

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

In the matter of the adoption of) NOTICE OF ADOPTION OF
Temporary Emergency Rule I) TEMPORARY EMERGENCY RULE
pertaining to the suspension of)
telepharmacy monthly inspections in)
response to the COVID-19 pandemic)

TO: All Concerned Persons

1. The Montana Board of Pharmacy is adopting Temporary Emergency Rule I for the following reasons:

A. On March 12, 2020, Governor Steve Bullock declared an emergency in the State of Montana with regards to the COVID-19 pandemic in Executive Order 2-2020.

B. On March 13, 2020, President Donald J. Trump declared a national emergency due to the COVID-19 pandemic.

C. On March 14, 2020, Governor Steve Bullock extended the emergency in the State of Montana with regards to the COVID-19 pandemic in Executive Order 3-2020.

D. On March 26, 2020, Governor Steve Bullock issued a stay at home directive to slow the spread of COVID-19.

E. The Montana Board of Pharmacy finds that under the emergency circumstances of the COVID-19 pandemic, there is an immediate peril to the public health, safety, and welfare requiring adoption of a rule upon fewer than 30 days' notice. As all Americans are being advised to practice social distancing, the circumstances of the COVID-19 pandemic may prevent Montana pharmacists and pharmacy personnel from performing monthly on-site inspections of telepharmacy locations.

F. There is a reasonable necessity to immediately adopt a temporary emergency rule pursuant to 2-4-303, MCA, for telepharmacies to protect the public health, safety, and welfare because of the emergency conditions of the COVID-19 pandemic to avoid the possibility of spreading the virus, and to comply with social distancing requirements.

2. The temporary emergency rule is effective April 30, 2020, when this rule notice is filed with the Secretary of State.

3. The text of the temporary emergency rule provides as follows:

NEW RULE I TEMPORARY EMERGENCY SUSPENSION OF TELEPHARMACY MONTHLY INSPECTIONS (1) The terms of this temporary emergency rule will expire August 5, 2020, unless additional rulemaking is needed to continue the response to the COVID-19 pandemic.

(2) The requirement for monthly inspections of telepharmacies provided in ARM 24.174.1302 is temporarily suspended. All other telepharmacy requirements remain in place.

AUTH: 2-4-303, 37-7-201, MCA
IMP: 37-7-201, 37-7-321, MCA

REASON: In addition to the rationale stated in paragraph 1, and the information provided by federal and state directives and executive orders, the Montana Board of Pharmacy deems it necessary to adopt this emergency rule to temporarily suspend the requirement of in-person inspections of remote telepharmacy sites. The board determined it is reasonably necessary to suspend the monthly inspections to limit travel required for pharmacy personnel and to comply with social distancing requirements of the COVID-19 crisis.

4. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdp@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

BOARD OF PHARMACY
TONY KING, PharmD
PRESIDENT

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

/s/ BRENDA NORDLUND
Brenda Nordlund, Acting Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 30, 2020.