

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 14

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of)	AMENDED NOTICE OF PUBLIC
ARM 2.4.401, 2.4.402, 2.4.403,	)	HEARING ON PROPOSED
2.4.404, 2.4.405, 2.4.406, 2.4.409,	)	AMENDMENT AND REPEAL AND
2.4.410, and 2.4.411 pertaining to	)	EXTENSION OF COMMENT
accounting and financial reporting	)	PERIOD
standards, report filing fees, filing)	
penalties, waivers and extensions of)	
penalties, audit and audit reporting)	
standards, the roster of independent)	
auditors, resolution and corrections of)	
audit findings, financial reviews, and)	
incorporation by reference of various)	
standards, accounting policies, and)	
federal laws and regulations and the)	
repeal of ARM 2.4.408 pertaining to)	
audit contracts)	

TO: All Concerned Persons

1. On June 21, 2019, the Department of Administration published MAR Notice No. 2-4-581 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 761 of the 2019 Montana Administrative Register, Issue Number 12. The Department of Administration inadvertently failed to make required sponsor notifications when beginning work on the rule amendments (2-4-302(2), MCA). The department has subsequently made the required sponsor notifications, and is extending the comment period in this notice. The department is also proposing additional amendments to ARM 2.4.402, 2.4.403, 2.4.404, 2.4.410, and 2.4.411.

2. The Department of Administration 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 Administration no later than 5:00 p.m. on August 1, 2019, to advise us of the nature of the accommodation that you need. Please contact Cody Pearce, Department of Administration, Statewide Accounting Bureau, P.O. Box 200102, Helena, MT 59620; telephone (406) 444-3092; fax (406) 444-9144; TDD (406) 444-1421; Montana Relay Service 711; or e-mail LGSPortalRegistration@mt.gov.

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

2.4.402 REPORT FILING FEE (1) through (1)(b)(iii) remain as proposed.

(iv) When applicable, revenues do not include receipts or inflows of resources presented in the following types of financial statements:

- (A) governmentwide;
- (B) investment trust funds; or
- (C) custodial funds ~~financial statements.~~

(2) For school districts and associated cooperatives:

(a) revenues are based on the recognition criteria of the financial reporting framework presented in the annual financial report required by ~~20-9-213, MCA~~ the Superintendent of Public Instruction;

(b) through (3) remain as proposed.

STATEMENT OF REASONABLE NECESSITY: The department proposes to amend (1)(b)(iv) because listing the types of financial statements individually will assist the reader in clearly understanding that there are three distinct types to which the revenue exclusion applies. The department proposes to amend (2)(a) to remove the statutory reference because the statute does not refer to a "financial report." The Superintendent of Public Instruction, however, prescribes by administrative rule that school districts submit an annual financial report.

2.4.403 PENALTIES FOR FAILING TO FILE REPORTS WITHIN PRESCRIBED TIME (1) through (1)(b) remain as proposed.

(2) ~~In addition to~~ Rather than imposing the late submission penalty established in (1), the department may issue an order to withhold payment of any state financial assistance to the local government entity. The department shall notify state agencies of the order.

(a) Upon receipt of the required report ~~and all late submission penalties~~, the department shall release any financial assistance withheld pursuant to the department's order to the local government entity.

(3) remains as proposed.

STATEMENT OF REASONABLE NECESSITY: In the original proposal, (2) and (2)(a) were added to mirror the language in ARM 2.4.404(2) and (3). Upon further review of 2-7-517(1), MCA, the department noted that rather than a stop payment and late submission penalty, the statute allows either, but not both. The department proposes amendment to (2) and (2)(a) to clearly state that withholding financial assistance from a local government is an option to the monthly penalty for late submission of the annual financial report. Although this closely follows statutory language, the department believes including it in rule makes it easier for stakeholders to understand and reference without having to refer to the statute.

2.4.404 PENALTY FOR FAILING TO PAY FILING FEE WITHIN 60 DAYS OF DUE DATE (1) and (1)(a) remain as proposed.

(2) ~~In addition to~~ Rather than imposing the late payment penalty established in (1), the department may issue an order to withhold payment of any state financial assistance to the local government entity.

(3) Upon receipt of the required filing fee and ~~all late payment penalties~~, the department shall notify each state agency that any financial assistance withheld pursuant to the department's order has been released to the local government entity.

STATEMENT OF REASONABLE NECESSITY: In the original proposal, existing (3) uses the phrase "In addition to" when referring to imposing a late payment. And in existing (4) "plus the late payment" is used. This text has been in rule since the rule was originally written. Upon further review of 2-7-517(1), MCA, the department noted that rather than a stop payment and late payment penalty, the statute allows either, but not both. The department proposes amendment to (2) and (3) to clearly state that withholding financial assistance from a local government is an option to the monthly penalty for late payment of the filing fee. Although this closely follows statutory language, the department believes including it in rule makes it easier for stakeholders to understand and reference without having to refer to the statute.

2.4.410 REVIEW OF FINANCIAL REVIEWS STATEMENTS (1) through (8) remain as proposed.

STATEMENT OF REASONABLE NECESSITY: The department proposes to amend the catchphrase to more accurately state the rule content. Without this amendment, there may be confusion as to the rule's purpose.

2.4.411 INCORPORATION BY REFERENCE OF VARIOUS STANDARDS, ACCOUNTING POLICIES, AND FEDERAL LAWS AND REGULATIONS

(1) through (1)(b) remain as proposed.

(2) The department adopts and incorporates by reference the Small Government Financial Reporting Framework established by the department as of June 30, 2019, as provided by ARM 2.4.401, available at <https://sfsd.mt.gov/LGSB>.

(a) The framework defines an alternative basis of accounting to generally accepted accounting principles for small governments to use for financial reporting and auditing purposes. This alternative basis of accounting excludes some of the more complex accounting calculations and disclosures required by generally accepted accounting principles as immaterial for a small government.

(3) The department adopts and incorporates by reference the Government Auditing Standards, 2011 and 2018 revisions, established by the Comptroller General of the United States, as provided by ARM 2.4.406.

(a) Government Auditing Standards incorporated by reference in (3) contain standards to be followed by an independent auditor in conducting financial audits of local government entities, including general standards, field work standards, and reporting standards.

(4) The department adopts and incorporates by reference the Federal Single Audit Act of 1984 as amended by the Single Audit Act Amendments of 1996 (P.L. 104-156) and Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), as published in the Federal Register, Volume 78, No. 248, as provided by ARM 2.4.405.

(a) The Federal Single Audit Act of 1984, as amended by the Single Audit Act Amendments of 1996 and the Title 2 CFR Part 200 (Uniform Guidance), provide audit requirements for ensuring that federal funds are expended properly and are used in compliance with federal requirements.

(a) and (b) remain as proposed, but are renumbered (b) and (c).

(5) The department adopts and incorporates by reference the standards established by the American Institute of Certified Public Accountants for agreed-upon procedures engagements, updated through June 30, 2019, as provided by ARM 2.4.410, available at <https://www.aicpa.org/>.

(a) These standards contain:

(i) conditions for engagement performance;

(ii) the subject matter and related assertions;

(iii) the nature, timing, and extent of procedures;

(iv) the presentation of the results of applying agreed-upon procedures to specific subject matter in the form of findings;

(v) reporting requirements; and

(vi) written representations.

STATEMENT OF REASONABLE NECESSITY: The department proposes addition of (2)(a), (3)(a), (4)(a), and (5)(a) to provide descriptions of the subject matter in the materials adopted by reference as required by statute. These descriptions were inadvertently removed or not added in the original proposal notice.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action to Cody Pearce, Department of Administration, Statewide Accounting Bureau, P.O. Box 200102, Helena, MT 59620; telephone (406) 444-3092; fax (406) 444-9144; Montana Relay Service 711; or e-mail LGSPortalRegistration@mt.gov, and must be received no later than 5:00 p.m., August 9, 2019.

5. An electronic copy of this proposal notice is available through the department's website at <http://doa.mt.gov/administrativerules>. The department strives to make its online version of the notice conform to the official published version but advises all concerned persons that if a discrepancy exists between the official version and the department's online version, only the official text will be considered. In addition, although the department works to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

6. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor of L. 2019 SB 2, Senator Margaret MacDonald, was contacted on May 22, 2019, by email and U.S. mail. The primary bill sponsor of L. 2019 SB 302, Senator John Esp, was contacted on July 15, 2019, by email and U.S. mail. The primary bill sponsor of L. 2019 SB 439, Senator Eric Moore, was contacted on July 15, 2019, by email and U.S. mail. The primary bill sponsor of L. 2017 HB 162, Representative Adam Hertz, was contacted on July 15,

2019, by email and U.S. mail. The primary bill sponsor of L. 2015 HB 44, Representative Tom Berry, was contacted on July 15, 2019, by email and U.S. mail.

By: /s/ John Lewis
John Lewis, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State July 16, 2019.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rules I through VII pertaining to the) PROPOSED ADOPTION
administration of the Coal Trust)
Multifamily Homes (CTMH) Program)

TO: All Concerned Persons

1. On August 15, 2019, at 10:00 a.m., the Department of Commerce will hold a public hearing in Room 268 of the Park Avenue Building at 301 South Park Avenue, in Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The Department of Commerce 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 Commerce no later than 5:00 p.m., August 13, 2019, to advise us of the nature of the accommodation that you need. Please contact Bonnie Martello, Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0523; telephone (406) 841-2596; TDD 841-2702; fax (406) 841-2771; or e-mail docadministrativerules@mt.gov.

3. The rules as proposed to be adopted provide as follows:

NEW RULE I PURPOSE OF REGULATIONS (1) These rules are enacted by the board to provide explanation and guidance for loans from the coal trust account authorized by 17-6-308(6), MCA, and Title 90, chapter 6, part 1, MCA, pursuant to the criteria and procedures described in [NEW RULES III through VII].

AUTH: HB 16 of the 2019 Legislative session
IMP: HB 16 of the 2019 Legislative session

NEW RULE II DEFINITIONS When used in these rules, unless the context clearly requires a different meaning:

(1) "Application" means the Montana Board of Housing Uniform Application, Loan Supplement, or any more current application forms published by the board, a copy of which may be obtained by contacting the board by mail at P.O. Box 200528, Helena, Montana 59620-0528, by telephone at (406) 841-2840, or at the board's web site www.housing.mt.gov.

(2) "Board" means the Montana Board of Housing created by 2-15-1814, MCA.

(3) "CTMH" means the Coal Trust Multifamily Homes program authorized by 17-6-308(6), MCA, and Title 90, chapter 6, part 1, MCA.

(4) "Low-income" means households whose incomes do not exceed 80% of the median income in the area as determined by the US Department of Housing and Urban Development with adjustments for smaller and larger families.

(5) "Moderate-income" means households whose incomes are between 81% and 95% of the median income for the area as determined by the US Department of Housing and Urban Development with adjustments for smaller and larger families.

(6) "Multifamily rental housing project" means a project that is two or more rental units.

(7) "Total development cost" means all costs shown in the application on the Uses of Funds line "Total Projects Costs without Grant Admin." Total project cost does not include grant administration costs.

AUTH: HB 16 of the 2019 Legislative session

IMP: HB 16 of the 2019 Legislative session

NEW RULE III CTMH LOAN ELIGIBLE LOAN ACTIVITIES (1) The board may make a CTMH loan to meet the basic housing needs of low-income or moderate-income households and for the following purposes:

(a) development of multifamily rental housing projects;

(b) acquisition and/or rehabilitation of existing multifamily rental housing projects for the purpose of preservation of or conversion to housing for low-income or moderate-income households; or

(c) acquisition of land for multifamily rental housing projects including land trusts and for mobile or manufactured homes.

(2) Property funded with a CTMH is subject to property taxes.

AUTH: HB 16 of the 2019 Legislative session

IMP: HB 16 of the 2019 Legislative session

NEW RULE IV CTMH LOAN APPLICANT ELIGIBILITY (1) Organizations eligible for CTMH loans are agencies or programs of state government, local governments, tribal governments, local housing authorities, nonprofit community or neighborhood based organizations, regional or statewide nonprofit housing assistance organizations, and for-profit housing developers.

(2) The applicant must document to the satisfaction of the board experience in the development or management of housing for low-income or moderate-income households. Criteria considered by the board include, but are not limited to:

(a) number of years' experience in development or management of housing for low-income and/or moderate-income households;

(b) number of housing developments and units developed or managed;

(c) involvement in other low-income and moderate-income housing programs of the board, federal agencies, and tribal and local governments; and

(d) successful completion of other housing development projects.

AUTH: HB 16 of the 2019 Legislative session

IMP: HB 16 of the 2019 Legislative session

NEW RULE V CTMH LOAN APPLICATION PROCEDURES (1) An application must be submitted.

(2) At the time the application is submitted, an applicant must also submit:

(a) a description of the efforts made by the applicant to coordinate the loan with other housing assistance programs administered by the board, the federal government, state agencies, tribal government, local public housing authorities, local governments, and private entities;

(b) an explanation of how the loan will not supplant existing or available funding for the project; and

(c) a maximum fee of 1% of the requested loan amount, which may be adjusted based on project details by board staff.

(3) Applications will be reviewed by staff designated by the board and presented to the board for consideration as soon as the review is completed, but not later than 90 days following receipt of a complete application by the board.

(4) Applications that are substantially incomplete as determined by the board staff shall not be processed but will be returned to the applicant.

AUTH: HB 16 of the 2019 Legislative session

IMP: HB 16 of the 2019 Legislative session

NEW RULE VI CTMH LOAN TERMS AND CONDITIONS (1) A CTMH loan shall:

(a) provide for complete amortization at maturity through substantially equal monthly payments of principal and interest;

(b) have a term not to exceed 30 years;

(c) bear interest at an annual rate of at least 0.5% less than the interest rate charged for a loan funded by the Housing Montana Fund as outlined in ARM 8.111.506;

(d) be subject to a late charge of 4% of the monthly payment due for each monthly payment that is not made within 15 days of its due date;

(e) be secured by a lien (perfected either by a mortgage or a trust indenture) against the real property benefited by the loan; and

(f) be in first lien position, will not exceed 95% of total development cost, and may be a loan participation or pari passu loan as long as it minimizes the risk of the CTMH program.

(2) The board and the CTMH loan recipient must each pay half of the loan servicing fees as determined by the board.

AUTH: HB 16 of the 2019 Legislative session

IMP: HB 16 of the 2019 Legislative session

NEW RULE VII CRITERIA FOR APPROVAL OF CTMH LOAN (1) The board will review the following criteria in considering an application for an CTMH loan:

(a) the applicant's experience in managing or developing housing for low-income and/or moderate-income households;

- (b) the percentage of the units in the project that will be available for low-income or moderate-income households;
- (c) the need for low-income and moderate-income housing in the community where the project is to be located;
- (d) project location;
- (e) the loan size and whether it maximizes the geographical distribution of the loan program; and
- (f) the use of other funds to leverage the use of CTMH funds.

AUTH: HB 16 of the 2019 Legislative session

IMP: HB 16 of the 2019 Legislative session

REASON: The proposed rules are necessary to implement and administer the Coal Trust Multifamily Homes (CTMH) program as required by HB 16 of the 2019 Legislative session.

FISCAL IMPACT: The fee estimate requirements of 2-4-302(1)(c), MCA, cannot be determined at this time. The number of applicants and requested loan amounts are unknown.

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 to the Department of Commerce, Legal Department, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501; telephone (406) 841-2596; TDD 841-2702; fax (406) 841-2771; or e-mail docadministraiverules@mt.gov, and must be received no later than 5:00 p.m., August 23, 2019.

5. Bonnie Martello, Paralegal, Department of Commerce, has been designated to preside over and conduct this hearing.

6. 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 listed in 4 above or may be made by completing a request form at any rules hearing held by the department.

7. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor, Representative Dave Fern, was contacted on July 11, 2019 by e-mail at Dave.Fern@mtleg.gov and fern@montanasky.net.

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

MONTANA BOARD OF HOUSING
Patrick E. Melby, Chairman

/s/ Garrett R. Norcott
Garrett R. Norcott
Rule Reviewer

/s/ Tara Rice
Tara Rice
Director
Department of Commerce

Certified to the Secretary of State July 16, 2019.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 10.55.602, 10.55.605, and) PROPOSED AMENDMENT
10.55.606 pertaining to the)
Accreditation Process)

TO: All Concerned Persons

1. On August 21, 2019, at 10:00 a.m., the Board of Public Education will hold a public hearing in the Superintendent's conference room at 1227 11th Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The board 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 Board of Public Education no later than 5:00 p.m. on August 14, 2019, to advise us of the nature of the accommodation that you need. Please contact Pete Donovan, Executive Director, 46 N. Last Chance Gulch, Suite 2B, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0300; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

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

10.55.602 DEFINITIONS For the purposes of this chapter, the following terms apply:

(1) through (26) remain the same.

(27) "Minimum requirement" means groups of 10 or more students.

(27) through (40) remain the same but are renumbered (28) through (41).

(42) "State accountability system" means academic measures within the annual meaningful differentiation process and the other state defined indicators.

(44) (43) "Student performance standards" means minimal minimum standards of a quality education, which measures student performance on annual state level summative assessments and graduation rates used to determine the accreditation status of a school.

(42) through (46) remain the same but are renumbered (44) through (48).

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

10.55.605 CATEGORIES OF ACCREDITATION (1) Regular accreditation means the school has met the assurance standards and student performance standards as defined in ARM 10.55.606 and the Licensure Endorsement Requirements Related to Teaching Assignments, a copy of which may be found

at: <http://opi.mt.gov/Portals/182/Page%20Files/School%20Accreditation/Standards%20of%20Accreditation/Appendix%20Files/B/APPENDIX%20B.pdf>.

(2) ~~Regular accreditation with Minor Deviation(s)~~ accreditation means the school does not meet all the requirements ~~and standards required of Regular accreditation outlined in (1)~~ and delineated in the Accreditation Status Criteria Reference Guide, a copy of which may be found

at: <http://opi.mt.gov/Portals/182/Page%20Files/School%20Accreditation/Standards%20of%20Accreditation/Appendix%20Files/A/Accreditation%20Status%20Criteria%20Reference%20Guide%203.17.pdf>.

(3) A school with Regular accreditation with ~~a level-2 deviation(s)~~ in student performance standards, as defined in ARM 10.55.606(6), or Regular ~~accreditation with Minor Deviations~~ accreditation at level 2 in either assurance or student performance standards, as defined in ARM 10.55.606(7), shall remedy all the deviations within three years or will be reassigned to a lower category of accreditation.

(4) ~~Accreditation with Advice~~ accreditation means the school exhibits serious and/or numerous deviations from the standards.

(5) ~~Accreditation with Deficiency~~ accreditation means ~~that the school is on in~~ Advice status for two years, has not complied with the required corrective plan, and continues to have serious and/or numerous deviations, or has substantially increased the seriousness of deviations over the previous year.

(6) For a district with a school ~~on in~~ Advice or in Deficiency status, the district administrator and the chair of the local board of trustees shall submit to the Superintendent of Public Instruction a corrective plan, including a systematic procedure and timeline for resolving the deviations noted.

(7) A school ~~will~~ shall be immediately ~~accredited~~ placed with in Deficiency status if:

(a) the school employs a teacher who does not have a Montana teaching license; or

(b) the school has a facility that creates an unhealthy environment with safety and health hazards.

(8) A school ~~with in~~ Deficiency status failing to comply with the required corrective plan shall be placed into the intensive assistance process as defined in the Accreditation Status Criteria Reference Guide, a copy of which may be found at: <http://opi.mt.gov/Portals/182/Page%20Files/School%20Accreditation/Standards%20of%20Accreditation/Appendix%20Files/A/Accreditation%20Status%20Criteria%20Reference%20Guide%203.17.pdf>.

(9) Nonaccredited status means that a school ~~on in~~ Deficiency status fails to meet the requirements of intensive assistance and is out of compliance with the Board of Public Education standards of accreditation.

(10) A school seeking initial accreditation or reinstatement of accreditation shall meet the requirements of Regular accreditation outlined in (1). This process shall include an on-site review from the Office of Public Instruction.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

10.55.606 ACCREDITATION PROCESS (1) The categories of accreditation of a school shall be determined by using two sets of standards:

- (a) assurance standards; and
- (b) student performance standards.

(2) Assurance standards are comprised of the following subchapters in ARM Title 10, chapter 55:

(a) Subchapter 6, General Provisions, ARM 10.55.601 through ~~10.55.607~~ 10.55.607;

(b) Subchapter 7, School Leadership, ARM 10.55.701 through 10.55.719;

(c) Subchapter 8, Academic Requirements, ARM 10.55.801 through 10.55.805;

(d) Subchapter 9, Educational Opportunity ARM 10.55.901 through 10.55.910; and

(e) Subchapter 10, Program Area Standards, ARM 10.55.1001 through 10.55.1003.

(3) Student performance standards are comprised of ~~student performance measures for each grade as follows: required under ARM 10.56.101(3) and other measures described in the state accountability system, defined in ARM 10.55.602, recommended by the state superintendent and approved by the Board of Public Education (BPE).~~

~~(a) Math and reading average scale score range for all students grades 3-8 and 10 and science average scale score range for all students grades 4, 8, and 10:~~

~~(i) Level 1 = 300-250;~~

~~(ii) Level 2 = 249-220;~~

~~(iii) Level 3 = 219-210;~~

~~(iv) Level 4 = 209-200; and~~

~~(b) For high schools, graduate rate range:~~

~~(i) Level 1 = 100.0%-75.0%;~~

~~(ii) Level 2 = 74.9%-60.0%;~~

~~(iii) Level 3 = 59.9%-55.0%;~~

~~(iv) Level 4 = 54.9%-0.0%.~~

(a) BPE shall annually review the minimum requirement, defined in ARM 10.55.602, for reporting valid and reliable student group results and to protect student privacy based on the recommendation of the State Superintendent of Public Instruction.

(b) The State Superintendent of Public Instruction shall recommend to the BPE modifications to the student performance standards after consultation with representative stakeholders.

(4) For schools with ~~any~~ only combinations of grades ~~only~~ PK-2, only the assurance standards ~~will~~ shall be used to determine accreditation status, pursuant to ARM 10.55.605 Categories of Accreditation.

(5) ~~There shall be four levels for Categories of assurance standards and student performance standards shall be used to determine accreditation status, as described in the Accreditation Status Criteria Reference Guide, a copy of which may be found at: <http://www.opi.mt.gov/pdf/Accred/Ch55/Appendices.pdf>. The highest level is 1 and the lowest level is 4.~~

(6) A school shall be ~~classified as regularly accredited~~ designated Regular accreditation status by using the combined results of the assurance standards and student performance standards as follows:

(a) ~~level 1 for all Regular status for~~ assurance standards and ~~level 1 or 2 Regular status for~~ student performance standards; or

(b) ~~level 1 or 2 Regular status for all~~ assurance standards and ~~level 4 Regular with Minor Deviation for~~ student performance standards; or

(c) Regular with Minor Deviation for assurance standards and Regular status for student performance standards.

(7) A school shall be ~~classified as regularly accredited with~~ designated Regular with Minor Deviation status by using the combined results of the ~~both~~ assurance standards and student performance standards ~~with level 2 in any category in both sets of standards~~ Regular with Minor Deviation status, or as stated in ARM 10.55.605.

(8) A school shall be ~~classified as accredited with~~ designated in Advice status by using the combined results of the assurance standards and student performance standards ~~with level 3 in any category in either set of standards, or as stated in ARM 10.55.605.~~

(9) A school shall be ~~classified as accredited~~ designated with Deficiency status by using the combined results of the assurance standards and student performance standards ~~with level 4 in any category in~~ Deficiency in either set of standards, or as stated in ARM 10.55.605.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, MCA

4. REASON: Using the negotiated rulemaking process involving independent stakeholder groups, Superintendent of Public Instruction Elsie Arntzen developed recommendations for the revision of ARM 10.55.606 Accreditation Process to reflect the 2019 changes in statewide assessment pursuant to student assessment ARM 10.56.101. Coordination of the proposed rule changes of ARM 10.55.606 require amendments to ARM 10.55.602 Definitions and ARM 10.55.605 Categories of Accreditation.

The Board of Public Education has determined it is reasonable and necessary to adopt and amend rules relating to the accreditation process pursuant to ARM 10.55.606 to stay consistent with the 2019 changes of ARM 10.56.101 and to coordinate with ARM 10.55.602 and 10.55.605.

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: Pete Donovan, Executive Director, Board of Public Education, 46 N. Last Chance Gulch, Suite 2B, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0300; fax (406) 444-0847; or e-mail pdonovan@mt.gov, and must be received no later than 5:00 p.m., August 26, 2019.

6. Pete Donovan, Executive Director, has been designated to preside over and conduct this hearing.

7. The board 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 board.

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 board has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Pete Donovan
Pete Donovan
Rule Reviewer

/s/ Darlene Schottle
Darlene Schottle
Chair
Board of Public Education

Certified to the Secretary of State July 16, 2019.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I, the amendment of ARM 18.8.101 and 18.8.431, and the repeal of ARM 18.8.432 pertaining to Motor Carrier Services Maximum Allowable Weight and Wintertime and Durational Permits	)	NOTICE OF PROPOSED ADOPTION, AMENDMENT, AND REPEAL
	)	NO PUBLIC HEARING CONTEMPLATED
)	

TO: All Concerned Persons:

1. On August 26, 2019, the Department of Transportation proposes to adopt, amend, and repeal the above-stated rules.

2. The Department of Transportation 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 Transportation no later than 5:00 p.m. on August 16, 2019, to advise us of the nature of the accommodation that you need. Please contact Duane Williams, Department of Transportation, Motor Carrier Services Division, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-7312; fax (406) 444-6136; TTY Service (800) 335-7592 or through the Montana Relay Service at 711; or e-mail duwilliams@mt.gov.

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

NEW RULE I WINTERTIME AND DURATIONAL PERMITS (1) The department may issue a wintertime or durational permit between the period December 1 and the following March 7 authorizing the applicant to operate a vehicle, combination of vehicles, load or object exceeding by up to 10% the maximum weight limits specified in 61-10-106 through 61-10-110, MCA.

(2) A wintertime permit may be issued under the following conditions:

(a) the nonrefundable fee is \$50 for each vehicle;

(b) a permit may only be issued during the period December 1 to the following March 7; and

(c) a permit is valid for 30 days, or until March 7, whichever is earlier, subject to (4).

(3) A durational permit may be issued under the following conditions:

(a) the nonrefundable fee is \$150 for each vehicle;

(b) a permit may only be issued during the period December 1 to the following March 7; and

(c) a permit is valid for the entire period between December 1 or date of issuance and the following March 7, subject to (4).

(4) Wintertime and durational permits for divisible loads under 61-10-125 MCA are subject to the following restrictions:

- (a) a permit is not eligible for travel on the interstate system;
- (b) a permit must not be used to increase any overweight or tolerance permit;
- (c) a permit may be modified statewide at the department's discretion due to temperatures during the dates of December 1 to the following March 7. The permittee must check the department's or associated county's website for updated restrictions; and
- (d) a permit may restrict a bridge or bridges from the weights of a permit at the department's discretion.

AUTH: 61-10-155, MCA

IMP: 61-10-125, MCA

REASON: The 2019 Legislature enacted Chapter 326, Laws of 2019 (Senate Bill 317), an Act Creating a Wintertime 10% Overweight Permit and Durational Permit. The bill creates two new 10% overweight permits, with required fees, to be effective December 1 through the following March 7. The bill had an immediate effective date. The department is proposing to adopt New Rule I to conform to the new legislative changes and implement the bill creating the two new overweight permits.

The proposed fee increase will impact approximately 2000 wintertime (30 day) permit applicants and 250 durational permit applicants based on estimated permit applications for SFY 2020, resulting in a revenue increase of approximately \$137,500 annually.

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

18.8.101 DEFINITIONS The following definitions shall apply throughout this chapter.

(1) through (11) remain the same.

(12) "Mobile or manufactured home" is defined in 61-1-101, MCA, and has the additional meaning in this chapter as any building hauled on a frame or with multiple single tire axles or multiple permanently mounted single tire axles. A load transported on a flatbed trailer is not considered a mobile or manufactured home.

(12) through (19) remain the same but are renumbered (13) through (20).

AUTH: 61-3-710, 61-10-155, MCA

IMP: 61-3-708, 61-3-709, 61-10-107, 61-10-121, 61-10-122, 61-10-123, 61-10-124, 61-10-125, 61-10-201, MCA

REASON: The proposed amendment is necessary to clarify the definition of mobile and manufactured home for the purposes of Title 61, chapter 10, MCA, and the administrative rules implementing that chapter. The current statutory definition creates confusion for MCS officers and delays for carriers as to the definition's application to the vehicle or trailer itself.

18.8.431 MAXIMUM ALLOWABLE WEIGHT (1) remains the same.

(2) Maximum allowable weights allowed for vehicle combinations hauling divisible loads on highways cannot exceed a gross vehicle weight and single or tandem weights as described in 23 CFR 658, appendix C, April 1, 2015 edition. Copies of the regulations may be obtained at www.gpo.gov.

(2) (3) The maximum allowable gross weight for vehicle combinations hauling divisible loads on the federal interstate system and operating under the provisions of 23 CFR 658, appendix C, April 1, 2015 edition, or operating under 61-10-107(1)(b), MCA, on non-interstate highways is 137,800 pounds. Copies of the regulations may be obtained from the U.S. Government Printing Office, 732 North Capitol Street, NW, Washington, D.C. 20401-00012, or at www.gpo.gov.

(3) The maximum allowable gross weight for vehicle combinations hauling divisible loads and operating under 61-10-107(1)(b), MCA, is 137,800 pounds.

(4) A department weight analysis of the highway infrastructure will determine the maximum gross weight and axle weights allowed on applicable non-interstate highways. Based on this analysis, the maximum gross weight and axle weights may be less than those allowed in 23 CFR 658, appendix C, April 1, 2015 edition. Copies of the regulations may be obtained at www.gpo.gov.

(5) If periodic, subsequent analyses of any portion of the applicable non-interstate highways indicate unanticipated deterioration of the infrastructure, lower axle weights and gross weight may be required at the department's discretion.

(6) Lower weights for non-interstate highways may be required during periods of seasonal deterioration as authorized in 61-10-108, MCA.

(7) Permits may be issued for the weights in 23 CFR 658, appendix C, April 1, 2015 edition, for the same permit types and under the same fee schedule provided in 61-10-125, MCA and ARM Title 18, chapter 8, subchapter 6. Copies of the CFR regulations may be obtained at www.gpo.gov.

(8) The maximum allowable weight for a mobile home for licensing purposes is the bridge formula in 61-10-107, MCA. A mobile home with any additional weight must obtain an excess axle weight permit as per 61-10-125, MCA.

AUTH: 61-10-155, MCA

IMP: 61-10-107, 61-10-108, 61-10-121, 61-10-125, MCA

REASON: The proposed amendment is necessary to combine ARM 18.8.431 and 18.8.432 to simplify the maximum weight rules for ease of use by both carriers and MCS officers. Proposed (1) through (7) contain no substantive amendments to current maximum allowable weight rules, but simply combine two existing rules for interstate and non-interstate highways and update CFR citations to the most current edition. Proposed (8) is necessary to clarify mobile home licensing maximum allowable weight.

5. The department proposes to repeal the following rule:

18.8.432 MAXIMUM ALLOWABLE WEIGHT ON THE NONINTERSTATE

AUTH: 61-10-155, MCA

IMP: 61-10-107, 61-10-108, 61-10-121, 61-10-125, MCA

REASON: The proposed rule repeal is necessary to combine language for maximum allowable weight specifically on non-interstate highways under ARM 18.8.432 with general maximum allowable weight requirements to be found in proposed amendments to ARM 18.8.431.

6. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Duane Williams, Department of Transportation, Motor Carrier Services Division, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-7312; fax (406) 444-6136; TTY Service (800) 335-7592 or through the Montana Relay Service at 711; or e-mail duwilliams@mt.gov, and must be received no later than 5:00 p.m., August 23, 2019.

7. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Duane Williams at the above address no later than 5:00 p.m., August 23, 2019.

8. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 740 persons based on the current 7401 active USDOT accounts based in Montana.

9. 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 6 above or may be made by completing a request form at any rules hearing held by the department.

10. An electronic copy of this proposal notice is available on the Department of Transportation website at www.mdt.mt.gov.

11. The bill sponsor contact requirements of 2-4-302, MCA apply and have been fulfilled. The primary bill sponsor was contacted by email and U.S. mail on June 24, 2019.

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

13. With regard to the requirements of 2-15-142, MCA, the department has determined that the adoption, amendment, and repeal of the above-referenced rules will not have direct tribal implications.

/s/ Carol Grell Morris
Carol Grell Morris
Rule Reviewer

/s/ Michael T. Tooley
Michael T. Tooley
Director
Department of Transportation

Certified to the Secretary of State July 16, 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 24.213.2101 continuing	)	PROPOSED AMENDMENT AND
education requirements, 24.213.2104	)	REPEAL
acceptable continuing education,)	
24.213.2121 waiver of continuing)	
education requirement, and the repeal)	
of 24.213.2107 traditional education by)	
nonsponsored organizations,)	
24.213.2111 teaching, 24.213.2114)	
papers, publications, journals, exhibits,)	
videos, independent study, and college)	
course work)	

TO: All Concerned Persons

1. On August 29, 2019, at 10:00 a.m., a public hearing will be held in the Small Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment 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 Respiratory Care Practitioners no later than 5:00 p.m., on August 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:

24.213.2101 CONTINUING EDUCATION REQUIREMENTS (1) through (3) remain the same.

~~(4) Courses acceptable for CE must have content relevant to the scope of practice of respiratory care as defined in 37-28-102, MCA.~~

(4) The board/staff will not preapprove CE programs or sponsors. Licensees are responsible for selecting quality programs that focus on protecting the health, safety, and welfare of the public and contribute to licensees' professional knowledge and competence. Acceptable CE activities:

(a) contribute to the licensee's knowledge and professional competence;

(b) contain significant intellectual or practical content; and

(c) are germane to the profession of a respiratory care practitioner.

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

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

(7) and (8) remain the same.

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

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

REASON: To further facilitate the department's standardized renewal, administrative suspension, and audit procedures, the board is amending the rules to no longer approve continuing education (CE) sponsors or courses. Following amendment, licensees will be responsible to select quality programs that contribute to their knowledge and competence and meet the education objectives described in this rule and ARM 24.213.2104. The board further concluded that the preapproval process is confusing and cumbersome for both licensees and the board, and late approval or denial can result in licensees scrambling to obtain CE. To align with these changes, the board is also repealing and streamlining the remaining CE rules in this notice.

24.213.2104 TRADITIONAL ACCEPTABLE CONTINUING EDUCATION BY SPONSORED ORGANIZATIONS – CATEGORY I (1) ~~Continuing education Acceptable CE programs include those sponsored by the following organizations, which are germane to the profession of respiratory care and are approved by the board:~~

(a) ~~Institutions sponsored by institutions~~ approved by the Joint Review Committee for Respiratory Therapy Education, Respiratory Care Accreditation Board or other successor accreditation organizations and courses approved by the American Association for Respiratory Care and its affiliates, the American Thoracic Societies, the American College of Cardiology, the American College of Chest Physicians, the American Nurses Association, the National Society for Cardiopulmonary Technologists, the American Lung Association, the American Lung Association of Montana, the Montana Heart Association, the Montana and American Medical Association, the Montana Hospital Association and Respiratory Care Journal (American Association of Respiratory Care sponsored); or

(b) approved by accrediting organizations that establish standards and criteria for CE programs.

~~(b) (2)~~ Approved CE activities in this category include:

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

(d) college course work:

(i) one semester credit equals 15 CE units and one quarter credit equals ten CE units;

(e) teaching:

(i) eight credits maximum;

(ii) two credits for each hour of presentation;

(f) papers, publications, journals, exhibits, videos, and independent study;

(i) eight credits maximum;

~~(iv) (g) in-service program programs; and~~

~~(v) (h) online courses, webinars, and correspondence courses.~~

~~(2) All units in this category must be documented by evidence provided by the instructor or the sponsoring organization.~~

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

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

REASON: See the REASON for ARM 24.213.2101. Additionally, the board is moving relevant provisions to this rule from ARM 24.213.2107, 24.213.2111, and 24.213.2114 which are being repealed in this notice. Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

24.213.2121 WAIVER OF CONTINUING EDUCATION REQUIREMENT

~~(1) In the event of hardship such as a disabling illness or other personal emergency which substantially interferes with a licensee's ability to meet the minimum requirement of 24 continuing education units prior to the deadline, the board may approve a waiver of the continuing education requirement. There must be a written request submitted to the board before the next continuing education reporting date. Such request for approval for a waiver shall be in writing and shall set forth the reasons why the licensee was unable to earn the minimum number of credit units required prior to the deadline. A licensee may request an exemption from CE requirements due to disabling illness or undue hardship. Requests will be considered by the board.~~

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

IMP: 37-1-131, 37-1-306, 37-1-319, ~~37-28-104~~, MCA

REASON: The board is amending this rule to align with other changes to the CE rules and to simplify and streamline the process for requesting a CE waiver. Authority and implementation citations are being amended to accurately reflect the statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

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

24.213.2107 TRADITIONAL EDUCATION BY NONSPONSORED ORGANIZATIONS -- CATEGORY II

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

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

REASON: See the REASON for ARM 24.213.2101 for all three rules being repealed.

24.213.2111 TEACHING -- CATEGORY III

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

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

24.213.2114 PAPERS, PUBLICATIONS, JOURNALS, EXHIBITS, VIDEOS, INDEPENDENT STUDY, AND COLLEGE COURSE WORK -- CATEGORY IV

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

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

5. 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., August 30, 2019.

6. An electronic copy of this notice of public hearing is available at <http://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.

7. 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.

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

9. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.213.2101, 24.213.2104, and 24.213.2121 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 24.213.2107, 24.213.2111, and 24.213.2114 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.

10. Missy Poortenga, Interim 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 July 16, 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 37.86.1102 and 37.86.1103) PROPOSED AMENDMENT
pertaining to updating requirements)
to limit opioid supply for members)
without cancer diagnosis)

TO: All Concerned Persons

1. On August 15, 2019, at 1:00 p.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 rules.

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 August 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 rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.86.1102 OUTPATIENT DRUGS, REQUIREMENTS (1) through (4) remain the same.

(5) Each prescription must be dispensed in the quantity ordered except that:
(a) and (b) remain the same.

(c) Prescriptions for opioids shall be dispensed in accordance with ARM 37.86.1103.

(6) through (11) remain the same.

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

IMP: 53-2-201, 53-6-101, 53-6-113, 53-6-141, MCA

37.86.1103 OUTPATIENT DRUGS, FRAUD, WASTE, AND ABUSE

(1) through (4) remain the same.

(5) "Opioid naïve member" means a member has not received a prescription for an opioid within the last 45 days.

(5) through (7) remain the same, but are renumbered (6) through (8).

(9) For an opioid-naïve member who does not have a cancer diagnosis, the department does not authorize payment for opioid medications in quantities greater than a 7-day supply, and each day's supply must be no more than 50 morphine milligram equivalents (MME).

(8) and (9) remain the same, but are renumbered (10) and (11).

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

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.86.1102 and 37.86.1103, pertaining to updating requirements to limit opioid supply for naïve members without cancer diagnosis.

The proposed amendments to these two rules will help reduce the risk of opioid-related adverse events and opioid dependence. The Centers for Disease Control (CDC) guidelines indicate by limiting the number of opioid doses in opioid naïve patients, it reduces the risk of opioid-related adverse events and overdose. Also, the CDC guidelines indicate by limiting the day supply of opioid prescriptions, it reduces the risk of developing opioid dependence. Although the CDC asserts there is no single dosage or day supply threshold which will eliminate risk, prescriptions should be limited to the lowest effective dose for the shortest possible duration, and most experts recommend a maximum dose of 50 morphine milligram equivalents (MME) and a limit of 3 to 7-day supply for opioid naïve patients. Therefore, the department is proposing to limit opioid naïve members, without a cancer diagnosis, to an initial fill of 7 days and 50 MME per day.

ARM 37.86.1102

The department is proposing amendments to include an exception for opioids in ARM 37.86.1102(5) that states each prescription must be dispensed in the quantity ordered. Each prescription must be dispensed in the quantity ordered except that the proposed new (c) proposes language regarding prescriptions for all opioid naïve members to be in accordance with ARM 37.86.1103.

ARM 37.86.1103

The department is proposing to amend ARM 37.86.1103 by providing a definition of "opioid naïve." This proposed definition provides for the number of days a member is to be without an opioid prescription in order to fall into the category that limits their day supply of the opioid drug.

Fiscal Impact

No fiscal impact is anticipated by these proposed rule amendments. These changes are expected to be budget neutral.

The proposed rule amendments are estimated to affect 273,904 Medicaid members. In addition, it could potentially affect 432 enrolled pharmacies.

5. The department intends to adopt these rule amendments effective October 1, 2019.

6. 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., August 23, 2019.

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

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 6 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.

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

11. 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 July 16, 2019.

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

In the matter of the adoption of New	)	NOTICE OF EXTENSION OF
Rules I through IV, the amendment of	)	COMMENT PERIOD ON
ARM 37.111.801, 37.111.804,	)	PROPOSED ADOPTION,
37.111.805, 37.111.810, 37.111.811,	)	AMENDMENT, AND REPEAL
37.111.812, 37.111.825, 37.111.832,)	
37.111.833, 37.111.834, 37.111.840,)	
37.111.841, 37.111.842, 37.111.846,)	
and the repeal of 37.111.831)	
pertaining to healthy learning)	
environments in Montana public)	
schools)	

TO: All Concerned Persons

1. On June 21, 2019, the Department of Public Health and Human Services (department) published MAR Notice No. 37-873 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 795 of the 2019 Montana Administrative Register, Issue Number 12.
2. A public hearing was held on July 11, 2019. The public comment period is being extended to 5:00 p.m., September 16, 2019, to allow interested persons additional time to comment on the proposed adoption of the above-referenced rules.
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 the department no later than 5:00 p.m., August 19, 2019, to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, Department of Public Health and Human Services, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.
4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Gwen Knight, Department of Public Health and Human Services, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., September 16, 2019.

/s/ Robert Lishman
 Robert Lishman
 Rule Reviewer

/s/ Sheila Hogan
 Sheila Hogan, Director
 Public Health and Human Services

Certified to the Secretary of State July 16, 2019.

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

In the matter of the adoption on New) NOTICE OF PUBLIC HEARING ON
Rules I through III, and the) PROPOSED ADOPTION AND
amendment of ARM 37.86.4401,) AMENDMENT
37.86.4402, 37.86.4406, 37.86.4412,)
37.86.4413, and 37.86.4420)
pertaining to rural health clinics and)
federally qualified health centers)

TO: All Concerned Persons

1. On August 15, 2019, at 11:00 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 adoption and amendment of the above-stated rules.

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 August 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 rules as proposed to be adopted provide as follows:

NEW RULE I RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS, REQUIREMENTS FOR CHANGE IN SCOPE OF SERVICE REQUEST (1) An RHC or FQHC experiences a change in scope of service if it has experienced a change in the type, intensity, duration, or amount of an RHC or FQHC service. A change in scope of service may result in an incremental change to the baseline PPS rate.

(2) An RHC or FQHC must apply to the department if it experiences a change in scope of service, even if the change in scope of service will not result in an incremental change to the baseline PPS rate. An RHC or FQHC must follow the procedures in [NEW RULE II and NEW RULE III] to apply for a change in scope of service.

(3) A change in scope of service is limited to the following circumstances, and an RHC or FQHC applying for a change in scope of service must demonstrate at least one of the following:

(a) the addition of a new service not incorporated in the baseline PPS rate or deletion of a service incorporated in the baseline PPS rate;

(b) the addition or deletion of a covered Medicaid RHC or FQHC service under the State Plan;

(c) a change necessary to maintain compliance with amended state or federal regulations or regulatory requirements;

(d) a change in service due to a change in applicable technology or medical practices utilized by the RHC or FQHC not otherwise paid for through state or federal funds;

(e) a change in the types of patients served, including but not limited to, populations with HIV/AIDS, populations with other chronic diseases, or homeless, elderly, migrant, or other special populations that require more intensive and frequent care, corresponding to a change in the services provided by the RHC or FQHC;

(f) a change in operating costs attributable to capital expenditures corresponding to a change in the services provided by the RHC or FQHC; or

(g) a change in the provider mix, including, but not limited to:

(i) a transition from mid-level providers to physicians with a corresponding change in the services provided by the RHC or FQHC; or

(ii) the addition or removal of specialty providers with a corresponding change in the services provided by the RHC or FQHC.

(4) An RHC or FQHC must demonstrate how one or more of the circumstances in (3) impacts services provided by the RHC or FQHC and must demonstrate an overall change to the RHC or FQHC. For example, the RHC or FQHC may increase services to a high need population; however, this increase may be offset by growth in the number of lower intensity visits, thereby not warranting an incremental change to the baseline PPS rate.

(5) The following circumstances alone do not constitute a change in scope of service rate adjustment:

(a) a change in ownership, including acquisition by another healthcare entity or RHC or FQHC;

(b) a change in the number of staff furnishing an existing service;

(c) an increase or decrease in administrative staff;

(d) a change in the number of encounters;

(e) a change in the cost of supplies for existing services;

(f) a change in salaries and benefits not directly related to a change in scope of service;

(g) a change in patient type and/or volume without a corresponding change in the services provided;

(h) capital expenditures for losses covered by insurance;

(i) a change in office location or office space;

(j) a change in office hours not directly related to a change in the scope of service as described in (3);

(k) expansion or remodel not directly related to a change in the scope of service as described in (3); or

(l) the addition of a new site or removal of an existing site, which offers the same RHC or FQHC services.

(6) The circumstances in (5) may be factors in demonstrating a change in scope of service as long as the RHC or FQHC also demonstrates one or more of the circumstances in (3).

(7) RHCs or FQHCs that choose to participate in contracted programs to provide services outside of the PPS rate must meet the requirements and adhere to the rules outlined in the applicable contract.

(a) Contracts for services outside of RHC or FQHC services will be reimbursed outside the PPS rate and such services will not be included in calculation of the baseline PPS rate or in a request for change in scope of service. Providers who chose to enter contracted programs and meet all related requirements will receive a separate payment as established in the Montana Medicaid State Plan or Centers for Medicare and Medicaid Services approved waiver.

(b) If an RHC's or FQHC's existing baseline PPS rate includes costs associated with contracted programs, the RHC or FQHC must submit a change in scope of service to remove the contracted services from the baseline PPS rate.

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

NEW RULE II PROSPECTIVE CHANGE IN SCOPE OF SERVICE (1) A prospective change in scope of service is a change the RHC or FQHC plans to implement in the future. An RHC or FQHC may file an application for a prospective change in scope of service and, if approved, may receive a temporary PPS rate, pending final approval of the incremental change to the baseline PPS rate.

(2) An application is deemed timely if the department receives the completed application for a prospective change in scope of service no later than 120 days in advance of the prospective change in scope of service, or otherwise the application is deemed untimely.

(3) An application is completed if it includes the information in (4), and, if applicable, (5).

(4) To apply for a prospective change in scope of service rate adjustment, an RHC or FQHC must submit the following application materials:

(a) a narrative description of each change in scope of service;

(b) the date on which the change in scope of service is scheduled to occur;

(c) a description of each cost center(s) on the cost report that will be affected by the change in scope of service;

(d) the cost report for the fiscal year prior to the year in which the prospective change in scope of service is scheduled to be implemented; and

(e) a projected cost report for the fiscal year in which the change in scope of service is implemented, which considers the change in scope of service. If a projected cost report cannot be completed, the RHC or FQHC must provide sufficient cost and encounter information to establish a temporary rate.

(5) The department may request additional information from the RHC or FQHC. The requested information must be received by the department no later than 30 calendar days from the date of the request to be deemed timely. If the requested

information is not received within that timeframe, the application for a prospective change in scope of service is deemed untimely.

(6) No later than 90 days after receiving a completed application, the department shall:

(a) establish the temporary PPS rate by calculating the RHC's or FQHC's allowable cost of services both with and without the added or removed services; and

(b) notify the RHC or FQHC of the temporary PPS rate.

(7) After the change in scope of service occurs, the RHC or FQHC shall notify the department in writing of the implementation date, even if the change is implemented on the scheduled date.

(8) For timely applications, the effective date of the temporary PPS rate is the date the change in scope of service is implemented.

(9) For untimely applications, the effective date of the temporary PPS rate is the later of:

(a) the date the department receives the RHC's or FQHC's completed application materials in (4) and, if applicable, (5); or

(b) the date the change in scope of service is implemented.

(10) No later than six months after the close of the RHC's or FQHC's fiscal year in which the change in scope of service occurred, the RHC or FQHC must supplement its application by filing with the department the following materials:

(a) a narrative description of each change in scope of service, including how the services were provided both before and after the change;

(b) the date on which the prospective change in scope of service was implemented;

(c) the RHC's or FQHC's as-filed Medicare cost reports for the fiscal year prior to the year in which the change in scope of service occurred and for the fiscal year in which the change in scope of service occurred;

(d) for the FQHCs the Uniform Data System reports for the calendar year prior to the change in scope of service, and the calendar year in which the change in scope of service occurred;

(e) a description of each cost center on the cost report affected by the change in scope of service;

(f) an attestation statement that certifies the accuracy, truth, and completeness of the information in the application signed by an officer or administrator of the RHC or FQHC; and

(g) any approved changes in scope of project as defined by the federal Health Resources and Service Administration (HRSA).

(11) The department may request additional information to process the application and must receive the additional information no later than 30 calendar days from the date of the request, or otherwise the application is deemed untimely. The request for additional information will include a notice that failure to submit the materials within the requested 30 calendar days will result in suspension of payments for Medicaid services billed to the department until such time as the supplemental materials are received by the department.

(12) The department must receive the supplemental materials no later than six months after the close of the RHC's or FQHC's fiscal year in which the change in scope of service occurred, or otherwise the application is deemed untimely. Thirty

days prior to the expiration of the six-month deadline, if the department has not yet received the supplemental materials, the department shall send a notice to the RHC or FQHC and inform it that failure to submit the materials in a timely manner will result in suspension of payments for Medicaid services billed to the department until such time as the supplemental materials are received by the department.

(13) No later than 90 days after receiving the supplemental materials, the department shall:

(a) establish the incremental change in the baseline PPS rate by calculating the RHC's or FQHC's allowable costs of services both with and without the added or removed services; and

(b) notify the RHC or FQHC of the incremental change in the baseline PPS rate.

(14) For timely filed supplemental materials, the effective date of the incremental change to the baseline PPS rate is the date the change in scope of service was implemented. If the final PPS rate differs from the temporary PPS rate, the department shall calculate the amount of underpayment or overpayment to the RHC or FQHC and reimburse or recoup the amount from future payments to the RHC or FQHC.

(15) If an RHC or FQHC fails to timely submit supplemental materials, the department shall suspend all payments to the RHC or FQHC for Medicaid services billed to the department until such time as the supplemental materials are received. Once all required supplemental materials are received the effective date of the incremental change to the baseline PPS rate is the date the change in scope of service was implemented.

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

NEW RULE III RETROSPECTIVE CHANGE IN SCOPE OF SERVICE

(1) A retrospective change in scope of service occurs when a change took place in the past and the RHC or FQHC is seeking to adjust its rate based on that change. An approved retrospective change in scope of service request may result in an incremental change to the baseline PPS rate.

(2) An RHC or FQHC may apply for an incremental change to the baseline PPS rate for a retrospective change in scope of service once per calendar year. In order to be deemed timely, the completed application must be received by the department no later than six months after the close of the RHC's or FQHC's fiscal year in which the change in scope of service occurred, or otherwise the application is untimely. A completed application must include the information in (3) and, if applicable, (4).

(3) To apply for an incremental change to the baseline PPS rate for a retrospective change in scope of service, an RHC or FQHC must submit the following application materials:

(a) a narrative description of each change in scope of service, including how services were provided both before and after the change;

(b) the RHC's or FQHC's as-filed Medicare cost reports for the fiscal year prior to the change in scope of service, and the fiscal year in which the change in scope of service occurred;

(c) for FQHCs the Uniform Data System reports for the calendar year prior to the change in scope of service, and the calendar year in which the change in scope of service occurred;

(d) a description of each cost center on the cost report affected by the change in scope of service;

(e) an attestation statement that certifies the accuracy, truth, and completeness of the information in the application signed by an officer or administrator of the RHC or FQHC; and

(f) any approved changes in scope of project as defined by the Health Resources and Services Administration (HRSA).

(4) The department may request additional information from the RHC or FQHC. The requested information must be received by the department no later than 30 calendar days from the date of the request, or otherwise the application is deemed untimely.

(5) After receiving a completed application, the department shall calculate the RHC's or FQHC's allowable cost of services both with and without the added or removed services to establish the incremental change to the baseline PPS rate. The department shall notify in writing the RHC or FQHC of the incremental change to the baseline PPS rate within 90 calendar days of receiving the information requested in (3) and (4).

(6) For timely applications, the effective date of the incremental change to the baseline PPS rate is the beginning of the facility's fiscal year following the retrospective change in scope of service. For untimely applications, the effective date of the incremental change to the baseline PPS rate is the date all required information is received by the department.

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

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

37.86.4401 RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS, DEFINITIONS (1) "Allowable costs" are the costs incurred by an RHC or FQHC, which are reasonable in amount and necessary and proper to the efficient delivery of services. Allowable costs are defined in accordance with reasonable cost principles in 42 CFR Parts 405 and 413.

(2) "Baseline PPS rate" is defined as the PPS rate established in accordance with ARM 37.86.4413(1).

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

~~(2)~~ (4) "Change in the scope of service" means a change that affects the type, intensity, duration, or amount of services provided by an ~~FQHC~~ RHC or ~~RHC~~ FQHC. The change in the scope of service must reasonably be expected to last at least one year. ~~The term includes but is not limited to:~~

~~(a) a change in intensity attributable to changes in the types of patients served, including but not limited to HIV/AIDS, the homeless, elderly, migrant or other chronic diseases, or special populations;~~

~~(b) any changes in services or provider mix provided by an FQHC or RHC or one or their sites;~~

~~(c) changes in operating costs that have occurred during the fiscal year and that are attributable to capital expenditures, including new service facilities or regulatory compliance; and~~

~~(d) any approved changes in scope of project as defined by the Health Resources and Service Administration (HRSA).~~

(3) remains the same but is renumbered (5).

~~(4) (6) "Federally qualified health center (FQHC)" means an entity which is a federally qualified health center as defined in 42 USC 1396d(l)(2)(B) 2003 Supp.). For purposes of defining "federally qualified health center" the department adopts and incorporates by reference 42 USC 1396d(l)(2)(B) (2003 Supp.), which is a federal statute defining "federally qualified health center" for purposes of the Medicaid program. A copy of the cited statute is available upon request from the Department of Public Health and Human Services, Health Resources Division, Hospital and Physicians Services Bureau, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

~~(5) "FQHC core services" means the FQHC ambulatory services defined in 42 USC 1396d(l)(2)(A) and described in 42 USC 1395x(aa)(1). For purposes of defining and describing FQHC core services, the department adopts and incorporates by reference 42 USC 1396d(l)(2)(A) and 42 1395x(aa)(1) (2003 Supp.). The cited statutes are federal Medicaid and Medicare statutes defining certain FQHC services for purposes of the Medicaid and Medicare programs. Copies of the cited statutes are available upon request from the Department of Public Health and Human Services, Health Resources Division, Hospital and Physicians Services Bureau, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

~~(6) "FQHC other ambulatory services" means ambulatory FQHC services, other than FQHC core services, that would be covered under the Montana Medicaid program if provided by an individual or entity other than an FQHC in accordance with applicable Medicaid requirements.~~

~~(7) "FQHC services" means FQHC core services and FQHC other ambulatory services are as defined in 42 USC 1396d(l)(2).~~

(8) "Health professional" means services furnished by a:

(a) through (d) remain the same.

(e) licensed clinical psychologist (LCP);

(f) licensed clinical social worker (LCSW);

(g) licensed professional counselor (LCPC);

(h) and (i) remain the same.

(9) "Incremental change" means a positive or negative adjustment to a baseline PPS rate.

~~(9) (10) "Independent entity" means a rural health clinic an RHC or an FQHC that is not a provider-based entity.~~

(11) "Interim PPS rate" is the rate established when an RHC or FQHC initially opens and is set in accordance with ARM 37.86.4413(1) and (2).

(10) ~~(12)~~ "Provider" means the entity enrolled in the Montana Medicaid program as a provider of an RHC or FQHC services.

~~(11)~~ and ~~(12)~~ remain the same but are renumbered (13) and (14).

~~(13)~~ ~~(15)~~ "Rural health clinic (RHC)" means ~~a clinic determined by the Secretary of the United States Department of Health and Human Services to meet the rural health clinic conditions of certification specified in 42 CFR, part 491, subpart A~~ an entity as defined in 42 USC 1396d(l)(1).

~~(14)~~ "RHC core services" means the rural health clinic services described in 42 CFR 440.20(b)(1) through (4).

~~(15)~~ "RHC other ambulatory services" means other ambulatory services furnished by an RHC as described in 42 CFR 440.20(c).

~~(16)~~ "Rural health clinic (RHC) services" means ~~RHC core services and RHC other ambulatory services~~ are as defined in 42 USC 1396d(l)(1).

~~(17)~~ "Temporary PPS rate" is the rate established in accordance with [NEW RULE II].

~~(17)~~ ~~(18)~~ "Visit" means ~~a face-to-face encounter between a clinic or center patient and a clinic or center health professional for the purpose of providing RHC or FQHC core or other ambulatory services. For purposes of this subchapter, the terms of ARM 37.86.4402 must be used to determine whether an encounter or series of encounters is one or more visits~~ has the meaning set forth in ARM 37.86.4402.

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.86.4402 RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS, VISITS AND ENCOUNTERS

~~(1)~~ For purposes of this subchapter, a face-to-face encounter between a clinic or center patient and a clinic or center health professional for the purpose of providing RHC or FQHC core or other ambulatory services constitutes a single visit. A visit is a face-to-face encounter between an RHC or FQHC patient and an RHC or FQHC health professional for the purpose of providing RHC or FQHC services. Reimbursement is available for one encounter per day per eligible member unless it is necessary for the member:

(a) to be seen by different health professionals with different specialties; or

(b) to be seen multiple times per day due to unrelated diagnoses.

~~(2)~~ Encounters that take place on the same day and at a single location constitute a single visit, although the encounters were: Encounters with the same primary diagnosis are not considered separately billable visits, regardless of the health professional providing the service.

~~(a)~~ with more than one clinic or center health professional; or

~~(b)~~ multiple encounters with the same clinic or center health professionals.

~~(3)~~ Each additional encounter with clinic or center health professionals that takes place on the same day as a medical visit to the same clinic or center constitutes an additional visit if, after the first encounter:

~~(a)~~ the patient suffers an additional illness or injury requiring additional diagnosis or treatment;

~~(b) the patient has a mental health visit consisting of one or more mental health encounters; or~~

~~(c) the patient has a dental visit consisting of one or more dental encounters.~~

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.86.4406 RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS, SERVICE REQUIREMENTS (1) and (2) remain the same.

~~(3) RHC or FQHC services are covered by Montana Medicaid when provided in accordance with these rules to a member at the clinic, the member's residence, or other medical facility. RHC services are not covered by Montana Medicaid when provided to a hospital patient in an outpatient setting, including the RHC or FQHC, other medical facility (including a dental office), or a member's place of residence. A member's place of residence may be a nursing facility or other institution.~~

~~(4) FQHC services are covered by Montana Medicaid when provided in accordance with these rules to a member in an outpatient setting only, which may include the member's place of residence. The member's place of residence may include a skilled nursing facility or a nursing facility. FQHC services are not covered by Montana Medicaid when provided to a hospital patient. Services provided to a member in a hospital setting are not reimbursed in accordance with these rules.~~

(5) The Montana Medicaid program will cover and reimburse RHC or FQHC services only if the services are provided in accordance with the same requirements that would apply if the service were provided by an individual or entity other than an RHC or an FQHC, except as specifically provided otherwise in this subchapter. These requirements include but are not limited to the following:

(a) through (e) remain the same.

(f) Reimbursement will be made to RHCs and FQHCs for RHC and FQHC services as provided in ARM 37.86.4412 through 37.86.4414, and 37.86.4420, [NEW RULE I, NEW RULE II, and NEW RULE III], rather than as provided in the rules applicable to the particular category of services. This rule shall not be construed to provide that does not permit reimbursement of services provided by health professionals will be made under ARM 37.86.4412 through 37.86.4414, and 37.86.4420, [NEW RULE I, NEW RULE II, and NEW RULE III] when the services are not provided as an RHC or FQHC service and when the health professional is separately enrolled in and providing services under a particular Medicaid service category, subject to the rules applicable to the particular service category.

~~(6) A provider must notify the department, in writing, of a change in the scope of service offered by the RHC or FQHC to Medicaid members. Upon the request of a provider, the department will determine if the reported change qualifies as a change in the scope of service, and if so, the amount and effective date of any rate change.~~

~~(a) As a condition of approval, the department may require the provider to submit documentation and information necessary to demonstrate compliance with requirements applicable to the category of service. The department may also require information necessary to determine the change in the reimbursement rate~~

due to a change in the scope of service including any change in the costs of the service and any change in the number of visits.

~~(b) Medicaid coverage and reimbursement of an additional category of service will not be available to a provider unless department approval was requested prior to provision of the services and unless the services comply with all applicable requirements.~~

~~(c) Any increase in the rate of reimbursement due to a change in the scope of service is effective from the date of notification by the provider to the department. Any decrease in the rate of reimbursement due to a change in the scope of service is effective from the date the department was notified by the provider or the date the department determines the change in the scope of services occurred, whichever occurs first.~~

~~(d) The department must complete the determination within 60 days of the written request or within 60 days of receipt of any required documentation and information, whichever is later.~~

(6) A provider must notify the department, in writing, of a change in the scope of service offered by the RHC or FQHC to Medicaid members, in accordance with [NEW RULE I, NEW RULE II, and NEW RULE III].

(7) If clinic or center services are provided in more than one location, each location is independently considered for approval as an RHC or FQHC Medicaid provider, unless prior approval was granted by the department, to operate both locations under one provider number. To be considered for operation under one provider number, both sites must share medical staff, office staff or administrative staff. The provider must notify the department of this change in status as provided in (6). The opening of new or additional service locations absent of a change in scope of service will be assigned the same baseline PPS rate as the primary RHC or FQHC.

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.86.4412 RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS, REIMBURSEMENT (1) through (5) remain the same.

(6) For ~~clinics or centers~~ RHCs or FQHCs that had their initial Medicaid prospective payment system base visit rate calculated in 2001 or starting with the third fiscal year (for "new" ~~clinics or centers~~ RHCs or FQHCs as defined at ARM 37.86.4413), the prospective payment system per-visit rate may be adjusted to take into account any increase or decrease in the scope of service.

~~(a) The department will determine the new rate according to the following formula:~~

$$NR = \frac{(R \times PV) + C}{(PV + CV)}$$

~~(i) "NR" represents the new reimbursement rate adjusted for the increase or decrease in the scope of service;~~

(ii) ~~"R" represents the present outpatient prospective payment system (OPPS) Medicaid rate;~~

(iii) ~~"PV" represents the present number of total visits which is the total number of visits for the RHC or FQHC during the 12-month time period prior to the change in scope of service;~~

(iv) ~~"C" represents the expected change in costs due to the change in scope of service; and~~

(v) ~~"CV" represents the expected change in the number of visits due to the change in scope of service.~~

(7) and (8) remain the same.

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

IMP: 53-6-101, 53-6-111, 53-6-113, MCA

37.86.4413 RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS, ESTABLISHMENT OF INITIAL INTERIM PAYMENT FOR NEW CLINICS OR CENTERS RHC OR FQHC (1) ~~To determine the initial The interim Medicaid prospective payment system (PPS) base per-visit rate for a newly qualified RHC or FQHC or an FQHC shifting from non-state government operated to privately operated reimbursement shall be equal to 100% of the average PPS prospective payment system rates rate for other RHCs or FQHCs located in the same or adjacent area with a similar caseload. In the event that there is no such RHC or FQHC, payment shall be made in accordance with the methodology provided in (2) through (4).~~

(2) ~~During the RHC's or FQHC's first two fiscal years, the RHC or FQHC will be reimbursed If there is no RHC or FQHC located in the same or adjacent area with a similar caseload, the interim PPS rate shall be on a per-visit basis equal to the RHC's or FQHC's total projected allowable costs divided by the RHC's or FQHC's total projected allowable visits. The provider must submit to the department or its agent an estimate of budgeted costs and visits for the RHC or FQHC for the reporting period in the form and detail required by the department and such other information as the department may require to establish a rate. The projected allowable cost and allowable visit information is subject to a reasonableness review by the department.~~

(3) ~~At the end of the RHC's or FQHC's first two complete fiscal years, the department will establish the facility specific baseline PPS rate. a new per-visit rate shall be established that is equal to 100% of the allowable costs of the RHC or FQHC furnishing such services during the RHC's or FQHC's first two fiscal years which are reasonable and related to the cost of furnishing such services. The provider must submit to the department or its agent the costs and visits for the RHC or FQHC for the reporting period in the form and detail required by the department and such other information as the department may require to establish a rate.~~

(4) The department must receive the RHC's or FQHC's as-filed Medicare cost reports for the first two complete fiscal years no later than six months after the end of the RHC's or FQHC's first two complete fiscal years, or otherwise the request is deemed untimely.

(a) The department may request additional information from the RHC or FQHC, and the facility is required to submit the requested information within 30 days of the department's request. If the requested information is not received within that timeframe, the request is deemed untimely. The request for additional information will include a notice that failure to submit the materials within the requested 30 calendar days will result in suspension of payments for Medicaid services billed to the department until such time as the supplemental materials are received by the department.

(b) If the department has not received the materials in (4)(a) thirty days prior to the expiration of the six month deadline, the department shall send a notice to the RHC or FQHC and inform it that failure to submit the materials in a timely manner will result in suspension of payments for Medicaid services billed to the department until such time as the materials are received by the department.

(a) (5) ~~The formula for calculating this new base per visit rate is~~ Upon receiving the RHC's or FQHC's as-filed Medicare cost reports and any additional information requested pursuant to (4)(a), the department will establish the RHC's and FQHC's baseline PPS rate by calculating the total allowable cost of RHC or FQHC core and other ambulatory services for the first two complete fiscal years divided by the total allowable visits core and other ambulatory visits for the first two complete fiscal years. ~~This base cost per visit rate~~ The baseline PPS rate may be adjusted to take into account any increase or decrease in the scope of service as provided in ARM 37.86.4412.

(b) ~~The department shall reimburse the RHC or FQHC this new base rate retroactive to the effective date of their enrollment as an RHC or FQHC.~~

(6) The department will provide written notification of the calculated baseline PPS rate to the RHC or FQHC within 90 days of receiving all information related to the request.

(7) The department shall reimburse the RHC or FQHC the baseline PPS rate for requests submitted within the timeframe specified in (4)(a) and (b) effective the date of the RHC or FQHC enrollment.

(8) If an RHC or FQHC fails to timely submit the materials in (4)(a), or if applicable (2)(b), the department shall suspend all payments to the RHC or FQHC for Medicaid services billed to the department until such time as the supplemental materials are received. Once all required materials are received the effective date of the baseline PPS rate is the effective date of the RHC or FQHC enrollment.

(4) (9) ~~Reimbursement for the third year forward shall be after the baseline PPS rate is only modified through the processes outlined as in ARM 37.86.4406, [NEW RULE I, NEW RULE II, NEW RULE III], and 37.86.4412.~~

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.86.4420 RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS, ALTERNATIVE PAYMENT METHODOLOGIES (1) remains the same.

(2) Beginning July 1, 2019, RHC or FQHC providers may elect to be reimbursed under an Alternative Payment Methodology (APM) equal to the per-visit

cost as calculated utilizing the two most recently completed as-filed Medicare cost reports and/or other requested information. Examples include the Uniform Data Systems report, audited financial statements, and Electronic Health Record visit reconciliation.

(a) The APM per-visit rate will not be less than the RHC's or FQHC's existing baseline PPS rate.

(b) RHC or FQHC providers who choose to be reimbursed under the APM, must make the request to the department in writing no later than July 1, 2020.

(c) The department will provide a written notification of the calculated APM per-visit rate to the RHC or FQHC within 90 days of receiving all information related to the request.

(3) The effective date of the APM per-visit rate will be the later of the start of the facility's fiscal year following the most recent submitted Medicare as-filed cost report or July 1, 2019.

(4) If the required information as outlined in (2) is not received prior to July 1, 2020, the option to be reimbursed on the APM is not available.

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) administers the Montana Medicaid and non-Medicaid programs to provide healthcare to Montana's qualified low income, elderly, and disabled residents. Medicaid is a public assistance program paid for with state and federal funds appropriated by the legislature to pay health care providers for the covered medical services they deliver to Medicaid members.

These rules propose the following, effective July 1, 2019:

(1) implement an Alternative Payment Methodology, a process that is optional for RHCs and FQHCs to participate;

(2) amend the change in scope of service process;

(3) update the process for assigning a facility's baseline Prospective Payment Rate (PPS); and

(4) update references, definitions, and modify existing rules for clarity.

Alternative Payment Methodology

Some RHC and FQHC providers have incurred costs beyond standard change in scope of service requests and the annual inflationary Medicare Economic Index increases. The proposed Alternative Payment Methodology (APM), within ARM 37.86.4420, is intended to ensure RHC and FQHC PPS rates accurately reflect the cost of the current services they provide. The proposed APM will allow RHC and FQHC providers the option to submit two years of current cost reporting information to establish a per-visit rate derived from current cost. The APM will be available for a year, allowing providers sufficient time to gather and submit required information.

The APM process is not mandatory, as RHCs and FQHCs may choose to participate in the process. Thereafter, any request to change a facility's PPS rate will be in accordance with the proposed change in scopes of service process outlined below:

Change in Scope of Service

Montana Medicaid is proposing three new rules to encompass a newly developed process for requesting an incremental change in the PPS rate due to a change in scope of service. The reasonable necessity for the proposed new rules is to create a streamlined process that will allow the department and RHCs and FQHCs to better manage and navigate the system for establishing an incremental change to the baseline PPS rates. The proposed process:

- (1) describes what constitutes a change in scope of service;
- (2) categorizes the types of requests a provider may make in requesting an incremental change to the baseline PPS rate;
- (3) establishes the information and documentation a provider must submit in requesting an incremental change to a PPS rate due to a change in scope of service; and
- (4) establishes timelines for submitting the required information and documentation and consequences for failing to meet certain deadlines.

NEW RULE I

New Rule I provides:

- (1) the circumstances that constitute a change in scope of service; and
- (2) examples of what is not a change in scope of service.

NEW RULE II

New Rule II is proposed to allow for prospective change in scope of service requests. A prospective change in scope of service is a change an RHC or FQHC intends to implement in the future. This rule provides:

- (1) a timeline for submission;
- (2) the required information to process the request;
- (3) the department's timelines associated with processing a prospective change in scope of service;
- (4) a potential temporary PPS rate prior to final approval of the incremental change to the baseline PPS rate; and
- (5) the implications of an untimely request.

NEW RULE III

New Rule III is a rule proposed to provide the process for submitting a retrospective change in scope of service request. A retrospective change in scope of service is when a change took place in the past. This rule provides:

- (1) a timeline for submission;
- (2) the required information to process the request;

- (3) the department's timelines associated with processing a retrospective change in scope of service; and
- (4) the implications of an untimely request.

New Rules II and III utilize a new process for calculating the incremental change to the baseline PPS rate because of a change in the scope of service. The department proposes to move from using projected budgets to using the provider's actual cost.

In addition, within ARM 37.86.4412 the department proposes to remove the formula for a change in scope of service rate adjustment because the methodology is covered in New Rule I.

Interim and Baseline PPS Rate

The department is proposing to clarify in ARM 37.86.4413(1), how the interim PPS rate for a newly established RHC or FQHC is determined.

Additional rule language is proposed to clarify the necessary financial information to calculate a baseline PPS rate. In addition, the department proposes a timeframe for a facility to submit the necessary information. The department provides definitions of a timely versus an untimely request, and the implications of an untimely request.

The numbering of ARM 37.86.4413 is restructured to incorporate the proposed changes.

Updated References, Definitions, and Modify Existing Rules for Clarity

Throughout ARM Title 37, chapter 86, subchapter 44, the department is updating federal register or Code of Federal Regulation references. In addition to reference updates, the department has clarified some definitions and policies. The below referenced rules are proposed to amend and add definitions, update references, or modify rule language to provide clarity.

ARM 37.86.4401

The proposed amendments to the definitions in ARM 37.86.4401 are intended to clarify the terminology used in the rules relating to RHCs and FQHCs. In addition, the proposed changes are for the following reasons:

- (1) Subsections (a) through (d) from ARM 37.86.4401(2) are removed and added to New Rule I.
- (2) The definition section of the Social Security Act describing FQHC services is updated to conform to federal law.
- (3) The definition and references to other ambulatory services in (6) and (15) are clarified to explain they are services covered under the Medicaid State Plan.
- (4) The definition of an RHC is updated to refer to the federal law, 42 USC 1396d(l)(1)(B).

(5) Definitions of interim, temporary, and baseline PPS rate and incremental change were added to further differentiate the various stages or components of an RHC or FQHC PPS rate.

ARM 37.86.4402

The reasonable necessity for the proposed amendments to ARM 37.86.4402 is to clarify what is a reimbursable encounter at an RHC or FQHC and to ensure that the Medicaid program will pay for one encounter per day when multiple encounters relate to the same primary diagnosis. Exceptions are noted in the rule. In addition, "billable" was added to clarify that these rules are specific to Medicaid billable services.

ARM 37.86.4406

The department is proposing to streamline references to service location requirements by combining similar references in (3) and (4). There are not substantive changes proposed, merely how the requirements are stated in the rule. The policy prohibiting reimbursement for services in a hospital setting remains the same. Billing guidance for the facility practitioner providing services in a hospital setting is outlined in the provider manual. New Rules I, II, and III are referenced in this rule, as appropriate in (5)(f). Section (6) has been changed to reflect that the change in scope of services process has been moved to New Rule I.

The department is proposing to add a statement in (7) to remove the ambiguity surrounding the rate for satellite facilities. This section emphasizes satellite facilities receive the same baseline PPS rate. If a change in scope of service occurs, the baseline may be updated and applied to the primary and satellite facilities.

ARM 37.86.4412, 37.86.4413, and 37.86.4420

The proposed amendments to these rules are explained above.

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 2020 based on the proposed amendments.

Federally Qualified Health Centers	State Budget Impact	Federal Budget Impact	Total Budget Impact	Providers Impacted
SFY 2020	\$2,457,998	\$ 8,896,625	\$11,354,623	18

Rural Health Clinics	State Budget Impact	Federal Budget Impact	Total Budget Impact	Providers Impacted
SFY 2020	\$2,207,405	\$ 6,264,891	\$ 8,472,296	53

The department intends these rules to be effective July 1, 2019. The proposed rulemaking is estimated to effect 262,243 Medicaid members.

6. 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., August 23, 2019.

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

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 6 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.

10. 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.

11. 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 July 16, 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 37.97.102, 37.97.132,) PROPOSED AMENDMENT
37.97.140, and 37.97.903 pertaining)
to youth care facilities)

TO: All Concerned Persons

1. On August 15, 2019, at 2:00 p.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, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

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 August 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. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) proposes to amend ARM 37.97.102, 37.97.132, 37.97.140, and 37.97.903, pertaining to licensing requirements for youth care facilities.

The department proposes to amend the youth care facility licensure rule to implement changes made to Titles IV-B and IV-E of the Social Security Act, as amended by Public Law 115-123, enacted February 9, 2018. The changes include the Family First Prevention Services Act which requires fingerprint background checks on all individuals working in a youth care facility. It is necessary to include requirements for state and national sexual and violent offender registry checks in order for providers to receive relevant information regarding an applicant that may pose a significant risk to the youth served. Information obtained from these checks may not be available on the fingerprint background checks.

The department proposes to revise the "lead clinical staff" definition to reflect changes made by the Board of Behavioral Health pursuant to Senate Bill 22 enacted by the 2015 Legislature and House Bill 220 enacted by the 2015 Legislature. Changes are necessary to remove "in-training practitioner" definition and all references of such and include licensure candidate to the definition of mental health

professional to be consistent with language and licensure process by the Board of Behavioral Health. The changes are necessary to allow licensure candidates to act as the mental health professional. These amendments will increase providers' ability to recruit and hire mental health professionals.

ARM 37.97.102

The department proposes to amend the definitions of "clinical assessment," "lead clinical staff," and "therapy" to eliminate the term "in-training mental health professional" and replace with "licensure candidate" to reflect changes made by the Board of Behavioral Health.

ARM 37.97.132

The department proposes to amend this rule to ensure policies and procedures are completed to help providers implement background checks required in ARM 37.97.140.

ARM 37.97.140

The proposed amendment is necessary to implement requirements of the Family First Prevention Services Act. It is necessary to include requirements for state and national sexual and violent offender background checks in order for providers to receive relevant information regarding an applicant who may pose a significant risk to the youth served. Information obtained from these checks may not be available on the fingerprint background checks.

ARM 37.97.903

It is necessary to amend this rule to reflect the changes made to the definition section of this rule.

Fiscal Impact

There will be an increased cost to providers who will have to pay for fingerprint background checks. A fingerprint background check will be required for all staff at all youth care facilities. The cost of the fingerprint background check is \$30.00 per person and must be conducted upon hire. This will affect approximately 1,200 staff statewide. At the current time, providers are required to complete a name-based criminal background check on all staff at the time of hire. The average cost of these checks is \$12.00. This will be an increase of \$18.00 per staff person.

There will be a cost to the Licensure Bureau to support the processing of fingerprint background checks. The bureau plans on utilizing existing resources.

4. The department intends the effective date for these rule amendments to be October 1, 2019.

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

37.97.102 YOUTH CARE FACILITY (YCF): DEFINITIONS The following definitions apply to all YCF licensing rules:

(1) through (3) remain the same.

(4) "Clinical assessment" means an assessment with DSM - IV diagnosis and a social history completed by the lead clinical staff ~~or an in-training mental health professional supervised by the lead clinical staff~~. Clinical assessments include the following information:

(a) through (8) remain the same.

~~(9) "In-training mental health professional" is defined in ARM 37.87.702.~~

~~(10)~~ (9) "Lead clinical staff (LCS)" means an employee of the therapeutic group home (TGH) provider. The LCS is responsible for the supervision and overall provision of treatment services to youth in the TGH. Effective July 1, 2012, the LCS must be a licensed clinical psychologist, licensed master level social worker (MSW), or licensed clinical professional counselor (LCPC), a social worker licensure candidate or professional counselor licensure candidate licensed under Title 37, chapter 22 or 23, MCA. ~~The LCS can be an in-training mental health professional.~~

(11) through (25) remain the same but are renumbered (10) through (24).

~~(26)~~ (25) "Therapy" means the provision of psychotherapy and rehabilitative services provided by the LCS acting within the scope of the professional's license ~~or same services provided by an in-training mental health professional under the supervision of the LCS~~ in the TGH. These services include a combination of supportive interactions, cognitive therapy, interactive psychotherapy and behavior modification techniques which are used to induce therapeutic change for youth in TGH. Interactive psychotherapy means using play equipment, physical devices, language interpreter, or other mechanisms of nonverbal communication.

(27) through (33) remain the same but are renumbered (26) through (32).

AUTH: 52-2-111, 52-2-603, 52-2-622, MCA

IMP: 52-2-113, 52-2-603, 52-2-622, 53-2-201, MCA

37.97.132 YOUTH CARE FACILITY (YCF): GENERAL REQUIREMENTS FOR ALL ADMINISTRATORS, STAFF, INTERNS, AND VOLUNTEERS (1) remains the same.

(2) A YCF must maintain records for each staff member, volunteer, and intern regarding the following:

(a) through (e) remain the same.

(f) documentation of approved fingerprint-based ~~criminal~~ background check as specified in ARM 37.97.140;

(g) documentation of child protective services background checks, and if applicable, tribal criminal background checks as specified in ARM 37.97.140;

(h) documentation of state sexual or violent offender registry check as specified in ARM 37.97.140;

(h) and (i) remain the same but are renumbered (i) and (j).

(3) through (8) remain the same.

AUTH: 52-2-111, 52-2-603, 52-2-622, MCA

IMP: 52-2-111, 52-2-603, 52-2-622, MCA

37.97.140 YOUTH CARE FACILITY (YCF): STAFF BACKGROUND

CHECKS (1) The administrator, staff, volunteers, and interns must have a state criminal background check, a state child protective services background check, and if applicable, a tribal criminal background check and tribal child protective services background check conducted prior to being employed by the provider or working at the YCF. All administrators, staff, volunteers, interns, and any adult working in the YCF hired after October 1, 2019 must complete a National Crime Information Center (NCIC) fingerprint-based background check by the Federal Bureau of Investigation. Results of the fingerprint-based background check must be documented prior to working in the YCF.

(2) If an applicant has lived outside the state within the past five years, the YCF must complete background checks in every state that the applicant has resided in within the past five years. All administrators, staff, volunteers, interns, and any adult working in the YCF must complete a Montana Department of Public Health and Human Services child protective services background check, and if applicable, a tribal child protective services background check and a tribal criminal background check prior to working in the YCF.

(a) If an applicant has lived outside the state within the past five years, the YCF must complete background checks in every state that the applicant has resided in within the past five years.

(3) All administrators, staff, volunteers, interns, and any adult working in the YCF must complete a Montana Sexual and Violent Offender Registry check. Results of the registry check must be documented prior to working in the YCF.

(3) (4) The department will deny or revoke a license upon finding that:

(a) the administrator, staff member, volunteer, or intern, or any adult working in the YCF has been convicted by a court of competent jurisdiction of a felony or misdemeanor involving but not limited to homicide, sexual intercourse without consent, sexual assault, aggravated assault, assault on a minor, assault on an officer, assault with a weapon, kidnapping, aggravated kidnapping, prostitution, robbery, or burglary;

(b) the administrator, staff member, volunteer, or intern, or any adult working in the YCF has a conviction for a crime pertaining to children and families, including but not limited to child abuse or neglect, incest, child sexual abuse, ritual abuse of a minor, felony partner and family member assault, child pornography, child prostitution, internet crimes involving children, felony endangering the welfare of a minor, felony unlawful transactions with children, or aggravated interference with parent-child contact;

(c) the administrator, staff member, volunteer, or intern, or any adult working in the YCF has within the previous five years a felony conviction of a drug related offense, including but not limited to use, distribution, or possession of controlled substances, criminal possession of precursors to dangerous drugs, criminal

manufacture of dangerous drugs, criminal possession of imitation dangerous drugs with the purpose to distribute, criminal possession, manufacture of or delivery of drug paraphernalia, or driving under the influence of alcohol or other drugs; or

(d) the administrator, staff member, volunteer, or intern, or any adult working in the YCF has been convicted of abuse, sexual abuse, neglect, or exploitation of an elderly person or a person with a developmental disability; or

(e) the administrator, staff member, volunteer, intern, or any adult working in the YCF is a registered offender on the Montana Sexual and Violent Offender Registry (<https://www.nsopw.gov>) or the National Sexual and Violent Offender Registry (<https://app.doj.mt.gov/apps/svow/search.aspx>).

~~(4)~~ (5) The department may deny or revoke a license upon finding that:

~~(a)~~ the administrator, staff member, volunteer, or intern, or any adult working in the YCF has a conviction for a misdemeanor partner and family member assault, misdemeanor endangering the welfare of a child, misdemeanor unlawful transaction with a child, or a crime involving an abuse of the public trust.

~~(5)~~ (6) The administrator, staff member, volunteer, or intern, or any adult working in the YCF who is charged with a crime involving children, physical or sexual violence against any person, or any felony drug related offense and awaiting trial may not provide care or be present in the facility pending the outcome of the criminal proceeding.

~~(6)~~ (7) No administrator, staff member, volunteer, or intern, or any adult working in the YCF shall have been named as a perpetrator in a substantiated report of child abuse or neglect.

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

~~(8)~~ (9) No administrator, staff member, volunteer, or intern, or any adult working in the YCF shall pose any potential threat to the health, safety, and well being of the youth in care.

AUTH: 52-2-111, 52-2-603, 52-2-622, MCA

IMP: 52-2-113, 52-2-603, 52-2-622, MCA

37.97.903 THERAPEUTIC GROUP HOMES (TGH): STAFFING (1) through (6) remain the same.

(7) An individual providing mental health professional services therapy as defined in ARM 37.97.102(25) shall must meet the requirements of ARM ~~37.87.702~~ 37.97.102(9).

(8) through (10) remain the same.

AUTH: 52-2-111, 52-2-603, 52-2-622, MCA

IMP: 52-2-113, 52-2-603, 52-2-622, MCA

6. 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., August 23, 2019.

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

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 6 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.

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

/s/ Flint Murfitt
Flint Murfitt
Rule Reviewer

/s/ Sheila Hogan
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State July 16, 2019.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 44.6.105, 44.6.109, 44.6.113,) PROPOSED AMENDMENT AND
and 44.6.202 and the repeal of ARM) REPEAL
44.6.108 pertaining to filing UCC)
documents)

TO: All Concerned Persons

1. On August 15, 2019, at 9:00 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rule.

2. The Secretary of State 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 Secretary of State no later than 5:00 p.m., August 8, 2019, to advise us of the nature of the accommodation that you need. Please contact Joe DeFilippis, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-5476; fax (406) 444-3976; TDD/Montana Relay Service (406) 444-9068; or e-mail jdefilippis@mt.gov.

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

44.6.105 UNIFORM COMMERCIAL CODE FEES (1) through (11) remain the same.

~~(12) Computer printout of farm product collateral description ——— no charge~~

(13) remains the same but is renumbered (12).

~~(14) If a document is rejected because of deficiencies in the filing, a reprocessing fee of 50 percent of the initial filing fee will be assessed each time the document is resubmitted.~~

~~(15) Documents filed with inadequate funds will be rejected and when refiled must be accompanied by a dollar amount that satisfies the initial filing fee and includes the 50 percent reprocessing fee.~~

(16) (13) The All filings and fees will be collected for conducting business via electronic means, and no hard copies will be provided ~~are the same as for hard copy transactions.~~

~~(17) (14) Uniform Commercial Code bulk data are is only available through electronic means, \$1,000 per month.~~

(18) remains the same but is renumbered (15).

AUTH: 2-15-405, 30-9A-526, MCA

IMP: 2-15-405, 30-9A-525, 71-3-125, MCA

44.6.109 FORMAT REQUIREMENTS FOR FILING AN EFFECTIVE FINANCING STATEMENT LIEN UNDER THE FEDERAL FOOD SECURITY ACT OF 1985 (1) ~~The format for filing an effective financing statement lien is as follows:~~

- ~~(a) font size on all documents must be at least a 10 point normal (not condensed) font;~~
- ~~(b) all forms must be typewritten (handwritten forms will be rejected); and~~
- ~~(c) all forms must be printed on 8 1/2" by 11" paper.~~
- ~~(2) Effective financing statement lien filings must be filed on the following forms or they will be rejected:~~
 - ~~(a) Montana's effective financing statement;~~
 - ~~(b) Montana's effective financing statement amendment;~~
 - ~~(c) Montana's effective financing statement addendum; or~~
 - ~~(d) Montana's effective financing statement amendment addendum.~~
- ~~(3) The forms listed in (2), as they existed on August 29, 2003, are incorporated by reference and are available at www.sos.mt.gov.~~

(1) All financing statement liens under the Federal Food Security Act of 1985 must be filed electronically via the Secretary of State's Business Services Division website.

- ~~(4) remains the same but is renumbered (2).~~
- ~~(a) through (d) remain the same.~~
- ~~(e) signed, authorized, or otherwise authenticated by the debtor;~~
- ~~(f) through (h) remain the same.~~
- ~~(i) signed, authorized, or otherwise authenticated by the secured party.~~
- ~~(5) An amendment to an effective financing statement is required when a change would render the farm bill master list entry no longer informative as to what is subject to the security interest in question. The effective financing statement amendment form submission must be filed online used and must include:~~
 - ~~(a) an amendment including terminations that must be signed, authorized, or otherwise authenticated by the secured party;~~
 - ~~(b) an amendment modifying the debtor and/or collateral information that must be signed, authorized, or otherwise authenticated by the debtor;~~
 - ~~(i) and (c) remain the same.~~
 - ~~(d) only one filing number per submission form;~~
 - ~~(e) only one amendment per submission form is permitted;~~
 - ~~(f) and (g) remain the same.~~

AUTH: 30-9A-526, MCA

IMP: 30-9A-501, 30-9A-502, 71-3-125, MCA

44.6.113 DEFINITIONS AND REQUIREMENTS FOR ONLINE FILING

(1) All Uniform Commercial Code (UCC) liens must be filed electronically via the Secretary of State's Business Services Division website.

- ~~(4) (2) The following definitions apply for filing Uniform Commercial Code (UCC) liens and amendments online:~~
 - ~~(a) through (c) remain the same.~~
 - ~~(d) "Signature" means an electronic signature.~~

~~(d)~~ (e) "SIMS" "SOS Enterprise" is the Secretary of State's online information management system.

~~(e)~~ (f) "Submitter" is a person or entity who, after having been authenticated to SIMS SOS Enterprise via ePass, is able to file lien notices or amendments or perform lien searches online.

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

~~(3)~~ Lien documents filed through the use of internet technology are considered to be liens filed online.

~~(4)~~ The following liens are acceptable for online filing:

~~(a)~~ initial financing statements and associated amendments that meet the requirements of Title 30, chapter 9A, MCA;

~~(b)~~ effective financing statements and associated amendments that meet the requirements of the federal Food Security Act of 1985.

~~(i)~~ (4) An effective financing statement lien and amendment shall may be filed electronically, ~~without the signature of the debtor and secured party.~~

~~(ii)~~ If an original or reproduced paper document is filed, the lien must be authorized or authenticated by the debtor, and be filed by the secured party.

~~(5)~~ The following liens are unacceptable for online filing:

~~(a)~~ notice of child support liens;

~~(b)~~ notice of federal tax liens; and

~~(c)~~ Title 71, MCA, liens.

~~(6)~~ through ~~(8)~~ remain the same but are renumbered (5) through (7).

(9) (8) UCC and effective financing statement lien notices or amendments that are successfully completed and submitted online will be considered filed once payment has successfully been completed by the submitter. The structure of the online screens will guide the submitter while ensuring the notice or amendment adheres to all rules, laws, and regulations that govern the document. The submitter is notified by ~~SIMS~~ if the information entered does not adhere to the requirements that govern lien notices and amendments. A message confirming successful completion and acceptance will appear online when the filing is accepted by ~~SIMS~~.

~~(10)~~ through ~~(13)~~ remain the same but are renumbered (9) through (12).

AUTH: 2-15-404, 30-9A-526, MCA

IMP: 2-15-401, 2-15-404, 30-9A-502, 71-3-125, MCA

44.6.202 EFFECTIVE DATE AND TIME ~~(1)~~ Any lien notice or amendment delivered by the postal service by 4:00 p.m. has an effective time and date of 8:00 a.m. on the delivery date. Any lien notice or amendment delivered by facsimile, walk-in, or express delivery service by 4:00 p.m. has an effective time and date consistent with the delivery date and time.

~~(2)~~ Any lien notice or amendment delivered by the postal service, facsimile, walk-in, or express delivery service received after 4:00 p.m. has an effective time and date of 8:00 a.m. the next business day.

~~(3)~~ (1) Any lien notice or amendment filed online through the Secretary of State's electronic filing system will receive the effective date and time the same as it was successfully recorded in the UCC database.

AUTH: 2-15-404, 30-9A-526, MCA
IMP: 2-15-401, 2-15-404, 30-9A-519, 71-3-125, MCA

4. The rule proposed to be repealed is as follows:

44.6.108 FORMAT REQUIREMENTS FOR THE FILING OF UNIFORM
COMMERCIAL CODE LIENS

AUTH: 30-9A-526, MCA
IMP: 30-9A-102, 30-9A-501, 30-9A-502, MCA

REASONABLE NECESSITY: ARM 44.6.105, 44.6.109, 44.6.113, and 44.6.202 are proposed to be amended and ARM 44.6.108 is proposed to be repealed to allow the Secretary of State's Office to accept and maintain all UCC records electronically. The changes are being proposed at this time in order to create an efficient operational model that is cost effective for customers and the Secretary of State's office, and so that they may be adopted in a timely manner to allow the Secretary of State the opportunity to update its electronic filing system.

FISCAL IMPACT: The Secretary of State estimates that the proposed fee change in ARM 44.6.105 will affect 500 applicants and decrease revenue by \$625.

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: Joe DeFilippis, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing jdefilippis@mt.gov, and must be received no later than 5:00 p.m., August 26, 2019.

6. Austin James, Secretary of State's Office, has been designated to preside over and conduct the hearing.

7. The Secretary of State 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 which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code, or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Ave, P.O. Box 202801, Helena, MT 59620-2801, faxed to the office at (406) 444-3976, or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.

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 Secretary of State has determined that the amendment and repeal of the above-referenced rules will not significantly and directly impact small businesses. Currently the majority of customers complete their filings online without negative impact.

/s/ AUSTIN JAMES
Austin James
Rule Reviewer

/s/ COREY STAPLETON
Corey Stapleton
Secretary of State

Dated this 16th day of July, 2019.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF PUBLIC HEARING ON
RULE I pertaining to performance) PROPOSED ADOPTION
standards for devices that provide)
accessible voting technology for)
electors with hearing, vision, speech,)
or ambulatory impairments)

TO: All Concerned Persons

1. On August 15, 2019, at 9:30 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Conference Room, Room 260, State Capitol Building, at Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Secretary of State 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 Secretary of State no later than 5:00 p.m. on August 8, 2019, to advise us of the nature of the accommodation that you need. Please contact Austin James, Secretary of State's Office, P.O. Box 202801, Helena, Montana, 59620-2801; telephone (406) 444-6197; fax (406) 444-3976, or e-mail Austin.James@mt.gov.

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

NEW RULE I PERFORMANCE STANDARDS FOR ACCESSIBLE VOTING TECHNOLOGY DEVICES (1) A voter interface device must meet the Elections Assistance Commission's (EAC) standards for Voluntary Voting System Guidelines (VVSG) version 1.0 or greater for accessible voting technology for electors with hearing, vision, speech, or ambulatory impairments.

AUTH: 13-17-103, MCA
IMP: 13-17-103, MCA

REASON: Senate Bill 291 was approved by the 2019 Montana Legislature and codified in law. Senate Bill 291 requires the Secretary of State to adopt benchmark performance standards for approval of a voter interface device. Adopting NEW RULE I will provide the standard from the Secretary of State for device approval, as required.

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 to: Austin James, Office of the Secretary of State, P.O. Box 202801, Helena, MT, 59620; telephone (406) 444-6197; fax (406) 444-3976, or e-mail

Austin.James@mt.gov, and must be received no later than 5:00 p.m., August 26, 2019.

5. Austin James, Office of Secretary of State, has been designated to preside over and conduct this hearing.

6. 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 4 above or may be made by completing a request form at any rules hearing held by the department.

7. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by electronic mail on July 16, 2019.

8. With regard to the requirements of 2-4-111, MCA, the Secretary of State has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses.

/s/ AUSTIN JAMES
Austin James
Rule Reviewer

/s/ DANA CORSON
Dana Corson
Director of Elections and Voter Services
Office of Secretary of State

Dated this 16th day of July, 2019.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the repeal of ARM) NOTICE OF REPEAL
4.18.101 through 4.18.106 and)
4.18.112 pertaining to the Certified)
Natural Beef Cattle Marketing)
Program)

TO: All Concerned Persons

1. On June 7, 2019, the Department of Agriculture published MAR Notice No. 4-19-259 pertaining to the proposed repeal of the above-stated rules at page 702 of the 2019 Montana Administrative Register, Issue Number 11.
2. The department has repealed the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ben Thomas
Ben Thomas
Director
Agriculture

Certified to the Secretary of State July 16, 2019.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of adoption of New Rule) NOTICE OF ADOPTION
I pertaining to deadlines for)
Transformational Learning Aid)

TO: All Concerned Persons

1. On June 21, 2019, the Board of Public Education (board) published MAR Notice No. 10-54-288 pertaining to the proposed adoption of the above-stated rule at page 793 of the 2019 Montana Administrative Register, Issue Number 12.
2. The board has adopted New Rule I (10.54.1010) as proposed.
3. No comments or testimony were received.

/s/ Pete Donovan
Pete Donovan
Executive Director
Rule Reviewer

/s/ Dr. Darlene Schottle
Dr. Darlene Schottle
Chair
Board of Public Education

Certified to the Secretary of State July 16, 2019.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption of) NOTICE OF ADOPTION AND
New Rule I and the amendment) AMENDMENT
of ARM 10.55.701 pertaining to)
hazard and emergency plans)

TO: All Concerned Persons

1. On May 24, 2019, the Board of Public Education published MAR Notice No. 10-55-286 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 564 of the 2019 Montana Administrative Register, Issue Number 10.
2. The board has adopted NEW RULE I (10.55.721) as proposed.
3. The board has amended ARM 10.55.701 as proposed.
4. No comments or testimony were received.

/s/ Pete Donovan
Pete Donovan
Rule Reviewer

/s/ Darlene Schottle
Darlene Schottle
Chair
Board of Public Education

Certified to the Secretary of State July 16, 2019.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption of) NOTICE OF ADOPTION AND
New Rules I through IV and the) AMENDMENT
amendment of ARM 10.56.101)
pertaining to student assessment)

TO: All Concerned Persons

1. On May 24, 2019, the Board of Public Education published MAR Notice No. 10-56-285 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 567 of the 2019 Montana Administrative Register, Issue Number 10.

2. The board has adopted New Rule I (10.56.102), New Rule II (10.56.103), New Rule III (10.56.104), and New Rule IV (10.56.105) as proposed.

3. The board has amended ARM 10.56.101 as proposed.

4. No comments or testimony were received.

/s/ Pete Donovan
Pete Donovan
Rule Reviewer

/s/ Darlene Schottle
Darlene Schottle
Chair
Board of Public Education

Certified to the Secretary of State July 16, 2019.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 10.57.410, 10.57.411, and)
10.57.424 pertaining to educator)
licensure)

TO: All Concerned Persons

1. On May 24, 2019, the Board of Public Education published MAR Notice No. 10-57-287 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 573 of the 2019 Montana Administrative Register, Issue Number 10.

2. The board has amended ARM 10.57.410, 10.57.411, and 10.57.424 as proposed.

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

COMMENT #1: Ms. Dianne Burke, Executive Director of the Montana Quality Education Coalition (MQEC), spoke in support of the proposed rule revisions. Ms. Burke stated that the MQEC believes the proposed changes will help with teacher recruitment and retention, noting that the changes will have a positive effect on recruitment while maintaining the strength of the rule.

RESPONSE #1: The Board of Public Education thanks Ms. Burke for her comments.

/s/ Pete Donovan
Pete Donovan
Rule Reviewer

/s/ Darlene Schottle
Darlene Schottle
Chair
Board of Public Education

Certified to the Secretary of State July 16, 2019.

BEFORE THE BOARD OF ARCHITECTS AND LANDSCAPE ARCHITECTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT
ARM 24.114.501 architect)	
examination, 24.114.502 architect)	
licensure by examination,)	
24.114.1402 education and)	
experience required for landscape)	
architect licensure, 24.114.2105)	
architect continuing education)	
requirements, and 24.114.2301)	
unprofessional conduct)	

TO: All Concerned Persons

1. On March 15, 2019, the Board of Architects and Landscape Architects (board) published MAR Notice No. 24-114-37 regarding the public hearing on the proposed amendment of the above-stated rules, at page 275 of the 2019 Montana Administrative Register, Issue No. 5.

2. On April 9, 2019, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the April 12, 2019, deadline.

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

COMMENT 1: One commenter stated that only "landscape" should be stricken from the description of who may offer direct supervision to someone completing required experience in ARM 24.114.1402. The commenter made additional recommendations but acknowledged they exceeded the amendments in the proposal notice.

RESPONSE 1: The board appreciates all comments received in the rulemaking process but is removing the word "licensed" to allow all experience outlined in ARM 24.114.1402(2). Currently, two-thirds of the required experience must come under the direct supervision of a licensed landscape architect. The amendment is directed at the remaining one-third of the experience, which can be obtained under the direct supervision of an engineer, an architect, a landscape architect, or a city planner. City planners can be certified by a nationally recognized certifying body, but they are not licensed. The board cannot consider comments outside the rule changes in the proposal notice.

COMMENT 2: One commenter expressed disappointment in the proposed amendment to the landscape architect experience requirement and indicated that a

portion of the required experience received under the supervision of an architect or engineer is not complete. The commenter asserted that experience received under the supervision of a landscape architect is incredibly important.

RESPONSE 2: The board appreciates all comments received in the rulemaking process and agrees that experience under a landscape architect's supervision is very important. The board is not changing the requirement that two-thirds of the experience must be obtained under the direct supervision of a licensed landscape architect. Deleting the reference to "licensed landscape" design professional in ARM 24.114.1402 clarifies that the remaining one-third of the experience may be obtained under the direct supervision of an engineer, an architect, a landscape architect, or a city planner. City planners can be certified by a nationally recognized certifying body, but they are not licensed.

COMMENT 3: One commenter expressed concern that the board is weakening the landscape architect experience requirements by allowing other design professionals to directly supervise experience and by allowing remote internships.

RESPONSE 3: The board appreciates all comments received in the rulemaking process, but the comment relates to sections of rules that are outside the proposed notice. Current regulations allow for remote communication with the direct supervisor and allow for one-third of the experience to be obtained under the direct supervision of a design professional other than a landscape architect.

COMMENT 4: One commenter noted that ARM 24.114.2105(3)(c)(iii) indicates a CE subject is "site section" and asked if it should be "site selection" instead.

RESPONSE 4: The board agrees that the intended CE subject is "site selection" and is amending the rule accordingly.

COMMENT 5: A commenter was concerned about the realignment of CE subjects and opined that the current rule is easier to understand than the proposed amendments.

RESPONSE 5: The board appreciates all comments received in the rulemaking process. The education standards for CE have been amended in the model rules to mirror the AXP subjects so both current and future licensees have the same foundation. The board is amending the rule to align subjects and assist in reciprocal licensure throughout the country.

COMMENT 6: A commenter was concerned that the amendment to ARM 24.114.2301(1)(c) is not specific as to who would determine violations or how the licensee would be notified.

RESPONSE 6: Determination of unprofessional conduct violations and notification to licensees of those findings are dictated by the Montana Code Annotated and the Administrative Rules of Montana.

COMMENT 7: One commenter asserted that the amendment to ARM 24.114.2301(1)(c) is too broad, as building laws and regulations are complex and constantly changing. The commenter suggested the board narrow the provision to require "knowingly and willfully" when failing to comply with applicable federal, state, and local building laws and regulations.

RESPONSE 7: The board appreciates all comments received in the rulemaking process. When evaluating whether a licensee has committed unprofessional conduct, the screening panel determines whether there is reasonable cause to believe a licensee has violated a statute or rule that justifies disciplinary proceedings. The screening panel reviews and evaluates each case individually using that standard and the panel has discretion whether to discipline a licensee depending on the facts of the case.

4. The board has amended ARM 24.114.501, 24.114.502, 24.114.1402, and 24.114.2301 exactly as proposed.

5. The board has amended ARM 24.114.2105 with the following changes, stricken matter interlined, new matter underlined:

24.114.2105 ARCHITECT CONTINUING EDUCATION REQUIREMENTS

(1) through (3)(c)(ii) remain as proposed.

(iii) Program & Analysis focuses on areas related to the evaluation of project requirements, constraints, and opportunities. Examples include land-use analysis, programming, site ~~section~~ selection, historic preservation, adaptive reuse, codes, regulations, standards, natural resources, environmental impact and ecosystem risk assessment, hazardous materials, resilience to natural and human impacts, life safety, and feasibility.

(iv) through (6) remain as proposed.

BOARD OF ARCHITECTS AND
LANDSCAPE ARCHITECTS
DALE NELSON, 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 July 16, 2019.

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

In the matter of the amendment of	)	NOTICE OF AMENDMENT
ARM 24.159.301 definitions,)	
24.159.403 nonroutine applications,)	
24.159.606 educational facilities for)	
programs, 24.159.612 program annual)	
report, 24.159.655 program faculty,)	
24.159.670 curriculum goals and)	
general requirements for programs,)	
24.159.1037 and 24.159.1237)	
renewals, 24.159.2020 alternative)	
monitoring track, 24.159.2102 biennial)	
continuing education requirements,)	
24.159.2106 auditing of contact hours)	

TO: All Concerned Persons

1. On June 7, 2019, the Board of Nursing (board) published MAR Notice No. 24-159-87 regarding the public hearing on the proposed amendment of the above-stated rules, at page 706 of the 2019 Montana Administrative Register, Issue No. 11.

2. On July 2, 2019, a public hearing was held on the proposed amendment of the above-stated rules in Helena. No comments were received by the July 5, 2019, deadline.

3. The board has amended ARM 24.159.301, 24.159.403, 24.159.606, 24.159.612, 24.159.655, 24.159.670, 24.159.1037, 24.159.1237, 24.159.2020, 24.159.2102, and 24.159.2106 exactly as proposed.

BOARD OF NURSING
SHARON SWEENEY FEE, PHD, RN, CNE
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 July 16, 2019.

BEFORE THE BOARD OF REALTY REGULATION
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 24.210.401 fee schedule,) REPEAL
24.210.416 applications for)
examination and license in general-)
broker and salesperson, 24.210.661)
new licensee mandatory continuing)
education–salespersons, 24.210.667)
continuing real estate education,)
24.210.801 fee schedule, 24.210.835)
continuing property management)
education, and the repeal of)
24.210.616 waiver of experience)
requirement for broker licensing)
prohibited, and 24.210.666,)
24.210.674, 24.210.677, 24.210.834,)
24.210.840, and 24.210.843)
pertaining to board approval of)
courses, providers, and instructors)

TO: All Concerned Persons

1. On May 24, 2019, the Board of Realty Regulation (board) published MAR Notice No. 24-210-45 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 588 of the 2019 Montana Administrative Register, Issue No. 10.

2. On June 18, 2019, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. Several comments were received by the June 21, 2019, deadline.

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

COMMENT 1: Several commenters expressed general support for the proposed changes including the elimination of the board's role in reviewing and approving CE instructors and courses. Commenters believed the amendments provide REALTOR® boards the opportunity to expand the number of instructors and courses they will be able to utilize for the benefit of real estate licensees.

RESPONSE 1: The board appreciates all comments received during the rulemaking process.

COMMENT 2: Several commenters noted the term REALTOR® is trademarked by the National Association of REALTORS® and should be printed in all capital letters and include the trademark symbol.

RESPONSE 2: The board agrees with the commenters and is amending ARM 24.210.667 and 24.210.835 accordingly.

COMMENT 3: Multiple commenters stated the new instructor requirements in ARM 24.210.667(5) and 24.210.835(5) are overly restrictive and may be detrimental to the stated reason of increasing the number of CE courses available to Montana real estate licensees. The commenters stated these changes will eliminate some currently qualified instructors from teaching courses in the state, and the 5-year broker requirement will eliminate qualified salespersons and experts in lending, title, and safety from instructing CE courses. The commenters stated that having no degree program in a real estate field in Montana will also make it difficult to meet the instructor criteria. One commenter believed that requiring a bachelor's degree in the real estate industry or five years as a broker will not invite knowledge into safety for licensees and noted that not all topics taught in CE courses require that level of education. Commenters believed these changes may be unenforceable since there is no mechanism to ensure instructors meet the qualifications and suggested the board eliminate the qualification requirements from both rules.

RESPONSE 3: The board agrees with the commenters that the proposed instructor criteria is overly restrictive and may not help to increase the number of available CE courses. The board did not intend for the amendments to eliminate from qualification any current qualified instructors who may not meet the specific criteria proposed. The board does acknowledge there is no real estate degree offered in Montana, that the proposed restrictions may not allow for instruction from experts in related topic areas, and that there is no mechanism in place for enforcing the qualification requirements. Therefore, the board is amending the rules to remove the proposed new (5) from ARM 24.210.667 and 24.210.835.

COMMENT 4: A commenter was concerned with the proposed amendments to ARM 24.210.667(2), stating that many Montana licensees are not REALTOR® members and it could be costlier for non-members to pay for the courses. The commenter believed this change would result in a fewer number of courses available. Also, requiring course approval through a local REALTOR® association could negatively impact instructors who travel the state presenting currently approved courses and rely on this income as part of their private businesses. The commenter stated that politics or personalities could play a role in approving CE courses and instructors and believed that criteria used by the local associations would be inconsistent. The commenter asserted that taking the approval out of the board's hands would be a mistake and would lower the level of professionalism.

RESPONSE 4: The board is confident in the entities that will provide the CE courses, as they have demonstrated a high level of professionalism in offered

services. The board is proceeding with the changes to ARM 24.210.667(2) as proposed.

COMMENT 5: Numerous commenters noted that ARM 24.210.667(4) and 24.210.835(4) specify that required CE hours be in topics approved by the board but the amendments to (5) eliminate the board's annual approved topic list. The commenters believed that the overall rule changes demonstrate the board's confidence in outside organizations to bring quality education to Montana licensees. The commenters stated that this additional level of instructor qualification is unnecessary and recommended the board strike (4) from each of the rules.

RESPONSE 5: The board agrees that the entities proposed to provide and host CE courses are all in real estate business, and the board is putting confidence in them to bring quality education. The board agrees with the commenters' suggestion but acknowledges the elimination of (4) exceeds the scope of the proposed amendments held out to the public for notice and opportunity to comment. The board will note the suggestion for inclusion in a subsequent rulemaking project.

COMMENT 6: Multiple commenters stated that ARM 24.210.667(8) is confusing because it appears to require that licensees apply and pay a fee 30 days after completing their CE. The commenters recommended the board retain "in another jurisdiction" (or state) to provide clarity.

RESPONSE 6: The board is confident the proposed language is clear and is amending (8) exactly as proposed.

COMMENT 7: Several commenters noted that an "or" seems missing at the end of ARM 24.210.667(5)(a) and 24.210.835(5)(a).

RESPONSE 7: The board agrees, but since the board is removing (5) from both rules, there is no need for the change.

COMMENT 8: Several commenters supported the amendment to ARM 24.210.667 that allows Rookie Course providers to apply for up to \$2000 in reimbursement of demonstrated losses. The commenters believed this is imperative to REALTOR® boards so their respective members do not subsidize courses for licensees in general.

RESPONSE 8: The board appreciates all comments received during the rulemaking process.

COMMENT 9: Numerous commenters supported the repeal of ARM 24.210.616 to allow the board's discretion in waiving experience qualifications for individual broker applicants. The commenters stated the time has come to repeal the rule.

RESPONSE 9: The board appreciates all comments received during the rulemaking process.

COMMENT 10: Several commenters stated it would be helpful if the board would allow current CE to be tracked in the database through 10/31/19, the end of the current licensing year.

RESPONSE 10: The board acknowledges that the department can provide database access through 10/31/19.

COMMENT 11: One commenter believed that not requiring CE rosters be submitted to the database will result in fewer licensees completing the required 12 CE hours.

RESPONSE 11: The board notes that recent audit results confirm that licensees are compliant with CE requirements. In the March 2019 random audit, 100 percent of audited licensees were compliant with CE requirements. Based on these results, the board is confident in licensees' professionalism to complete required CE and believes that greater access to CE courses resulting from the rule amendments will help support continued CE compliance.

4. The board has amended ARM 24.210.401, 24.210.416, 24.210.661, and 24.210.801 exactly as proposed.

5. The board has repealed ARM 24.210.616, 24.210.666, 24.210.674, 24.210.677, 24.210.834, 24.210.840, and 24.210.843 exactly as proposed.

6. The board has amended ARM 24.210.667 and 24.210.835 with the following changes, stricken matter interlined, new matter underlined:

24.210.667 CONTINUING REAL ESTATE EDUCATION (1) through (2)(a) remain as proposed.

(b) endorsed by a national, state, or local Association of ~~Realtors~~ REALTORS®, or a national, state, or local real estate, landlords, or property management association.

(3) and (4) remain as proposed.

~~(5) Courses must be taught by an instructor who:~~

~~(a) has a bachelor's degree in a field associated with real estate;~~

~~(b) is approved as an instructor by any state real estate licensing regulatory agency or real estate commission; or~~

~~(c) has five years of active licensed experience as a broker.~~

(6) through (8) remain as proposed but are renumbered (5) through (7).

24.210.835 CONTINUING PROPERTY MANAGEMENT EDUCATION

(1) through (2)(a) remain as proposed.

(b) endorsed by a national, state, or local Association of ~~Realtors~~ REALTORS®, or any national, state, or local real estate, landlords, or property management association.

(3) and (4) remain as proposed.

~~(5) Courses must be taught by an instructor who:~~

- ~~(a) has a bachelor's degree in a field associated with property management;~~
- ~~(b) is approved as an instructor by any state real estate licensing regulatory agency or real estate commission; or~~
- ~~(c) has five years of active licensed experience as a broker or property manager.~~

(6) and (7) remain as proposed but are renumbered (5) and (6).

BOARD OF REALTY REGULATION
RIC SMITH, BROKER
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 July 16, 2019.

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

In the matter of the amendment of) CORRECTED NOTICE OF
ARM 37.27.902, 37.85.104,) AMENDMENT
37.85.105, 37.85.106, and 37.88.101)
pertaining to Medicaid rates, services,)
and benefit changes)

TO: All Concerned Persons

1. On May 24, 2019, the Department of Public Health and Human Services published MAR Notice No. 37-878 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 618 of the 2019 Montana Administrative Register, Issue Number 10. On July 5, 2019, the department published the notice of amendment at page 964 of the 2019 Montana Administrative Register, Issue Number 13.

2. The department would like to clarify two responses made to two comments.

COMMENT #9: Multiple commenters opposed the Medicaid requirement for member information (such as name, social security number, etc.) to be required for Medicaid reimbursement. Opposition was based on difficulty of gathering information and the need for outreach, engagement, and crisis services as part of the peer model.

RESPONSE #9: The 2019 Legislature passed SB 30 and appropriated funds for peer support services. By doing so, the Legislature directed the department to make peer support services a Medicaid covered service. The Legislature appropriated funding from both the mental health services special revenue account and federal special revenue account for the purposes of paying for behavioral peer support specialists services. Previously, providers for peer support services were reimbursed solely from federal block grants, and the requirement for obtaining member information and demographics was not as stringent as Medicaid requirements. Due to the change in funding source, the department has made peer support services a Medicaid covered service, and providers seeking reimbursement from Montana Medicaid must follow federal Medicaid rules and regulations. Medicaid billing requires name, date of birth, address, phone number, and Medicaid number, much like other kinds of insurance.

COMMENT #10: Multiple commenters opposed the medical necessity criteria of a Severe and Disabling Mental Illness (SDMI) diagnosis or a Substance Use Disorder (SUD) diagnosis for peer support services.

RESPONSE #10: As stated in the response to Comment #9, the 2019 Legislature appropriated funds for peer support and in so doing directed the department to make peer support services a Medicaid covered service. Providers seeking reimbursement from Montana Medicaid must follow federal Medicaid rules and regulations. The department cannot remove the requirement of a diagnosis, as that is a federal Medicaid requirement. The department cannot expand its coverage to diagnoses that are not mental health and/or substance use disorder related without an appropriation to do so.

/s/ Brenda K. Elias
Brenda K. Elias
Rule Reviewer

/s/ Marie Matthews for
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State July 16, 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 March 31, 2019. This table includes notices in which those rules adopted during the period February 8, 2019, through July 5, 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 March 31, 2019, 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 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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(Board of Pharmacy)

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(Board of Realty Regulation)

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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 June 2019 appear. Potential vacancies from August 1, 2019 through October 31, 2019, are also listed.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of July 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 JUNE 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Medical Examiners			
Dr. Anna Marie Earl Great Falls Qualifications (if required): Doctor of Medicine (MD)	Governor	Reappointed	6/21/2019 9/1/2022
Board of Optometry			
Mr. Peter Fontana Great Falls Qualifications (if required): Representative of the public not engaged in the practice of optometry	Governor	Reappointed	6/21/2019 4/1/2023
Dr. Douglas Jerome Kimball Bozeman Qualifications (if required): Registered Optometrist	Governor	Reappointed	6/21/2019 4/1/2023
Board of Real Estate Appraisers			
Mr. Peter Fontana Great Falls Qualifications (if required): Licensed or certified real estate appraiser	Governor	Reappointed	6/21/2019 4/1/2023
Mr. George E. Luther Jr. Miles City Qualifications (if required): Licensed or certified real estate appraiser	Governor	Reappointed	6/21/2019 4/1/2023

EXECUTIVE BRANCH APPOINTEES FOR JUNE 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Real Estate Appraisers Cont.			
Mr. Myles Wilson Link	Governor	Reappointed	6/21/2019
Missoula			4/1/2023
Qualifications (if required): Representative of public who is not engaged in the occupation of real estate			
Board of Realty Regulation			
Mr. Frederic E. Ossorio Jr.	Governor	Reappointed	6/21/2019
Big Sky			5/1/2023
Qualifications (if required): Licensed real estate broker, salesperson or property manager			
Mr. Joshua Michael Peck	Governor	Reappointed	6/21/2019
Butte			5/1/2023
Qualifications (if required): Representative of the public who is not a state government officer			
Mr. Daniel Dean Wagner	Governor	Reappointed	6/21/2019
Billings			5/1/2023
Qualifications (if required): Licensed real estate broker, salesperson, or property manager			
Mr. Kevin Wetherell	Governor	Lanier	6/21/2019
Seeley Lake			5/1/2023
Qualifications (if required): Licensed real estate broker, salesperson, or property manager			

EXECUTIVE BRANCH APPOINTEES FOR JUNE 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
District Court Judge Mr. Howard Frank Recht Hamilton Qualifications (if required): None Stated	Governor	Langton	6/11/2019 1/3/2021
Family Support Services Advisory Council Ms. Mauricetta Williams Great Falls Qualifications (if required): Agency Representative	Governor	Marthaller	6/21/2019 4/1/2020
Fish and Wildlife Commission Mr. Shane Colton Billings Qualifications (if required): District 5	Governor	Tourlotte	6/17/2019 1/1/2021
Information Technology Managers Council Mr. Jason Emery Missoula Qualifications (if required): Local Government Representative	Governor	Jones	6/21/2019 4/1/2020
Mr. Butch Huseby Helena Qualifications (if required): Information Technology Manager	Governor	Germaine	6/21/2019 8/1/2020

EXECUTIVE BRANCH APPOINTEES FOR JUNE 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Information Technology Managers Council Cont.			
Mr. John Straughn Helena	Governor	Daugherty	6/21/2019 8/1/2020
Qualifications (if required): Information Technology Manager			
Livestock Loss Board			
Mr. Seth M. Wilson Missoula	Governor	Reappointed	6/21/2019 1/1/2021
Qualifications (if required): Member of the general public			
Montana Facility Finance Authority			
Ms. Janet Bastian Miles City	Governor	Burgess	6/17/2019 1/1/2021
Qualifications (if required): Public Representative			
Montana Heritage Preservation and Development Commission			
Ms. Sheralee Marie Choquette Konen Butte	Governor	Reappointed	6/21/2019 5/1/2022
Qualifications (if required): Broad experience in business			
Ms. Virginia Court Billings	Governor	Ozark	6/21/2019 5/1/2022
Qualifications (if required): Public At-Large			

EXECUTIVE BRANCH APPOINTEES FOR JUNE 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Heritage Preservation and Development Commission Cont.			
Mr. Philip Maechling Florence	Governor	Reappointed	6/21/2019 5/1/2022
Qualifications (if required): Experience in community planning			
Ms. Marilyn Ross Twin Bridges	Governor	Reappointed	6/21/2019 5/1/2022
Qualifications (if required): Experience in historic preservation			
Montana Wheat and Barley Committee			
Mr. Max Cederberg Turner	Governor	Hinebauch	6/21/2019 6/1/2022
Qualifications (if required): Citizen of Montana			
Representative Llew Jones Conrad	Governor	Kolstad	6/21/2019 6/1/2022
Qualifications (if required): Citizen of Montana			
Noxious Weed Management Advisory Council			
Mr. Trent Brusseau Caldwell	Governor	None Stated	6/21/2019 6/30/2021
Qualifications (if required): Herbicide Dealer or applicator			

EXECUTIVE BRANCH APPOINTEES FOR JUNE 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Noxious Weed Management Advisory Council Cont.			
Mr. Jack Eddie Dillon	Governor	None Stated	6/21/2019 6/30/2020
Qualifications (if required): Montana Weed Control Association			
Ms. Margie Edsall Alder	Governor	None Stated	6/21/2019 6/30/2020
Qualifications (if required): At-Large Member from the agriculture community			
Ms. Linda Eklund Shawmut	Governor	None Stated	6/21/2019 6/30/2021
Qualifications (if required): Livestock Production			
Mr. Joel Farkell Brady	Governor	None Stated	6/21/2019 6/30/2021
Qualifications (if required): Consumer Group			
Mr. Kenny Keever Havre	Governor	None Stated	6/21/2019 6/30/2021
Qualifications (if required): Biological Research and Control Interests			
Ms. Kellieann Morris Stevensville	Governor	None Stated	6/21/2019 6/30/2021
Qualifications (if required): Western County Representative			

EXECUTIVE BRANCH APPOINTEES FOR JUNE 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Noxious Weed Management Advisory Council Cont.			
Ms. Jeanette Nordahl Lincoln	Governor	None Stated	6/21/2019 6/30/2020
Qualifications (if required):	Recreationist Wildlife group		
Mr. Jim Olivarez Missoula	Governor	None Stated	6/21/2019 6/30/2021
Qualifications (if required):	Western County Representative		
Mr. Brian Ostwald Joliet	Governor	None Stated	6/21/2019 6/30/2020
Qualifications (if required):	Eastern County Representative		
Director Ben Thomas Helena	Governor	None Stated	6/21/2019 6/30/2021
Qualifications (if required):	Director of the Department of Agriculture		
Mr. Steve Tyrell Lavina	Governor	None Stated	6/21/2019 6/30/2021
Qualifications (if required):	Herbicide Dealer or applicator		
Mr. Todd Wagner Glasgow	Governor	None Stated	6/21/2019 6/30/2021
Qualifications (if required):	Agriculture Crop Production		

EXECUTIVE BRANCH APPOINTEES FOR JUNE 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Employee Charitable Giving Campaign Advisory Council			
Ms. Liz Bangerter Helena Qualifications (if required): Employee Representative	Governor	None Stated	6/21/2019 5/1/2021
Ms. Sandy Booth Helena Qualifications (if required): Employee Representative	Governor	None Stated	6/21/2019 5/1/2021
Mr. Bill Crane Helena Qualifications (if required): Federation Representatives	Governor	None Stated	6/21/2019 5/1/2021
Ms. Penny Fassett Helena Qualifications (if required): Employee Representative	Governor	None Stated	6/21/2019 5/1/2021
Mr. Jasyn Harrington Helena Qualifications (if required): Federation Representatives	Governor	None Stated	6/21/2019 5/1/2021
Mr. Mike Manion Helena Qualifications (if required): Chair and Employee Representative	Governor	None Stated	6/21/2019 5/1/2021

EXECUTIVE BRANCH APPOINTEES FOR JUNE 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Employee Charitable Giving Campaign Advisory Council Cont.			
Mr. Gary Owen Great Falls Qualifications (if required): Federation Representative	Governor	None Stated	6/21/2019 5/1/2021
Ms. Hope Stockwell Helena Qualifications (if required): Employee Representative	Governor	None Stated	6/21/2019 5/1/2021
Ms. Danielle Williams Helena Qualifications (if required): Employee Representative	Governor	None Stated	6/21/2019 5/1/2021
Ms. Kirsten Wrzesinski Helena Qualifications (if required): Employee Representative	Governor	None Stated	6/21/2019 5/1/2021
State Employee Group Benefits Advisory Council			
Ms. Samantha Chase Helena Qualifications (if required): Executive Branch Representative	Governor	None Stated	6/21/2019 12/31/2019

EXECUTIVE BRANCH APPOINTEES FOR JUNE 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Employee Group Benefits Advisory Council Cont.			
Ms. Penny Fassett Helena	Governor	None Stated	6/21/2019 12/31/2019
Qualifications (if required): Executive Branch Representative			
Ms. Diane Fladmo Helena	Governor	None Stated	6/21/2019 12/31/2019
Qualifications (if required): State Employees and labor organizations			
Ms. Susan Fox Helena	Governor	None Stated	6/21/2019 12/31/2019
Qualifications (if required): Legislative Branch			
Ms. Cheryl Grey Helena	Governor	None Stated	6/21/2019 12/31/2019
Qualifications (if required): Executive Branch Representative			
Ms. Mandi Hinman Helena	Governor	None Stated	6/21/2019 12/31/2019
Qualifications (if required): Executive Branch Representative			
Director Sheila Hogan Helena	Governor	None Stated	6/21/2019 12/31/2019
Qualifications (if required): Executive Branch Representative			

EXECUTIVE BRANCH APPOINTEES FOR JUNE 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Employee Group Benefits Advisory Council Cont.			
Representative Jim Keane Butte	Governor	None Stated	6/21/2019 12/31/2019
Qualifications (if required): Legislature Representative			
Mr. Jim Lewis Helena	Governor	None Stated	6/21/2019 12/31/2019
Qualifications (if required): Retired State Employees' Representative			
Ms. Peggy MacEwen Helena	Governor	None Stated	6/21/2019 12/31/2019
Qualifications (if required): Executive Branch Representative			
Mr. Quint Nyman Helena	Governor	None Stated	6/21/2019 12/31/2019
Qualifications (if required): State Employees and Labor Organizations			
Mr. Duane Preshinger Helena	Governor	None Stated	6/21/2019 12/31/2019
Qualifications (if required): Ex-Officio member representing the Department of Administration			
Ms. Amy Sassano Helena	Governor	None Stated	6/21/2019 12/31/2019
Qualifications (if required): Executive Branch Representative			

EXECUTIVE BRANCH APPOINTEES FOR JUNE 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Employee Group Benefits Advisory Council Cont.			
Mr. Derek Shepherd	Governor	None Stated	6/21/2019
Helena			12/31/2019
Qualifications (if required): Judicial Branch			
State Library Commission			
Mr. Bruce Farnham Newell	Governor	Reappointed	6/21/2019
Helena			6/1/2022
Qualifications (if required): Public Representative			
Trauma Care Committee			
Mr. Matthew Waller	Governor	Dowdy	6/21/2019
Chester			11/1/2020
Qualifications (if required): Montana Hospital Association Representative			
Water and Wastewater Operators' Advisory Council			
Mr. Andrew S. Loudermilk	Governor	Reappointed	6/21/2019
Kalispell			10/1/2024
Qualifications (if required): Water Treatment Plant Operator holding valid certificate			

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
9-1-1 Advisory Council		
Mr. Geoffrey Feiss, Helena Qualifications (if required): Representative of Montana Telecommunications Providers	Governor	9/1/2019
Chief Mike Doto, Butte Qualifications (if required): Representative of the Montana State Volunteer Firefighter 's Assoc.	Governor	9/1/2019
Administrator Delila Bruno, Fort Harrison Qualifications (if required): Representative of the Department of Military Affairs	Governor	9/1/2019
Captain Curtis Stinson, Helena Qualifications (if required): Representative of the Montana Association of Chiefs of Police	Governor	9/1/2019
Col. Thomas Butler, Helena Qualifications (if required): Representative of the Dept. of Justice, Montana Highway Patrol	Governor	9/1/2019
Ms. Lisa Kelly, Kalispell Qualifications (if required): Representative of Montana Telecommunications Providers	Governor	9/1/2019
Commissioner Gary A. Macdonald, Wolf Point Qualifications (if required): Representative of the Montana Assoc. of Counties	Governor	9/1/2019
Mr. Timothy Bottenfield, Helena Qualifications (if required): Dept. of Administration Director or Designee, Presiding Officer	Governor	9/1/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Achieving a Better Life Experience (ABLE) Program Oversight Committee		
Ms. Theresa Louise Baldry, Miles City Qualifications (if required): Experience working on behalf of disabled individuals	Governor	9/1/2019
Director Sheila Hogan, Helena Qualifications (if required): Director of the Department of Administration or designee	Governor	9/1/2019
Ms. Novelene Martin, Miles City Qualifications (if required): Director of the Department of Public Health and Human Services or designee	Governor	9/1/2019
Alternative Health Care Board		
Dr. Sandy Shepherd, Missoula Qualifications (if required): Montana physician whose practice includes obstetrics	Governor	9/1/2019
Board of Athletic Trainers		
Mr. Kaleb Birney, Dillon Qualifications (if required): Athletic trainer	Governor	10/1/2019
Ms. Nichole Borst, Havre Qualifications (if required): Athletic trainer	Governor	10/1/2019
Mr. John Curtis Weida, Missoula Qualifications (if required): Athletic trainer	Governor	10/1/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Outfitters Mr. Todd Clifford Earp, Corvallis Qualifications (if required): Outfitter	Governor	10/1/2019
Board of Private Security Mr. Dirk Bauwens, Billings Qualifications (if required): Electronic security company	Governor	8/10/2019
Board of Psychologists Dr. James Murphey, Bozeman Qualifications (if required): Licensed Psychologist	Governor	9/1/2019
Dr. Paul Silverman, Missoula Qualifications (if required): Licensed Psychologist	Governor	9/1/2019
Board of Veterans Affairs Mr. David E. Boyd Sr., Poplar Qualifications (if required): Tribal member, honorably discharged veteran	Governor	8/1/2019
Mr. William Willing, Anaconda Qualifications (if required): Training education or experience related to veterans' issues	Governor	8/1/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Veterans Affairs Cont.		
Mr. Shawn Backbone, Crow Agency Qualifications (if required): Tribal government representative	Governor	8/1/2019
Mr. Richard A. Juvik, Helena Qualifications (if required): Honorably discharged veteran who serves as a representative of veterans at large	Governor	8/1/2019
Board of Veterinary Medicine		
Mr. Paul W. McCann, Havre Qualifications (if required): Licensed Veterinarian	Governor	8/1/2019
Burial Preservation Board		
Mr. Tom Escarcega, Poplar Qualifications (if required): Representative of the Fort Peck Assiniboine and Sioux Tribes	Governor	9/1/2019
Ms. Skye Gilham, Cut Bank Qualifications (if required): Physical anthropologist	Governor	9/1/2019
Dr. Stan Wilmoth, Helena Qualifications (if required): Representative of the Montana state historical preservation officer	Governor	9/1/2019
Criminal Justice Oversight Council		
Ms. Melissa Kelly, Bozeman Qualifications (if required): Represents a prerelease center	Governor	8/2/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Criminal Justice Oversight Council Cont.		
Ms. Majel Russell, Billings Qualifications (if required): Montana Tribal Member with expertise in criminal justice	Governor	8/2/2019
Ms. Robin Turner, Helena Qualifications (if required): Representative of crime victims	Governor	8/2/2019
Ms. Amy Tenney, Helena Qualifications (if required): Representative of crime victims	Governor	8/2/2019
Historical Records Advisory Council		
Ms. Heather C. Hultman, Bozeman Qualifications (if required): Research institution	Governor	10/1/2019
Ms. Jodie Foley, Helena Qualifications (if required): State Archivist	Governor	10/1/2019
Ms. Anne L. Foster, Gardiner Qualifications (if required): Public archives	Governor	10/1/2019
Ms. Aubrey Japp, Butte Qualifications (if required): Public archives	Governor	10/1/2019
Ms. Katheryn Marie Kramer, Great Falls Qualifications (if required): Private archives	Governor	10/1/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Historical Records Advisory Council Cont. Ms. Kathleen D. Mumme, Virginia City Qualifications (if required): Private archives	Governor	10/1/2019
Ms. Eileen A. Wright, Billings Qualifications (if required): Research institution	Governor	10/1/2019
Mental Health Ombudsman Mr. Dennis Nyland, Helena Qualifications (if required): Mental Health Ombudsman	Governor	8/1/2019
Montana Achieving a Better Life Experience (ABLE) Program Oversight Committee Director John Lewis, Helena Qualifications (if required): Director of the Department of Administration	Governor	9/1/2019
Montana Criminal Justice Oversight Council Ms. Annette Carter Farley, Helena Qualifications (if required): Member of the Board of Pardons and Parole	Governor	8/2/2019
Montana Poet Laureate Mr. Lowell Jaeger, Bigfork Qualifications (if required): Poet Laureate	Governor	8/1/2019
Noxious Weed Seed Free Forage Advisory Council Mr. David Wichman, Moccasin Qualifications (if required): MSU Agriculture Research Center	Governor	9/1/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Noxious Weed Seed Free Forage Advisory Council Cont. Mr. James Melin, Livingston Qualifications (if required): Forage Producer Representative	Governor	9/1/2019
Mr. Carter Butori, Dillon Qualifications (if required): Forage Producer	Governor	9/1/2019
Mr. Bob Rangitsch, Ovando Qualifications (if required): Livestock/Agriculture	Governor	9/1/2019
Mr. Wade Durham, Cameron Qualifications (if required): Outfitter/Guide	Governor	9/1/2019
Director Ben Thomas, Helena Qualifications (if required): Director of the Department of Agriculture	Governor	9/1/2019
Ms. Margie Edsall, Virginia City Qualifications (if required): Rep. cty weed dist forage cert.	Governor	9/1/2019
Mr. Joe Lockwood, Billings Qualifications (if required): Rep. cty weed dist forage cert., MT Weed Control Assn and from diff. areas of state	Governor	9/1/2019
Ms. Jane Mangold, Bozeman Qualifications (if required): Montana State University-Bozeman Extension Service	Governor	9/1/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Noxious Weed Seed Free Forage Advisory Council Cont. Mr. Vince Muggli, Miles City Qualifications (if required): Feed/Pellet/Cube Representative	Governor	9/1/2019
Mr. Chuck Miller, Hamilton Qualifications (if required): Forage Producer Representative	Governor	9/1/2019
Mr. Larry Dorn, Hardin Qualifications (if required): Forage Producer Representative	Governor	9/17/2019
Private Land Public Wildlife Committee Representative Duane Ankney, Colstrip Qualifications (if required): Landowner and Legislator	Governor	8/1/2019
Mr. Richard Louis Stuker, Chinook Qualifications (if required): Landowner	Governor	8/1/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Private Land Public Wildlife Committee Cont.		
Representative Denley Loge, St. Regis Qualifications (if required): Landowner and Legislator	Governor	8/1/2019
Representative Zach Brown, Bozeman Qualifications (if required): Sportsperson and Legislator	Governor	8/1/2019
Mr. Edward Beall, Helena Qualifications (if required): Sportsperson	Governor	8/1/2019
Mr. Ralph E. Bukoskey, Rosebud Qualifications (if required): Sportsperson	Governor	8/1/2019
Ms. Cynthia Cohan, Butte Qualifications (if required): Sportsperson	Governor	8/1/2019
Mr. M. Lee Cornwell, Glasgow Qualifications (if required): Landowner	Governor	8/1/2019
Mr. Dusty Crary, Choteau Qualifications (if required): Outfitter	Governor	8/1/2019
Mr. Daniel R. Fiehrer, Helena Qualifications (if required): Sportsperson	Governor	8/1/2019
Mr. William Geer, Lolo Qualifications (if required): Sportsperson	Governor	8/1/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Private Land Public Wildlife Committee Cont.		
Mr. Joe L. Perry, Brady Qualifications (if required): Sports person	Governor	8/1/2019
Mr. Carl Zabrocki, Billings Qualifications (if required): Sports person	Governor	8/1/2019
State Emergency Response Commission		
Mr. Bruce Suenram, Missoula Qualifications (if required): Department of Natural Resources and Conservation	Governor	10/1/2019
Mr. William T. Rhoads, Butte Qualifications (if required): Utility Company doing business in Montana	Governor	10/1/2019
Chief Thomas Kuntz, Red Lodge Qualifications (if required): Fire Service Association	Governor	10/1/2019
Commissioner Michael McGinley, Dillon Qualifications (if required): Montana Association of Counties	Governor	10/1/2019
Mr. Joe Marcotte, Billings Qualifications (if required): Montana Hospitals	Governor	10/1/2019
Mr. Jim DeTienne, Helena Qualifications (if required): DPHHS Emergency Medical Services and Trauma Systems	Governor	10/1/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Emergency Response Commission Cont.		
Mr. Jim Murphy, Helena Qualifications (if required): Department of Public Health and Human Services	Governor	10/1/2019
Mr. Ron Jendro, Helena Qualifications (if required): Department of Fish, Wildlife and Parks	Governor	10/1/2019
Mr. Dale S. Nelson, Ronan Qualifications (if required): Tribal Emergency Response Commission	Governor	10/1/2019
Ms. Bonnie Lovelace, Helena Qualifications (if required): Department of Environmental Quality	Governor	10/1/2019
Col. Thomas Butler, Helena Qualifications (if required): Department of Justice	Governor	10/1/2019
Administrator Delila Bruno, Fort Harrison Qualifications (if required): Representative of the Department of Military Affairs	Governor	10/1/2019
Mr. Scott Sanders, Belgrade Qualifications (if required): Emergency Medical Services Association	Governor	10/1/2019
Chief John Turner, Fort Benton Qualifications (if required): Law Enforcement Association	Governor	10/1/2019
Ms. Judy LaPan, Sidney Qualifications (if required): Public Health related Association	Governor	10/1/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Emergency Response Commission Cont.		
Mrs. Michelle L. Slyder, Billings Qualifications (if required): Montana's Petroleum Industry	Governor	10/1/2019
Captain Patrick Lonergan, Bozeman Qualifications (if required): Emergency Management Association	Governor	10/1/2019
Ms. Siri Smillie, Helena Qualifications (if required): Governor's Office Representative	Governor	10/1/2019
Mr. Walt Kerttula, Helena Qualifications (if required): Department of Transportation	Governor	10/1/2019
Ms. Tara T. Moore, Bozeman Qualifications (if required): University System	Governor	10/1/2019
Mr. Anthony Bacino, Missoula Qualifications (if required): Railroad Company doing business in Montana	Governor	10/1/2019
Mr. Donald Britton, Great Falls Qualifications (if required): National Weather Service	Governor	10/1/2019
Mr. Gregory Thomas Doyon, Great Falls Qualifications (if required): Representative of the Montana League of Cities and Towns	Governor	10/1/2019
Mr. Bob Habeck, Helena Qualifications (if required): Representative of the Department of Environmental Quality	Governor	10/1/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Emergency Response Commission Cont.		
Mr. Brian Wilkinson, Malmstrom AFB Qualifications (if required): Malmstrom Air Force Base representative	Governor	10/1/2019
Mr. Andy Fjeseth, Helena Qualifications (if required): Department of Agriculture Representative	Governor	10/1/2019
Mr. Thomas Luhrsen, Bozeman Qualifications (if required): University Representative	Governor	10/1/2019
Mr. Chadwick Alex Messerly, Missoula Qualifications (if required): Trucking Industry Representative	Governor	10/1/2019
Mr. John Culbertson, Great Falls Qualifications (if required): Fire Services Training School	Governor	10/1/2019
MSG Larry Ganieany, Fort Harrison Qualifications (if required): National Guard	Governor	10/1/2019
TSgt. Jonathan D. Maas, Malmstrom AFB Qualifications (if required): Air Force	Governor	10/1/2019
Ms. Sherry Rust, Helena Qualifications (if required): Department of Agriculture	Governor	10/1/2019
Mr. Daniel Anthony Kaluza, Butte Qualifications (if required): Utility company doing business in Montana	Governor	10/1/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Emergency Response Commission Cont.		
Ms. Maleen B. Olson, Helena Qualifications (if required): Insurance Industry Representative	Governor	10/1/2019
Mr. Bradley Michael Shoemaker, Billings Qualifications (if required): Montana Emergency Medical Services Assoc. Representative	Governor	10/1/2019
Mr. Raphael Graybill, Helena Qualifications (if required): Governor's Office Representative	Governor	10/1/2019
Major Jeffrey Alan Holycross, Helena Qualifications (if required): National Guard Representative	Governor	10/1/2019
Mrs. Georgia Bruski, Ekalaka Qualifications (if required): Montana Emergency Management Association Representative	Governor	10/1/2019
Ms. Hayley Tuggle, Bozeman Qualifications (if required): University Representative	Governor	10/1/2019
State Historical Preservation Review Board		
Ms. Debra Hronek, Red Lodge Qualifications (if required): Member of the public	Governor	10/1/2019
Ms. Patti Casne, Helena Qualifications (if required): Member of the public	Governor	10/1/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Historical Preservation Review Board		
Mr. Timothy Urbaniak, Billings Qualifications (if required): Member of the public	Governor	10/1/2019
State Rehabilitation Council		
Ms. Barbara Louise Davis, Missoula Qualifications (if required): Statewide Independent Living Council Representative	Governor	10/1/2019
Ms. Kathy Jean Hampton, Helena Qualifications (if required): Client Assistance Program	Governor	10/1/2019
Ms. Susan Nielson, Miles City Qualifications (if required): Community Rehabilitation Program	Governor	10/1/2019
Mr. Frank Podobnik, Helena Qualifications (if required): Office of Public Instruction Representative	Governor	10/1/2019
Ms. Diana Hawbaker-Tavary, Helena Qualifications (if required): Parent Organization Representative	Governor	10/1/2019
Upper Clark Fork River Basin Remediation and Restoration Advisory Council		
Mr. James J. Kambich, Butte Qualifications (if required): Citizen voting member	Governor	9/1/2019
Director Tom Livers, Helena Qualifications (if required): State government non-voting member	Governor	9/1/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Upper Clark Fork River Basin Remediation and Restoration Advisory Council Cont.		
Mr. William Rossbach, Missoula Qualifications (if required): Citizen voting member	Governor	9/1/2019
Director John Tubbs, Helena Qualifications (if required): State government non-voting member	Governor	9/1/2019
Ms. Katherine Stromberg Eccleston, Anaconda Qualifications (if required): Citizen voting member	Governor	9/1/2019
Ms. Maureen Connor, Philipsburg Qualifications (if required): Citizens voting member	Governor	9/1/2019
Mr. James H. Davison, Anaconda Qualifications (if required): Citizen voting member	Governor	9/1/2019
Mr. Jon Krutar, Ovando Qualifications (if required): Citizen voting member	Governor	9/1/2019
Mr. Mick Ringsak, Butte Qualifications (if required): Citizen voting member	Governor	9/1/2019
Mr. Mark Sweeney, Philipsburg Qualifications (if required): Citizen voting member	Governor	9/1/2019
Director Martha Williams, Helena Qualifications (if required): State government non-voting member	Governor	9/1/2019

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2019 THROUGH OCTOBER 31, 2019

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Upper Clark Fork River Basin Remediation and Restoration Advisory Council Cont.		
Ms. Susan Peterson, Drummond Qualifications (if required): Citizen voting member	Governor	9/1/2019
Mr. Shaun McGrath, Helena Qualifications (if required): None Stated	Governor	9/1/2019
Water and Wastewater Operators' Advisory Council		
Mr. Donald Coffman, Harlem Qualifications (if required): Water Treatment Plant Operator	Governor	10/1/2019
Mr. Logan McInnis, Missoula Qualifications (if required): Water Treatment Plant Operator	Governor	10/1/2019

MONTANA ADMINISTRATIVE
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COREY STAPLETON
SECRETARY OF STATE

P.O. BOX 202801
HELENA, MONTANA 59620