodation(s) in examination procedures, must submit a written request to the board office for the specific accommodation needed, at least 15 days prior to the scheduled exam.

(7) Any applicant who takes an examination, whether the applicant passes or fails the examination, may contact the department to request their specific test score.

(8) Any applicant who takes an examination and does not pass the examination may contact the department to request a review of the examination.

(a) through (9) remain the same.

(10) Any applicant determined by the board to be cheating on an examination or using inappropriate material/equipment during an examination will fail and be required to wait at least one year before reapplying for licensure and before being allowed to reexamine. ~~All such reexaminations will be scheduled and administered by the board in Helena, Montana.~~

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

IMP: 37-1-131, 37-68-304, 37-68-305, MCA

REASON: The proposed amendments to this rule are necessary to simplify and clarify the board's examination procedures and requirements for licensure. New (1)

regarding applications is transferred from ARM 24.141.501, repealed below. The board proposes lowering the passing examination score for residential and journeyman level licensure from 75 to 70 percent to comply with the legislature's 2019 amendments to 37-1-304, MCA, which require all licensing boards to recognize licenses granted by states with "substantially equivalent" licensing standards to this state. The board also recognizes that the majority of states that require individual licensure for journeyman electricians accept a 70 percent passing score for journeyman-level licensure. The department, on behalf of the board, has evaluated the journeyman-level licensing criteria for 32 states, and 23 of those states require a 70 percent passing score for the journeyman-level licensure exam, including 9 of the 12 states that are part of the National Electrical Reciprocal Alliance (NERA) of which Montana is a member. The proposed repeals in old (3) and (5) remove the requirements for applicants to wait a specific period of time before retaking the exam. Because applications for licensure are active with the department for one year, the amendments will allow an applicant to pass the exam and complete the licensure process before their initial application expires. The amendments to new (5) clarify what materials are allowed during the exam, and the board recognizes that many applicants highlight, underline, and write notes in their materials. New (7) is added because the board acknowledges the importance of applicants obtaining their specific exam score to assess the applicant's understanding of the material and to possibly evaluate test prep and test-taking strategies.

24.141.504 LICENSURE BY RECIPROCITY OR ENDORSEMENT (1) The board may, on a case-by-case basis, enter into a reciprocity agreement with another state or jurisdiction whose requirements are substantially equivalent or greater than the standards of this state for purposes of issuing a ~~residential or journeyman electrician~~ license.

(2) The board ~~may~~ shall issue a license by endorsement to an applicant provided that the applicant:

- (a) files a completed application with the required fees; and
- (b) holds a current, valid ~~and unrestricted~~ license in good standing to practice in the category applied for in another state or jurisdiction;
- ~~(c) supplies a copy of the laws and rules in effect at the time of application to this state which shows that the standards in that state are equivalent to or greater than the standards in effect in this state; and~~
- ~~(d) provides official written verification directly from the other state(s) or jurisdiction(s) that the license has been held by the applicant for one year, that the license is active, that the license is in good standing, and that the test score received was equal to or greater than 75 percent.~~

(3) remains the same.

~~(4) The Montana electrical board does not reciprocate or endorse master electrician or electrical contractor licenses.~~

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

IMP: 37-1-304, MCA

REASON: The proposed amendments to this rule are necessary to comply with

amendments to statute. Section 37-1-304, MCA was amended in 2019 to mandate the reciprocal licensure of those who hold valid and unrestricted licenses in other states, so long as the standards of that state are substantially equivalent to those in Montana. As presently drafted, this rule restricts license types which may be licensed by reciprocity. In addition, 37-1-304(1), MCA expressly prohibits an examination for reciprocal licensure. As such, the requirement of a specific test result is impermissible. Section 2-4-305(6)(a), MCA requires that administrative rules be "consistent and not in conflict with the statute." Therefore, as part of Red Tape Relief efforts to simplify, clarify, and ensure validity of administrative rules, this rule is amended. Additionally, (2)(c) is repealed because it is unnecessary for applicants to produce copies of laws and rules from other states for an evaluation of credentials to take place.

24.141.505 ELECTRICAL CONTRACTOR LICENSING (1) An applicant for an original license or renewal of an electrical contractor license shall submit a completed application, appropriate fees, and ~~certification of~~ shall affirm compliance with the following:

(a) the Workers' Compensation Act, worker's compensation coverage as required under 39-71-101, MCA, et seq.; and

(b) the Unemployment Insurance Law, unemployment insurance coverage as required under 39-51-101, MCA, et seq.

(2) through (7) remain the same.

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

IMP: 37-68-312, MCA

REASON: The proposed amendment to this rule is necessary to avoid a procedural ambiguity in licensure requirements. Certain individuals and entities may be in compliance with the Workers' Compensation Act and the Unemployment Insurance Law without obtaining coverage under either law. To avoid confusion in these instances, the proposed amendments allow an applicant to affirm compliance with the laws, rather than to obtain coverage. These amendments do not bar verification of the requirements or exemptions by the department or the board as deemed necessary.

24.141.509 NONROUTINE APPLICATIONS AND APPLICANTS WITH CRIMINAL CONVICTIONS (1) ~~For the purpose of processing nonroutine applications, the~~ Nonroutine applications must be reviewed and approved by the board before a license may be issued. The board incorporates the definitions of and procedures for routine and nonroutine at applications in ARM 24.101.402 by reference.

(2) ~~Nonroutine applications must be reviewed and approved by the board before a license may be issued. The board incorporates the procedures for processing applications from applicants with criminal convictions in ARM 24.101.406 by reference.~~

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

IMP: 37-1-101, 37-1-131, Title 37, chapter 1, part 2, MCA

REASON: The proposed amendment is necessary to simplify language and to combine ARM 24.141.509 and 24.141.511. Both rules adopt the department's model rules for licensing boards found in ARM Title 24, chapter 101.

24.141.2102 CONTINUING EDUCATION (1) ~~Eight~~ Sixteen hours of continuing education must be obtained ~~for each year in~~ during the renewal cycle. ~~Requisite hours may be obtained during any portion of the renewal cycle. A minimum of four of the eight annual hours shall be certified as covering~~ must cover NEC updates. ~~Newly licensed~~

(a) New graduates of approved apprenticeship programs are exempt from the continuing education requirements in requirement for the first renewal cycle.

(b) ~~Licensees changing~~ advancing from journeyman or residential to a higher level of licensure are not exempt from completing the required hours of continuing education.

(2) Licensees are responsible for maintaining ~~a record~~ records of completion ~~and submitting certificates for courses or seminars and the hours attended to the department upon request. A random audit of~~

(a) ~~Course completion certificates may be performed by the board shall contain the licensee's name, the course title, the date, and a breakdown of the course content (NEC or industry) by credit hour.~~

(b) The department may perform a random audit of licensees' continuing education hours at any time. The department shall determine the percentage to audit based on a statistically relevant sampling of the total number of licensees and the compliance rate of past audits.

~~(3) (c) An applicant Basic electric courses or apprentice-level courses are not accepted for continuing education provider approval shall submit:~~ credit.

~~(a) a completed board-approved provider application with the required fees;~~

~~(b) a completed board-approved application for each course with the required fees;~~

~~(c) a sample completion certificate as outlined in (4)(d);~~

~~(d) documented proof from the provider that instructors are credentialed as outlined in (4)(c); and~~

~~(e) a course description and credit hours of each course.~~

(3) The department, on behalf of the board, maintains a list of approved continuing education courses. The department shall review and approve continuing education courses and issue an approval number to the course. To gain approval, the department shall verify the following:

(a) the course addresses NEC updates or other subjects related to the industry by credit hour;

(b) the course certificate meets the requirements of (2)(a);

(c) the course instructor is a Montana-licensed journeyman or master electrician or the instructor has substantially equivalent credentials; and

(d) the licensees' course participation is verifiable online within 30 days of course completion.

(4) ~~Curricula for courses or seminars must be preapproved by the State~~

~~Electrical Board or designated board representative. Requests for approval of courses or seminars must be made no later than 60 days prior to the date of the seminar. Each preapproved course shall be assigned a course approval number by the board to be listed on the certificate of completion. Board approval of said courses and seminars expires August 1 of each license renewal year.~~

~~(a) Curricula of courses or seminars shall address NEC updates, or other subjects related to the electrical industry. Basic electric courses or apprentice type courses will not be approved. Course curricula must provide a breakdown of the type of credit hours (NEC or industry), which must be included in the completion certificate.~~

~~(b) Credits for courses or seminars will be given in a minimum of four-hour increments.~~

~~(c) The course sponsor is responsible to ensure that instructors are credentialed as one or more of the following:~~

~~(i) graduate electrical engineer licensed as an electrician;~~

~~(ii) Montana licensed electrician with additional training in related subject areas;~~

~~(iii) community college or vo-tech instructor with board approved electrical credentials;~~

~~(iv) certified teacher with board approved electrical credentials;~~

~~(v) certified electrical apprentice instructors;~~

~~(vi) certified electrical inspectors; or~~

~~(vii) electrical continuing education instructors from other areas as approved by the board.~~

~~(d) Certificates required by (3) must contain the following:~~

~~(i) date of course;~~

~~(ii) title of course;~~

~~(iii) name of person completing the course;~~

~~(iv) State Electrical Board approval number; and~~

~~(v) breakdown of NEC and/or industry related credit hours.~~

~~(e) Certificates must be verifiable online within 30 days of completion of the course.~~

~~(5) Representatives of the department or members of the State Electrical Board shall be able to attend and monitor the courses or seminars without charge.~~

~~(6) (4) Continuing The board shall honor continuing education courses approved by another a state which has a reciprocal licensing agreement with the board will be honored. The reciprocal state's, or if the department determines that the state's courses are substantially equivalent to the courses approved in this state. The course approval number, date of course, and credit breakdown must appear on the completion certificate.~~

~~(7) Completion certificates must be submitted within 30 days upon request by the board office for the purpose of licensing renewal audits. Failure to supply continuing education completion certificates when requested by the board office shall be cause for disciplinary actions.~~

AUTH: 37-1-131, 37-1-319, 37-68-201, MCA

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

REASON: The proposed amendments are necessary to simplify and clarify the board's requirements for continuing education. The amendments acknowledge that the department recognizes substantially equivalent licenses and training for out-of-state licensees pursuant to the legislature's 2019 amendments to 37-1-304, MCA. The proposed amendments allow the department, on behalf of the board, to determine the percentage of licensees that are audited for compliance with continuing education requirements. This amendment is necessary because the department completes the audits on behalf of the board, and the department is in the best position to determine the relevant percentage of licensees to audit based on analysis of relevant data such as the number of licensees and rates of compliance for prior audits.

24.141.2301 UNPROFESSIONAL CONDUCT (1) ~~In addition to the activities set forth in 37-1-316, MCA, Failure by a licensee of the following activities are also deemed by the board to be~~ is considered unprofessional conduct:

(a) Electrical contractors shall have their contractor's license posted at their place of business.

(b) A licensed residential electrician shall perform work only in the employment of a licensed electrical contractor. A licensed residential electrician shall perform work only on residential construction consisting of less than five living units in a single structure.

(c) A licensed journeyman or master electrician who is not the responsible electrician for a licensed electrical contractor shall perform work only in the employment of a licensed electrical contractor.

(d) The responsible electrician of a licensed electrical contractor shall not allow any person to perform electrical work unless properly licensed or working with a valid temporary practice permit.

(e) The responsible electrician of a licensed electrical contractor is responsible for timely obtaining any permit or inspection required by the state of Montana or the state or local building code enforcement entity and is responsible for ensuring that the work performed meets the requirements of the state of Montana and the National Electrical Code.

~~(a) (f) failing to~~ A licensee shall correct violations of the Montana State Electrical Code as adopted by the Department of Labor and Industry's Building Codes and Commercial Measurements Bureau, after having received proper notice and adequate time to do so, as determined by the inspector involved in light of the seriousness of the violation(s) and other similarly relevant considerations;.

~~(b) (g) being adjudicated~~ A licensee shall comply with all relevant laws under Title 39, MCA, Any adjudication by the court or agency having jurisdiction, as having violated of a violation of any workers' compensation, unemployment insurance, or independent contractor law in Montana while engaged in the electrical trade is unprofessional conduct.;

~~(c) failure to comply with continuing education requirements set forth in ARM 24.141.2102; and~~

~~(d) (h) failing or refusing to~~ A licensee shall provide the board verification of an employee's hours worked in the employ of the licensee when the request for verification is made for purposes of licensure.

~~(2) Upon findings of unprofessional conduct as defined in (1) and determined in accordance with the Montana Administrative Procedure Act, the board may impose sanctions, including but not limited to those allowed by and listed in 37-1-312, MCA.~~

(2) A licensee's commission of any act of sexual abuse, sexual misconduct, or sexual exploitation, whether or not it is related to the licensee's practice, is considered unprofessional conduct.

(3) A licensee's failure to respond to board inquiry or furnish information requested by the board, department investigators, or board representatives is considered unprofessional conduct.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-68-201, MCA

IMP: 37-1-307, 37-1-316, 37-1-317, 37-1-319, 37-68-301, 37-68-315, MCA

REASON: The proposed amendments are necessary to consolidate the board's rules regarding unprofessional conduct. New (1)(a) through (e) are transferred from (2), (3), (4), (5), and (6) from ARM 24.141.403, repealed below. Old (1)(c) is repealed because failure to comply with continuing education requirements is not a form of unprofessional conduct, and it is addressed under 37-1-321, MCA, and NEW RULE III. New (2) includes specific language making any form of sexual abuse, sexual misconduct, or sexual exploitation unprofessional conduct to standardize the language across the department's boards, programs, and license types. New (3) makes the failure to respond to a department inquiry or investigation unprofessional conduct to facilitate consistency in department investigations and the associated penalties across the department's boards, programs, and license types.

4. The proposed new rules are as follows:

NEW RULE I JOURNEYMAN AND MASTER ELECTRICIAN EXPERIENCE REQUIREMENTS (1) For applicants seeking a journeyman electrician license, a maximum of 50 percent of the practical experience may be residential in nature. The balance must be either commercial, industrial, institutional, or a combination thereof.

(2) For all applicants seeking a master electrician license, the practical and journeyman level experience must be either commercial, residential, industrial, institutional, or a combination thereof. No more than 50 percent of the practical or journeyman level experience may be obtained by residential work.

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

IMP: 37-1-131, 37-68-304, 37-68-305, MCA

REASON: NEW RULE I is necessary because it contains (3) and (4) of ARM 24.151.501, repealed below, that specify experience requirements for licensure. The board proposes removing the requirement in ARM 24.141.501(3) requiring at

least 20 percent of a master electrician's 8000 hours of experience (or 1600 hours of the 8000 hours required by 37-68-304, MCA) to be residential work. The minimum required hours of residential work for master-level licensure were added to ARM 24.141.501 in 2009, with the intention of protecting the public by requiring residential work hours of both journeyman and master-level electricians. 15 Mont. Admin. Reg. 1368 (August 13, 2009). The board asserts that the removal of this requirement will not sacrifice the health and safety of Montanans, and journeyman electricians continue to gain significant experience with residential materials and techniques. First, the board asserts that the requirement of 20 percent of hours to be residential work is not commensurate with the knowledge and experience required to become a master electrician. The board asserts that the master-level examination focuses more on commercial and industrial electrical work. Second, residential work is the primary focus of the journeyman-level examination, and apprentices and applicants for journeyman-level licensure typically gain significant experience with residential work. Third, the board recognizes significant changes to the National Electrical Code since 2009. Specifically, before 2009, "residential work," meaning a building of fewer than five dwelling units under 37-68-102(11), MCA, was primarily completed using "Romex™" cable (non-metallic sheathed cable) and installation materials. In 2009, Romex cable was not approved for use in most non-residential electrical work. However, due to developments in safety and materials, the National Electrical Code currently allows for expanded use of Romex-type cable in projects such as apartment buildings with five or more dwelling units. Many journeyman electricians in Montana gain significant experience with residential materials and techniques while working on such apartment buildings; however, the work is legally classified as commercial work, and those hours cannot be counted towards the current minimum requirement of 20 percent of resident work. The board proposes the repeal of this minimum requirement for master-level work to reflect the changes to the National Electrical Code and the realities of journeyman electrical work in Montana.

NEW RULE II 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 or the department's licensee lookup and license verification databank.

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

IMP: 37-1-321, MCA

REASON: NEW RULE II is necessary because 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 new rule allows the department to continue to address these matters with licenses in a timely manner, without requiring renewed or continued board approval. Furthermore, the new rule provides further notice to licenses and the public of the department's authorized administrative actions regarding licensure.

NEW RULE III PANEL MEMBERS (1) The board chair shall assign board members to the screening panel and the adjudication panel. The board chair may replace or reassign panel members, but the panels must be divided as follows:

(a) The screening panel shall consist of two board members, including one journeyman or master electrician member of the board and one public member of the board.

(b) The adjudication panel shall consist of three board members, including one journeyman or master electrician member of the board and one public member of the board.

(2) The screening panel will not consider anonymous complaints.

AUTH: 37-1-131, MCA

IMP: 2-15-1764, 37-1-307, MCA

REASON: NEW RULE III is necessary because it replaces ARM 24.141.2401, and the new rule addresses the requirements for both the screening panel and the adjudication panel.

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

24.141.403 LICENSEE RESPONSIBILITIES

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

IMP: 37-1-308, 37-1-316, 37-1-317, 37-68-301, 37-68-315, MCA

REASON: The proposed repeal of this rule is necessary because the rule is largely duplicative of statute, and certain sections of the rule are more logically located in ARM 24.141.2301. Section (1) is duplicative of 37-1-301(2), 37-68-315, and 37-68-316, MCA, making it unnecessary. Sections (2), (3), (4), (5) and (6) are transferred to ARM 24.141.2301 to consolidate the board's rules addressing unprofessional conduct. Sections (7) and (8) are repealed because they are duplicative of 37-1-316, 37-1-317, 37-68-301, and 37-68-302, MCA, making the sections unnecessarily duplicative of statute.

24.141.501 MASTER, JOURNEYMAN AND RESIDENTIAL ELECTRICIAN APPLICATIONS

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

IMP: 37-1-131, 37-68-302, 37-68-304, 37-68-305, MCA

REASON: The proposed repeal is necessary because the rule is largely duplicative of statute. Section (1) is duplicative of 37-68-304, MCA; (2) is duplicative of 37-68-102 and 37-68-304, MCA; and (5) is duplicative of 37-68-305, MCA, meaning these sections are unnecessary. Sections (3) and (4) are transferred to NEW RULE I. Section (6) is transferred to ARM 24.141.503 because it concerns examinations for licensure. Section (7) is repealed because it does not reflect current business practices of the board for application review.

24.141.507 MILITARY TRAINING OR EXPERIENCE

AUTH: 37-1-145, MCA
IMP: 37-1-145, MCA

REASON: The proposed repeal is necessary because the 2023 Legislature adopted 2023 Mont. Laws Ch. 390 (House Bill 583), which generally revised the educational certification and endorsement reciprocity and occupational licensing reciprocity for military members, military spouses, and veterans. The new sections and amendments to 37-1-145, MCA, regarding military training or experience apply to all the department's occupational licensing boards and programs, rendering individual board rules on the subject duplicative.

24.141.511 APPLICANTS WITH CRIMINAL CONVICTIONS

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

REASON: The proposed repeal is necessary because the substance of the rule is amended into ARM 24.141.509. The rules are combined because both rules adopt the department's model rules for licensing boards found in ARM Title 24, chapter 101.

24.141.2401 SCREENING PANEL

AUTH: 37-1-131, MCA
IMP: 37-1-307, MCA

REASON: The proposed repeal is necessary because the substance of the rule is transferred to NEW RULE III.

6. Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received no later than 5:00 p.m., April 19, 2024.

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

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

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on March 12, 2024, by electronic mail.

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

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

STATE ELECTRICAL BOARD
DERRICK HEDALEN, PRESIDENT

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

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

Certified to the Secretary of State March 12, 2024.