

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 2

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Rule Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 444-9000.

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BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of New)	NOTICE OF PUBLIC HEARING ON
Rule I and amendment of ARM	)	PROPOSED ADOPTION AND
4.12.3104 and 4.19.101 through	)	AMENDMENT
4.19.104 pertaining to Industrial)	
Hemp)	

TO: All Concerned Persons

1. On February 21, 2019, at 9:30 a.m., the Department of Agriculture will hold a public hearing in Room 225 of the Scott Hart Building, at 302 N. Roberts, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Agriculture no later than 5:00 a.m. on February 15, 2019, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3156; fax (406) 444-5409; or e-mail agr@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I HEMP PLANTING SEED (1) The applicant must:

(a) obtain seed through program-approved methods only; and
(b) obtain industrial hemp seed certified by an official seed certifying agency to standards recognized by the department.

(i) The department recognizes seed certifications by the Association of Official Seed Certifying Agencies (AOSCA) and the Organization for Economic Cooperation and Development (OECD) standards. The department may recognize other standards that certify hemp seed varieties as being true to varietal traits and less than 0.3% THC on a dry weight basis.

(ii) The department will publish an annual list of approved varieties for planting in the current license season by March 1 each year.

(2) Persons distributing hemp seeds for planting must comply with the Montana Agricultural Seed and Patented Plant Material Act, excluding exemptions listed in 80-5-104(4), MCA.

(3) Clones of industrial hemp plants may be approved for commercial production of industrial hemp. The approval process for clones is the same as for seed of any new hemp varieties. Clones must comply with the Montana Disease, Pest and Weed Control Act and additional documentation may be required for interstate shipments.

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: Although industrial hemp is no longer a DEA regulated controlled substance, the growing of hemp and hemp products, including seed for planting, is still regulated by state and federal regulations. Additionally, most forms of industrial hemp, including planting seeds and the plants grown from seed, are indistinguishable from marijuana without laboratory testing. To help assure that only approved industrial hemp seeds are distributed for the industrial hemp program, only seeds certified by an official certifying agency to standards recognized by the department will be allowed for plating in Montana's hemp program. This includes any amount of seed and propagative plants parts (clones). Thus, the addition of (2) and (3) in this rule.

An element of consumer protection is provided by these regulations which sufficiently monitor seed quality, differentiate between hemp and marijuana plants, and comply with the 2018 Farm Bill and state plan pending approval by USDA.

Economic Impact: Additional resources are necessitated by department staff to review and approve of new seed varieties as well as assure compliance with Montana's hemp regulations and the 2018 Farm Bill. Although it is difficult to determine precisely, the department estimates this work will require 2.0 FTE. The cost for personal services based on two Environmental Science Specialist positions is \$134,729 annually.

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

4.12.3104 LABELING FOR SEED KIND AND VARIETY (1) Agricultural seeds ~~shall~~ must be labeled with kind and variety information as stated in this rule:

(a) the following agricultural seeds ~~shall~~ must be labeled to show kind and variety:

- (i) barley;
 - (ii) bean, field;
 - (iii) beet, field;
 - (iv) canola;
 - (v) corn, field;
 - (vi) ~~oats~~ hemp;
 - (vii) ~~peas, field~~ oats;
 - (viii) ~~safflower~~ peas, field;
 - (ix) ~~soybean~~ safflower;
 - (x) ~~sunflower~~ soybean; and
 - (xi) ~~wheat~~ sunflower; and
 - (xii) wheat.
- (b) through (2) remain the same.

AUTH: 80-5-139, MCA

IMP: 80-5-123, MCA

Reason: Although industrial hemp is no longer a DEA regulated controlled substance, the growing of hemp and hemp products, including seed for planting, is still regulated by state and federal regulations. Varietal characteristics can affect seed quality, end-product use, and the amount of regulatory oversight required. To make sound purchasing decisions, industrial hemp purchasers must know the kind and variety. Knowing the kind and variety allows the Department of Agriculture to review and determine approval for seed varieties as outlined in the pending USDA-state plan. All agricultural seeds require labeling as outlined in the Montana Agricultural Seed Act. The addition of kind and variety as a requirement to a hemp seed label does not fiscally impact the department.

4.19.101 DEFINITIONS (1) "Clone" means an organism developed asexually from another and genetically identical to it, such as a group of genetically identical plants produced by vegetative propagation, including but not limited to cutting, grafting, or division.

~~(1)~~(2) "Hemp" means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-nine tetrahydrocannabinol (THC) concentration of ~~not~~ no more than 0.3 percent on a dry weight basis.

(3) "Location" means a single growing area not including growing acres more than a half-mile away and owned by a single entity.

~~(2)~~(4) ~~"Pilot program"~~ "Montana State Hemp Program" means a program to grow hemp under the regulation of the Montana Department of Agriculture for the purposes of complying with federal law.

~~(3)~~(5) "Seed repository" means the storage area for those approved varieties of hemp available for sale by the department.

~~(4)~~(6) "Specialty variety" means a variety of hemp that the department has not already made an approved variety or does not currently plan to import for that growing year.

~~(5)~~(7) "State hemp license" means a license to grow hemp that shows the holder is in compliance with Montana state hemp laws. The holder is also responsible for obeying all applicable federal and tribal regulations.

~~(6)~~(8) "Testing" means a testing for the amount of THC, pesticides, or other tests for legal compliance of departmental or federal regulations.

AUTH: 80-18-107, MCA

IMP: 80-18-101, 80-18-102, 80-18-103, 80-18-106, 80-18-107, 80-18-110, 80-18-111, MCA

Reason: Definition additions are necessary for clarification of intent for the new rules. No fiscal impact is associated.

4.19.102 APPLICATION FOR HEMP LICENSE MONTANA STATE HEMP PROGRAM LICENSE (1) An applicant must:

(a) provide the information required by state law for a hemp license on the form provided by the department;

(b) apply to the department for participation in the program by May 1 unless the department extends the application deadline;

~~(b)(c)~~ pay all fees as established by rule; and

~~(e)(d)~~ consent to entrance of their property by the department to inspect their hemp fields.

(2) If the applicant is not a single individual, then all proper filings with the Secretary of State must be current and in good order.

~~(3) The applicant, including all corporate officers, must be fingerprinted at a law enforcement agency. The law enforcement agency, not the applicant, must send the fingerprint sheet to the department.~~

~~(4)(3)~~ Licenses will expire on the last day of ~~December~~ April following of the year ~~that they are the license is issued for.~~

~~(5) Renewals do not require new fingerprinting unless the department requests it or if the corporate officers have changed.~~

~~(6)(4)~~ The licensee must also provide all material required under 80-18-106, MCA.

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: Changing the license year from January through December to May through April and the license application due date to May 1 aligns better with the growing season of industrial hemp. Doing so allows growers more time for seed purchasing and planting decisions. License application and location information submitted by growers in May instead of January will improve the process for submitting information to the department. The fingerprinting requirement is addressed in Montana law and is not required in these rules. No fiscal impact is associated.

4.19.103 PILOT MONTANA STATE HEMP PROGRAM (1) An applicant to the ~~pilot Montana State Hemp Program~~ program must:

(a) through (f) remain the same

~~(g) have applied~~ apply to the department for participation in the program by ~~January 31st~~ May 1 unless the department extends the application deadline.

(2) and (3) remain the same.

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: Pilot program rules remain in effect until USDA approves Montana's state hemp plan. The Pilot program name is renamed Montana State Hemp Program. No fiscal impact is associated.

4.19.104 FEES (1) The fee for a ~~state hemp license~~ Montana State Hemp License is ~~\$50~~ \$450.

~~(2) The fee for participation in the state pilot program is \$400.~~

(3)(2) The special variety fee of the ~~pilot~~ Montana State Hemp Program program is \$600.

(4)(3) If official sampling is requested by a licensed hemp grower, the fee for providing such a service will be consistent with ARM 4.12.1811.

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: Section 80-18-107, MCA requires fees be commensurate with department activities for the implementation of the hemp program. Applicants are required to pay \$450 to participate in the Montana State Hemp Program and receive a state license.

Economic Impact: \$450 is the current licensing fee amount and has no associated fiscal impact.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3156; fax (406) 444-5409; or e-mail agr@mt.gov, and must be received no later than 5:00 p.m., February 27, 2019.

6. Cort Jensen, Department of Agriculture, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. 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 for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

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

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption and amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ben Thomas
Ben Thomas
Director
Agriculture

Certified to the Secretary of State January 15, 2019.

BEFORE THE OFFICE OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of soliciting applications) NOTICE OF NEGOTIATED
for membership on a negotiated) RULEMAKING
rulemaking committee to amend ARM)
10.55.606 pertaining to the)
procedures in determining)
accreditation status using student)
performance measures based on)
results of the required statewide)
assessments)

TO: All Concerned Persons

1. The Office of Public Instruction intends to establish an independent negotiated rulemaking committee to amend ARM 10.55.606 pertaining to the procedures in determining accreditation status using student performance measures based on results of the required statewide assessments and to consult on the preparation of an economic impact statement. This negotiated rulemaking process is required by 20-7-101, MCA (2017).

2. The independent negotiated rulemaking committee will consider issues for reaching a consensus on the proposed rule amendment pertaining to the procedures in determining accreditation status using student performance measures based on results of the required statewide assessments.

3. Interests that are likely to be significantly affected by the proposed rule are those related to Montana K-12 public schools of all sizes.

4. The individuals proposed to represent state agencies on the negotiated rulemaking committee are: Jule Walker, Deputy Superintendent, Office of Public Instruction; Linda Vrooman Peterson, Accreditation and Educator Preparation Division Administrator, Office of Public Instruction; Patty Muir, Accreditation Program Director, Office of Public Instruction; Ashley McGrath, Assessment Director, Office of Public Instruction; Brett Carter, Measurement and Accountability, Office of Public Instruction; Kathi Tiefenthaler, Unit Director, Educational Opportunity and Equity, Office of Public instruction; Jack O'Connor, Title I Director, Office of Public Instruction; Kyle A. Moen, Chief Legal Counsel, Office of Public Instruction; and Peter Donovan, Executive Director, Board of Public Education.

5. The agency is seeking applications from interested parties to serve on the committee. The agency will seek individuals likely to be significantly affected by the proposed rule amendment, including individuals from the following groups: school district trustees, K-12 school administrators, K-12 teachers and counselors, school clerks/business officials, school district administrative staff, county superintendents,

parents, and taxpayers. Members of the committee will be selected based on the following criteria:

- cultural diversity
- K-12 accreditation process knowledge
- K-12 statewide assessment knowledge
- geographic distribution
- district and school size
- grade levels served

6. The proposed working schedule for the negotiated rulemaking committee is as follows:

(a) On January 25, 2019, this notice will be published in the Montana Administrative Register (MAR). The notice will also be mailed to persons known to the agency to have an interest in this matter.

(b) Applications for membership on the negotiated rulemaking committee must be received no later than February 6, 2019. After receipt and consideration of the comments and applications, the agency will establish a negotiated rulemaking committee no later than February 11, 2019. The members selected to serve on the committee must be able to adequately represent the interests of the persons that will be significantly affected by the proposed rule amendment. The committee members will be notified in writing of their selection and receive an information packet.

(c) The negotiated rulemaking committee will convene its first meeting in February 15, 2019. Teleconferencing and e-mail correspondence will be utilized as much as possible. The committee will begin with an initial draft of the amendment at this meeting.

(d) The committee will transmit a report to the agency specifying the areas in which the committee has reached consensus and the issues that remain unresolved.

(e) Thereafter the Superintendent of Public Instruction will develop recommendations and present them to the Board of Public Education for formal rulemaking.

7. Any individual or entity interested in applying for or nominating another person for membership on the committee must submit the following information in writing to Linda Vrooman Peterson, lvpeterson@mt.gov, Office of Public Instruction, P.O. Box 202501, Helena, Montana 59620, no later than February 6, 2019:

(a) the person's name or the nominee's name, address, and contact information including telephone or e-mail address where you can be contacted during the summer months and during the school year;

(b) evidence that the person or nominee represents any of the specific criteria of interest groups listed above;

(c) the name of the school district in which the nominee lives or works, and the relationship of the person or nominee to it;

(d) a commitment that the person or nominee will be able to participate in the negotiated rulemaking process and will actively participate in good faith in the development of the proposed rule amendment under consideration; and

(e) the ability of the person or nominee to cover committee participation costs (such as telephone calls, travel, and per diem expenses).

8. Interested parties may submit their views and comments concerning the proposed negotiated rulemaking process to Beverly Marlow, Office of Public Instruction, P.O. Box 202501, Helena, Montana 59620, faxed to (406) 444-2893, or electronic mail to bemarlow@mt.gov no later than February 6, 2019.

9. The agency proposes to limit the size of the negotiated rulemaking committee to no more than twelve persons and two "alternate" members selected in the event a member is unable to participate. However, after receipt of comments and applications, the agency may determine that a smaller or larger number is necessary to adequately represent the interests of the persons significantly affected by the proposed rule amendment. The selected committee members may represent other parties or agencies that have a significant relationship with Montana schools.

10. The agency will make reasonable accommodations for persons with disabilities who wish to participate on the committee. If you require an accommodation, please advise the agency of the nature of the accommodation you need when applying for membership on the committee.

11. Please note the following concerning the process of negotiated rulemaking:

(a) "Interest" for the purpose of this process means multiple parties that have similar points of view or that are likely to be affected in a similar manner in relationship to matters affected by the rule(s) (2-5-103(5), MCA).

(b) Negotiated rulemaking is not a substitute for the public notification and participation requirements of the Montana Administrative Procedure Act, and a consensus agreement by a negotiated rulemaking committee may be modified by an agency as a result of the subsequent rulemaking process (2-5-102, MCA).

12. The specific grant of rulemaking authority authorizing the Board of Public Education to adopt the proposed rules is found in 20-7-101, MCA. The proposed rule amendment will implement Title 20, chapter 7, part 1, MCA.

/s/ Kyle A. Moen
Kyle A. Moen
Rule Reviewer

/s/ Elsie Arntzen
Elsie Arntzen, Superintendent
Office of Public Instruction

Certified to the Secretary of State, January 15, 2019.

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

In the matter of the amendment of ARM	)	NOTICE OF PUBLIC HEARING ON
24.156.2701 definitions, 24.156.2705	)	PROPOSED AMENDMENT,
unprofessional conduct, 24.156.2707	)	ADOPTION, AND REPEAL
reporting to the board, 24.156.2711)	
ECP licensure qualifications,)	
24.156.2713 ECP license application,)	
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education, 24.156.2718 continuing)	
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24.156.2752 ECP endorsement)	
application, 24.156.2761 procedures for)	
revision of Montana ECP practice)	
guidelines or curriculum, 24.156.2771)	
ECP scope of practice; the adoption of)	
New Rule I ECP training courses and)	
New Rule II final pre-licensing)	
examinations; and the repeal of)	
24.156.2708 complaints, 24.156.2717)	
ECP license renewal, 24.156.2741 ECP)	
training program/course application and)	
approval, 24.156.2745 examinations,)	
24.156.2754 initial ECP course)	
requirements, 24.156.2755 post-course)	
requirements, 24.156.2757 ECP clinical)	
requirements)	

TO: All Concerned Persons

1. On February 15, 2019, at 1:30 p.m., a public hearing will be held in the Basement Conference Room, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment, adoption, and repeal of the above-stated rules.

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 Board of Medical Examiners no later than 5:00 p.m., on February 8, 2019, to advise us of the nature of the accommodation that you need. Please contact Ian Marquand, Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2360;

Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsmed@mt.gov (board's e-mail).

3. GENERAL REASONABLE NECESSITY STATEMENT: In 2017, department staff who work exclusively with the board on subjects related to board-licensed emergency care providers (ECP) made a series of suggestions to the board for potential rule revisions. Following extensive development by department staff, discussion within the board's laws and rules committee and medical direction committee, and consideration by the full board, the board determined it is reasonably necessary to amend several of the ECP rules to implement the recommended changes. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following the specific rule.

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

24.156.2701 DEFINITIONS (1) For purposes of the rules set forth in this subchapter, the following definitions apply:

~~(a) "ABPC" means the American Board of Prehospital Care, an organization that certifies EMS care providers.~~

(a) "AEMT" means an individual licensed by the board at the level of advanced emergency medical technician.

~~(b) "Advanced life support" or "ALS" means any provider that functions at any endorsement level above EMT.~~

~~(c) "Approved course" means a course of initial instruction that meets the specifications and requirements for a particular level of ECP training approved by the board or its designee.~~

~~(d) "Approved program" means a multiple of approved courses offered by an entity and approved by the board or its designee.~~

~~(e) "Basic life support" or "BLS" means any provider that functions at the endorsement level of:~~

~~(i) EMR;~~

~~(ii) EMR with any endorsements; or~~

~~(iii) EMT without any endorsements.~~

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

~~(g) (c) "Clinical experience" means supervised instruction, observation, or practice in a patient care setting as part of an approved course or program a curriculum.~~

~~(h) (d) "Clinical preceptor" means an individual trained licensed to a licensure level greater than the student, who is responsible for supervising and teaching the student in a clinical setting in an approved course or program, under the supervision of the medical director or lead instructor in the case of an EMT course.~~

(i) (e) "Curriculum" means the combination of the National EMS Educational Standards and the Instructor Guidelines prepared by the United States Department of Transportation (USDOT), and the Montana ECP Practice Guidelines, or substantially equivalent standards as determined by the board or its designee.

(f) "ECP" means an emergency care provider as defined under 37-3-102, MCA.

(g) "EMR" means an individual licensed by the board at the level of emergency medical responder.

~~(j) (h) "Emergency medical service" or "EMS" means out of hospital care and transportation furnished by a combination of persons licensed by the board and resources that are an emergency medical service licensed by the Department of Public Health and Human Services pursuant to Title 50, chapter 6, MCA.~~

~~(k) "Emergency medical technician" means any out of hospital emergency care provider or "ECP" licensed by the board.~~

~~(l) (i) "Emergency medical technician" "EMT" means an individual licensed by the board as an EMT at the level of emergency medical technician.~~

~~(m) "Emergency medical technician – emergency medical responder" means an individual licensed by the board as an EMR.~~

~~(n) "Emergency medical technician – advanced emergency medical technician" means an individual licensed by the board as an AEMT.~~

~~(o) "Emergency medical technician – paramedic" means an individual licensed by the board as a paramedic.~~

~~(p) (j) "Endorsement" means a supplemental level of licensure issued in conjunction with the appropriate standard license type (EMR, EMT, AEMT, or Paramedic). Each endorsement acquired by a licensee indicates the licensee has obtained a defined set of skills and knowledge, determined and approved by the board or its designee, that expands the scope of practice of the ECP. The medical director grants permission for an ECP to utilize an endorsement, provided the specific endorsement is identified on the ECP's license.~~

~~(q) (k) "Lead instructor" means a person who is licensed by the board, is an endorsement which indicates the endorsed licensee has attended a board-approved instructor training program conducted by the board, and is authorized competent to offer and conduct ECP courses. The lead instructor is under the supervision of the board for BLS courses and under the supervision of the board and medical director for ALS courses.~~

~~(r) (l) "Medical director" means an unrestricted Montana licensed physician or a physician or physician assistant who holds a current unrestricted Montana license and is responsible professionally and legally responsible for training, providing medical direction, and oversight to a of licensed ECP ECPs under the medical director's supervision and/or for the training provided in an approved program/course.~~

~~(s) (m) "Montana Statewide ECP Protocols Practice Guidelines" or "Statewide Protocols" means the written standardized protocols development guidelines developed, approved, and distributed by the board, which provides that provide guidance to medical directors and all licensed ECP ECPs licensed to practice at all levels.~~

~~(n) "NAEMSE" means the National Association of EMS Educators.~~

~~(t) remains the same but is renumbered (o).~~

~~(u) (p) "NREMT" means the National Registry of Emergency Medical Technicians, an independent, not-for-profit, nongovernmental certification agency based in Columbus, Ohio.~~

(v) and (w) remain the same but are renumbered (q) and (r).

(s) "Refresher" means a program, training, or course that reviews the knowledge and skills of the current curriculum, and documents continued competence and meets curriculum requirements.

(t) "USDOT" means United States Department of Transportation.

AUTH: 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: The board determined that many of the definitions in this rule are no longer relevant either because an organization no longer exists (ABPC) or because terms are used differently in different contexts and can be stated in other ways (ALS, BLS). The board is relocating several definitions from other rules and adding terms that are utilized in board rules. Additionally, the board is eliminating the process of approving EMS educational courses or programs and is therefore deleting all definitions associated with that process.

24.156.2705 UNPROFESSIONAL CONDUCT (1) In addition to those forms of unprofessional conduct defined in 37-1-316, MCA, the following are considered unprofessional conduct for ~~a licensee or license applicant under Title 50, chapter 6, part 2, MCA~~ an ECP:

(a) conviction, including conviction following a plea of nolo contendere, of an offense involving moral turpitude, ~~whether a misdemeanor or felony, and whether or not an appeal is pending;~~

(b) conduct likely to deceive, defraud, or harm the public including, ~~but not limited to, practicing while subject to a physical or mental condition which renders the licensee unable to safely engage in activities required of a licensee under this subchapter;~~

(c) ~~acting in such a manner as to present~~ conduct that presents a danger to public health or safety, or to any patient including, ~~but not limited to, incompetence, negligence, or malpractice;~~

(d) ~~making a false or misleading statement regarding the licensee's skill in connection with the activities required of a licensee under this subchapter;~~

(e) ~~use of a false, fraudulent, or deceptive statement, whether written or verbal, in connection with the activities required of a licensee under this subchapter;~~

(f) ~~having been subject to disciplinary action of another state or jurisdiction against a license or other authorization, based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for disciplinary action under Title 37, chapter 1, MCA, or rules under this subchapter. A report from the NPDB or a certified copy of the record of the action taken by the other state or jurisdiction is evidence of unprofessional conduct;~~

(g) (d) having voluntarily relinquished or surrendered a professional or occupational license, certificate, or registration in this state, or in another state or jurisdiction while under investigation or during a pending complaint;

(h) remains the same but is renumbered (e).

~~(f)~~ (f) failure to practice within the scope of practice of the ECP licensure level and endorsements, including any restrictions determined by the ECP's medical director;

~~(g)~~ (g) failure to practice within ~~adopted statewide and/or local protocols, policies, and procedures established and approved by the board and Montana ECP Practice Guidelines or direction, procedures, or restrictions set by the ECP's medical director~~;

~~(h)~~ (i) failing to complete the required continuing education requirements established by the board when identified and while licensed as an ECP in Montana;

~~(h)~~ (h) willful disobedience of the provisions of Title 37, chapter 1, MCA, any statute or rule adopted by the board under the Board of Medical Examiners' jurisdiction, or any order of the board regarding enforcement of discipline of a licensee;

~~(i)~~ (i) habitual intemperance or repetitive excessive use of an addictive drug, alcohol, or any other substance to the extent that the use impairs the user physically or mentally; this provision does not apply to a licensee who is in compliance with an approved therapeutic regimen as described in 37-3-203, MCA;

~~(j)~~ (j) failing to furnish to the board or its designee cooperate with a lawful investigation conducted by the board or its designee, including furnishing information requested by the board or a in response to an inquiry;

~~(k)~~ (o) failing to cooperate with a lawful investigation conducted by the board;

~~(l)~~ (p) failing to comply with any statute or rule under the Board of Medical Examiner's jurisdiction;

~~(m)~~ (k) filing a complaint with or providing information to the board, which the licensee knows, or ought to should know, is false or misleading. ~~This provision does not apply to any filing of complaint or providing information to the board when done in good faith under 37-1-308, MCA;~~

(r) remains the same but is renumbered (l).

~~(n)~~ (m) commission of any act of sexual abuse, misconduct, or exploitation by the licensee whether or not related to the practice. ~~The use of or the failure to use a chaperone for patient encounters in which the potential for sexual exploitation exists shall be considered in evaluating complaints of sexual exploitation related to the licensee's practice;~~

~~(o)~~ (t) failing to exercise technical competence in carrying out ECP care;

(u) remains the same but is renumbered (n).

~~(p)~~ (o) falsifying and or altering patient records or trip reports, intentionally documenting patient records or trip reports incorrectly, or failing to document patient records, or prepare trip reports;

(w) remains the same but is renumbered (p).

~~(q)~~ (q) failing as a clinical preceptor or lead instructor, to supervise, manage, or train students practicing under the licensee's supervision, according to: state laws and rules applicable to ECPs;

~~(i)~~ scope of practice;

~~(ii)~~ generally accepted standards of patient care;

~~(iii)~~ board approved USDOT curriculum including revisions; and

~~(iv)~~ statewide protocols, policies, and procedures.

~~(y) (r) willfully harassing, abusing, or intimidating a patient, either physically or verbally; and~~
~~(z) practicing as an ECP at any level without a current, active Montana license at that level;~~
~~(aa) (s) failing to comply with any agreement the licensee has entered into with a program established by the board under 37-3-203, MCA;~~
~~(ab) any other act, whether specifically enumerated or not that in fact constitutes unprofessional conduct; and~~
~~(ac) failing to report to the board the unprofessional conduct of other licensed ECPs.~~

AUTH: 50-6-203, MCA

IMP: ~~37-1-131~~, 50-6-203, MCA

REASON: The board determined that this rule requires extensive revision to make it more effective for prosecuting alleged unprofessional conduct. The board is removing duplicative language and combining several provisions throughout for simplicity, better organization, and improved readability. The board is also adding clarifying language to several provisions to address licensee questions and assist in the prosecution of certain unprofessional conduct.

The board is striking (1)(d) through (f) and (1)(t) as these sections unnecessarily duplicate the statutory unprofessional conduct provisions in 37-1-316, MCA.

The board is striking (1)(k) to align with 37-1-321, MCA, that provides licensees not in compliance with CE may be subject to administrative suspension.

Lastly, the board is revising or striking several sections following recommendations by board legal counsel. The board is amending (1)(k) to remove a potential internal conflict regarding licensees filing complaints. The board is amending (1)(m) as the consideration of chaperone use in certain situations is within the prosecutor's discretion and need not be stated in this rule. To ensure licensees are well informed of what conduct the board considers unprofessional conduct, the board is striking (1)(ab) as overly vague. Lastly, it is reasonably necessary to remove (1)(ac) as the reporting of other licensees' unprofessional conduct is not mandatory for any other of the board's license types. There is no public safety reason for requiring it solely for ECPs.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.156.2707 OBLIGATION TO REPORT REPORTING TO THE BOARD

(1) remains the same.

(2) An ECP with ~~suspected~~ or known impairment shall self-report to the board. In lieu of reporting to the board, the ECP may self-report known impairment to the board-endorsed professional assistance program.

(3) An ECP ~~is obligated to may~~ report suspected or known impairment of other healthcare providers to the appropriate licensing board or agency; or, in lieu of the board or agency, may report to the board-endorsed professional assistance program.

AUTH: 50-6-203, MCA
IMP: 50-6-203, MCA

REASON: The board determined that this rule does not need to make reporting by ECPs obligatory in every respect. Making the reporting of other healthcare providers voluntary would bring this rule in concert with similar rules for other board licensees. To align with these changes, the board is amending the rule's title.

24.156.2711 ECP LICENSURE QUALIFICATIONS (1) The board shall license an applicant as an ECP at the appropriate licensure level if the applicant:

- (a) remains the same.
- (b) possesses a current active or inactive NREMT ~~or ABPC~~ certification equal to or ~~higher~~ greater than the level ~~applying~~ applied for, or successfully completes a written and practical third-party exam ~~examination~~ approved by the board, or provides a current unrestricted EMR, EMT, AEMT, or paramedic license or certification in another state in which the applicant was originally tested and which has a ~~valid and reliable~~ complaint process;
- (c) provides all the information necessary to establish eligibility for licensure according to the licensure board's requirements ~~as specified by the board or its designee~~;
- (d) ~~possesses~~ has obtained a high school diploma or equivalency; and
- (e) remains the same.

AUTH: 50-6-203, MCA
IMP: 50-6-203, MCA

REASON: The board is amending (1)(b) as the ABPC no longer exists and to clarify for licensing staff that "inactive" status at the NREMT is viewed equally as "active" status for purposes of licensure. The board believes this will reduce improper rejection of applications.

The board is amending the ECP rules throughout to address questions by clarifying that the referenced ECP licensure exams are given by third parties and not the board. The board is further amending this rule to align with current standardized department application procedures by no longer requiring submission of a physical diploma document.

24.156.2713 ECP LICENSE APPLICATION (1) An applicant for an initial ECP license, at any level, shall submit an application, ~~on a form prescribed by the board. The application must be complete and accompanied by the appropriate fees, and the following documentation:~~

- (a) verification of course completion for the level or above the level for which the applicant is applying; and
- (b) ~~proof the applicant possesses a high school diploma or its equivalent;~~
- (c) ~~a copy of the applicant's birth certificate or other verifiable evidence of the applicant's date of birth, such as a driver's license;~~

~~(d) (b) documentation of a current active or inactive NREMT certification or ABPC certification equal to or greater than the level applied for which the applicant is applying, or the successful completion of a board-approved written and practical third-party examination, or current substantially equivalent licensure in a another state the board recognizes as equivalent; and,~~

~~(e) (2) an unopened, current, and original NPDB self-query. The board will obtain a query from the NPDB for each applicant.~~

~~(2) (3) An applicant for an ECP license who already holds a current Montana ECP license and A current Montana ECP licensee who is applying for an ECP license at a higher greater level shall submit an application, on a form prescribed by the board. The application must be complete and accompanied by the appropriate fees, and the following documentation:~~

~~(a) documentation of a current active or inactive NREMT certification or ABPC certification equal to or greater than the level applied for which the applicant is applying, or verification of the successful completion of a board-approved written and practical examination, or current substantially equivalent licensure in a another state the board recognizes as equivalent.~~

~~(3) (4) An applicant for an ECP license who already holds a current Montana ECP license and A current Montana ECP licensee who is applying for an ECP license at a lower level shall submit an application and on a form prescribed by the board. The application must be complete and accompanied by the appropriate fees.~~

~~(4) remains the same but is renumbered (5).~~

~~(5) Incomplete applications will be returned. The applicant may correct any deficiencies, complete any requirements necessary for licensure, and resubmit the application to the board office. Failure to resubmit the deficient application within one year from the date of the original submission will be treated as a voluntary withdrawal of the application and all fees will be forfeited.~~

~~(6) The applicant may voluntarily withdraw the application prior to the one-year deadline set forth in (3) by submitting a withdrawal in writing written request to the board, if the application has not appeared on a board agenda. All application fees submitted will be forfeited.~~

~~(7) After withdrawal of an application, the applicant will be required to submit a new application, including supporting documentation and appropriate fees to begin the licensing and verification process.~~

~~(8) Completed applications will be reviewed by the board or its designee, which may request such additional information or clarification of information provided in the application as it deems reasonably necessary.~~

AUTH: 37-1-131, 50-6-203, MCA

IMP: 37-1-104, 37-1-131, 50-6-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule to remove unnecessary language, streamline the rule, and facilitate the department's standardized application procedures. For example, some requirements, such as providing proof of age and educational level, can be met through attestation and do not require physical proof. These changes will align this rule with the proposed amendments to ARM 24.156.2711 and remove potential barriers to efficient license

application processing. Similarly, following amendment, the board will seek a National Practitioner DataBank report and not require an applicant to request one, thus reducing license application processing time. Authority citations are being amended to provide the complete sources of the board's rulemaking authority.

24.156.2715 SUBSTANTIALLY EQUIVALENT EDUCATION ~~(1) In order for the board to recognize an alternative ECP course completion, the course for an individual must have been either:~~

- ~~(a) an ECP educational program reviewed and approved by the board; or~~
- ~~(b) determined to be "substantially equivalent" as defined by the board.~~

(1) The board or its designee shall evaluate an applicant's ECP course completed in another jurisdiction, and shall accept out-of-state courses which are determined to be substantially equivalent.

~~(2) For the purposes of 37-1-304, MCA, the board defines "substantially equivalent" as ECP education and training greater than or equivalent to the board-approved USDOT curriculum standards, including revisions and statewide protocols, policies, and procedures current curriculum. Work experience obtained in the profession will not be considered as the sole basis of the applicant's qualifications.~~

~~(3) The individual requesting review of their education to be considered as "substantially equivalent" shall submit an application on a form prescribed by the board.~~

~~(a) Completed applications will be reviewed by the board or its designee, which may request such additional information or clarification of information provided in the application as it deems reasonably necessary.~~

AUTH: 37-1-131, 50-6-203, MCA

IMP: 37-1-131, 37-1-304, 37-3-203, 50-6-203, MCA

REASON: The board is amending this rule to align with and further facilitate standardized department procedures and remove provisions that do not need to be duplicated in rule. Information regarding USDOT curriculum is being removed from (2) and relocated in ARM 24.156.2701. The board believes the amendments will simplify and streamline the evaluation of ECP courses from other jurisdictions, and address licensee and staff questions. Authority citations are being amended to provide the complete sources of the board's rulemaking authority.

24.156.2718 CONTINUING EDUCATION AND REFRESHER

REQUIREMENTS (1) All levels of licensed ECPs are required to complete continuing education (CE) and refresher requirements prior to their expiration date.

(a) EMRs must complete an EMR level refresher program, which reviews the knowledge and skills of the current curriculum, and documents continued competence.

(b) EMTs must complete 48 hours of continuing education topics contained within the original EMT course CE and an EMT refresher program, which reviews the knowledge and skills of the current curriculum, and documents continued competence.

(c) AEMTs must complete 36 hours of continuing education topics contained within the original EMT course CE and an AEMT refresher program, which reviews the knowledge and skills of the current curriculum, and documents continued competence.

(d) Paramedics must complete 24 hours of continuing education topics contained within the original EMT course CE and a paramedic refresher program, which reviews the knowledge and skills of the current curriculum, and documents continued competence.

(2) CE consists of topics contained within the current curriculum of the ECP licensure level.

~~(2) (3)~~ ECPs must complete a refresher course in which a lead instructor or medical director validates knowledge and skills.

(a) An ECP cannot build a refresher course by may not meet refresher program requirements by combining continuing education topics or offerings CE courses:-

~~(a) (b)~~ The refresher course must assess the licensee's competency, demonstrated during the course, to function at the ECP license level of the ~~ECP~~ license in accordance with the scope of education and practice; and

~~(b) (c)~~ The refresher may be a course of instruction or a combination of quality improvement and quality assurance activities coordinated by an active local medical director; and the

~~(i)~~ The content must be structured to assess competency of the core knowledge and skills for the level of the ~~ECP~~ ECP's license.

~~(ii)~~ The refresher need not be structured in a setting of traditional classroom sessions, but may be extended throughout the biennial renewal cycle.

~~(3) (4)~~ ECPs certified by the NREMT may report completed continuing education CE and refresher course credits to the NREMT for registration purposes and also to the board to meet, in whole or in part, the requirements of (1), and (2), and (3).

~~(4) (5)~~ The lead instructor is responsible for the refresher training at the EMR and EMT levels and shall maintain records of all courses conducted including an agenda and detailed student performances that document the licensee's ability demonstrated during the refresher.

~~(5) (6)~~ The medical director is responsible for the refresher training at the endorsed EMT with endorsement(s), AEMT, and paramedic levels level and above. The medical director may assign duties as appropriate, but retains the overall responsibility for the refresher.

~~(6)~~ The lead instructor conducting a refresher course must provide an agenda and detailed student performances that document the licensee's ability demonstrated during the course of instruction to function in accordance with knowledge and skills within the original scope of education.

~~(a)~~ If audited by the board, the lead instructor must justify the content of the EMR and EMT refresher.

~~(b)~~ If audited by the board, the medical director must justify the AEMT and paramedic refresher content.

~~(7)~~ Endorsement continuing education requirements and continued competence is the responsibility of the medical director.

(7) All ECPs shall submit upon renewal an affidavit stating that the ECP is competent in the licensure level skills, including endorsement skills.

(a) Affidavits of EMR and EMT levels shall be signed by both the ECP and a lead instructor or medical director.

(b) Affidavits of EMT with endorsement(s), AEMT, and paramedic levels shall be signed by both the ECP and their medical director.

(c) The medical director may require the ECP to complete additional CE hours or training to ensure competency of endorsement skills.

~~(8) Documentation of all continuing education CE and continued competence must be retained by the ECP, and made available to the board if requested upon request.~~

~~(9) The board or their designee may conduct onsite visits of continuing educational offerings to assure the content and accuracy of the offering.~~

AUTH: 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: It is reasonably necessary to amend and streamline this rule to clearly set forth the current CE and refresher requirements for ECPs and the process for renewal affidavits. The board is amending this rule to relocate the definition of "refresher" programs to the definitions rule, ARM 24.156.2701, and differentiate between CE and refresher by adding (2). The board is striking (7) and further clarifying the medical director responsibilities in (7)(c) and ARM 24.156.2732(6).

Following a concern by legal staff that onsite visits may be conducted without guidelines, the board is striking (9). Following amendment, the board will rely on CE certificate submissions and CE reporting to verify proper course content.

24.156.2719 EXPIRED LICENSE (1) An expired ECP license may be reactivated upon completion of an expired license renewal application. To reactivate an expired license ~~the applicant~~ an ECP shall:

~~(a) complete an expired license renewal application and submit it to the board~~ meet department requirements under ARM 24.101.403 and 24.101.408; and

~~(b) pay the license fee plus late penalty fee as specified in ARM 24.101.403 for each year the license has expired up to two years; and~~

~~(c) (b) possess a current NREMT or ABPC certification for the appropriate level of licensure or higher, or successfully complete a board-approved written and practical examination or provide documentation of completion of all renewal requirements required for the ECP license being reactivated under ARM 24.156.2718.~~

~~(2) The provisions of ARM 24.101.408 apply.~~

AUTH: 37-1-131, 50-6-203, MCA

IMP: 37-1-141, 50-6-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule to remove provisions duplicated in other rules and insert references to those rules. Because ABPC no longer exists, the board is removing its reference from all rules.

Authority citations are being amended to provide the complete sources of the board's rulemaking authority.

24.156.2731 FEES (1) through (1)(i) remain the same.

~~(j) program approval~~ 250

~~(k) course approval~~ 15

~~(l) education review for determination of "substantially equivalent"~~ 25

(2) and (3) remain the same.

AUTH: 37-1-134, 50-6-203, MCA

IMP: 37-1-134, 37-1-141, 50-6-203, MCA

REASON: Because the board will no longer approve education courses or programs, it is reasonably necessary to amend this rule to remove the unnecessary fees. The board estimates the proposed elimination of the fee for course approval will affect 3 requesters and result in a decrease in annual revenue of \$45. The remaining fee changes will have zero effect on board revenue based on FY 2018 fee collections.

24.156.2732 MEDICAL DIRECTION (1) and (1)(a) remain the same.

(b) provide proof of completion of a board-specified approved medical director training program or a board-approved exemption from the training on a form provided by the board.

~~(2) A physician or physician assistant who fails to comply with the requirements of (1) may not function as a medical director.~~

(3) remains the same but is renumbered (2).

(3) The medical director overseeing an ECP may grant or restrict the ECP's practice or utilization of any endorsement.

(4) The medical director must ~~assure~~ maintain and have access to records of all ECPs for whom the director provides medical oversight. These records must ~~include, but are not limited to~~ document:

(a) remains the same.

(b) date when medical oversight began and at what level the ECP is authorized to ~~function~~ practice; and

(c) any changes to limit or approve the ECP's ~~ability~~ authorization to function at the ECP's current licensure level including endorsement(s).

(5) The medical director must develop a process to ~~assure continued~~ appropriate continuously meet the applicable standard of medical practice and patient care. This process may include regular review of patient care reports (PCR), direct observation of care, skills demonstrations, and ongoing involvement in ECP education. Documentation of these activities must be maintained by the medical director.

(6) The medical director is responsible for assessing competency of skills required for endorsements held by ECPs under the medical director's supervision and shall sign an affidavit stating such competence as required under ARM

24.156.2718.

~~(6)~~ (7) A medical director may assign duties where appropriate, but retains the responsibility for all assigned duties. This includes delegation of:

(a) ~~The medical director may delegate~~ local offline medical direction responsibilities to another unrestricted Montana licensed physician or physician assistant; and

(b) maintenance of records required under (4).

~~(7)~~ (8) The medical director will approve and review the offering of online medical control.

~~(a) Online medical control which~~ must be provided by any unrestricted Montana licensed physician or physician assistant who has been contacted for this purpose.

~~(8)~~ (9) ~~The A~~ medical director ~~may cease medical oversight by providing~~ shall provide written notice to the ECP and the board upon discontinuing medical oversight.

~~(9) The medical director of an ECP course shall be responsible for the overall quality, consistency, and management of the ECP course in which they agree to provide medical oversight. The medical director may delegate duties where appropriate.~~

~~(a) Medical oversight of an ECP course consists of review of agenda, selection of instructors, review of evaluation tools, and review of clinical offerings and objectives.~~

~~(b) Medical direction of an AEMT or paramedic course consists of approval of agenda, approval and selection of instructors, involvement in the development and implementation of evaluation tools, participation as an instructor, approval of clinical offerings and objectives to be met in clinical components, and identification of successful course completion for each student.~~

(10) The medical director shall be responsible for and approve ~~the~~ a system to assure the inventory, storage, and security of all the medications utilized by the ECPs to whom the medical director provides medical oversight. The medical director may delegate the day-to-day duties where appropriate; but retains the overall responsibility.

~~(11) The board or their designee may conduct onsite visits with medical directors for technical assistance and/or to assure compliance.~~

AUTH: 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: It is reasonably necessary to reorganize and streamline this rule to clearly set forth the duties and responsibilities of medical directors. Section (2) is being stricken as the provision is adequately addressed in ARM 24.156.2705, the unprofessional conduct rule. The board is adding (3) by relocating language previously in the definition of "endorsement" in ARM 24.156.2701. It is reasonably necessary to add (6) to incorporate competency assessment from ARM 24.156.2718. The board is also amending this rule to relocate (9) to New Rule I, regarding ECP training courses, as a more logical location.

Following a concern by legal staff that onsite visits may be conducted without guidelines, the board is striking (11). Following amendment, the board will rely on the medical director's attestation of the ECP's competency upon the ECP's renewal.

24.156.2751 LEVELS OF ECP LICENSURE INCLUDING ENDORSEMENTS

(1) remains the same.

(a) ~~ECP—Emergency Medical Responder (EMR)~~, licenses:

(i) remains the same.

(ii) naloxone; and

(iii) lead instructor.

(b) ~~ECP—Emergency Medical Technician (EMT)~~ licenses:

(i) and (ii) remain the same.

(iii) IV and IO (intravenous infusion and intraosseous infusion) maintenance;

and

(iv) remains the same.

(v) naloxone; and

(vi) lead instructor.

(c) ~~ECP—Advanced EMT (AEMT)~~ licenses:

(i) AEMT medication; and

(ii) AEMT-99; and

(iii) lead instructor.

(d) ~~ECP—Paramedic~~ licenses:

(i) ~~paramedic critical care transport~~ paramedic; and

(ii) lead instructor.

AUTH: 50-6-203, MCA

IMP: ~~37-1-131~~, 50-6-203, MCA

REASON: The board is abbreviating and reorganizing the three levels of ECP licensure for consistency and ease of use. Additionally, the board is adding new endorsements for naloxone and lead instructor as they currently are treated as endorsements but have not been previously recognized in rule. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.156.2752 ECP ENDORSEMENT APPLICATION (1) An applicant for an

ECP endorsement, at any level, shall submit an application on a form prescribed by the board. ~~The application must be complete and accompanied by the appropriate fee, and the following documentation:~~

(a) the applicant's verification of knowledge and skills as identified on a form provided by the board for each endorsement level for which the applicant is applying; and

~~(2) (b) An applicant for an ECP endorsement must have an attestation of current Montana ECP license in Montana at the appropriate level to qualify for the endorsement.~~

~~(3) Incomplete applications will be returned. The applicant may correct any deficiencies, complete any requirements necessary, and resubmit the application to~~

~~the board office. Failure to resubmit the deficient application within one year from the date of the original submission will be treated as a voluntary withdrawal of the application and all fees will be forfeited.~~

~~(4) (2) The applicant may voluntarily withdraw the application prior to the one-year deadline set forth in (3) by submitting a withdrawal in writing written request to the board. All application fees submitted will be forfeited.~~

~~(5) After withdrawal of an application, the applicant will be required to submit a new application, including supporting documentation and appropriate fees to begin the endorsement and verification process.~~

~~(6) Completed applications will be reviewed by the board or its designee, which may request such additional information or clarification of information provided in the application as it deems reasonably necessary.~~

AUTH: ~~37-3-203~~, 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule to align with and further facilitate the department's standardized application procedures, applicable to all boards. Several provisions are contained in the standard procedures and do not need to be duplicated in rule. Authority citations are being amended to provide the complete sources of the board's rulemaking authority.

24.156.2761 PROCEDURES FOR REVISION OF BOARD-APPROVED MONTANA ECP CURRICULUM AND STATEWIDE PROTOCOLS PRACTICE GUIDELINES OR CURRICULUM (1) ~~At the regularly scheduled board meetings a~~ A medical director may initiate ~~submit~~ a petition for revisions to the board-approved Montana ECP curriculum and/or statewide protocols, policies, and procedures Practice Guidelines or curriculum.

(2) The petition must be submitted on a board-approved form ~~prescribed by the board~~ with the following supporting documentation:

(a) a written recommendation and/or position statement for the ~~revision to the board-approved curriculum and/or statewide protocols, policies, and procedures;~~ and

(b) literature supporting the ~~petitioner's~~ recommendations and/or position.

(3) Upon receiving the petition ~~application~~, the board ~~will~~ shall proceed as follows:

(a) ~~the board will consider~~ board's medical direction committee (committee) shall review an initial petition to determine whether to place the petition as an action item on the agenda for the next regularly scheduled board meeting;

(b) ~~the board may request an opinion of the medical direction committee and may accept public comment regarding the petition; and~~

(c) the committee shall present the board with a written recommendation; and

~~(e) (d)~~ the board will shall consider the ~~comments~~ committee's recommendation and take action on the petition no sooner than the next regularly scheduled board meeting.

(4) The board shall approve the proposed revision when:

(a) ~~when it is demonstrated to the satisfaction of the board that granting the petitioner's request for revision of the board-approved curriculum and/or statewide protocols, policies, and procedures is necessary to provide appropriate standards of medical care;~~

(b) ~~where in the case of an individual service approval, the board finds that the public's interest in granting the revision clearly outweighs the interest of maintaining uniform board-approved USDOT curriculum, including revisions and/or statewide protocols, policies, and procedures~~ Montana ECP Practice Guidelines or curriculum; and

(c) ~~where in the opinion of the board, concludes the revisions will provide adequate protect~~ public health, safety, and welfare ~~protection.~~

AUTH: 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: The board is amending this rule to replace "protocols" with "practice guidelines" and better reflect their purpose and the intent of the rule. The board concluded that requests to revise practice guidelines will be initially considered by the medical direction committee, without having to first go before the full board. The board believes this will greatly streamline this process. The board is also striking provisions regarding standards other than the practice guidelines and redundant language for consistency and simplicity.

24.156.2771 ECP SCOPE OF PRACTICE (1) An ECP licensed ~~or endorsed at the BLS an EMR or EMT level~~ may perform any acts allowed within the ECP's licensure or endorsement level when:

(a) operating independently within the most current version of the Montana ~~statewide protocols~~ Montana ECP Practice Guidelines; or

(b) under the medical oversight ~~from~~ of a medical director who is taking responsibility for the ECP; or

~~(c) operating on a Montana licensed EMS with a medical director; or~~

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

(2) An ECP licensed ~~or endorsed at the ALS an EMT with endorsement(s), AEMT, or paramedic level~~ may perform any acts allowed within the ECP's licensure level or endorsement level when:

(a) under medical oversight ~~from~~ of a medical director who is taking responsibility for the ECP; or

~~(b) operating on a Montana licensed EMS with a medical director; or~~

(c) remains the same but is renumbered (b).

(3) An ECP legally licensed in good standing in the state ~~from~~ which they are responding ~~from~~ may perform within their ~~licensed protocols~~ scope of practice at the level licensed, when functioning as a member of a licensed ambulance service ~~which that~~ finds itself within the boundaries of Montana, while:

(a) responding to an emergency where the border is not clearly known; ~~or when;~~

(b) responding ~~on~~ to an emergency in accordance to a mutual aid agreement with a Montana licensed EMS service; or

(c) ~~when~~ conducting a routine transfer to or from a Montana medical facility. ~~The ECP must perform within the acts allowed at the level for which the ECP is licensed.~~

(4) A student may perform beyond the level of his or her individual licensure when functioning as a student in a ~~board approved~~ an ECP training course conducted in accordance with board rules ~~or if the student is including~~ participating in a clinical component of a course or program of instruction originating in another state that has a clinical contract with a Montana healthcare facility or a Montana-licensed EMS agency and functions under the direct supervision of a clinical preceptor licensed in Montana. The student must perform within the Montana scope of practice at the level for which the student is a student candidate.

(5) Except as provided in ~~(3)~~ (4), an ECP may not perform any acts that are beyond the ECP's level of licensure or endorsement.

(6) The medical director may limit the functioning scope of an ECP due to community needs and/or issues with maintaining competency. If, after remediation and review of an individual ECP's performance, the medical director has continuing concerns as to the ECP's ability to perform to the ECP's scope of practice, this shall be reported to the board.

(7) An ECP currently licensed and in good standing in another state may function during a state and/or federally managed incident ~~under~~ in compliance with the Montana statewide protocols, policies, and procedures ECP Practice Guidelines, but shall comply with all of the following:

(a) ~~limit~~ the ECP's practice shall be limited to the duration of the state and/or federally managed incident;

(b) practice shall be conducted within the geographic area, whether on federal, state, or private land, designated as being within the state and/or federally managed incident;

(c) practice at the basic level, even if the ECP is licensed at a higher level in another state, unless the individual is licensed at an ~~ALS~~ EMT with endorsement(s), AEMT, or paramedic level, and the federally managed incident has medical ~~control~~ direction provided by a Montana licensed physician approved by the board as a medical director, and the physician authorizes the individual to function beyond the basic level;

(d) and (e) remain the same.

(8) The board or their designee may conduct onsite visits of state and/or federally managed incidents to assure compliance.

(9) remains the same.

AUTH: 50-6-203, MCA

IMP: ~~37-1-131~~, 50-6-203, MCA

REASON: The board is amending this rule to replace "protocols" with "practice guidelines" or "scope of practice" for consistency in the rules. Additionally, the board is replacing ALS and BLS with the more specific EMR or EMT licensure levels. It is reasonably necessary to amend this rule throughout for better organization and to comply with ARM formatting requirements. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

5. The proposed new rules are as follows:

NEW RULE I ECP TRAINING COURSES (1) An individual, corporation, partnership, or any other organization may conduct ECP training courses. All ECP training courses or programs must include the following:

- (a) current USDOT curriculum;
- (b) Montana ECP Practice Guidelines;
- (c) statutes and rules governing ECPs in Montana;
- (d) a final competency evaluation; and
- (e) certificate of successful completion which states:
 - (i) start and end dates of the course;
 - (ii) topics taught; and
 - (iii) names of designated lead instructor and/or medical director.

(2) A clinical component must be included and documented in the following levels of ECP courses:

(a) EMT course participants must complete a minimum of ten hours of clinical experience during which the student shall:

- (i) observe patient care on at least 5 patients; and
- (ii) perform a patient assessment on at least 5 adult patients.

(b) AEMT course participants shall:

- (i) properly administer medications at least 10 times to live patients;
- (ii) successfully access the venous circulation at least 15 times on live

patients of various age groups;

(iii) ventilate at least 15 live patients of various age groups;

(iv) perform an advanced patient assessment on at least 15 adult patients, 5 pediatric patients, and 10 trauma patients;

(v) perform an advanced patient assessment, formulate and implement a treatment plan on at least 10 patients with chest pain;

(vi) perform an advanced patient assessment, formulate and implement a treatment plan on at least 10 adult patients and 3 pediatric patients with dyspnea/respiratory distress;

(vii) perform an advanced patient assessment, formulate and implement a treatment plan on at least 10 patients with altered mental status; and

(viii) serve as the team leader for at least 20 prehospital emergency responses.

(c) Paramedic course participants shall:

(i) properly administer medications at least 15 times to live patients;

(ii) successfully intubate at least 5 live patients;

(iii) successfully access the venous circulation at least 25 times on live patients of various age groups;

(iv) ventilate at least 20 live patients of various age groups;

(v) perform a comprehensive patient assessment on at least 50 adult patients, 30 pediatric patients (including newborns, infants, toddlers, and school age), 40 trauma patients, 30 geriatric patients, 10 obstetric patients, and 20 psychiatric patients;

- (vi) perform a comprehensive patient assessment, formulate and implement a treatment plan on at least 30 patients with chest pain;
- (vii) perform a comprehensive patient assessment, formulate and implement a treatment plan on at least 20 adult patients and 8 pediatric patients (including infants, toddlers, and school age) with dyspnea/respiratory distress;
- (viii) perform a comprehensive patient assessment, formulate and implement a treatment plan on at least 10 patients with syncope;
- (ix) perform a comprehensive patient assessment, formulate and implement a treatment plan on at least 20 patients with abdominal complaints;
- (x) perform a comprehensive patient assessment, formulate and implement a treatment plan on at least 20 patients with altered mental status; and
- (xi) serve as the team leader for at least 50 prehospital emergency responses.

(3) All EMR and EMT level courses must designate a lead instructor who shall maintain overall responsibility for the quality, consistency, and management of the course.

(4) All EMT with endorsement(s), AEMT, and paramedic level courses must designate a lead instructor and a medical director. The lead instructor is under the supervision of the board and medical director for these courses.

(5) The medical director of an ECP course shall be responsible for the overall quality, consistency, and management of the ECP course in which they agree to provide medical oversight. The medical director may delegate duties where appropriate.

(a) Medical direction of an EMR or EMT level course consists of review of agenda, selection of instructors, review of evaluation tools, and review of clinical offerings and objectives.

(b) Medical direction of an EMT with endorsement(s), AEMT, or paramedic level course consists of approval of agenda, approval and selection of instructors, involvement in the development and implementation of evaluation tools, participation as an instructor, approval of clinical offerings and objectives to be met by clinical components, and verification of successful course completion for each student.

(6) The lead instructor of an EMR course shall:

- (a) document student skill and proficiency on board-approved forms;
- (b) complete the course within six months of the date the course commences; and
- (c) provide at least one instructor per six students when practical skills are taught.

(7) The lead instructor of an EMT course shall:

- (a) document student skill and proficiency on board-approved forms;
 - (b) complete the course within 12 months of the date the course commences;
 - (c) provide at least one instructor per six students when practical skills are taught;
 - (d) provide the clinical experience as specified under (2)(a); and
 - (e) have access to a medical director who is available for consult.
- (8) The lead instructor and medical director of an AEMT or paramedic course shall:

- (a) document student skill and proficiency on board-approved forms;

- (b) provide clinical experience as specified under (2)(b) and (c);
 - (c) complete the course in the following time frames:
 - (i) AEMT course within 18 months from the starting date of the course; and
 - (ii) paramedic course within 24 months from the starting date of the course;
 - (d) provide clinical experiences with no fewer than one clinical preceptor for every two students; and
 - (e) provide sufficient patient volume to allow students to complete all clinical experiences within the course dates.
- (9) Requests for extension of required course completion times stated in (8)(c) must be submitted in writing and may be granted by the board or its designee.

AUTH: 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: The board determined it is reasonably necessary to repeal ARM 24.156.2741 and adopt New Rule I to locate all the board's requirements for ECP education courses in a single rule. As stated previously and to align with changes proposed elsewhere in this notice, the board is adopting this rule to specify that the board will no longer approve ECP training courses as lead instructors and medical directors will bear full responsibility for the courses. This will relieve the department of administrative functions regarding ECP courses while still maintaining compliance oversight for licensees who fail to meet their responsibilities under the rule.

NEW RULE II FINAL PRE-LICENSING EXAMINATIONS (1) A candidate must successfully complete an ECP course for the level of licensure the candidate is seeking to be eligible to take a final pre-licensing practical or written examination.

(2) To be eligible for licensure at any ECP level, a candidate must successfully complete, in this order, the following:

(a) a final pre-licensing practical examination; and

(b) a final pre-licensing written examination.

(3) A candidate must have completed the practical examination in (2)(a) within the past two years to be eligible to take the written examination in (2)(b).

(4) A board-approved third party may create and/or conduct final pre-licensing examinations.

(5) All final pre-licensing practical examinations must test all skills required by the NREMT 2016 Psychomotor Examination for the level of licensure the candidate is seeking.

(6) A medical director shall be responsible for conducting final pre-licensing practical examinations, other than those conducted by NREMT, and may delegate duties when appropriate.

AUTH: 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: It was determined that the current rule on ECP examinations, ARM 24.156.2745, required such extensive amendments that repealing it and adopting an entirely new examination rule would be clearer and more efficient. The board is

adopting this new rule to specify its application to third-party examinations given for final licensure and/or NREMT certification and not the examinations given during an ECP course. The department also plans to rely on specific standards set in 2016 by NREMT for the practical examinations instead of relying on a Montana-specific document which is subject to change and extensive upkeep to remain current on the board's web site.

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

24.156.2708 COMPLAINTS INVOLVING PREHOSPITAL CARE,
INTERFACILITY CARE, EMERGENCY MEDICAL TECHNICIANS (ECPs), OR
EMERGENCY MEDICAL SERVICE (EMS) OPERATIONS

AUTH: 37-3-203, 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: The board is repealing this rule as it is an unnecessary duplication of 50-6-105, MCA.

24.156.2717 ECP LICENSE RENEWAL

AUTH: 50-6-203, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, 50-6-203, MCA

REASON: The board is repealing this unnecessary rule because the department administers a standardized renewal process for all professional and occupational licensure boards.

24.156.2741 ECP TRAINING PROGRAM/COURSE APPLICATION AND
APPROVAL

AUTH: 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: The board determined it is reasonably necessary to repeal this rule because amending it would be very complicated and confusing. The board believes that full repeal and replacement with New Rule I will be clearer and more effective.

24.156.2745 EXAMINATIONS

AUTH: 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: The board concluded that full repeal of this rule and replacement with New Rule II, instead of numerous complicated amendments, will be clearer and more effective.

24.156.2754 INITIAL ECP COURSE REQUIREMENTS

AUTH: 50-6-203, MCA

IMP: 37-1-131, 50-6-203, MCA

REASON: The board is repealing this rule and relocating relevant provisions to New Rule I.

24.156.2755 POST-COURSE REQUIREMENTS

AUTH: 37-3-203, 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: It is reasonably necessary to repeal this rule because the board and department staff will no longer conduct pre-course or post-course approvals.

24.156.2757 ECP CLINICAL REQUIREMENTS

AUTH: 50-6-203, MCA

IMP: 37-1-131, 50-6-203, MCA

REASON: The board is repealing this rule and relocating relevant provisions to New Rule I.

7. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsmed@mt.gov, and must be received no later than 5:00 p.m., February 22, 2019.

8. An electronic copy of this notice of public hearing is available at www.medicalboard.mt.gov (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

9. 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 Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-

mailed to dlibsdmed@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

11. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.156.2701, 24.156.2705, 24.156.2707, 24.156.2711, 24.156.2713, 24.156.2715, 24.156.2718, 24.156.2719, 24.156.2731, 24.156.2732, 24.156.2751, 24.156.2752, 24.156.2761, and 24.156.2771 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the adoption of New Rules I and II will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.156.2708, 24.156.2717, 24.156.2741, 24.156.2745, 24.156.2754, 24.156.2755, and 24.156.2757 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2360; facsimile (406) 841-2305; or to dlibsdmed@mt.gov.

12. Ian Marquand, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF MEDICAL EXAMINERS
TANYA BREKKE, L.AC., PRESIDENT

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

/s/ GALEN HOLLENBAUGH
Galen Hollenbaugh, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 15, 2019.

BEFORE THE BOARD OF RESPIRATORY CARE PRACTITIONERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.213.403 abatement of) PROPOSED AMENDMENT
renewal fees and 24.213.2101)
continuing education requirements)

TO: All Concerned Persons

1. On March 1, 2019, at 10:00 a.m., a public hearing will be held in the Small Conference Room, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

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 Board of Respiratory Care Practitioners (board) no later than 5:00 p.m., on February 22, 2019, to advise us of the nature of the accommodation that you need. Please contact Missy Poortenga, Board of Respiratory Care Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2380; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdrpc@mt.gov (board's e-mail).

3. The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.213.403 ABATEMENT OF RENEWAL FEES (1) ~~This rule is intended to provide a process whereby the board may reduce its cash balance when the board's cash balance is excessive. This rule provides for an abatement of certain fees when that cash balance is excessive. The board adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301.~~

~~(2) Except as provided by (3), when the board has an excessive cash balance, the department may abate the renewal fees for its licensees or registrants for one or more renewal cycles until the board's cash balance does not exceed allowable maximums.~~

~~(a) The abatement of renewal fees may be the total amount of the renewal fee or a specified portion of that fee.~~

~~(b) If the board has more than one category of renewals, the abatement must be made on a roughly proportional basis to fairly, equitably, reasonably and economically distribute the abatement among the program's licensees or registrants. The department may, for good cause, completely abate the renewal fee for certain classes of licensees or registrants and not for other classes, if the administrative~~

~~cost of processing a reduced renewal for all classes is disproportionately high. In such case, the department must attempt in any future abatements to equitably treat those classes of renewals which have borne a relatively higher proportion of renewal fees.~~

~~(c) The fact that a renewal fee is abated for any given renewal cycle does not excuse the licensee or registrant from otherwise fulfilling renewal requirements, including submission of a renewal application and any continuing education documentation. The department, to the extent it provides by rule, may impose a late penalty fee on untimely submissions of renewal applications or other required documentation.~~

~~(3) This rule will not apply when an exception to 17-2-302, MCA, exists and is applicable to the board's cash balance. (As an example, if the board adopts a three-year renewal cycle, the board will have an apparent excess cash balance during the first year of the renewal cycle, based upon a collection of three years worth of fees for operational expense.)~~

~~(4) This rule does not relieve the board from the duty of establishing fees at a level commensurate with costs.~~

AUTH: ~~37-1-101, 37-1-131, 37-1-134, MCA~~

IMP: ~~17-2-302, 17-2-303, 37-1-101, 37-1-131, 37-1-134, 37-1-141, MCA~~

REASON: The board has determined it is reasonably necessary to amend this rule and incorporate by reference ARM 24.101.301 to authorize the department to perform renewal licensure fee abatements as appropriate and necessary, without waiting to obtain a board vote. The department adopted ARM 24.101.301 in 2004 to implement a means for the prompt elimination of excess cash accumulations in the licensing programs administratively attached to the department. Most of the licensing boards have since adopted and incorporated this rule to similarly facilitate the prompt abatement of fees and comply with statutory budget parameters.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.213.2101 CONTINUING EDUCATION REQUIREMENTS (1) ~~Upon renewal of licensure, each~~ Each respiratory care practitioner must affirm on the renewal form in each even numbered year beginning in 2008 that the licensee ~~completed~~ complete 24 continuing education (CE) units in the preceding 24 months, by the renewal deadline in even-numbered years. One continuing education CE unit is equivalent to 50 minutes in length.

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

~~(2) It is the sole responsibility of each licensee to meet the continuing education requirement and to provide documentation of this compliance if so requested during a random audit. The random audit will be conducted on a biennial basis.~~

~~(3) A licensee who fails to obtain a sufficient number of continuing education units may satisfy the requirement by taking and passing the NBRC entry level exam~~

or the registered respiratory advanced practitioner examination during the preceding 24 months.

~~(4) (3)~~ The continuing education CE requirements will do not apply until the a licensee's first full year of licensure.

~~(5) (4)~~ Courses acceptable for continuing education CE shall be those whose must have content is relevant to the scope of practice of respiratory care as defined in 37-28-102, MCA.

~~(6) (5)~~ Any identical course or program presented under Category I or Category II per ARM 24.213.2104 and 24.213.2107 may be submitted for continuing education CE credit only once every two years.

~~(7)~~ Misrepresentation of compliance shall constitute grounds for disciplinary action.

(6) The board may randomly audit up to 50 percent of renewed licensees' CE hours.

(7) All CE must be documented to show proof of completion. Licensees must maintain CE records for one year following the renewal cycle reporting period and make the records available upon request. Documentation must include the following:

(a) licensee name;

(b) course title and description of content;

(c) presenter or sponsor;

(d) course date(s); and

(e) number of CE hours earned.

(8) Licensees found to be in noncompliance with CE requirements may be subject to administrative suspension.

AUTH: 37-1-131, 37-1-319, ~~37-28-104~~, MCA

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

REASON: The board is amending this rule to align with and further facilitate the department's standardized renewal, administrative suspension, and audit procedures, and streamline the rule for clarity, better organization, and ease of use for the reader.

Following a recommendation by department legal staff, the board is amending (1) and (2) to align the affirmation of CE requirements at renewal with the provisions of 37-1-306, MCA. The amendments fall within standardized department procedures that licensees with mandatory CE affirm an understanding of their CE requirements, as part of a complete renewal application, instead of affirming CE completion.

The board is adding (6) to allow flexibility in conducting random CE audits. Currently, the board randomly audits 10 percent of all renewed licensees for each reporting period. This amendment will allow the board to respond to staffing and budget issues by adjusting the number of licensees audited, while remaining consistent with the statutory maximum of 50 percent in 37-1-306, MCA.

The board is striking (3) and further clarifying in (8) that licensees not in compliance with CE may be subject to administrative suspension per 37-1-321, MCA, and in accordance with standardized department audit processes.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Respiratory Care Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdrpc@mt.gov, and must be received no later than 5:00 p.m., March 4, 2019.

5. An electronic copy of this notice of public hearing is available at www.respcare.mt.gov (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

6. 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 Respiratory Care Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdrpc@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

8. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.213.403 and 24.213.2101 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Respiratory Care Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2380; facsimile (406) 841-2305; or to dlibsdrpc@mt.gov.

9. Missy Poortenga, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF RESPIRATORY CARE
PRACTITIONERS
LEONARD BATES, RCP
PRESIDING OFFICER

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

/s/ GALEN HOLLENBAUGH
Galen Hollenbaugh, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 15, 2019.

BEFORE THE BOARD OF WATER WELL CONTRACTORS AND
THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF CHANGE OF HEARING
36.21.634 and 36.21.638 regarding the) DATE AND EXTENSION OF
Location of Wells) COMMENT PERIOD

TO: All Concerned Persons

1. On December 21, 2018, the Board of Water Well Contractors published MAR Notice No. 36-22-194 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 2494 of the 2018 Montana Administrative Register, Issue Number 24.

2. On February 22, 2019, at 10:00 a.m., the department will hold a public hearing in the Fred Buck Conference Room (ground floor), Water Resources Building, 1424 Ninth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules. It has come to the attention of the board that certain interested parties were not initially notified of the proposed rule adoption. The comment period is being extended to permit additional opportunity for those parties to provide written comment. If a party has already submitted oral or written comments, those comments are still considered part of the record and do not need to be resubmitted.

3. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact us no later than 5:00 p.m. on February 15, 2019, to advise us of the nature of the accommodation that you need. Please contact Art Robinson, Department of Natural Resources and Conservation, P.O. Box 201601, 1424 Ninth Avenue, Helena, MT 59620-1601; telephone (406) 444-6643; fax (406) 444-0533; or e-mail arobinson@mt.gov.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted in writing to: Art Robinson, Department of Natural Resources and Conservation, P.O. Box 201601, 1424 Ninth Avenue, Helena, MT 59620-1601; telephone (406) 444-6643; fax (406) 444-0533; or e-mail arobinson@mt.gov, and must be received no later than 5:00 p.m., February 22, 2019.

/s/ John E. Tubbs
JOHN E. TUBBS
Director
Natural Resources and Conservation

/s/ Danna R. Jackson
DANNA R. JACKSON
Rule Reviewer

Certified to the Secretary of State January 15, 2019.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.85.105 pertaining to) PROPOSED AMENDMENT
updating the composite rate for)
outpatient maintenance dialysis clinic)

TO: All Concerned Persons

1. On February 14, 2019, at 9:30 a.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on February 6, 2019, to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

3. The rule proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY
ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID
PROVIDER FEE SCHEDULES (1) through (3)(b)(iii) remain the same.

(iv) the bundled composite rate of ~~\$252.00~~ \$250.88 for services provided in an outpatient maintenance dialysis clinic effective on or after ~~July 1, 2018~~ April 1, 2019.

(c) through (6) remain the same.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-125, 53-6-402, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.85.105(3)(b)(iv), to update the bundled composite rate for outpatient maintenance dialysis clinic services effective April 1, 2019. The proposed rate is \$250.88.

The department administers the Montana Medicaid and non-Medicaid program to provide health care to Montana's qualified low income, elderly, and disabled residents. Medicaid is a public assistance program that uses state and federal funds to pay health care providers for the covered medical services they deliver to Medicaid members.

The reasonable necessity for changing the bundled composite rate for outpatient maintenance dialysis services is to ensure the rate does not exceed the upper payment limit established by the federal government and published in the Federal Register. In November, the federal government updated and published the criteria for a state's upper payment limit for outpatient maintenance dialysis services. State Medicaid programs must ensure their rate does not exceed the newly revised federal rate, and for Montana the 2019 rate is \$250.88.

Fiscal Impact

The following table displays the number of providers affected, as well as the fiscal impact to State general and federal funds for State Fiscal Year (SFY) 2019 and SFY 2020 based on the proposed amendments.

Dialysis Clinics	Budget Impact (State Funds)	Budget Impact (Federal Funds)	Budget Impact (Total Funds)	Providers Affected
SFY 2019	(1,032)	(2,710)	(3,742)	21
SFY 2020	(4,434)	(11,049)	(15,483)	21

The proposed rule amendment is estimated to affect 261,160 Medicaid members. In addition, it will impact the provider populations outlined in the table above.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., February 22, 2019.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. 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 for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

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

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

10. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

/s/ Brenda K. Elias

Brenda K. Elias
Rule Reviewer

/s/ Sheila Hogan

Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State January 15, 2019.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of	)	AMENDED NOTICE OF PUBLIC
ARM 42.21.154, 42.21.155,	)	HEARING ON PROPOSED
42.21.158, and 42.22.1311, and	)	AMENDMENT AND REPEAL
repeal of ARM 42.21.113, 42.21.123,)	
42.21.131, 42.21.132, 42.21.137,)	
42.21.138, 42.21.139, 42.21.140,)	
42.21.151, 42.21.153, 42.21.156, and)	
42.21.157 pertaining to trended)	
depreciation schedules for valuing)	
personal property)	

TO: All Concerned Persons

1. On December 7, 2018, the Department of Revenue (department) published MAR Notice No. 42-2-999 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 2369 of the 2018 Montana Administrative Register, Issue Number 23. The department held the required public hearing on December 28, 2018. No proponents, opponents, or other interested persons were present; no comments or testimony were received.

2. Upon additional review of the proposed trended depreciation schedules in ARM 42.21.155, the department is revising the proposed wholesale factor column values in the farm machinery and equipment and heavy equipment tables in (4)(g) and (4)(h) from 80% to 60%, which also changes the calculations for the proposed wholesale trended % good column values in both tables. These changes are necessary to more closely reflect average wholesale value. The department also desires to remove a superfluous word in the text of (4).

The department also amends subsection references contained in ARM 42.21.158(6), (11), and (12). The subsections' internal reference renumbering was inadvertently omitted from the original proposal notice.

All other rule amendments and repeals contained in the original MAR notice described in #1 above remain as proposed.

3. The Department of Revenue will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on January 30, 2019. Please contact Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or todd.olson@mt.gov.

4. The department proposes to amend the following rules with the following changes from the original proposal, new matter underlined, deleted matter interlined:

42.21.155 CATEGORIES FOR PERSONAL PROPERTY; TRENDED DEPRECIATION SCHEDULES; TREND FACTOR CALCULATION (1) through (3) remain as proposed.

(4) The trended depreciation schedules for the categories of personal property equipment are as follows:

(a) through (f) remain as proposed.

(g) Farm Machinery and Equipment - a twenty-year depreciation and a residual percentage will be applied to farm machinery and equipment. ~~An 80~~ A 60 percent wholesale factor is applied. The trend factors are calculated from the average of all category of the Marshall & Swift Guide.

Farm Machinery and Equipment

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	WHOLESALE FACTOR	WHOLESALE TRENDED % GOOD
2019	100	1.000	80 <u>60</u>	80 <u>60</u>
2018	97	1.000	80 <u>60</u>	78 <u>58</u>
2017	93	0.974	80 <u>60</u>	72 <u>54</u>
2016	90	0.955	80 <u>60</u>	69 <u>52</u>
2015	86	0.963	80 <u>60</u>	66 <u>50</u>
2014	82	0.954	80 <u>60</u>	63 <u>47</u>
2013	78	0.942	80 <u>60</u>	59 <u>44</u>
2012	74	0.934	80 <u>60</u>	55 <u>41</u>
2011	70	0.908	80 <u>60</u>	51 <u>38</u>
2010	65	0.881	80 <u>60</u>	46 <u>34</u>
2009	60	0.887	80 <u>60</u>	43 <u>32</u>
2008	55	0.863	80 <u>60</u>	38 <u>28</u>
2007	50	0.830	80 <u>60</u>	33 <u>25</u>
2006	45	0.787	80 <u>60</u>	28 <u>21</u>
2005	40	0.752	80 <u>60</u>	24 <u>18</u>
2004	35	0.699	80 <u>60</u>	20 <u>15</u>
2003	31	0.676	80 <u>60</u>	17 <u>13</u>
2002	27	0.665	80 <u>60</u>	14 <u>11</u>
2001	24	0.661	80 <u>60</u>	13 <u>10</u>
2000	22	0.655	80 <u>60</u>	12 <u>9</u>
1999	21	0.644	80 <u>60</u>	11 <u>8</u>
older	20	0.642	80 <u>60</u>	10 <u>8</u>

(h) Heavy Equipment - a twenty-year depreciation and a residual percentage will be applied to heavy equipment. ~~An 80~~ A 60 percent wholesale factor is applied. The trend factors are calculated from the contractor's equipment category of the Marshall & Swift Guide.

Heavy Equipment

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	WHOLESALE FACTOR	WHOLESALE TRENDED % GOOD
2019	100	1.000	80 <u>60</u>	80 <u>60</u>
2018	97	1.000	80 <u>60</u>	78 <u>58</u>
2017	93	1.018	80 <u>60</u>	76 <u>57</u>
2016	90	1.034	80 <u>60</u>	74 <u>56</u>
2015	86	1.032	80 <u>60</u>	71 <u>53</u>
2014	82	1.045	80 <u>60</u>	69 <u>51</u>
2013	78	1.059	80 <u>60</u>	66 <u>50</u>
2012	74	1.079	80 <u>60</u>	64 <u>48</u>
2011	70	1.115	80 <u>60</u>	62 <u>47</u>
2010	65	1.147	80 <u>60</u>	60 <u>45</u>
2009	60	1.143	80 <u>60</u>	55 <u>41</u>
2008	55	1.177	80 <u>60</u>	52 <u>39</u>
2007	50	1.214	80 <u>60</u>	49 <u>36</u>
2006	45	1.257	80 <u>60</u>	45 <u>34</u>
2005	40	1.313	80 <u>60</u>	42 <u>32</u>
2004	35	1.403	80 <u>60</u>	39 <u>29</u>
2003	31	1.444	80 <u>60</u>	36 <u>27</u>
2002	27	1.466	80 <u>60</u>	32 <u>24</u>
2001	24	1.478	80 <u>60</u>	28 <u>21</u>
2000	22	1.486	80 <u>60</u>	26 <u>20</u>
1999	21	1.512	80 <u>60</u>	25 <u>19</u>
older	20	1.524	80 <u>60</u>	24 <u>18</u>

(5) remains as proposed.

AUTH: 15-1-201, 15-23-108, MCA

IMP: 15-6-135, 15-6-138, 15-6-202, 15-6-207, 15-6-213, 15-6-219, 15-8-111,
MCA

The statement of reasonable necessity is being amended as follows, new matter underlined, deleted matter interlined:

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity provided at the beginning of this notice, it is necessary for the department to amend ARM 42.21.155 to place similar content regarding the depreciation schedules for all personal property categories into a single rule for efficiency and ease of reference. The eight personal property categories, their respective depreciation schedules, and references to trend factor schedules have historically been provided in ARM 42.21.123, 42.21.131, 42.21.137, 42.21.138, 42.21.139, 42.21.140, 42.21.151, 42.21.153, 42.21.156, and 42.21.157, which are proposed for repeal.

The department proposes updating the catchphrase to include the words "trended" and "categories for personal property" and "trend factor calculation" to clarify the types of schedules referenced in the rule, to specify the categories of property to which the rule pertains, and to provide the methodology of the department's trend factor calculation.

The department proposes revising language in (1) for clarity and brevity, which reflect current rule writing styles and preferences. The department proposes moving, and revising to comply with the Montana Administrative Procedure Act, the reference language to the Marshall & Swift Valuation Service Guide in (1) to proposed (3) and striking obsolete depreciation language in (1) given the relocation and reorganization of the trended depreciation schedules in this rule.

The department proposes replacing outdated trended depreciation schedule information and rule cross-references in (2) to reflect the schedules in proposed (4). The department proposes to transfer from ARM 42.21.157, and revise for clarity, the explanation of how the department calculates trend factors. The department proposes the repeal of ARM 42.21.157. This consolidation of the two rules' most pertinent provisions into one is necessary to provide a more direct and cohesive reference for trended depreciation schedules and their underlying components. The department further proposes transferring equipment category description language for each proposed trended depreciation schedule provided in proposed (4). The proposed equipment categories transferred and revised from other rules in Chapter 21, Subchapter 1, which are proposed for repeal, are as follows:

Computerized equipment language, with a four-year depreciation schedule, in proposed (4)(a) is a combination of lease and rental equipment language in ARM 42.21.113(1)(a) and related equipment language in ARM 42.21.156(2).

Office and commercial equipment language, with a five-year depreciation schedule, in proposed (4)(b) is a combination of lease and rental equipment language in ARM 42.21.113(b), local cable tv "five-year dishes" language from ARM 42.21.151(4), and related equipment language in ARM 42.21.156(3) through (7).

Furniture, fixtures, and miscellaneous equipment provisions, with a ten-year depreciation schedule, in proposed (4)(c) was combined with leased and rental equipment from ARM 42.21.113(1)(c), local cable tv "ten-year towers" from ARM 42.21.151(2), ski lift equipment from ARM 42.21.153, and current categories 7 and 8 from (2) of this rule.

Seismograph units and allied equipment, with a five-year depreciation schedule, in proposed (4)(d) was moved from ARM 42.21.137(1) and revised to eliminate the unnecessary mention of units and equipment less than one year old or acquired in 2005 or before. The department deemed the prior practice, which is not based on or justifiable through use of the Marshall & Swift Guide, unsustainable under the equalization standards described in 15-9-101(1), MCA, and proposes to correct it as a part of the transfer and consolidation of depreciation schedules into ARM 42.21.155.

Oil drilling, workover, and service rigs, with a ten-year depreciation schedule, in proposed (4)(e) were combined with work-over and service rigs rule text from ARM 42.21.139 and oil drilling rigs rule text from ARM 42.21.140. The text was revised to eliminate the unnecessary mention of units and equipment less than one year old for the same reasons described for seismograph units and allied equipment.

Oil and gas field machinery and equipment, with a fifteen-year depreciation schedule, in proposed (4)(f) was moved from ARM 42.21.138(2).

Farm machinery and equipment, with a twenty-year depreciation schedule in proposed (4)(g), was moved from ARM 42.21.123.

Heavy equipment, with a twenty-year depreciation schedule in proposed (4)(h), was moved from ARM 42.21.131.

Further, in proposed (4)(g) and (h), the department proposes using the Marshall & Swift Guide for calculating the trended schedules for farm machinery and equipment and heavy equipment, which is consistent for the valuation of other personal property described in the subchapter. The department also proposes to implement ~~an 80%~~ a 60% wholesale factor into those calculations to "approximate wholesale value." This reflects a substantial update in the method the department uses to develop the farm machinery and equipment and heavy equipment depreciation schedules, which consisted of a manual system of valuation by department staff that was unnecessarily burdensome, time-consuming, and problematic because of limited availability of valuation data, which can have a significant impact on the outcome of a valuation and may not result in a truly appropriate assessed value. The department believes that changing the way farm machinery and equipment and heavy equipment depreciation are calculated will provide taxpayers with a stable, consistent, and predictable trended depreciation schedule from year to year.

The department further proposes renumbering and updating the year reference in proposed (5) which is necessary to advance the applicability of the rule and reflect renumbering through the proposed amendments.

The department further proposes adding 15-23-108, MCA, as rulemaking authority as it pertains to some centrally assessed personal property. The revision of the rule's implementing citations is necessary to correspond with the relocation of rule text to this rule from the rules proposed for repeal and comply with 2-4-304, MCA.

42.21.158 PERSONAL PROPERTY REPORTING REQUIREMENTS

(1) through (5) remain as proposed.

(6) For purposes of applying ~~(2)~~ (4) and ~~(3)~~ (5):

(a) through (10) remain as proposed.

(11) Personal property owners whose aggregate class eight market value is \$100,000 or less, as defined in ~~(2)~~ (4), will have no further reporting obligation, except:

(a) and (b) remain as proposed.

(12) New businesses are not required to submit a personal property statement/reporting form if the entity's business equipment is valued at \$100,000 or less, unless requested by the department in accordance with ~~(9)~~ (11).

(13) and (14) remain as proposed.

AUTH: 15-1-201, 15-9-101, MCA

IMP: 15-1-121, 15-1-123, 15-1-303, 15-6-138, 15-6-201, 15-6-202, 15-6-203, 15-6-206, 15-6-213, 15-6-215, 15-6-217, 15-6-218, 15-6-219, 15-6-220, 15-6-225, 15-6-228, 15-8-104, 15-8-301, 15-8-303, 15-8-309, 15-9-101, 15-24-3001, MCA

The statement of reasonable necessity is being amended as follows, new matter underlined, deleted matter interlined:

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity provided at the beginning of this notice, it is necessary for the department to amend ARM 42.21.158 by adding clarifying language in proposed (2) and (3) for the benefit of taxpayers who are required to report their personal property or business equipment and to clarify the reporting process.

The department also proposes revising the language in proposed (9) and (10) to clarify that reporting forms submitted electronically or by mail must have an electronic date stamp or postmark no later than March 1.

Based on the department's proposed amendments, it will be necessary for the department to renumber the remaining rule sections and renumber internal section cross-references.

The department further proposes adding 15-1-123, MCA, as an implementing citation as it pertains to class eight personal property. The revision of the rule's implementing citations is necessary to comply with 2-4-304, MCA.

5. No additional public hearing will be held to consider this amended proposal notice.

6. Concerned persons may submit their data, views, or arguments, either orally or in writing. Written data, views, or arguments may also be submitted to: Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail todd.olson@mt.gov and must be received no later than February 4, 2019.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Gene Walborn
Gene Walborn
Director of Revenue

Certified to the Secretary of State January 15, 2019.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of a	)	NOTICE OF ADOPTION OF A
Temporary Emergency Rule and	)	TEMPORARY EMERGENCY RULE
temporary emergency amendment of	)	AND TEMPORARY EMERGENCY
ARM 4.12.3104 and 4.19.101 through	)	AMENDMENT OF FIVE CURRENT
4.19.104 pertaining to Industrial	)	RULES
Hemp)	

TO: All Concerned Persons

1. The Department of Agriculture is adopting the following emergency rule because the 2018 Farm Bill, passed on December 12, 2018, removed industrial hemp from the federal government's list of controlled substances. Before, hemp seeds were sourced through the Department of Agriculture only. Now, approved hemp varieties can be sourced through anyone licensed in Montana. Growers must license through the Department of Agriculture and are still bound by state law.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Agriculture no later than 5:00 p.m. on February 4, 2019, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59601; telephone (406) 444-3156; fax (406) 444-5409; or e-mail agr@mt.gov.

3. The temporary emergency rules are effective January 15, 2019, when this rule notice is filed with the Secretary of State.

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

NEW RULE I HEMP PLANTING SEED (1) The applicant must:

(a) obtain seed through program-approved methods only; and
(b) obtain industrial hemp seed certified by an official seed certifying agency to standards recognized by the department.

(i) The department recognizes seed certifications by the Association of Official Seed Certifying Agencies (AOSCA) and the Organization for Economic Cooperation and Development (OECD) standards. The department may recognize and publish on its website other standards that certify hemp seed varieties as being true to varietal traits and less than 0.3% THC on a dry weight basis.

(ii) The department will publish an annual list of approved varieties for planting in the current license season by March 1 each year.

(2) Persons distributing hemp seeds for planting must comply with the Montana Agricultural Seed and Patented Plant Material Act, excluding exemptions listed in 80-5-104(4), MCA.

(3) Clones of industrial hemp plants may be approved for commercial production of industrial hemp. The approval process for clones is the same as for seed of any new hemp varieties. Clones must comply with the Montana Disease, Pest and Weed Control Act and additional documentation may be required for interstate shipments.

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: Although industrial hemp is no longer a DEA regulated controlled substance, the growing of hemp and hemp products, including seed for planting, is still regulated by state and federal regulations. Additionally, most forms of industrial hemp, including planting seeds and the plants grown from seed, are indistinguishable from marijuana without laboratory testing. To help assure that only approved industrial hemp seeds are distributed for the industrial hemp program, only seeds certified by an official certifying agency to standards recognized by the department will be allowed for planting in Montana's hemp program. This includes any amount of seed and propagative plants parts (clones). Thus, the addition of (2) and (3) in this rule.

An element of consumer protection is provided by these regulations which sufficiently monitor seed quality, differentiate between hemp and marijuana plants, and comply with the 2018 Farm Bill and state plan pending approval by USDA.

Economic Impact: Additional resources are necessitated by department staff to review and approve of new seed varieties as well as assure compliance with Montana's hemp regulations and the 2018 Farm Bill. Although it is difficult to determine precisely, the department estimates this work will require 2.0 FTE. The total cost for personal services based on two Environmental Science Specialist positions is \$134,729 annually.

5. The text of the temporary emergency amendment of existing rules provides as follows:

4.12.3104 LABELING FOR SEED KIND AND VARIETY (1) Agricultural seeds ~~shall~~ must be labeled with kind and variety information as stated in this rule:

(a) the following agricultural seeds ~~shall~~ must be labeled to show kind and variety:

- (i) barley;
- (ii) bean, field;
- (iii) beet, field;
- (iv) canola;
- (v) corn, field;
- (vi) ~~oats~~ hemp;
- (vii) ~~peas, field~~ oats;
- (viii) ~~safflower~~ peas, field;
- (ix) ~~soybean~~ safflower;

- (x) ~~sunflower~~ soybean; and
 - (xi) ~~wheat~~ sunflower; and
 - (xii) wheat.
- (b) through (2) remain the same.

AUTH: 80-5-139, MCA

IMP: 80-5-123, MCA

Reason: Although industrial hemp is no longer a DEA regulated controlled substance, the growing of hemp and hemp products, including seed for planting, is still regulated by state and federal regulations. Varietal characteristics can affect seed quality, end-product use, and the amount of regulatory oversight required. To make sound purchasing decisions, industrial hemp purchasers must know the kind and variety. Knowing the kind and variety allows the Department of Agriculture to review and determine approval for seed varieties as outlined in the pending USDA-state plan. All agricultural seeds require labeling as outlined in the Montana Agricultural Seed Act. The addition of kind and variety as a requirement to a hemp seed label does not fiscally impact the department.

4.19.101 DEFINITIONS (1) "Clone" means an organism developed asexually from another and genetically identical to it, such as a group of genetically identical plants produced by vegetative propagation, including but not limited to cutting, grafting, or division.

~~(4)~~(2) "Hemp" means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-nine tetrahydrocannabinol (THC) concentration of ~~not~~ no more than 0.3 percent on a dry weight basis.

(3) "Location" means a single growing area not including growing acres more than a half-mile away and owned by a single entity.

~~(2)~~(4) "~~Pilot program~~" "Montana State Hemp Program" means a program to grow hemp under the regulation of the Montana Department of Agriculture for the purposes of complying with federal law.

~~(3)~~(5) "Seed repository" means the storage area for those approved varieties of hemp available for sale by the department.

~~(4)~~(6) "Specialty variety" means a variety of hemp that the department has not already made an approved variety or does not currently plan to import for that growing year.

~~(5)~~(7) "State hemp license" means a license to grow hemp that shows the holder is in compliance with Montana state hemp laws. The holder is also responsible for obeying all applicable federal and tribal regulations.

~~(6)~~(8) "Testing" means a testing for the amount of THC, pesticides, or other tests for legal compliance of departmental or federal regulations.

AUTH: 80-18-107, MCA

IMP: 80-18-101, 80-18-102, 80-18-103, 80-18-106, 80-18-107, 80-18-110, 80-18-111, MCA

Reason: Definition additions are necessary for clarification of intent for the new rules. No fiscal impact is associated.

4.19.102 APPLICATION FOR HEMP LICENSE (1) An applicant must:

- (a) provide the information required by state law for a hemp license on the form provided by the department;
- (b) apply to the department for participation in the program by May 1 unless the department extends the application deadline;
- ~~(b)(c)~~ pay all fees as established by rule; and
- ~~(e)(d)~~ consent to entrance of their property by the department to inspect their hemp fields.

(2) If the applicant is not a single individual, then all proper filings with the Secretary of State must be current and in good order.

~~(3) The applicant, including all corporate officers, must be fingerprinted at a law enforcement agency. The law enforcement agency, not the applicant, must send the fingerprint sheet to the department.~~

~~(4)(3)~~ Licenses will expire on the last day of ~~December~~ April following of the year that they are ~~the license is~~ issued for.

~~(5) Renewals do not require new fingerprinting unless the department requests it or if the corporate officers have changed.~~

~~(6)(4)~~ The licensee must also provide all material required under 80-18-106, MCA.

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: Changing the license year from January through December to May through April and the license application due date to May 1 aligns better with the growing season of industrial hemp. Doing so allows growers more time for seed purchasing and planting decisions. License application and location information submitted by growers in May instead of January will improve the process for submitting information to the department. The fingerprinting requirement is addressed in Montana law and is not required in these rules. No fiscal impact is associated.

4.19.103 PILOT MONTANA STATE HEMP PROGRAM (1) An applicant to the ~~pilot Montana State Hemp Program~~ program must:

- (a) through (f) remain the same.
- ~~(g) have applied~~ apply to the department for participation in the program by ~~January 31st~~ May 1 unless the department extends the application deadline.

(2) and (3) remain the same.

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: Pilot program rules remain in effect until USDA approves Montana's state hemp plan. The Pilot program name is renamed Montana State Hemp Program. No fiscal impact is associated.

4.19.104 FEES (1) The fee for a ~~state hemp license~~ Montana State Hemp License is ~~\$50~~ \$450.

(2) ~~The fee for participation in the state pilot program is \$400.~~

(3)(2) The special variety fee of the ~~pilot~~ Montana State Hemp Program program is \$600.

(4)(3) If official sampling is requested by a licensed hemp grower, the fee for providing such a service will be consistent with ARM 4.12.1811.

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: Section 80-18-107, MCA requires fees be commensurate with department activities for the implementation of the hemp program. Applicants are required to pay \$450 to participate in the Montana State Hemp Program and receive a state license.

Economic Impact: \$450 is the current licensing fee amount and has no associated fiscal impact.

6. The department is filing MAR Notice No. 4-19-254, which addresses a public hearing on this same subject to adopt these rule changes as permanent. That notice is also available in this issue of the Montana Administrative Register.

7. Concerned persons are encouraged to submit their comments during the upcoming standard rulemaking process. If concerned persons wish to be personally notified of that rulemaking process, they should submit their names and addresses to Cort Jensen at the address above.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. 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 for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 2 above or may be made by completing a request form at any rules hearing held by the department.

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

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ben Thomas
Ben Thomas
Director
Agriculture

Certified to the Secretary of State January 15, 2019.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

In the matter of the adoption of New	)	NOTICE OF ADOPTION AND
Rules I through IV and the	)	AMENDMENT
amendment of ARM 6.6.3101,)	
6.6.3102, 6.6.3103, 6.6.3104,)	
6.6.3109, 6.6.3109A, 6.6.3114,)	
6.6.3117, 6.6.3118, 6.6.3119,)	
6.6.3120, 6.6.3121, 6.6.3122, and)	
6.6.3129, pertaining to long-term care)	
insurance)	

TO: All Concerned Persons

1. On November 2, 2018, the Commissioner of Securities and Insurance, Montana State Auditor (CSI), published MAR Notice No. 6-245 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 2120 of the 2018 Montana Administrative Register, Issue Number 21.

2. On December 19, 2018, a public hearing was held to consider the proposed adoption and amendment of the above-stated rules. The American Council of Life Insurers (ACLI), American Health Insurance Plans (AHIP), and Blue Cross and Blue Shield of Montana (BCBSMT) appeared at the hearing and submitted written comments. No other comments were received.

3. The CSI has adopted the following new rule as proposed: New Rule I (6.6.3123).

4. The CSI amends ARM 6.6.3101, 6.6.3102, 6.6.3103, 6.6.3104, 6.6.3109, 6.6.3109A, 6.6.3114, 6.6.3117, 6.6.3118, 6.6.3119, 6.6.3121, 6.6.3122, and 6.6.3129, as proposed.

5. The CSI has adopted the following new rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

NEW RULE II (6.6.3130) APPEALING AN INSURER'S DETERMINATION THAT THE BENEFIT TRIGGER IS NOT MET (1) through (7) remain as proposed.

(8) The requirements of this rule apply to a benefit trigger request made on or after ~~January 1, 2019~~ January 1, 2020, under a long-term care insurance policy.

AUTH: 33-1-313, 33-22-1121, MCA

IMP: 33-18-201, 33-22-1102, 33-22-1121, 33-22-1124, 33-22-1125, MCA

NEW RULE III (6.6.3131) LONG-TERM CARE INDEPENDENT REVIEW ORGANIZATIONS (1) through (1)(d) remain as proposed.

- (e) the organization will be approved or certified by ~~Montana~~ the commissioner before conducting such reviews;
- (f) through (2)(b) remain as proposed.
- (c) report annually to the commissioner, by June 1 (or other annual date set by the commissioner), in the aggregate and for each long-term care insurer all of the following:
 - (i) the total number of requests received for independent review of long-term care benefit trigger decisions;
 - (ii) the total number of reviews conducted and the resolution of such reviews (i.e., the number of reviews which upheld or overturned the long-term care insurer's determination that the benefit trigger was not met);
 - (iii) the number of reviews withdrawn prior to review; and
 - (iv) the percentage of reviews conducted within the prescribed timeframe set forth in [New Rule II];
- (d) through (4) remain as proposed.

AUTH: 33-1-313, 33-22-1121, MCA

IMP: 33-18-201, 33-22-1102, 33-22-1121, 33-22-1124, 33-22-1125, MCA

6. Based on the comments received, the CSI does not adopt New Rule IV.

7. Based on the comments received, the CSI adopts the following amended rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined.

6.6.3120 ADOPTION OF FORMS (1) and (1)(a) remain as proposed.

(b) LTC Form B Long-Term Care Insurance
Personal Worksheet

LTC FORM B

Long-Term Care Insurance Personal Worksheet

This worksheet will help you understand some important information about this type of insurance. Montana law requires companies issuing this [policy][certificate][rider] to **give** you some important facts about premiums and premium increases and to **ask** you some important questions to help you and the company decide if you should buy this [policy][certificate][rider]. Long-term care insurance can be expensive and it may not be right for everyone.

Premium Information

Policy Form Numbers

The premium for the coverage you are considering will be \$[] per [insert payment interval] or a total of \$[] per year[a one-time single premium of \$[]].

The premium quoted in this worksheet is not guaranteed and may change during the underwriting process and in the future while this [policy][certificate][rider] is in force.

Type of Policy & The Company's Right to Increase Premiums on the Coverage You Choose:

[Noncancellable – The company cannot increase your premiums on this [policy][certificate][rider]].

[Guaranteed renewable – The company can increase your premiums on this [policy][certificate][rider] in the future if it increases the premiums for all [policies][certificates][riders] like yours in Montana.]

[Paid-up – This [policy][certificate][rider] will be paid-up after you have paid all of the premiums specified in your [policy][certificate][rider]].

Premium Increase History

[Name of company] has sold long-term care insurance since [year] and has sold this [policy][certificate][rider] since [year]. [The company has never raised its premiums for any long-term care [policy][certificate][rider] it has sold in this state or any other state.]

[The company has not increased its premiums for this [policy][certificate][rider] or similar [policies][certificates][riders] in this state or any other state in the last 10 years.]

[The company has increased its premiums on this [policy][certificate][rider] or similar [policies][certificates][riders] in the last 10 years. Following is a summary of the increases.]

[Over the past 10 years, the company has increased premiums on this [policy][certificate][rider] or similar [policies][certificates][riders] by __%. A summary of the premium increases in the last 10 years is attached to this worksheet.]

Questions Related to Your Income

You do not have to answer the following questions. They are intended to make sure you have thought about how you'll pay premiums and the cost of care your insurance does not cover. If you do not want to answer these questions, you should understand that the company might refuse to insure you.

What resources will you use to pay your premium?

- ☐ Current income from employment ☐ Current income from investments ☐ Other current income ☐ Savings ☐ Sell investments ☐ Sell other assets ☐ Money from my family
☐ Other: _____

Could you afford to keep this [policy][certificate][rider] if your spouse or partner dies first?

- ☐ Yes ☐ No ☐ Had not thought about it ☐ Do not know ☐ Does not apply

[What would you do if the premiums went up, for example, by 50%?

- ☐ Pay the higher premium ☐ Call the company/producer ☐ Reduce benefits ☐ Drop the [policy][certificate][rider] ☐ Do not know]

What is your household annual income from all sources? (check one)

- ☐ [Under \$10,000] ☐ [\$10,000-20,000] ☐ [\$20,000-30,000] ☐ [\$30,000-50,000]
☐ [Over \$50,000]

Do you expect your income to change over the next 10 years? (check one)

- ☐ No change ☐ Yes, expect increase ☐ Yes, expect Decrease

If you plan to pay premiums from your income, have you thought about how a change in your income would affect your ability to continue to pay the premium?

- ☐ Yes ☐ No ☐ Do not know

Will you buy inflation protection: (check one)

- ☐ Yes ☐ No

Inflation may increase the cost of long-term care in the future.

If you do not buy inflation protection, how will you pay for the difference between future costs and your daily benefit amount?

- ☐ From my Income ☐ From my Savings ☐ From my investments ☐ Sell other assets ☐ Money from my family ☐ Other: _____

The national average annual cost of care in [insert year] was [insert \$ amount], but this figure varies across the country. In ten years the national average annual cost would be about [insert \$ amount] if costs increase 5% annually.

What [elimination period][waiting period][cash deductible] are you considering? [Number of days _____ in [elimination period][waiting period]

Approximate cost of care for this period: \$_____.

(\$xxx per day times the number of days in [elimination period][waiting period], where "xxx" represents the most recent estimate of the national daily average cost of long-term care)]

[Cash deductible \$_____]

How are you planning to pay for your care during the [elimination period][waiting period][deductible period]? (check all that apply)

- ☐ From my Income ☐ From my savings/investments ☐ My family will pay

Questions Related to Your Savings and Investments

Not counting your home, about how much are all of your assets (your savings and investments) worth? (check one)

- ☐ [Under \$20,000] ☐ [\$20,000-\$30,000] ☐ [\$30,000-\$50,000] ☐ [Over \$50,000]

How do you expect your assets to change over the next 10 years? (check one)

- ☐ Stay about the same ☐ Increase ☐ Decrease

If you are buying this [policy][certificate][rider] to protect your assets and your assets are less than \$50,000, experts suggest you think about other ways to pay for your long-term care.

Disclosure Statement

- ☐ The answers to the questions above describe my financial situation.

Or

- ☐ I choose not to complete this information.
(Check one.)

☐ I acknowledge that the carrier and/or its producer (below) has reviewed this form with me including the premium, premium rate increase history and potential for premium increases in the future. [For direct mail situations, use the following : I acknowledge that I have reviewed this form including the premium, premium rate increase history and potential for premium increases in the future.] I understand the information contained in this worksheet. ~~I understand that the rates for this policy may increase in the future.~~ (This box must be checked.)

Signed: _____
(Applicant) (Date)

☐ I explained to the applicant the importance of completing this information.]

Signed: _____
(Applicant) (Date)

Producer's Printed Name: _____]

[In order for us to process your application, please return this signed statement to [name of company], along with your application.]

[My producer has advised me that this [policy][certificate][rider] does not seem to be suitable for me. However, I still want the company to consider my application.]

Signed: _____
(Applicant) (Date)]

Someone from the company may contact you to discuss your answers and the suitability of this [policy][certificate][rider] for you.

(c) through (h) remain as proposed.

8. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT NO. 1: The ACLI, AHIP, and BCBSMT filed comments on proposed New Rule I, and oppose adoption of the new rule. First, they state that any new rule affecting premium rate increases should only apply to new policies issued after the effective date of the new rule; and that retrospective application of the new rule is not appropriate for insurance products that are guaranteed renewable. Next, the commenters contend that New Rule I (referred to as the "If-Knew" or "Phantom Premium" method or approach) is not an appropriate or reasonable approach to limit an insurer's ability to recoup past losses. They state that the proposed new rule would not allow recovery of adverse premium assumptions, applied to premiums that have already been paid; claiming that this method incorrectly classifies "future losses" as "past losses." Next they point to a paper released by the NAIC "LTC Pricing Subgroup" that supports a different ratemaking methodology, the "Prospective Present Value" (PPV) approach. They claim that the PPV approach allows a rate increase to reflect only future adverse experience and that past losses are borne by the insurer; and PPV is based on sound actuarial principles. Last, they cite to an "Issue Brief" published by the American Academy of Actuaries, which discusses the authors concerns with the Rule I method (referred to as the "Phantom Premium" methodology), which also notes that "it would be inappropriate to use the 'Phantom Premium' methodology alone; which is also noted by the LTC Pricing Subgroup paper. The Academy Issue Brief concludes that application of the Phantom Premium method could have severe financial implications for insurers.

RESPONSE NO. 1: The CSI has carefully considered the comments but does not agree with the arguments against New Rule I as proposed. Current ARM 6.6.3112 applies to all policies, except for the limited exemption in ARM 6.6.3112(2). In the interests of protecting policyholders, and consistent with the state policies expressed in 33-22-1102 and 33-22-1121, MCA; the CSI finds that this new rule should apply to all long term care policies, regardless of the date issued. CSI's legal authority for rate regulation allows it to establish loss ratio standards (e.g., ARM 6.6.3112) and to protect policyholders from substantial rate increases, 33-22-1121(1), MCA. The statutory policies also establish the CSI's authority to promote the public interest and the availability of long term care insurance, in setting standards for long term care insurance premiums. 33-22-1102, MCA. The method adopted in New Rule I is consistent with these state standards and policies, and is also based on sound actuarial science and principles. There is no universal national consensus on the appropriate or best methodology to analyze long term care premium rate increase requests. Many insurers in this industry used incorrect actuarial assumptions in the past, to calculate premium rates. Nothing in the law requires the adoption of the PPV method, or any other particular method that would guarantee, implicitly or explicitly, the recovery of alleged "losses" for erroneous past actuarial estimates. The PPV method, by allowing changes in pricing assumptions, could result in

excessive rate increases, which policyholders would have to bear. The NAIC Pricing Subgroup paper and the American Academy of Actuaries Issue Brief are not dispositive or controlling. There are many divergent opinions in this area, and not all actuaries agree on a common method. Different states have used different methods. A few states are currently using the New Rule I "If-Knew" method. The CSI concludes that New Rule I is in the public interest, and adopts it as proposed.

COMMENT NO. 2: The ACLI comments that one sentence in the proposed amendment to the Disclosure Statement in ARM 6.6.3120(1)(b) is not appropriate because it does not apply to all types of long-term care insurance, and has been deleted from the National Association of Insurance Commissioners (NAIC) Model Regulation 641. The sentence reads: "I understand that the rates for this policy may increase in the future." BCBSMT echoes this comment.

RESPONSE NO. 2: CSI agrees that not all policies are subject to rate increases. The NAIC Model Regulation recognizes this, but still contains a notice requirement for potential increases. NAIC Model Regulation 641, Section 9.B.1. (2017). However, other provisions of the Form recognize and notify consumers that rates could increase for some types of policies. Therefore the one sentence in the Disclosure statement will be deleted in the final rule.

COMMENT NO. 3: BCBSMT comments that proposed New Rules II and III, regarding appeals of benefit trigger determinations for long term care insurance are proposed to be effective for benefit trigger requests on or after January 1, 2019; and notes that the CSI has not yet approved of independent review organizations. BCBSMT suggests that the effective date for this new rule be January 1, 2020, to allow lead time for compliance and approval of independent review organizations.

RESPONSE NO. 3: The CSI agrees that significant lead time is appropriate; and adopts an effective date of January 1, 2020 in (8) of New Rule II. New Rule III, regarding commission approval of long term care independent review organizations, will be effective July 1, 2019, to allow time for implementation of this rule before New Rule II goes into effect. The CSI also amends (2)(c) of New Rule III, to allow flexibility in setting the annual report date.

COMMENT NO. 4: BCBSMT comments that New Rule III(1)(e) should state that the independent review organization should be "the commissioner" instead of "Montana."

RESPONSE NO. 4: CSI agrees and amends New Rule III(1)(e) accordingly, which is consistent with New Rule III(1).

COMMENT NO. 5: ACLI, AHIP, and BCBSMT comment on proposed New Rule IV, regarding producer compensation. They believe that regulation of producer compensation for long-term care insurance is only appropriate if there is evidence of abuse in the marketplace. They comment that the NAIC Model Regulation is "optional" and allege that it has not been adopted in other states. They also state

that selling long term care insurance requires professional training, and adequate compensation is necessary to secure well-trained producers. They are concerned about the limitations on compensation, especially in the first year. They are also concerned about the limits on compensation for replacement policy sales, which may limit consumer's information or choices.

RESPONSE NO. 5: This rule language is from the NAIC Model Regulation 641, but was adopted as "Optional." The fact that the NAIC regulation is "Optional" and may not have been adopted by other states is not legally dispositive. However, the CSI has considered the comments and decided not adopt this rule at this time, but may reconsider it in the future.

COMMENT NO. 6: The commenters request that rules "which relate to disclosure" have an effective date of at least 12 months in the future.

RESPONSE NO. 6: The CSI agrees that some of the rules should have an effective date of January 1, 2020, to provide some lead time for preparation and compliance.

9. The following new rules and amended rules are effective the day after this notice is published: New Rule I (6.6.3123), and ARM 6.6.3101, 6.6.3102, 6.6.3103, 6.6.3104, 6.6.3109, 6.6.3117, 6.6.3119, 6.6.3122, and 6.6.3129.

10. The following new rules and amended rules will be effective January 1, 2020: New Rule II (6.6.3130); and ARM 6.6.3109A, 6.6.3114, 6.6.3118, 6.6.3120, and 6.6.3121.

11. The following new rule will be effective July 1, 2019: New Rule III (6.6.3131).

/s/ Ivan C. Evilsizer
Ivan C. Evilsizer
Rule Reviewer

/s/ Kristin Hansen
Kristin Hansen
Chief Counsel

Certified to the Secretary of State January 15, 2019.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.17.127, pertaining to)
prevailing wage rates for public works)
projects)

TO: All Concerned Persons

1. On November 16, 2018, the Department of Labor and Industry (department) published MAR Notice No. 24-17-342 regarding the public hearing on the proposed amendment of the above-stated rule on page 2280 of the 2018 Montana Administrative Register, Issue No. 22.

2. On December 7, 2018, a public hearing was held at which time members of the public made oral and written comments and submitted documents. Additional comments were received during the comment period.

3. The department has thoroughly considered the comments and testimony received from the public. The following is a summary of the public comments received and the department's response to those comments:

COMMENT 1: Three members of the Montana Roofers Association stated that metal roofing is incorrectly classified within the duties included under the sheet metal classification, and requested metal roofing be removed from the sheet metal classification and added to the roofer classification.

RESPONSE 1: The department reached out to the Montana chapter of the Sheet Metal and Air Conditioning Contractors' National Association (SMACNA 103), and asked if its members performed metal roofing installation. A representative of the Montana chapter stated the contractors who are members of SMACNA 103 do not perform metal roofing installation. Additionally, when the department receives data from sheet metal contractors who do perform metal roofing, those contractors classify those workers as roofers and at the appropriate roofer wage scale. The department agrees that the change is appropriate and has amended the wage rate publications accordingly as identified in paragraphs 4, 5, and 6.

COMMENT 2: The Montana Roofers Association stated that roofers have jurisdiction over metal wall panels. The commenter stated the same panel used on the roof is used on the wall, the roofing contractor supplies both the roofing and wall panels, and workers' compensation insurance views that work as included within the roofer classification.

RESPONSE 2: The department acknowledges while it may be reasonable to include wall panel installation in the roofer classification, the department's rate survey has not historically requested wage data for that work. Accordingly, the

department lacks data upon which to set a wage and benefit rate for that work. The department will seek that information during its next survey cycle, with the intention to include that work in the roofer classification. Inclusion of that work as being part of the roofer classification in the next survey will provide other trade classifications the opportunity to object if those other trades claim that work is not properly classified as falling under the roofer classification.

COMMENT 3: A commenter expressed concerns over the unpredictability of the wage and benefit rates for roofers in all districts, especially district 4.

RESPONSE 3: The rates for building construction were set correctly pursuant to ARM 24.17.119. The rates can go up or down depending on the quantity and quality of data received. However, the department has received additional data for the roofer classification for all districts. The department has incorporated the data as appropriate and has revised certain rates in line with the rate-setting standards. Revised rates are identified below in paragraph 4.

COMMENT 4: A commenter requested that "gravel conveyor" be added to the Operators Group 2 classification for building, heavy, and highway construction services.

RESPONSE 4: The department recognizes that because operating engineers are so specialized as to have no reasonable jurisdictional disputes over such work. The department has incorporated the gravel conveyor work as appropriate. Revised occupational descriptions are identified below in paragraphs 4, 5, and 6.

COMMENT 5: A commenter opposed the prevailing wage rates for all building Group 2 Laborers proposed in ARM 24.17.127(1)(e), especially the benefit amounts. The same commenter also opposed the wage and benefit rates for all groups in the heavy construction rate schedule proposed in ARM 24.17.127(1)(g).

RESPONSE 5: The department has reviewed the rates. The rates for building construction were correctly set pursuant to ARM 24.17.119. However, the department has received additional data for the Laborer Group 2 classification for all districts. The department has incorporated the data as appropriate and has revised certain rates in line with the rate-setting standards. Revised rates are identified below in paragraph 4. The rates for heavy construction were set correctly pursuant to ARM 24.17.120. No new data was presented to the department. The heavy construction rates for Laborer Group 2 in all districts remain the same.

COMMENT 6: Various individuals and entities submitted additional data or documents for inclusion in the rate-setting process during the comment period.

RESPONSE 6: The department has reviewed the information submitted. The department has incorporated the data as appropriate and has revised certain rates in line with the rate-setting standards. Revised rates are identified below in paragraphs 4 and 5.

4. The following occupational descriptions and rates in the "Montana Prevailing Wage Rates for Building Construction Services 2019" publication, incorporated by reference in the rule, have been amended as follows, stricken matter interlined, new matter underlined:

Construction Equipment Operators Group 2

This group includes but is not limited to:

Air Doctor; Backhoe\Excavator\Shovel, up to and incl. 3 cu. yds; Bit Grinder; Bituminous Paving Travel Plant; Boring Machine, Large; Broom, Self-Propelled; Concrete Travel Batchers; Concrete Float & Spreader; Concrete Bucket Dispatcher; Concrete Finish Machine; Concrete Conveyor; Distributor; Dozer, Rubber-Tired, Push, & Side Boom; Elevating Grader\Gradall; Field Equipment Serviceman; Front-End Loader, 1 cu. yd up to and incl. 5 cu. yds; Grade Setter; Gravel Conveyor; Heavy Duty Drills, All Types; Hoist\Tugger, All; Hydralift Forklifts & Similar; Industrial Locomotive; Motor Patrol (except finish); Mountain Skidder; Oiler, Cranes\Shovels; Pavement Breaker, EMSCO; Power Saw, Self-Propelled; Pugmill; Pumpcrete\Grout Machine; Punch Truck; Roller, other than Asphalt; Roller, Sheepfoot (Self-Propelled); Roller, 25 tons and over; Ross Carrier; Rotomill, under 6 ft; Trenching Machine; Washing /Screening Plant.

Construction Laborers Group 2

	Wage	Benefit
District 1	\$17.65 <u>19.11</u>	\$6.24 <u>6.92</u>
District 2	\$20.97 <u>22.35</u>	\$9.22
District 3	\$21.49 <u>22.67</u>	\$5.18
District 4	\$18.90 <u>20.87</u>	\$3.86 <u>4.93</u>

Heating and Air Conditioning

	Wage	Benefit
District 1	\$28.51 <u>29.62</u>	\$17.91 <u>18.00</u>
District 2	\$28.51 <u>29.62</u>	\$17.91 <u>18.00</u>
District 3	\$28.51 <u>29.62</u>	\$17.91 <u>18.00</u>
District 4	\$28.51 <u>29.62</u>	\$17.91 <u>18.00</u>

Roofers

	Wage	Benefit
District 1	\$19.83 <u>20.23</u>	\$12.48 <u>8.63</u>
District 2	\$20.61 <u>16.00</u>	\$ 9.08
District 3	\$20.61 <u>19.33</u>	\$-9.08 <u>4.52</u>
District 4	\$23.71 <u>19.45</u>	\$-9.47 <u>4.31</u>

Duties Include:

Metal roofing.

Sheet Metal Workers

	Wage	Benefit
District 1	\$27.93 <u>29.62</u>	\$15.04 <u>18.00</u>
District 2	\$28.51 <u>29.62</u>	\$17.91 <u>18.00</u>
District 3	\$28.51 <u>29.62</u>	\$17.91 <u>18.00</u>
District 4	\$28.51 <u>29.62</u>	\$17.91 <u>18.00</u>

Duties Include:

Testing and balancing, commissioning and retro-commissioning of all air-handling equipment and duct work. Manufacture, fabrication, assembling, installation, dismantling, and alteration of all HVAC systems, air veyer systems, and exhaust systems. All lagging over insulation and all duct lining. Metal roofing.

Tilelayers, Terrazzo and Marble Finishers

No Rate Established

Wage	Benefit
\$20.72	\$13.61
\$20.72	\$13.61
\$20.72	\$13.61
\$20.72	\$13.61

Tilelayers, Terrazzo and Marble Setters

No Rate Established

Wage	Benefit
\$28.59	\$13.62
\$28.59	\$13.62
\$28.59	\$13.62
\$28.59	\$13.62

Truck Drivers

No Rate Established

Wage	Benefit
\$25.07	\$7.06
\$24.56	\$8.01
\$25.07	\$7.06
\$25.07	\$7.06

5. The following occupational descriptions and rates in the "Montana Prevailing Wage Rates for Heavy Construction Services 2019" publication, incorporated by reference in the rule, have been amended as follows, stricken matter interlined, new matter underlined:

Construction Equipment Operator Group 2

This group includes but is not limited to:

Air Doctor; Backhoe\Excavator\Shovel, up to and incl. 3 cu. yds; Bit Grinder; Bituminous Paving Travel Plant; Boring Machine, Large; Broom, Self-Propelled; Concrete Travel Batcher; Concrete Float & Spreader; Concrete

Bucket Dispatcher; Concrete Finish Machine; Concrete Conveyor; Distributor; Dozer, Rubber-Tired, Push, & Side Boom; Elevating Grader\Gradall; Field Equipment Serviceman; Front-End Loader, 1 cu. yd up to and incl. 5 cu. yds; Grade Setter; Gravel Conveyor; Heavy Duty Drills, All Types; Hoist\Tugger, All; Hydralift Forklifts & Similar; Industrial Locomotive; Motor Patrol (except finish); Mountain Skidder; Oiler, Cranes\Shovels; Pavement Breaker, EMSCO; Power Saw, Self-Propelled; Pugmill; Pumpcrete\Grout Machine; Punch Truck; Roller, other than Asphalt; Roller, Sheepsfoot (Self-Propelled); Roller, 25 tons and over; Ross Carrier; Rotomill, under 6 ft; Trenching Machine; Washing /Screening Plant.

Heating and Air Conditioning

Wage	Benefit
\$28.51 <u>29.62</u>	\$17.94 <u>18.00</u>

Sheet Metal Workers

Wage	Benefit
\$28.51 <u>29.62</u>	\$17.94 <u>18.00</u>

Duties Include:

Testing and balancing, commissioning and retro-commissioning of all air-handling equipment and duct work. Manufacture, fabrication, assembling, installation, dismantling, and alteration of all HVAC systems, air conveyer systems, and exhaust systems. All lagging over insulation and all duct lining. ~~Metal roofing.~~

6. The following occupational descriptions in the "Montana Prevailing Wage Rates for Highway Construction Services 2019" publication, incorporated by reference in the rule, have been amended as follows, stricken matter interlined, new matter underlined:

Construction Equipment Operator Group 2

This group includes but is not limited to:

Air Doctor; Backhoe\Excavator\Shovel, up to and incl. 3 cu. yds; Bit Grinder; Bituminous Paving Travel Plant; Boring Machine, Large; Broom, Self-Propelled; Concrete Travel Batchers; Concrete Float & Spreader; Concrete Bucket Dispatcher; Concrete Finish Machine; Concrete Conveyor; Distributor; Dozer, Rubber-Tired, Push, & Side Boom; Elevating Grader\Gradall; Gravel Conveyor; Field Equipment Serviceman; Front-End Loader, 1 cu. yd up to and incl. 5 cu. yds; Grade Setter; Heavy Duty Drills, All Types; Hoist\Tugger, All; Hydralift Forklifts & Similar; Industrial Locomotive; Motor Patrol (except finish); Mountain Skidder; Oiler, Cranes\Shovels; Pavement Breaker, EMSCO; Power Saw, Self-Propelled; Pugmill; Pumpcrete\Grout Machine; Punch Truck; Roller, other than Asphalt; Roller, Sheepsfoot (Self-Propelled); Roller, 25 tons and over; Ross Carrier; Rotomill, under 6 ft; Trenching Machine; Washing /Screening Plant.

7. The department has amended ARM 24.17.127 as proposed, but with the changes to the various publications as noted above. The 2019 rates will be effective January 26, 2019, and are applicable to contracts noticed for bids on or after that date.

/s/ Mark Cadwallader
Mark Cadwallader
Alternate Rule Reviewer

/s/ Galen Hollenbaugh
Galen Hollenbaugh, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 15, 2019.

BEFORE THE BOARD OF OCCUPATIONAL THERAPY PRACTICE
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 24.165.401 fees, 24.165.2101	)	REPEAL
continuing education, 24.165.2301)	
unprofessional conduct, and the)	
repeal of 24.165.411 board filing)	
practices, 24.165.2115 renewals)	

TO: All Concerned Persons

1. On November 16, 2018, the Board of Occupational Therapy Practice (board) published MAR Notice No. 24-165-23 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 2283 of the 2018 Montana Administrative Register, Issue No. 22.

2. On December 13, 2018, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. Several comments were received by the December 14, 2018 deadline.

3. The board has thoroughly considered the comments received. A summary of the comments and the board's response are as follows:

COMMENT 1: Several commenters requested ARM 24.165.2101(7) be revised to add a new continuing education category for knowledge and skill assessment activities.

RESPONSE 1: The board appreciates all comments received during the rulemaking process but is unable to accommodate the request in this final notice. The board may consider the suggestion in future rulemaking discussions.

4. The board has amended ARM 24.165.401, 24.165.2101, and 24.165.2301 exactly as proposed.

5. The board has repealed ARM 24.165.411 and 24.165.2115 as proposed.

BOARD OF OCCUPATIONAL THERAPY PRACTICE
BRENDA TONER, OTR
PRESIDING OFFICER

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

/s/ GALEN HOLLENBAUGH
Galen Hollenbaugh, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 15, 2019.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.40.701, 37.40.702, and)
37.40.705 pertaining to home health)
program)

TO: All Concerned Persons

1. On November 16, 2018, the Department of Public Health and Human Services published MAR Notice No. 37-849 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 2287 of the 2018 Montana Administrative Register, Issue Number 22.

2. The department has amended the following rules as proposed: ARM 37.40.702 and 37.40.705.

3. The department has amended the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

37.40.701 HOME HEALTH SERVICES, DEFINITIONS (1) remains as proposed.

(2) "Home health aide services" means services of ~~an appropriately trained individual~~ a certified home health aide to assist with routine care not requiring specialized nursing skills and supervised by a licensed registered nurse.

(3) through (6) remain as proposed.

AUTH: 53-6-113, MCA

IMP: 53-6-101, 53-6-131, MCA

4. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: A commenter suggested the proposed language in ARM 37.40.701 HOME HEALTH SERVICES, DEFINITIONS (2) which describes the use of "...an appropriately trained individual" to assist with the delivery of home health care be revised. Because the definition of "home health agency" means a licensed and certified provider, the commenter suggests that this definition be more reflective of the requirements of a home health aide who works in a home health agency (i.e., a "certified home health aide"). Alternatively, the commenter suggests the department keep the language as provided under the current rule because (3)(a)(ii) lists "home health aide services" already. The commenter states that using the language "...an

appropriately trained individual" does not provide any clarification to the type of training an individual must have to perform these services.

RESPONSE #1: The department agrees that the amendment to ARM 37.40.701(2) should include the language "a certified home health aide" (HHA), to more clearly describe the requirement that a HHA must complete an approved Montana Nurse Aide Training Program. The department has revised the language to state "a certified home health aide."

COMMENT #2: The department received the following comment with regard to ARM 37.40.701(3)(b)(iv): "Maintenance therapy" as defined in ARM 37.86.601(5) is not considered an allowable home health service. The commenter suggests that the department consider including maintenance therapy as allowed in the Medicare Home Health Benefit and described in the Medicare Benefit Policy Manual, Chapter 7, Sections 40.2.1 and 40.2.2. The commenter states that maintenance therapy programs can prevent or slow further deterioration and do not require a high volume of visits by the therapist. The commenter also states these programs are effective for those patients that have special medical complications which require the skills of a qualified therapist to perform the therapy service safely.

RESPONSE #2: The Montana home health benefit includes "restorative" therapy only. The home health benefit does not include maintenance therapy. The department recognizes the importance of maintenance therapy and covers the service through the Home and Community-Based Services (HCBS) waiver benefit or, for individuals under the age of 21 years, through the Early and Periodic Screening, Diagnostic, and Treatment benefit. The department does not believe it is appropriate to provide maintenance therapy as a home health benefit.

COMMENT #3: A commenter recommends that ARM 37.40.702(8)(a) be revised to read: "If the member is being admitted to home health services immediately following an acute or post-acute stay, the face-to-face encounter shall be conducted by..." The commenter indicates the existing proposed language could possibly be interpreted as meaning that an acute or post-acute stay is required to receive the services and/or face-to-face encounter.

RESPONSE #3: The department disagrees and believes the proposed rule language adequately reflects who may perform the face-to-face encounter and under what circumstances.

COMMENT #4: A commenter suggests removing the exception language in ARM 37.40.702(9)(a) for a certified nurse midwife. The commenter states: "Medicare rules allow for CNMs (certified nurse midwives) to order DME, so it makes sense to keep the language consistent between the face-to-face requirements for home health and DME."

RESPONSE #4: The department disagrees and believes the language it has proposed is consistent with the requirements of the federal regulations. The

department interprets 42 CFR 440.70(g)(2) to mean that a certified nurse midwife is not allowed to perform the face-to-face encounter for the initiation of medical equipment. This interpretation is supported by the federal register entry adopting the federal regulation. 81 FR 5530, 5557 (Feb. 2, 2016) ("certified nurse midwives are not permitted to conduct face-to-face encounters required for the items, as proposed at § 440.70(g)(2)").

/s/ Robert Lishman

Robert Lishman
Rule Reviewer

/s/ Sheila Hogan

Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State January 15, 2019.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee:

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

Education and Local Government Interim Committee:

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

Children, Families, Health, and Human Services Interim Committee:

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

Environmental Quality Council:

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

Water Policy Interim Committee (where the primary concern is the quality or quantity of water):

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions:

Administrative Rules of Montana (ARM) is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR or Register) is an online publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding Register.

Use of the Administrative Rules of Montana (ARM):

Known
Subject

1. Consult ARM Topical Index.
Update the rule by checking recent rulemaking and the table of contents in the last Montana Administrative Register issued.

Statute

2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.

RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through September 30, 2018. This table includes notices in which those rules adopted during the period July 20, 2018, through January 11, 2019, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through September 30, 2018, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2018 or 2019 Montana Administrative Registers.

To aid the user, this table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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EXECUTIVE BRANCH APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of executive branch appointees and upcoming vacancies on those boards and councils.

In this issue, appointments effective in December 2018 appear. Potential vacancies from February 1, 2019 through April 30, 2019, are also listed.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of January 1, 2019.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

EXECUTIVE BRANCH APPOINTEES FOR DECEMBER 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Review			
Mr. Shaun McGrath	Governor	None Stated	12/1/2018
Helena			1/1/2021
Qualifications (if required):	None Stated		
Department of Environmental Quality			
Mr. Shaun McGrath	Governor	None Stated	12/1/2018
Helena			1/1/2021
Qualifications (if required):			
Drought and Water Supply Advisory Committee			
Mr. Shaun McGrath	Governor	None Stated	12/1/2018
Helena			1/1/2021
Qualifications (if required):	None Stated		
Flathead Basin Commission			
Mr. Shaun McGrath	Governor	None Stated	12/1/2018
Helena			1/1/2021
Qualifications (if required):	None Stated		
Upper Clark Fork River Basin Remediation and Restoration Advisory Council			
Mr. Shaun McGrath	Governor	None Stated	12/1/2018
Helena			9/1/2019
Qualifications (if required):	None Stated		

EXECUTIVE BRANCH VACANCIES – FEBRUARY 1, 2019 THROUGH APRIL 30, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Architects and Landscape Architects		
Ms. Shelly Engler, Bozeman Qualifications (if required): Licensed landscape architect	Governor	4/1/2019
Ms. Janet Cornish, Butte Qualifications (if required): Representative of the public not engaged in the practice of architecture	Governor	4/1/2019
Mr. Nathan Steiner, Billings Qualifications (if required): Licensed landscape architect	Governor	4/1/2019
Ms. Marie O'Neill, Bozeman Qualifications (if required): Licensed architect who is on the staff of Montana State University-Bozeman	Governor	4/1/2019
Mr. Steven Thomas Small, Billings Qualifications (if required): Representative of the Public	Governor	4/1/2019
Board of Clinical Laboratory Science Practitioners		
Ms. Vicki Rice, Helena Qualifications (if required): Clinical science practitioner who holds an active license	Governor	4/1/2019
Mr. Carl Donovan, Great Falls Qualifications (if required): Public member not associated in the practice of clinical laboratory science	Governor	4/1/2019
Mr. Matthew Kalanick, Great Falls Qualifications (if required): Clinical science practitioner who holds an active license	Governor	4/1/2019

EXECUTIVE BRANCH VACANCIES – FEBRUARY 1, 2019 THROUGH APRIL 30, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of County Printing		
Commissioner Carol Brooker, Thompson Falls Qualifications (if required): County Commissioner	Governor	4/1/2019
Commissioner Laura Obert, Townsend Qualifications (if required): County Commissioner	Governor	4/1/2019
Mr. Scott Turner, Billings Qualifications (if required): Member of the printing industry	Governor	4/1/2019
Mr. Jim Strauss, Great Falls Qualifications (if required): Member of the printing industry	Governor	4/1/2019
Mr. Roger Wagner, Nashua Qualifications (if required): Member of the general public	Governor	4/1/2019
Mr. David McCumber, Butte Qualifications (if required): Member of the printing industry	Governor	4/1/2019
Board of Optometry		
Mr. Peter Fontana, Great Falls Qualifications (if required): Representative of the public not engaged in the practice of optometry	Governor	4/1/2019
Mr. Douglas Kimball, Bozeman Qualifications (if required): Optometrist	Governor	4/1/2019

EXECUTIVE BRANCH VACANCIES – FEBRUARY 1, 2019 THROUGH APRIL 30, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Public Education		
Ms. Sharon Carroll, Ekalaka	Governor	2/1/2019
Qualifications (if required): Resident of District 2 and identifies herself as an Independent		
Board of Regents		
Mr. Pat Williams, Missoula	Governor	2/1/2019
Qualifications (if required): Resident of District 1 (Democrat)		
Board of Regents of Higher Education		
Ms. Fran Maronick Albrecht, Missoula	Education	2/1/2019
Qualifications (if required): District 1 Independent		
Interstate Compact on Educational Opportunity for Military Children		
Captain Michelle Bogden, Fort Harrison	Governor	2/5/2019
Qualifications (if required): Executive Branch Representative		
Potato Commodity Advisory Committee		
Mr. Brad Haidle, Fallon	Governor	3/1/2019
Qualifications (if required): Potato Producer		
Mr. Pat Fleming, Pablo	Governor	3/1/2019
Qualifications (if required): Potato Producer		
Public Employees' Retirement Board		
Mr. Warren Dupuis, Helena	Governor	4/1/2019
Qualifications (if required): Active Member of the Public Retirement System		

EXECUTIVE BRANCH VACANCIES – FEBRUARY 1, 2019 THROUGH APRIL 30, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Public Employees' Retirement Board Cont.		
Ms. Maggie Jean Peterson, Anaconda	Governor	4/1/2019
Qualifications (if required): Experience in Investment Management, Counseling, or Financial Planning		
 Pulse Crop Commodity Advisory Committee		
Mr. Jon Stoner, Havre	Governor	2/1/2019
Qualifications (if required): General member		
Mr. Dustin Kreger, Great Falls	Governor	2/1/2019
Qualifications (if required): General member		
Mr. Roger Sammons, Cut Bank	Governor	2/1/2019
Qualifications (if required): Producer		
Snowmobile Advisory Committee		
Mr. Wes Fehrer, Bozeman	Governor	3/1/2019
Qualifications (if required): Member		
Mr. Jason Howell, West Yellowstone	Governor	3/1/2019
Qualifications (if required): Montana Snowmobile Association Advisor		

EXECUTIVE BRANCH VACANCIES – FEBRUARY 1, 2019 THROUGH APRIL 30, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Snowmobile Advisory Committee Cont.		
Mr. Don Phillips, Missoula Qualifications (if required): Member	Governor	3/1/2019
Mr. Seth McArthur, Helena Qualifications (if required): Agency Advisor	Governor	3/1/2019
Mr. John Costello, West Yellowstone Qualifications (if required): Member	Governor	3/1/2019
Mr. Ricky David, Kalispell Qualifications (if required): Member	Governor	3/1/2019
Mr. Jim Norlander, West Yellowstone Qualifications (if required): Agency Advisor	Governor	3/1/2019
Mr. Richard Tramp, Belgrade Qualifications (if required): Member	Governor	3/1/2019

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COREY STAPLETON
SECRETARY OF STATE

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