

BEFORE THE BOARD OF PHYSICAL THERAPY EXAMINERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.177.401, 24.177.501, and)
24.177.2105, the adoption of NEW)
RULES I and II, and the repeal of)
ARM 24.177.503 and 24.177.507)
pertaining to the board of physical)
therapy examiners)

TO: All Concerned Persons

1. On July 2, 2024, at 10:00 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/86934167624>
Meeting ID: 869 3416 7624, Passcode: 164378
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 869 3416 7624, Passcode: 164378

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 25, 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:

- 24.177.401 FEES (1) Applicant and license fees are as follows:
- ~~(a) The fee for NPTE or NPTAE examinations is set by the examination administrator and is paid by the applicant directly to the Federation of State Boards of Physical Therapy (FSBPT).~~
 - (b) through (d) remain the same but are renumbered (a) through (c).
 - ~~(e) Compact privilege fee—The fee has been established by the board for services or privileges rendered by the board. This is part of a fee paid by the applicant directly to the PT Compact Commission.~~ 50
 - (f) remains the same but is renumbered (d).
 - ~~(g) Jurisprudence reexamination (each retake)~~ 25
 - (2) and (3) remain the same.

AUTH: 37-1-134, 37-11-201, MCA
IMP: 37-1-134, 37-1-141, 37-1-304, 37-1-305, 37-11-304, 37-11-307, 37-11-316, MCA

REASON: The board is removing references to fees that applicants do not pay to the board. Applicants pay fees to the testing entity and the compact commission directly, so it is unnecessary for the board to list those fees in rule.

~~24.177.501 EXAMINATIONS APPLICATIONS FOR LICENSURE (1) The examination will be the national physical therapy exam (NPTE) or another equivalent examination as the board may, in its discretion, approve and adopt for physical therapist applicants. The examination for physical therapist assistants will be the national physical therapist assistant examination (NPTAE) or another equivalent examination as the board may, in its discretion, approve and adopt.~~

~~(2) Exact examination dates will be established by the current testing service as the national uniform testing dates.~~

~~(3)~~(1) Applicants for examination shall file with the board office an application which shall include the following:

(a) through (b)(i) remain the same.

(ii) a letter from and bearing the signature of the program director, department chairperson, or similarly authorized official in a board-approved physical therapy school or physical therapist assistant curriculum stating that the applicant is a student at the physical therapy school or physical therapist assistant curriculum, is in good standing, and is expected to graduate at the next scheduled graduation date.; or

(c) verification of all current, previous, and expired licenses in any licensed profession from other states.

(2) Applicants applying for licensure from another state who have not been actively engaged in the profession of physical therapy or physical therapist assistant in the four years immediately preceding application may be required to undergo remedial study in the field of physical therapy subject to the discretion of the board. Remedial study may include, but will not be limited to:

(a) supervised internships;

(b) independent study;

(c) refresher courses;

(d) pertinent graduate or undergraduate course work;

(e) pertinent continuing education courses; and

(f) specialized study in a specific area.

~~(4) The earliest date on which an applicant for examination may take the examination is the examination date nearest to and before the applicant's expected graduation date.~~

~~(5) The applicant shall score a passing grade equal to or higher than a scaled score of 600, the criterion-referenced passing point recommended nationally by the Federation of State Boards of Physical Therapy. The passing score on the jurisprudence examination shall be 90 percent.~~

~~(a) All applicants who have previously taken the NPTE in any jurisdiction~~

shall submit a request for test history verification and the fee to the testing service.

~~(6) The jurisprudence examination shall be an open book examination covering current Montana physical therapy statutes and rules, subject to Title 37, chapters 1 and 11, MCA, standards of care and definition of moral turpitude. The jurisprudence examination must be passed by all examination and out-of-state applicants before original licensure will be granted. Separate provisions will be made for taking the jurisprudence examination prior to licensure. Applicants failing the jurisprudence examination must retake said examination until passed. The fee of each retake will be assessed in accordance with the established fee schedule.~~

AUTH: 37-1-131, 37-11-201, MCA

IMP: 37-1-131, 37-1-304, 37-11-303, 37-11-304, MCA

REASON: The board is splitting the existing rule into two rules, one for applications and one for examinations to more clearly identify requirements. Further, the board is striking reference to the jurisprudence examination as being unnecessary. Applicants for licensure are required to attest they have read the rules and statutes governing the practice before a license can be issued.

24.177.2105 CONTINUING EDUCATION ~~(1) Continuing education (CE) is required to ensure continued competence throughout a physical therapist or physical therapist assistant career. Training for entry into the physical therapy field is not considered adequate assurance of continued competence.~~

~~(2) All licensees shall obtain 30 hours/credits of CE in each 24-month period prior to the renewal date in odd-numbered years.~~

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

~~(4) Licensees renewing for the first time are exempt from CE requirements.~~

(1) Licensees are required to obtain eight hours of continuing education (CE) annually, prior to renewal.

(2) Continuing education requirements will not apply until after the licensee's first renewal.

(3) Licensees are responsible for selecting quality programs that focus on protecting the health, safety, and welfare of the public and contribute to licensees' professional knowledge and competence. Acceptable CE activities:

(a) directly relate to the licensee's scope of practice as defined in board statute or rule;

(b) review existing concepts and techniques;

(c) convey information beyond the basic professional education;

(d) update knowledge on the practice and advances in the profession; or

(e) reinforce professional conduct or ethical obligations of the licensee.

~~(5)(4) The board department may randomly audit up to 50 percent of renewed licensees in each odd-numbered year.~~

~~(6)(5) Licensees must establish and maintain detailed records of completed CE in the form of programs and certificates of attendance for three years and make the records available upon board request.~~

~~(7) CE programs must have significant intellectual or practical content and deal primarily with substantive physical therapy issues as physical therapy is defined in Montana:~~

~~(a) Sixty minutes of instruction equals one CE hour/credit.~~

~~(b) Coursework may be live, by correspondence, video conferencing, internet, or satellite-based.~~

~~(c) Programs promoting a company, individual, or product, or the subject of which is practicing economics are not qualifying CE, except programs specifically addressing workers' compensation, public health, Medicare, or insurance coverage.~~

~~(d) Activities excluded from CE credits include staff meetings, teaching physical therapy-related courses when teaching is the licensee's primary occupation, regularly scheduled institutional activities such as rounds or case conferences, and repeating or retaking an activity and/or coursework.~~

~~(8) The board/staff does not preapprove any activities or sponsors for CE credits. All accepted CE hours/credits in category A must meet the standards set by the American Physical Therapy Association (APTA) or the Federation of State Boards of Physical Therapy (FSBPT). It is the responsibility of the licensee to select programs that contribute to knowledge and competence in the physical therapy field, and meet the qualifications specified in this rule.~~

~~(9) Qualifying continuing education hours/credits:~~

~~(a) Category A activities: A minimum of 15 of the 30 CE hours/credits must be obtained in this category in each two-year cycle: CE courses, physical therapy clinical specialty certification coursework, physical therapy clinical residency coursework, and postgraduate physical therapy education, including, but not limited to, postdoctor of physical therapy course work. The postgraduate physical therapy course work must be passed with a grade of "C" or higher or "pass" if a "pass/fail" course. Category A activities are distinguished from category B activities in that they are approved or offered CE hours/credits by one of the following, whether classroom-based, online, or home study:~~

~~(i) an accredited medical, physical therapy, or healthcare education program;~~

~~(ii) a national or state medical, physical therapy, or healthcare board or association, or a component of that board or association; or~~

~~(iii) a national, medical, physical therapy, or healthcare specialty society.~~

~~(b) Category B activities: Up to 15 of the 30 CE credits may be obtained in this category in each two-year cycle:~~

~~(i) any course pertaining to physical therapy, but not approved or offered through an accredited medical, physical therapy, and/or healthcare education program as identified in (9)(a);~~

~~(ii) teaching or lecturing principally for healthcare professionals, if teaching or lecturing is not the licensee's primary occupation. One CE credit may be granted per one hour of lecture or teaching. Max hour/credit five;~~

~~(iii) current membership in the American Physical Therapy Association (APTA). Max hour/credit one;~~

~~(iv) performing as an APTA-certified clinical instructor in each two-year cycle. Max hour/credit five;~~

~~(v) performing clinical mentoring in a credential clinical residency or fellowship program. Max hour/credit five;~~

~~(vi) being a recognized committee member or serving on the Montana Board of Physical Therapy Examiners, the board of the Montana Chapter of American Physical Therapy Association (MAPTA), or nationally on the board of the APTA or the FSBPT in each two-year cycle. Max hour/credit five;~~

~~(vii) being published in an area that pertains to physical therapy, if publishing is not a requirement for a licensee's primary occupation. Max hour/credit five;~~

~~(viii) taking and passing the jurisprudence exam in each two-year cycle. Max hour/credit one; and~~

~~(ix) taking and satisfactorily completing the FSBPT's current competency evaluation tool(s). Max hour/credit one.~~

(6) Any CE hours required by disciplinary order do not apply towards the eight hours that are required annually under this rule.

(7) A licensee may request an exemption from CE requirements due to hardship. Requests will be considered by the department.

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

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

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

REASON: The board is simplifying its continuing education rule after receiving numerous questions from licensees regarding the existing rule. The board is also changing from a two-year reporting period to a one-year reporting period to ease the administrative burden on department staff and reduce confusion among new licensees as to when CE compliance is necessary. The board is further clarifying that hardship exemptions are available to licensees if necessary.

4. The proposed new rules are as follows:

NEW RULE I FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PHYSICAL EXAMINATIONS (1) Physical examinations for purposes of obtaining a Department of Transportation (DOT) motor carrier license are limited to licensees who have completed the requisite medical examiner training and examination that is provided by the Federal Motor Carrier Safety Administration (FMCSA).

AUTH: 37-1-131, 37-11-201, MCA

IMP: 37-1-131, 37-11-104, MCA

REASON: After receiving an inquiry from the FMCSA as to whether a licensed physical therapist could perform DOT physicals, the board is adopting this rule to inform licensees of the education and training required should a licensee seek to perform DOT physicals.

NEW RULE II EXAMINATIONS (1) The following examination is approved for licensure as a physical therapist:

(a) national physical therapy exam (NPTE).

(2) The following examination is approved for licensure as a physical therapy assistant:

- (a) national physical therapist assistant examination (NPTAE).
- (3) The earliest date on which an applicant for examination may take the examination is the examination date nearest to and before the applicant's expected graduation date.
- (4) Applicants must achieve a scaled score of 600 or higher to pass the examination.

AUTH: 37-1-131, 37-11-201, MCA
IMP: 37-1-131, 37-11-303, 37-11-304, MCA

REASON: The board is adopting this rule after removing examination requirements from ARM 24.177.501, so that examination requirements are more clearly identifiable for applicants.

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

24.177.503 MILITARY TRAINING OR EXPERIENCE

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

REASON: Reasonable necessity exists to repeal this rule, effective October 1, 2023, at the earliest, due to House Bill 583 (2023). That legislation amends 37-1-145, MCA, and eliminates the requirement for adoption by the board of a specific military training rule, setting forth specific obligations for the board to accept military experience for granting licensure. As such, the need for this rule is obsolete.

24.177.507 LICENSURE OF OUT-OF-STATE APPLICANTS

AUTH: 37-1-131, 37-11-201, MCA
IMP: 37-1-131, 37-1-304, 37-11-307, MCA

REASON: The board is combining all application rules into a single rule for standardization and ease of applicant use. Necessary portions of this rule have been added to ARM 24.177.501.

- 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., July 5, 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, do not apply.

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

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

BOARD OF PHYSICAL THERAPY
EXAMINERS, BRIDGET MENNIE, PT,
CHAIR

/s/ JENNIFER STALLKAMP
Jennifer Stallkamp
Rule Reviewer

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

Certified to the Secretary of State May 28, 2024.