

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 20

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 ARM)
2.13.407, pertaining to applicant priority)
and criteria for awarding 9-1-1 grants)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On November 13, 2019, at 10:00 a.m., the Department of Administration will hold a public hearing in Room 7 of the Mitchell Building, at 125 N. Roberts St., Helena, Montana, to consider the proposed amendment of the above-stated rule.

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 November 4, 2019, to advise us of the nature of the accommodation that you need. Please contact Rhonda Sullivan, Department of Administration, 1400 8th Ave., P.O. Box 200113, Helena, Montana 59620; telephone (406) 444-2420; fax (406) 444-2701; Montana Relay Service 711; or e-mail rsullivan@mt.gov.

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

2.13.407 APPLICANT PRIORITY AND CRITERIA FOR AWARDING GRANTS (1) remains the same.

(2) The department, ~~in consultation with the 9-1-1 Advisory Council,~~ shall evaluate all eligible applications using ~~the following criteria:~~ criteria set by the department in consultation with the 9-1-1 Advisory Council. The department shall adopt the criteria annually, before providing notice that it is accepting applications. The criteria shall be posted on the department's website and made available with the grant applications.

~~(a) completeness and effectiveness of the application (20 points maximum). The application must be complete and fully address the requirements in the application form and clearly describe the fulfillment of grant award criteria;~~

~~(b) the extent to which the application supports planning, implementation, operation, or maintenance of 9-1-1 systems, 9-1-1 services, or both as provided by 10-4-306(2), MCA, (50 points maximum); and~~

~~(c) support for the project demonstrated by letters of support from private telecommunications providers, local governments, public safety answering points, and emergency services agencies (30 points maximum).~~

(3) The 9-1-1 Advisory Council shall provide grant award recommendations to the department utilizing the criteria developed as provided in (2). All grant determinations are made in the department's discretion, in consultation with the 9-1-1 Advisory Council, subject to the statutory priority in 10-4-306(3), MCA. A

particular grant award may not be supported by all of the criteria adopted by the department.

(4) and (5) remain the same.

AUTH: 10-4-108, MCA

IMP: 10-4-106, 10-4-306, MCA

STATEMENT OF REASONABLE NECESSITY: The department proposes amending this rule based on input from the 9-1-1 Advisory Council and stakeholders after completing the first annual grant cycle following implementation of the 9-1-1 grant program. During the first grant cycle, the department and 9-1-1 Advisory Council found it challenging to distinguish between applications using the current criteria. It was difficult to identify substantive reasons for reducing an applicant's point total based on the criteria, and therefore, many applications received the same number of points. The department and 9-1-1 Advisory Council also observed that some projects that may have been more effective in terms of meeting local and statewide 9-1-1 needs, received fewer points than other projects that happened to better fit the current application criteria. This led to concern that the existing criteria did not adequately address the legislative goal to use the grants to improve emergency telecommunications throughout the state.

It is necessary to amend the rule to ensure grant criteria are not overly rigid, which could lead to arbitrary decisions and reduce the effectiveness of the grant program. By allowing the department and 9-1-1 Advisory Council to set and announce the grant criteria annually, this amendment would ensure flexibility to allow the department to direct limited 9-1-1 grant funds to areas and projects where the grants will have the greatest impact during that particular grant cycle.

In addition, the department proposes to add flexibility by amending (3) to allow the department to make an award to a project that will have a significant impact although the project may not meet all the criteria adopted by the department. For example, if a major infrastructure improvement project would greatly enhance the 9-1-1 system but required more time than allowed by the criteria, the department could approve the application because it met other criteria and advanced the legislative goal of improving emergency telecommunications.

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 Rhonda Sullivan, Department of Administration, 1400 8th Ave., P.O. Box 200113, Helena, Montana 59620; telephone (406) 444-2420; fax (406) 444-2701; or e-mail rsullivan@mt.gov, and must be received no later than 5:00 p.m., November 18, 2019.

5. Don Harris, Department of Administration, has been designated to preside over and conduct this hearing.

6. The division 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 mailing list shall make a written request which includes the

name and mailing address or e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding Public Safety Communications Bureau rulemaking actions. 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 listed in paragraph 4 or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the department's website at 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.

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

9. The department has determined that under 2-4-111, MCA, the proposed amendment of ARM 2.13.407 will not significantly and directly affect small businesses.

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

By: /s/ Don Harris
Don Harris, Rule Reviewer
Department of Administration

Certified to the Secretary of State October 8, 2019.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 8.111.602 definitions and) PROPOSED AMENDMENT
8.111.603 housing credit allocation)
procedure)

TO: All Concerned Persons

1. On November 7, 2019, at 10:00 a.m., the Department of Commerce will hold a public hearing in Room 228 of the Park Avenue Building at 301 South Park Avenue, Helena, Montana, or by conference call 1-877-273-4202, conference room 7865396, to consider the proposed amendment 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. on November 5, 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, 59620-0501; telephone (406) 841-2596; fax (406) 841-2771; TDD (406) 841-2702; or e-mail docadministrativerules@mt.gov.

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

8.111.602 DEFINITIONS (1) and (2) remain the same.

(3) "QAP" means the board's "Housing Credit Program ~~2020~~ 2021 Qualified Allocation Plan," which sets forth the application process and selection criteria used by the board for evaluation and selection of projects to receive awards for allocation of housing credits for calendar year ~~2020~~ 2021. The board adopts and incorporates by reference the Housing Credit Program ~~2020~~ 2021 Qualified Allocation Plan, copies of which may be obtained by contacting the Board of Housing by mail at P.O. Box 200528, Helena, MT 59620-0528, by telephone at (406) 841-2845 or (406) 841-2838, or at the board's web site www.housing.mt.gov.

(4) remains the same.

AUTH: 90-6-106, MCA

IMP: 90-6-104, MCA

REASON: The proposed amendments to ARM 8.111.602 are necessary to adopt and incorporate by reference the board's Housing Credit Program 2021 Qualified Allocation Plan (QAP).

Federal low income housing tax credits are allocated by the federal government to the states, according to their population, for allocation to particular buildings. Each

state's share of federal low income housing tax credits is allocated to particular buildings under programs administered by the respective states' housing credit agencies. The Montana Board of Housing is Montana's housing credit agency for purposes of administering the tax credit program and allocating tax credits in the state of Montana. In Montana, the program is known as the Montana Housing Credit Program. Federal law requires that tax credits allocated to the state by the federal government must be allocated by the state pursuant to a "qualified allocation plan" or "QAP."

Prior to publication of this notice, the board conducted several public meetings to consider suggestions and comments regarding the provisions of the 2021 QAP. Thereafter, at its August 7, 2019 meeting, the board considered and approved public notice and distribution of the proposed 2021 QAP. After public notice of the proposed 2021 QAP and of the opportunity for public comment was published and distributed, a public hearing on the proposed 2021 QAP was held on August 22, 2019 and written comments were also received. At its September 10, 2019 meeting, after considering all written and oral comments on the proposed 2021 QAP, staff recommendations, additional public comment, and various proposed revisions in response to comments, the board approved the 2021 QAP for submission to and approval by the Montana Governor, as required by the federal tax credit statute, 26 U.S.C. § 42. The Governor approved the 2021 QAP on September 24, 2019.

A copy of the 2021 QAP is available at <http://housing.mt.gov/MFQAP> or by requesting a copy from: Mary Bair, Board of Housing, Department of Commerce, 301 South Park Avenue, P.O. Box 200528, Helena, Montana, 59620-0528; telephone (406) 841-2845; fax (406) 841-2841; or e-mail mbair@mt.gov.

8.111.603 HOUSING CREDIT ALLOCATION PROCEDURE (1) through (8) remain the same.

(9) The board will select those projects to receive an award of housing credits that it determines best meet the most pressing affordable housing needs of low income people within the state of Montana, taking into consideration the selection criteria as defined in the QAP. The awarding of points to projects pursuant to the development evaluation criteria of the QAP is for purposes of determining that the projects meet at least the minimum criteria required for further consideration under the QAP and to assist the board in evaluating and comparing projects. Development evaluation criteria scoring is only one of several considerations taken into account by the board and does not control the selection of projects that will receive an award of housing credits. In addition to any other selection criteria specified in the QAP, the board may consider the following factors in selecting projects for an award of housing credits to qualifying projects:

(a) through (i) remain the same.

(j) the project is being developed in or near a historic downtown neighborhood; ~~and/or~~

(k) the frequency of awards in the respective areas where projects are located;

- (l) preserving project rental assistance or having or planning to add Section 811 units to an existing project (Section 811 units are units subsidized by the United States Department of Housing and Urban Development with available supportive services for very low income and extremely low income adults with disabilities); and/or
- (m) augmentation and/or sources of funds.

AUTH: 90-6-106, MCA
IMP: 90-6-104, MCA

REASON: The proposed amendments to ARM 8.111.603(9) are necessary to clarify that the board will select those projects to receive an award of housing credits that it determines best meet the most pressing affordable housing needs of low income people within the state of Montana. The affordability of housing funding and development is a critical part of the board's statutory mission.

The proposed amendments to ARM 8.111.603(9) are also necessary to specify two additional factors that may be considered by the board as provided in the QAP in selecting projects for an award of credits. Given the shortage of funding for affordable housing, it is critical that housing credits be used in a manner that preserves and expands available housing and that leverages other funding sources for affordable housing. Various forms of rental assistance and rent subsidies expand the availability of affordable housing opportunities and therefore allow housing credits to benefit more low income people within the state of Montana. Similarly, augmenting project funding and obtaining and using additional funding sources allow housing credits to benefit more low income people within the state of Montana. Therefore, preservation or expansion of rental assistance, and augmentation and inclusion of funding and funding sources, are relevant factors in selecting projects for credit awards.

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: Bonnie Martello, Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana, 59620-0528; telephone (406) 841-2596; fax (406) 841-2841; or e-mail docadministrativerules@mt.gov, and must be received no later than 5:00 p.m., November 15, 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 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, do not apply.

8. 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.

MONTANA BOARD OF HOUSING
Patrick E. Melby, Chairman

/s/ Amy Barnes
Amy Barnes
Rule Reviewer

/s/ Tara Rice
Tara Rice
Director
Department of Commerce

Certified to the Secretary of State October 8, 2019.

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

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

TO: All Concerned Persons

1. On November 8, 2019, at 9:00 a.m., the Department of Labor and Industry (department) will hold a public hearing in the basement auditorium at the DPHHS building, 111 North Sanders in Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on November 1, 2019, to advise us of the nature of the accommodation that you need. Please contact the Labor Standards Bureau, Employment Relations Division, Department of Labor and Industry, Attn: Mike Smith, P.O. Box 201503, Helena, MT 59620-1503; telephone (406) 444-1741; fax (406) 444-7071; TDD (406) 444-0532; or e-mail MSmith3@mt.gov.

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

24.17.127 ADOPTION OF STANDARD PREVAILING RATE OF WAGES

(1) through (1)(d) remain the same.

(e) The current building construction services rates are contained in the ~~2019~~ 2020 version of the "Montana Prevailing Wage Rates for Building Construction Services" publication.

(f) The current nonconstruction services rates are contained in the ~~2019~~ 2020 version of the "Montana Prevailing Wage Rates for Nonconstruction Services" publication.

(g) The current heavy construction services rates are contained in the ~~2019~~ 2020 ~~revised~~ version of the "Montana Prevailing Wage Rates for Heavy Construction Services" publication.

(h) The current highway construction services rates are contained in the ~~2019~~ 2020 version of the "Montana Prevailing Wage Rates for Highway Construction Services" publication.

(2) and (3) remain the same.

AUTH: 2-4-307, 18-2-409, 18-2-431, MCA

IMP: 18-2-401, 18-2-402, 18-2-403, 18-2-406, 18-2-411, 18-2-412, 18-2-413, 18-2-414, 18-2-415, 18-2-422, 18-2-431, MCA

REASON: There is reasonable necessity to update the prevailing wage rates for building construction services, heavy construction services, highway construction services, and nonconstruction services following the annual survey of wages that is provided for in 18-2-413, 18-2-414, and 18-2-415, MCA, respectively. The department surveys employers and applies the methodologies provided by ARM 24.17.119 through 24.17.122 to determine those prevailing wage rates.

4. Copies of the proposed 2020 publications, identified as "preliminary building construction rates," "preliminary highway construction rates," "preliminary heavy construction rates," and "preliminary nonconstruction rates" are available and can be accessed online at: <http://erd.dli.mt.gov/labor-standards>.

5. A printed version of the proposed 2020 publications is also available by contacting Mike Smith at the address and e-mail listed in paragraph 2 of this notice.

6. 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 Labor Standards Bureau, Employment Relations Division, Department of Labor and Industry, Attn: Mike Smith, P.O. Box 201503, Helena, MT 59620-1503; fax (406) 444-7071; or e-mailed to MSmith3@mt.gov, and must be received no later than 5:00 p.m., November 15, 2019.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices, and specifies the particular subject matter or matters regarding which the person wishes to receive notices. Such written request may be mailed or delivered to the Department of Labor and Industry, attention: Mark Cadwallader, 1315 E. Lockey Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, or e-mailed to mcadwallader@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

8. An electronic copy of this notice of public hearing is available through the department's web site at <http://dli.mt.gov/events/calendar.asp>, under the Calendar of Events, Administrative Rules Hearings Section. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that a person's difficulties in sending an e-mail do not excuse late submission of comments.

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 rule may significantly and directly impact small businesses. The proposed amendments will have an impact on some, but not all, small businesses (those with less than 50 full-time employees).

The proposed amendments directly affect the wages that must be paid for work on Montana public works contracts. The types of businesses affected are primarily those in the construction industry, but only affect those businesses that perform (or seek to perform) work on public works projects. In addition, there are businesses that provide certain types of nonconstruction services to state and local government agencies that are subject to payment of the prevailing wage rate. The types of nonconstruction service businesses that potentially are subject to the award of a public works contract are listed in 18-2-401(9), MCA.

There is no single effect on small businesses as a result of the proposed amendments. Some employers may have to pay higher wages as a result of changes to the prevailing wage rates; other employers may have a wage structure that is the same as or higher than the prevailing wage rate. Historically, some employers have stated that the prevailing wage rates are set too high, while other employers have stated that the rates are too low. In certain cases the difference between the established prevailing wage rate and the employer's customary wage rate may be significant, but it is unclear whether that difference will result in a significant change to the profitability of any given small business, as there are many other economic factors at play.

Montana law requires that prevailing wage rates be set following an annual survey of wages. There is an established statutory and administrative formula that establishes the prevailing wage rate for each work classification, based on the data and information gathered. The alternative to amending the wage rates is to not amend the rate, thus freezing the wage rate at the last-adopted level. Some employers would probably be adversely affected by the failure to adopt new prevailing wage rates. The department believes that under either alternative, some small businesses will be adversely affected by the selected alternative. The small businesses likely to be adversely affected by adoption of new rates are probably not the same as those that are likely to be adversely affected by not adopting new rates.

11. The department's Office of Administrative Hearings has been designated to preside over and conduct this hearing.

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

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

Certified to the Secretary of State October 8, 2019.

BEFORE THE BOARD OF FUNERAL SERVICE
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PUBLIC HEARING ON
24.147.302 definitions, 24.147.401 fee)	PROPOSED AMENDMENT AND
schedule, 24.147.407 name change,)	ADOPTION
closure, transfer, or change of)	
ownership – mortuary, branch)	
establishment, crematory, or cemetery,)	
24.147.507 mortician licenses,)	
24.147.1105 crematory records,)	
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adoption of New Rule I preneed)	
agreements – notification of closure or)	
change of ownership – mortuary,)	
branch establishment, or crematory)	

TO: All Concerned Persons

1. On November 13, 2019, at 1:00 p.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 adoption 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 Funeral Service no later than 5:00 p.m., on November 6, 2019, to advise us of the nature of the accommodation that you need. Please contact Lucy Richards, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdfnr@mt.gov (board's e-mail).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The board determined it is reasonably necessary to amend these rules to eliminate outdated, redundant, and unnecessary provisions, and to provide consistency, simplicity, better organization, and ease of use for licensees, educators, program

administrators, and the general public. Additionally, the board is updating the authority and implementation citations throughout to accurately reflect all statutes implemented through the rules and provide the complete sources of the board's rulemaking authority. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

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

24.147.302 FUNERAL SERVICE DEFINITIONS As used in this chapter, the following definitions apply:

(1) "Authorization for Removal, Transportation and Final Disposition of a Dead Body (ART) form" means the form developed by the Department of Public Health and Human Services per 50-15-405, MCA, which provides:

- (a) authorization for removal from place of death per 50-15-405, MCA; and
- (b) authorization from the coroner to cremate per 46-4-122 and 50-15-405,

MCA.

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

(3) "Cremation authorization form" means an agreement executed between an authorizing agent and a crematory, mortuary, or branch establishment prior to receipt of the human remains. A cremation authorization form is not any of the following:

(a) a contract for payment of cremation services;

(b) a coroner's authorization to cremate under 46-4-122, MCA;

(c) a preneed cremation authorization under 37-19-708, MCA; or

(d) a prepaid funeral arrangement under 37-19-903, MCA, which can only be made by a licensed mortician at a licensed mortuary.

(2) remains the same but is renumbered (4).

(3) (5) "Hazardous implant" means any foreign object or substance that has been surgically or otherwise placed in the human body that may present a threat of injury to the public or the crematory operator, or to the crematory retort or related equipment, during the cremation process. Hazardous implants may only be removed by:

(a) appropriate medical personnel at a medical facility; or

(b) a mortician or intern at a mortuary or branch establishment with a preparation room. The mortuary or branch establishment must keep a record of the removal and disposition of the implant. Mortuaries and branch establishments must dispose of hazardous implants in accordance with federal, state, and local laws and regulations.

(4) remains the same but is renumbered (6).

(5) (7) "Mortician-in-charge" means a Montana-licensed mortician who accepts responsibility for the operation of a mortuary or branch establishment in conformance with all laws and rules pertinent to the practice of mortuary science. The mortician-in-charge:

(a) is personally in full and actual charge of the mortuary or branch establishment;

(b) assures the mortuary or branch establishment and all mortuary personnel

working in the mortuary or branch establishment have current and appropriate licensure; ~~and~~

(c) is responsible for the supervision of nonlicensed personnel as defined in these rules; and

(d) is responsible for ensuring in-person supervision by a mortician for students working in the mortuary or branch establishment who are engaged in a clinical practicum as described in [SB 63 Section 1].

(6) through (14) remain the same but are renumbered (8) through (16).

AUTH: 37-1-131, 37-19-202, [SB 63 Section 1], MCA

IMP: 37-1-131, 37-19-101, [SB 63 Section 1], ~~37-19-402~~, 37-19-702, ~~37-19-703~~, 37-19-705, ~~37-19-706~~, 37-19-707, 37-19-708, 37-19-814, 37-19-827, 37-19-828, 37-19-829, MCA

REASON: The board is relocating definitions for the Authorization for Removal, Transportation and Final Disposition of a Dead Body (ART) form and the "cremation authorization form" from ARM 24.147.1107 to clarify for licensees and the public which forms are specifically required to authorize cremation. The board determined these additions are reasonably necessary to address a long-standing area of confusion as many relevant definitions also exist in board and DPHHS statutes. The language in (3)(d) is being relocated and clarified from ARM 24.147.1107(3).

The board is amending the definition of "hazardous implant" at (5) to incorporate relevant provisions from ARM 24.147.1107(6) as a more appropriate and logical location.

The board is adding "branch establishment" to (7) to address licensee questions by clarifying that branch establishments must also have a mortician-in-charge who is responsible for the facility's operation and those individuals working at the facility.

The 2019 Montana Legislature enacted Chapter 49, Laws of 2019 (Senate Bill 63), an act generally revising funeral, mortuary, and cemetery laws. The bill was signed by the Governor March 7, 2019, and will become effective October 1, 2019. The bill creates an exemption for licensure for students currently enrolled in an accredited or approved funeral service or mortuary science degree program who are practicing mortuary science in Montana as part of a required student clinical practicum. The legislation also gave the board the authority to adopt rules pertaining to supervision requirements. The board is amending (7)(d) to implement the bill by describing student supervision requirements at a mortuary or branch establishment.

24.147.401 FEE SCHEDULE

(1) Facility application fees

(a) Mortuary	\$375 <u>600</u>
(b) Mortuary branch facility	375 <u>600</u>
(c) Crematory	375 <u>600</u>
(d) Cemetery	4250 <u>2000</u>

(2) Facility inspection or reinspection fees

(a) Mortuary	200 <u>320</u>
(b) Mortuary branch facility	200 <u>320</u>

(c) Crematory	200 <u>320</u>
(d) Cemetery	200 <u>320</u>
(3) Individual application fees	
(a) Mortician	375 <u>600</u>
(b) Crematory operator	300 <u>480</u>
(c) Crematory technician	300 <u>480</u>
(d) Mortician intern	330 <u>528</u>
(4) Activation of inactive license	
(a) Mortician	100 <u>160</u>
(b) Crematory operator	50 <u>80</u>
(c) Crematory technician	50 <u>80</u>
(5) Facility renewal fees (includes annual inspection)	
(a) Mortuary	450 <u>720</u>
(b) Mortuary branch facility	75 <u>120</u>
(c) Crematory	450 <u>720</u>
(d) Cemetery (five-year renewal)	1500 <u>2400</u>
(6) Individual renewal fees	
(a) Mortician - active	300 <u>480</u>
(b) Mortician - inactive	150 <u>240</u>
(c) Crematory operator - active	150 <u>240</u>
(d) Crematory operator - inactive	75 <u>120</u>
(e) Crematory technician - active	150 <u>240</u>
(f) Crematory technician - inactive	75 <u>120</u>
(7) through (9) remain the same.	

AUTH: 37-1-131, 37-1-134, 37-19-202, ~~37-19-301~~, 37-19-303, 37-19-304, 37-19-403, 37-19-702, 37-19-703, 37-19-808, 37-19-814, 37-19-815, 37-19-816, MCA

IMP: 37-1-134, 37-1-141, ~~37-19-301~~, 37-19-303, 37-19-304, 37-19-402, 37-19-403, 37-19-702, 37-19-703, 37-19-808, 37-19-814, 37-19-815, 37-19-816, MCA

REASON: The board determined it is reasonably necessary to increase certain application and renewal fees to comply with the provisions of 37-1-134, MCA, and keep the board's fees at a level that provides the amount of money usually needed for the operation of the board for services. In providing administrative services to the board, the department has determined that unless the fees are increased as proposed, the board's already existing shortfall of operating funds will continue to increase through the end of the current fiscal year and into future fiscal years. Under the current fee structure the board will not have sufficient revenue in FY20 to even cover regular FY20 operating expenses. The board estimates that approximately 473 persons will be affected by the proposed fee changes, resulting in a \$88,173 increase in annual revenue. The board last increased fees in 2012.

24.147.407 NAME CHANGE, CLOSURE, TRANSFER, OR SALE CHANGE OF OWNERSHIP – MORTUARY, BRANCH ESTABLISHMENT, CREMATORY, OR CEMETERY (1) Using forms provided by the department, mortuaries, branch

establishments, crematories, and cemeteries must notify the board within ten days of any of the following occurring:

- (a) through (c) remain the same.
- (d) ~~sale or~~ change of ownership as defined in these rules.
- (2) When there is a change in ownership the license issued to the previous owner is void. The new owner must:
 - (a) apply for a license per the applicable requirements in this chapter; ~~and~~
 - (b) within 30 days of the change of ownership, publish notice of the change of ownership in a newspaper of general circulation in the county in which the facility is located; and
 - (c) once the change in ownership is complete, notify the board per the requirements in [NEW RULE I].
- (3) remains the same.

AUTH: 37-19-202, 37-19-403, 37-19-703, 37-19-816, MCA
IMP: 37-19-402, 37-19-403, 37-19-703, 37-19-816, MCA

REASON: See REASON for NEW RULE I.

24.147.507 MORTICIAN LICENSES (1) remains the same.

~~(2) All transcripts must be certified and sent directly from the school(s). Applicants must meet the following education requirements:~~

~~(a) minimum of an associate's degree in funeral service or mortuary science from a program accredited by the American Board of Funeral Service Education (ABFSE) or its successor which consists of a minimum of 60 semester credits or 90 quarter credits; and~~

~~(b) an additional 30 semester credits or 45 quarter credits from a college or university accredited by a regional accrediting agency recognized by the U.S. Department of Education in any of the following subjects:~~

- ~~(i) accounting;~~
- ~~(ii) business;~~
- ~~(iii) computer applications;~~
- ~~(iv) communications/speech;~~
- ~~(v) English;~~
- ~~(vi) history;~~
- ~~(vii) mathematics;~~
- ~~(viii) psychology;~~
- ~~(ix) religion;~~
- ~~(x) sociology;~~
- ~~(xi) education;~~
- ~~(xii) biological sciences; or~~
- ~~(xiii) other subjects germane to the practice of mortuary science.~~

(2) Applicants must have a minimum of an associate degree in funeral service or mortuary science from a program accredited by the American Board of Funeral Service Education (ABFSE) or its successor which consists of a minimum of 60 semester credits or 90 quarter credits. All transcripts must be certified and sent directly from the school(s).

(3) through (5) remain the same.

AUTH: 37-1-131, 37-19-202, MCA

IMP: 37-1-131, 37-19-302, 37-19-303, MCA

REASON: The 2019 Montana Legislature enacted Chapter 46, Laws of 2019 (House Bill 196), an act removing certain licensing requirements for the practice of mortuary science. The bill was signed by the Governor and became effective on March 7, 2019. The bill changed the education requirement for mortician or mortician intern licensure so only an associate degree in funeral service or mortuary science with a minimum of 60 semester or 90 quarter credits is now required. The bill eliminated the requirement for an additional 30 semester or 45 quarter credits in subjects determined by the board. The board is amending this rule to remove the now obsolete requirements and implement the legislation.

24.147.1105 CREMATION CREMATORY RECORDS ~~(1) Each crematory shall maintain on a permanent basis a record of each cremation, including:~~
~~(a) original, photocopy, or facsimile copies of the following approved forms with validated electronic signatures or physical signatures:~~
~~(i) removal authorization as provided by 50-15-405, MCA; and~~
~~(ii) coroner cremation authorization as provided by 46-4-122, MCA.~~
(1) Crematories must maintain permanent records of all cremations.
(2) Each cremation record must consist of the following:
(a) ART form as defined in ARM 24.147.302;
(b) a cremation authorization form as described in ARM 24.147.1107 and signed by an authorizing agent;
(c) as applicable, a one or both of the following:
(i) preneed cremation authorization executed in accordance with 37-19-708, MCA; and/or
(ii) disposition directions executed in accordance with from a prepaid funeral contract as described in 37-19-903, MCA;
(d) a cremation log showing the including, but not limited to the following information:
(i) decedent's name;
(ii) date, and time the body was received by the crematory;
(iii) metal tag number;
(iv) date(s) and times of refrigeration, if applicable;
(v) date and starting time of cremation; and
(vi) identification of the staff member performing name(s) and license number(s) of the crematory operator(s) and/or technician(s) who performed the cremation;
(e) a copy of the receipt of the date, time, and place of the delivery of the cremated remains with dual signatures of the recipient and crematory representative form containing all the information required under 37-19-706(5), MCA; and
(f) as if applicable, shipping and tracking forms information as required by 37-19-705(13), MCA.

~~(2) In the case of cremated remains that have been abandoned by the authorizing agent, the crematory operator may, after 90 days, maintain or dispose of such remains in a recoverable manner, such as burial or entombment, and shall maintain the identifying metal tag and the location of burial as a permanent record.~~

~~(3) In addition to the records above, if the crematory is independent of a mortuary, the crematory must maintain price lists and otherwise comply with the Federal Trade Commission (FTC) funeral rule if it sells funeral goods. The crematory shall also maintain copies of invoices or contracts as prescribed by these rules.~~

(3) Crematories must maintain records of final disposition of unclaimed remains per 37-19-706, MCA, and ARM 24.147.1111.

(4) If the authorizing agent gives the crematory authority to dispose of the cremated remains in the cremation authorization form, the crematory must maintain the identifying metal tag as a permanent record of the facility.

(5) Crematories providing funeral goods as described in ARM 24.147.1102 must comply with board and FTC recordkeeping requirements per ARM 24.147.406.

AUTH: 37-19-202, 37-19-703, MCA

IMP: 37-19-702, 37-19-703, 37-19-706, 37-19-708, 37-19-903, ~~46-4-122, 50-15-405~~, MCA

REASON: The board determined it is reasonably necessary to amend this rule and remove formatting requirements of records maintained per 46-4-122 and 50-15-405, MCA, as those records are beyond the board's authority.

The board is replacing references to "staff" with "crematory operator" and "crematory technician" in (2)(d)(vi) to avoid confusion with unlicensed staff since only these specific licensees can perform the referenced functions.

The board is moving provisions on disposal of unclaimed remains from (2) to ARM 24.147.1112(3) and incorporating recordkeeping requirements from ARM 24.147.1110 to (4) of this rule as more logical and practical locations.

24.147.1107 CREMATION AUTHORIZATIONS ~~(1) A "cremation authorization" is a separate form and does not include a contract for payment of cremation services, and is distinguished from the "coroner's authorization to cremate" under 46-4-122, MCA, set forth on the Authorization for Removal and Transport (ART) form.~~

~~(2) A "cremation authorization" must be executed by an authorizing agent and may not conflict with any preneed cremation authorization executed by the decedent in accordance with 37-19-708, MCA, or disposition directions made in accordance with 37-19-903, MCA.~~

~~(3) The statutory authority to allow an individual or authorizing agent to execute a preneed cremation authorization does not authorize a crematory operator or facility to present, negotiate, or sell prearranged funeral or related services.~~

~~(4) (1) The A cremation authorization form as defined in ARM 24.147.302 must include:~~

~~(a) through (c) remain the same.~~

(d) the superiority of the authorizing agent's authority among competing rights to act as ~~the authorizing agent per 37-19-904, MCA;~~

(e) disclosure by the authorizing agent ~~familiar with the decedent~~ of any potentially hazardous implants or other medical devices;

(f) disclosures and authorizations regarding the casket or alternative container as described in ARM 24.147.1102;

(g) disclosures and authorizations regarding multiple cremations per 37-19-705, MCA;

(h) and (i) remain the same.

(j) authorization by the authorizing agent to cremate;

(k) through (m) remain the same.

(n) disclosures regarding the time and place of cremation and whether the decedent is to be embalmed; ~~and~~

(o) a release from liability per 37-19-707, MCA; and-

~~(5) The cremation authorization form shall include the following~~

(p) if applicable, certification by a mortician on behalf of a mortuary that:

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

~~(6) Morticians must exercise due diligence in determining the presence of a potentially hazardous implant in and identification of human remains to be cremated. If a mortician is not involved in the disposition, the person with the right of disposition (i.e., the authorizing agent) for the cremation must warranty the absence of any known pacemaker or potentially hazardous implant or that it has been removed at a medical facility by appropriate medical personnel.~~

AUTH: 37-19-202, 37-19-703, 37-19-708, MCA

IMP: 37-19-703, 37-19-704, 37-19-707, 37-19-708, 37-19-903, ~~46-4-122,~~
MCA

REASON: The board is relocating definitions for the Authorization for Removal, Transportation and Final Disposition of a Dead Body (ART) form and the "cremation authorization form" from (1) and (2) to the definitions rule, ARM 24.147.302. Additionally, the board is moving and clarifying the provisions of (3) in the "cremation authorization form" definition at ARM 24.147.302.

The board is amending this rule to relocate morticians' duties regarding hazardous implants to the definition for "hazardous implant" in ARM 24.147.302. The board determined this is a more logical location since hazardous implant removal requirements pertain to morticians' scope of practice and not crematories, crematory technicians, or crematory operators. Crematory technicians and crematory operators are not allowed to remove hazardous implants.

The board is deleting from (1)(e) the requirement that authorizing agents are familiar with decedents as it is not a requirement for being an authorizing agent under 37-19-101(3) or 37-19-904, MCA.

24.147.1110 INTEGRITY OF IDENTIFICATION OF HUMAN REMAINS

PROCESS ~~(1) A crematory may not accept or cremate human remains until it has received warranties of truthfulness regarding the identity of the remains to be~~

cremated and regarding the authority of the signer to order cremation. A cremation authorization form, properly executed, shall satisfy these warranties.

(1) To maintain the integrity of the identification of human remains, a crematory must:

(a) follow the requirements in ARM 24.147.1111; and

(2) A crematory operator must develop and require crematory staff to strictly follow procedures to accurately maintain the identification of the remains throughout the cremation process, including, at a minimum, the following:

(b) develop procedures and train crematory operators and crematory technicians on those procedures in order to accurately maintain the identification of the remains throughout the cremation process. At minimum, the following must be addressed in the procedures:

(a) Upon receipt of the remains in a container described at ARM 24.147.1102, staff shall examine the cremation authorization, any preneed cremation authorization, and the ART forms, and maintain them together with the container.

(i) upon receipt of the human remains, the crematory operator or crematory technician must examine the ART form and any preneed cremation authorization. Those forms must be kept with the cremation container at all times;

(b) Prior to the cremation, using sequentially numbered metal tags, staff shall assign a number to the human remains and record the number on the cremation documents, a separate log, or both.

(ii) prior to cremation, the crematory operator or crematory technician must assign a number to the remains from a sequentially numbered metal tag. The number on the assigned tag must be recorded on all cremation documents and the cremation log described in ARM 24.147.1105;

(c) Staff shall place the metal tag on the outside of the retort during the cremation process. During final processing, staff shall place the metal tag on the container or tray containing the human remains.

(iii) the crematory operator or crematory technician must place the metal tag on the outside of the cremation chamber retort during the cremation;

(iv) the crematory operator or crematory technician must place the metal tag on the cremation container or tray during final processing of the remains;

(d) After the cremation process, staff shall either place the metal tag with the cremated remains in a securely fastened plastic bag or securely fasten the tag to the exterior of the bag.

(v) following final processing, the crematory operator or crematory technician must ensure the metal tag is kept with the remains. If the remains do not fit within one temporary container, then the temporary containers must be identified and labeled per ARM 24.147.1111; and

(e) Staff shall affix an identification label to the closed urn or container in a permanent manner that ensures the integrity of the identification of the remains.

(vi) the crematory operator or crematory technician must affix an identification label to:

(A) the temporary container;

(B) an urn, as defined in 37-19-101(34), MCA; or

(C) a sealed container.

~~(3) When directed by the cremation authorization, and agreed to by the crematory to scatter cremated remains, the licensee shall maintain the identifying metal tag as a permanent record of the facility.~~

AUTH: 37-19-202, 37-19-703, MCA

IMP: 37-19-703, 37-19-704, 37-19-705, 37-19-707, 37-19-708, MCA

REASON: The board is relocating specific recordkeeping provisions from this rule and ARM 24.147.1111 to the crematory records rule, ARM 24.147.1105, as a more logical and practical location.

The board is replacing references to "staff" with "crematory operator" and "crematory technician" throughout this rule and ARM 24.147.1111 to address questions and avoid confusion with unlicensed staff since only these specific licensees can perform the referenced functions.

Further, all crematory prohibitions in ARM 24.147.1110 through 24.147.1112 have been consolidated into ARM 24.147.1112 for ease of use by licensees, the public, and department staff.

24.147.1111 CREMATION PROCEDURES ~~(1) As set forth in 37-19-704 through 37-19-706, MCA, a crematory shall comply with the procedures further described in this rule.~~

~~(2) Prior to the beginning of the cremation process, the crematory must have in its possession written authorizations to cremate bearing the original, photocopied, electronic, or facsimile signatures from:~~

~~(a) the authorizing agent; or~~

~~(b) the coroner having jurisdiction or the state medical examiner, if the death occurred in Montana.~~

(1) In addition to the requirements and procedures in 37-19-704 through 37-19-706, MCA, and the rules in this subchapter, crematories must comply with this rule.

(2) A crematory must have the following authorizations in its possession before a crematory operator or crematory technician can begin cremation:

(a) ART form as defined in ARM 24.147.302;

(b) cremation authorization form as described in ARM 24.147.1107; or

(c) if applicable, one of the following:

(i) preneed cremation authorization executed in accordance with 37-19-708, MCA;

(ii) disposition directions from a prepaid funeral contract as described in 37-19-903, MCA; or

(iii) at-need cremation authorization.

~~(3) Whenever a crematory is unable to cremate human remains immediately upon taking custody, but in no case less than 24 hours after the time of death, the crematory shall hold human remains in a holding area marked "private" or "authorized personnel only," that is secure from access by unauthorized persons.~~

(4) (3) A crematory may not hold unembalmed Unembalmed human remains held longer than 48 hours after the time of death must be refrigerated per ARM 37.116.103 outside of a refrigerated facility. Individual circumstances, however, may

dictate that refrigeration at approximately 35 degrees Fahrenheit or less begins sooner than 48 hours after the time of death.

(4) Human remains not cremated by a crematory operator or crematory technician immediately upon receipt per 37-19-705, MCA, or ARM 24.147.1111 must be held in a holding facility marked "private" or "authorized personnel only."

~~(5) Except for persons having the right of disposition who request to witness the cremation, board inspectors, or persons authorized by the crematory operator in-charge to be present, unauthorized persons may not be permitted in the cremation chamber area while any human remains are being placed within the cremation chamber, being cremated, or being removed from the cremation chamber. This section may not be construed to allow a crematory that is not attached to a mortuary to:~~

~~(a) conduct a viewing of the body on the crematory premises; or~~

~~(b) hold or charge to hold a funeral or memorial service.~~

(6) (5) As described by 37-19-705, MCA, in processing cremated human remains, crematory staff shall When processing cremated remains following cremation, crematory operators and crematory technicians shall:

(a) commingle cremated human remains only if the authorizing agent provides written authorization for a simultaneous cremation of more than one person authorized by the authorizing agent in the cremation authorization form;

(b) remove the recoverable residual of the cremation process from the cremation chamber and sweep it the cremation chamber clean;

(c) remains the same.

(d) process remaining bone fragments to unidentifiable particles and place the particles and all remaining residue from (b) in a container as described in ARM 24.147.1110. If the cremated remains;

(e) place the bone particles, together with the remaining residue and metal identification tag in a securely fastened plastic bag;

(f) place the bag in a sturdy, properly closed temporary container, or in an urn provided by the authorizing agent, with the name of the deceased person and other proper identification affixed to the outside of the containers; and

(g) clean all containers or trays used in the cremation process to avoid commingling of cremated remains.

(7) (i) If the cremated remains do not adequately fill the container's interior dimensions of the temporary container or urn, staff the crematory operator or crematory technician may fill the extra space with packing material that will not become intermingled with the cremated remains; and/or:

(8) (ii) If cremated remains do not fit within one temporary container or urn, staff shall the crematory operator or crematory technician must use an additional temporary container or urn per 37-19-705, MCA. The temporary container(s) and/or urn(s) must further be labeled, similarly sealed and affixed with identification, and marked "1 of 2" and "2 of 2."

(9) When requested to ship cremated remains, the crematory shall place the temporary container or container holding the urn in a single, sturdy, pressure-resistant, and properly sealed shipping box. Multiple containers of cremated remains of a single person shall be placed in one shipping box as described. The crematory shall label the container "CREMATED REMAINS" and ship using an

internal tracing system that requires a signature by the person taking delivery of the cremated remains and a return receipt to the crematory.

~~(10) If the authorizing agent does not claim the cremated remains within 90 days from the date of cremation, the crematory may dispose of the cremated remains in any manner permitted by law. "Any manner permitted by law" does not include scattering, but rather means disposal in a recoverable manner, such as burial in a grave, crypt, or niche. The crematory must maintain a record of the disposition made and may issue an invoice to the authorizing agent to recover the costs of the disposition.~~

(6) Cremated remains being shipped shall be shipped per 37-19-705(10) through (13), MCA. Additionally:

(a) the shipping container must be labelled "CREMATED REMAINS"; and

(b) if there are multiple temporary containers and/or urns containing the same decedent's remains, the crematory operator or crematory technician must place temporary containers and/or urns within the same shipping container.

(7) Crematories which dispose of unclaimed remains per 37-19-706(2), MCA must maintain a record of the disposition and may issue an invoice to the authorizing agent to recover the costs of the disposition.

AUTH: 37-19-202, 37-19-703, MCA

IMP: 37-19-703, 37-19-704, 37-19-705, 37-19-706, 46-4-122, 50-15-405,
MCA

24.147.1112 CREMATORY PROHIBITIONS ~~(1) No crematory facility, operator, or technician shall do any of the following, unless also licensed as a mortician~~ Crematories, crematory operators, and crematory technicians shall not:

~~(a) transport human remains without the direction of a mortician who is responsible for the transport, make arrangements, engage in funeral directing, or engage in mortuary science, as such terms are defined in 37-19-101, MCA;~~

(b) commingle human remains from more than one person unless authorized per 37-19-705, MCA, and ARM 24.147.1107;

~~(b) (c) cremate fetuses, limbs, and body parts from private or public health agencies, medical doctors, or colleges and universities, without;~~

(i) proper required federal, state, and local permits; and

(ii) cremation authorizations as described in ARM 24.147.301 and 24.147.1107;

~~(e) (d) use or allow the use of the same cremation chamber for the cremation of human remains and animals;~~

~~(d) (e) accept prepayment for cremation services, unless covered in a prepaid funeral agreement executed by a mortician per 37-19-903, MCA;~~

~~(e) (f) require that human remains be placed in any particular container other than a basic combustible container, e.g., including but not limited to a casket, before cremation; or~~

(g) require that cremated remains be placed in a cremation urn, cremation vault, or receptacle designed to permanently encase the cremated remains;

(f) (h) remove any dental gold, jewelry, medical devices, body parts, or other items of value from human remains prior to the cremation or from the cremated

remains after cremation, unless the cremation authorization form described in ARM 24.147.301 and 24.147.1107 specifically authorizes such removal; or

~~(g) (i) remove a potentially hazardous implant from human remains or knowingly cremate human remains with a potentially hazardous implant in place.~~

(2) Only the following persons are permitted in the cremation chamber area of a crematory while any human remains are being placed within the cremation chamber, being cremated, or being removed from the cremation chamber:

(a) persons authorized by the crematory operator-in-charge;

(b) department and board personnel; and

(c) persons having the right of disposition under 37-19-904, MCA, who request to witness a cremation.

(3) Crematories which dispose of unclaimed remains per 37-19-706, MCA, and ARM 24.147.1111 must dispose of remains in a recoverable manner, such as burial in a grave, crypt, or niche.

~~(2) A hazardous implant may only be removed by a mortician at a mortuary or branch mortuary establishment with a preparation room, unless removal has taken place at a medical facility by appropriate medical personnel. The mortician shall keep a record of the removal and disposition of the implant. Morticians must recycle hazardous implants if such service is available, and may only discard them in accordance with federal, state, and local laws and regulations.~~

~~(3) This rule may not be construed to prohibit an independent crematory not associated with a mortician from discussing cremation procedures with customers or selling combustible containers or cremation urns. If such funeral goods and services are sold, they may only be paid for by the consumer "at need" and not as preneed funeral goods and services, which may only be offered, negotiated, or sold by a licensed mortician. An independent crematory operator who sells funeral goods must comply with the funeral rule and have a general price list (GPL).~~

AUTH: 37-19-202, 37-19-703, MCA

IMP: 37-19-101, 37-19-703, 37-19-704, 37-19-705, 37-19-706, 37-19-707, 37-19-708, MCA

REASON: The board is amending (1) to remove provisions regarding mortician scope of practice as this rule pertains to crematories, crematory technicians, and crematory operators.

It is reasonably necessary to relocate provisions from ARM 24.147.1111(5) to (2), as a more practical location. The modified language will further clarify which individuals are allowed in a cremation chamber at which times and address confusion regarding when statute allows unlicensed people in the cremation chamber. Prohibitions located in ARM 24.147.1110 and 24.147.1111 have been consolidated in this rule for ease of use by licensees, the public, and staff.

The board is moving provisions on disposal of unclaimed remains from ARM 24.147.1105(2) to (3) of this rule as a more logical and practical location.

The board is amending this rule to relocate morticians' duties regarding hazardous implants in (2) to the "hazardous implant" definition in ARM 24.147.302. The board determined this is a more logical location since hazardous implant removal requirements pertain to morticians' scope of practice and not crematories,

crematory technicians, or crematory operators. Crematory technicians and crematory operators are not allowed to remove hazardous implants.

The board is striking (3) and moving relevant provisions to ARM 24.147.1105(5) as a more practical location. Provisions regarding what crematories may sell are clearly set forth in the FTC funeral rule. The reference to independent crematory has been removed since "independent crematory" is not a term defined by statute. "Crematory" and "mortuary" are two distinct licenses and are both defined in 37-19-101, MCA.

24.147.1503 REQUIREMENTS FOR SALE OF AT-NEED, PRENEED, AND PREPAID FUNERAL ARRANGEMENTS (1) remains the same.

(2) The following monies shall be ~~construed as trust funds in the possession of~~ held in trust by a mortician, mortuary, branch establishment, cemetery, or any other person, firm, or corporation:

(a) through (4) remain the same.

(a) When there is a closure or change of ownership of a mortuary, branch establishment, or crematory, the requirements of [NEW RULE I] must be met.

(5) remains the same.

(6) No later than 30 days from issuance of the death certificate following the performance of preneed funeral arrangements pursuant to a prepaid funeral agreement, the mortician, mortuary, branch establishment, cemetery, crematory, or any other person, firm, or corporation holding trust funds shall close and distribute the funds to trust beneficiaries.

AUTH: 37-1-131, 37-19-202, 37-19-807, MCA

IMP: 37-1-131, 37-19-807, 37-19-823, 37-19-827, 37-19-828, 37-19-829,
MCA

REASON: The board is amending (2) to align with proposed amendments to the definition of "mortician-in-charge" in ARM 24.147.302 and the adoption of NEW RULE I. Specifically, the board determined it is reasonably necessary to clarify that mortuary branch establishments are also already allowed under statute to hold money in trust.

See REASON for NEW RULE I for changes to (4)(a).

Additionally, the board is adding (6) to set a specific time by which mortuaries, branch establishments, cemeteries, and crematories must wind-up and distribute trust funds. This change will ensure proper distribution of trust funds per preneed contracts, so licensees are not indefinitely holding onto monies held in trust per prepaid funeral agreements already fulfilled by the licensees.

24.147.2101 CONTINUING EDUCATION REQUIREMENTS – MORTICIANS

(1) through (7)(a) remain the same.

(b) A board meeting is worth ~~one hour~~ two hours of continuing education credit.

(8) and (9) remain the same.

(10) Licensees found to be in noncompliance with continuing education requirements may be subject to ~~disciplinary action~~ administrative suspension.

Licensees may not apply continuing education hours used to complete delinquent continuing education plan requirements for the next continuing education reporting period.

(11) and (12) remain the same.

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

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

REASON: The board is amending (7)(b) to increase the number of CE hours licensees can obtain by attending a board meeting. The board determined this change is reasonably necessary to align with the average length of board meetings and the general topics pertaining to license regulations which are covered at an average board meeting.

The board is amending (10) to specify that licensees not in compliance with CE may be subject to administrative suspension per 37-1-321, MCA, and in accordance with standardized department audit processes.

24.147.2301 UNPROFESSIONAL CONDUCT (1) through (1)(f) remain the same.

(g) failing to exercise appropriate supervision of students working in the mortuary or branch establishment who are engaged in a clinical practicum as described in [SB 63 Section 1];

~~(g)~~ (h) allowing nonlicensed personnel to perform duties that are statutorily reserved for licensees or exempt students as described in [SB 63 Section 1];

(h) through (y) remain the same but are renumbered (i) through (z).

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

IMP: 37-1-136, 37-1-316, 37-1-319, MCA

REASON: The board determined it is reasonably necessary to amend this rule by adding to the actions considered by the board to be unprofessional conduct. The board is adding (1)(g) and amending (1)(h) to align with the definition in ARM 24.147.302(7) describing the supervision requirements per Senate Bill 63 for students currently enrolled in an accredited or approved funeral service or mortuary science degree program who are practicing mortuary science in Montana as part of a required student clinical practicum. The changes will implement the bill by clearly delineating that improper supervision of students practicing mortuary science is considered unprofessional conduct.

5. The proposed new rule is as follows:

NEW RULE I PRENEED AGREEMENTS – NOTIFICATION OF CLOSURE OR CHANGE OF OWNERSHIP – MORTUARY, BRANCH ESTABLISHMENT, OR CREMATORY (1) When there is a closure of a mortuary, branch establishment, or crematory, in addition to the requirements in ARM 24.147.407, the owner must:

(a) notify all preneed funeral arrangement purchasers prior to closure or change of ownership; and

(b) within 30 days of the closure, notify the board that the purchasers have been notified of the closure.

(2) When there is change of ownership of a mortuary, branch establishment, or crematory, the following must occur within 30 days of the change of ownership:

(a) the previous owner must notify the board that the new owner has been informed of all existing preneed agreements and monies held in trust; and

(b) the new owner must:

(i) notify all preneed funeral arrangement purchasers of the change of ownership; and

(ii) notify the board that all purchasers have been notified of the change of ownership.

AUTH: 37-1-131, 37-19-202, 37-19-807, MCA

IMP: 37-1-131, 37-19-402, 37-19-403, 37-19-703, 37-19-807, 37-19-823, 37-19-827, 37-19-828, MCA

REASON: Beginning in March of 2018, the board has acquired preneed trust fund information from mortuaries and crematories as well as cemeteries. Since that time, the board has compared licensee information with that obtained from financial and banking institutions and concluded that confusion exists regarding the management of preneed trust accounts. The board determined it is reasonably necessary to adopt this new rule and amend ARM 24.147.407 to further clarify the responsibilities of mortuaries, branch establishments, and crematories holding preneed contracts when there is a closure or change of ownership of the facility. These rules supplement the board's existing statutory and rule requirements regarding licensees' management of preneed funeral trust monies and records.

6. 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 Funeral Service, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdnfr@mt.gov, and must be received no later than 5:00 p.m., November 15, 2019.

7. An electronic copy of this notice of public hearing is available at <http://boards.bsd.dli.mt.gov/fnr> (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.

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

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. Regarding Senate Bill 63, the primary bill sponsor was contacted on May 8, 2019, by telephone. Regarding House Bill 196, the primary bill sponsor was contacted on May 8, 2019, by telephone.

10. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.147.302, 24.147.407, 24.147.507, 24.147.1105, 24.147.1107, 24.147.1110, 24.147.1111, 24.147.1112, 24.147.1503, 24.147.2101, and 24.147.2301 will not significantly and directly impact small businesses.

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

Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.147.401 will significantly and directly impact small businesses. The group of small businesses likely affected are 134 mortuaries, branch establishments, crematories, and cemeteries that have fewer than 50 full-time employees. The probable significant direct effect is an average of \$580 increase annually per facility license/small business assuming facility licensees pay the fees of all other licensed morticians, mortician interns, crematory operators, and crematory technicians working at each licensed facility. The board must raise its fees to cover annual board expenditures to finance its operations. This board is solely funded using licensing fees. Based on current projections regarding annual expenditures and the number of individuals and facilities licensed under this board there is no way to continue operating per legislative mandate to license people and address complaints and address public health and safety without increasing the licensing fees paid by individuals and the licensed small businesses that employ those individuals.

Documentation of the board's above-stated determinations is available upon request to the Board of Funeral Service, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; facsimile (406) 841-2305; or to dlibsdfnr@mt.gov.

11. Lucy Richards, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF FUNERAL SERVICE
JOHN TARR, 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 October 8, 2019.

BEFORE THE BOARD OF BEHAVIORAL HEALTH
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM	)	NOTICE OF PUBLIC HEARING ON
24.219.301, 24.219.415, 24.219.421,	)	PROPOSED AMENDMENT,
24.219.501, 24.219.504, 24.219.505,	)	ADOPTION, AND REPEAL
24.219.512, 24.219.601, 24.219.604,)	
24.219.605, 24.219.612, 24.219.701,)	
24.219.704, 24.219.705, 24.219.712,)	
24.219.907, 24.219.912, 24.219.923,)	
24.219.5005, 24.219.5006,)	
24.219.5007, 24.219.5008,)	
24.219.5010, and 24.219.5013, the)	
adoption of NEW RULES I through VII,)	
and the repeal of 24.219.506,)	
24.219.603, 24.219.703, 24.219.707,)	
24.219.901, 24.219.902, 24.219.903,)	
24.219.916, 24.219.5001, 24.219.5003,)	
24.219.5004, 24.219.5009,)	
24.219.5011, and 24.219.5014,)	
pertaining to application and licensing)	
rules for licensed clinical social workers)	
(LCSW), licensed clinical professional)	
counselors (LCPC), licensed marriage)	
and family therapists, (LMFT), licensed)	
addiction counselors (LAC), and)	
certified behavioral health peer support)	
specialists (CBHPSS))	

TO: All Concerned Persons

1. On November 13, 2019, at 9:00 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, adoption, and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Behavioral Health no later than 5:00 p.m., on November 6, 2019, to advise us of the nature of the accommodation that you need. Please contact Lucy Richards, Board of Behavioral Health, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdbbh@mt.gov (board's e-mail).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: Following a review of its rules and recommendations from board staff, the board determined it is reasonably necessary to amend these rules to eliminate outdated, redundant, and unnecessary provisions, and provide consistency, simplicity, better organization, and ease of use for licensees, educators, program administrators, and the public. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

The board determined it is reasonably necessary to amend the rules throughout to align with and facilitate current standardized department application and renewal procedures. As part of this effort, the board is amending several licensure rules to require that background checks are completed within six months of the application date. This change will help ensure that timely information is being reported and aligns with standardized department procedures regarding fingerprint background checks.

Additionally, the board is updating the authority and implementation citations throughout to accurately reflect all statutes implemented through the rules and provide the complete and current sources of the board's rulemaking authority.

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

24.219.301 DEFINITIONS (1) "Advanced counseling practicum" for purpose of the practicum obtained during the post-graduate degree program in 37-23-202, MCA, means:

(a) supervision by licensed program faculty which includes:

(i) a minimum of 30 hours individual face-to-face consultation and review with supervisor; and

(ii) a minimum of 45 hours small group supervisory consultation with supervisor and peers in practicum program; and

(b) a minimum of 200 clock hours of service to clients which includes:

(i) a minimum of 80 hours offering face-to-face direct service to individual, family, and group clients; and

(ii) an additional 45 hours which may include any of the above plus audio and videotape review, two-way mirror observations, research, writing case notes, collateral contacts, and any other nonspecified activities deemed appropriate by the practicum supervisor to enhance the student's expertise in providing services to the client population.

(2) "Behavioral health disorder" means a wide range of mental health conditions or disorders that affect mood, thinking, and behavior that impair the individual's ability to build or maintain satisfactory interpersonal relationships and to manage daily functioning.

(3) "Candidate":

(a) "LAC candidate" means an individual as defined in 37-35-102, MCA;

(b) "LCPC candidate" means an individual as defined in 37-23-102, MCA;
and

(c) "LCSW candidate" means an individual as defined in 37-22-102, MCA;

(d) "LMFT candidate" means an individual as defined in 37-37-102, MCA.

(4) "CBHPSS" means a certified behavioral health peer support specialist.

(5) "Client" means a recipient of services performed by licensees in this chapter.

(6) "Clinical setting" for purposes of LCPC experience requirements means any public and/or private agency whose primary functions are:

(a) conducting psychosocial assessments and diagnoses for the purpose of establishing treatment goals and objectives;

(b) planning, implementing, and evaluating treatment plans that use treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health, social functioning, or the functioning of established social units;

(c) selecting, administering, scoring, and interpreting psychosocial assessment instruments to assess personal characteristics and using nonstandardized methods and techniques for understanding human behavior in relation to coping with or adapting to changing life situations;

(d) implementing counseling treatment interventions using those cognitive, affective, behavioral sciences that are specifically implemented in the context of a therapeutic relationship; or

(e) evaluating information to identify needs or problems of an individual or social units to determine the advisability of referral to other specialists, informing the individual(s) of the judgment, and communicating as requested or considered appropriate with the referral sources.

(7) "Contact hour" means academic coursework, approved workshop training, or an approved home study course that is completed hour-for-hour.

(8) "Co-occurring disorder" means the existence of any addiction-related disorder and any other physical and or mental health disorder.

(1) remains the same but is renumbered (9).

(2) (10) "Direct observation" of service delivery" means participation in the service delivery, observation through a two-way mirror, observation of a video or audiotape of the service delivery, or observation through an interactive video link of the service delivery.

(3) remains the same but is renumbered (11).

(4) (12) "~~Exploitation~~" "~~Exploit~~" means ~~to manipulate or attempt to manipulate or use the manipulation or use, or the attempted manipulation, or the attempted use~~ of a professional relationship with a client, student, or supervisee for:

(a) the licensee's emotional, financial, romantic, sexual, or personal advantage; or

(b) ~~for~~ the advancement of the licensee's personal, religious, political, or business interests.

(13) "Face-to-face" means supervision of a candidate by the supervisor which is either:

(a) in-person; or

(b) electronically. The transmission must:

(i) be two-way;

(ii) be interactive;

(iii) be real-time;

(iv) be simultaneous; and

(v) provide for both audio and visual interaction.

(14) "Gambling dependence impulse control disorder" or "gambling disorder" means persistent and recurrent problematic gambling behavior leading to clinically significant impairment or distress.

(5) (15) "LAC" means licensed addiction counselor licensed under Title 37, chapter 35, MCA.

(6) (16) "LCPC" means licensed clinical professional counselor licensed under Title 37, chapter 23, MCA.

(7) (17) "LCSW" means licensed clinical social worker licensed under Title 37, chapter 22, MCA.

(8) (18) "LMFT" means licensed marriage and family therapist licensed under Title 37, chapter 37, MCA.

(9) and (10) remain the same but are renumbered (19) and (20).

(21) "Recovery" from a behavioral health disorder in subchapter 9 of these rules means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(11) remains the same but is renumbered (22).

(23) "Significant monetary value" means more than a de minimis value exceeding \$25.

(24) "Supervised work experience" means the requirements described in ARM 24.219.504, 24.219.604, 24.219.704, or 24.219.5008 where a candidate gains minimal competencies in the areas of an identified theory base, application of a differential diagnosis, establishing and monitoring a treatment plan, development and appropriate use of the professional relationship, assessing the client for risk of imminent danger, and implementing a professional and ethical relationship with clients and colleagues.

~~(12) (25) "Supervisor," when used to refer to a person who supervises the work of an applicant for licensure,~~ means a person who meets the criteria set forth in ARM 24.219.421.

~~(13) "Training and supervision plan" means a plan, in a form approved by the board, that describes the type, structure, and amount of supervised work experience that a licensure candidate must have in order to satisfy the experience requirements for the type of license the licensure candidate is seeking.~~

AUTH: 37-1-131, 37-22-201, 37-35-103, 37-38-202, MCA

IMP: 37-1-131, 37-22-102, 37-22-201, 37-22-313, 37-23-102, 37-23-202, 37-23-213, 37-35-102, 37-35-103, 37-35-202, 37-37-102, 37-37-205, 37-38-102, 37-38-202, MCA

REASON: The board is amending this rule to consolidate all definitions applicable to ARM Title 24, chapter 219 into this rule. Definitions previously in ARM 24.219.603, 24.219.604, 24.219.901, and 24.219.5001 are being relocated to this rule for simplicity and better organization, and to eliminate duplicative definitions.

After staff reported many applicant questions regarding the licensing process, the board is defining "candidate" at (3) to clarify that a candidate license is a

separate license from a full license. The board is also adding definitions for candidate license acronyms for clarity.

The board is defining "face-to-face" at (13) to clarify acceptable candidate supervision methods that include both in-person and electronic means.

The board is adding (21) to define "recovery" as used in 37-38-202, MCA, following a staff recommendation to address questions and parallel the statute.

It is reasonably necessary to add (24) to define "supervised work experience" to address numerous questions regarding whether an applicant's proposed work experience qualifies for licensure. The board is utilizing this commonly used term when updating applicable rules elsewhere in this notice.

The board is striking the definition of "training and supervision plan" as the specific term is no longer used in this chapter related to licensing procedures.

24.219.415 MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training or education toward the requirements for licensure as ~~a clinical professional counselor, clinical social worker, and marriage and family therapist~~ an LCSW, LCPC, LMFT, LAC, and CBHPSS.

(2) remains the same.

(3) An applicant must submit satisfactory evidence of receiving military training or education that is equivalent to relevant licensure requirements for a ~~clinical professional counselor, clinical social worker, or marriage and family therapist~~ an LCSW, LCPC, LMFT, LAC, or CBHPSS. Satisfactory evidence includes:

(a) through (4) remain the same.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: It is reasonably necessary to consolidate military training and experience for all license types into this rule for simplicity and ease of use. The board is also repealing ARM 24.219.903 and 24.219.5003 as no longer necessary.

24.219.421 SUPERVISOR QUALIFICATIONS (1) LCSW, LCPC, LMFT, and LAC licensure candidates and CBHPSS must be supervised per the requirements of this rule and ARM 24.219.504, 24.219.604, 24.219.704, and 24.219.5008. Supervisors must:

(a) have an active license in good standing in the jurisdiction in which the supervision is occurring; and

(b) meet one of the below criteria:

(i) have been licensed in their respective disciplines for at least three years, excluding any period of licensure as a candidate; or

(ii) have taken board-approved training consisting of a minimum of one semester credit graduate education focused on supervision or 20 hours of board-approved training in supervision.

(2) In addition to the requirements in (1):

(a) an LCSW, LCPC, or LMFT candidate supervisor must be licensed as an LCSW, LCPC, LMFT, licensed psychologist, or licensed and board-certified psychiatrist;

(b) an LAC candidate supervisor must be:

(i) licensed as an LAC with a minimum of three years post-licensure experience in a qualified treatment setting as defined in ARM 24.219.5010; or

(ii) trained in a related field. If trained in a related field:

(A) the supervisor must have taken board-approved training consisting of a minimum of one semester credit graduate education focused on supervision or 20 hours of board-approved training in supervision;

(B) the supervisor must have training equivalent to that described in ARM 24.219.5006(2)(b); and

(C) the board will evaluate each individual on a case-by-case basis.

(3) In addition to the requirements in (1), a CBHPSS supervisor must be licensed under Title 37, MCA, as an LCSW, LCPC, LMFT, LAC, physician, psychologist, or an advanced practice registered nurse with a clinical specialty in psychiatric mental health nursing.

(4) A supervisor shall not:

(a) be the candidate or CBHPSS's parent, child, spouse, or sibling; or

(b) have a conflict of interest such as, but limited to, being in a cohabitation or financially dependent relationship.

~~(1) A person supervising the experience of an applicant for licensure shall meet the minimum qualifications set forth in this rule.~~

~~(2) The supervisor must be a LCSW, LCPC, LMFT, licensed psychologist, or licensed and board-certified psychiatrist.~~

~~(3) The supervisor must hold an active and current license in good standing, which was issued by the licensing board or other officially recognized licensing body of the state where supervision occurs.~~

~~(4) The supervisor must have three years of post-licensure experience or board-approved training in clinical supervision.~~

~~(5) Board-approved training in supervision shall consist of a minimum of one semester credit of post-licensure board-approved graduate education or 20 clock hours of board-approved training in clinical supervision.~~

AUTH: 37-1-131, 37-22-201, 37-35-103, MCA

IMP: 37-1-131, 37-22-101, 37-22-102, 37-22-301, 37-23-101, 37-23-102, 37-23-202, 37-35-102, 37-35-103, 37-35-202, 37-37-101, 37-37-102, 37-37-201, 37-38-202, MCA

REASON: The board is amending this rule to consolidate supervisor qualifications for all license types for simplicity and ease of use. The board is also repealing ARM 24.219.916 and 24.219.5009 as no longer necessary.

Following numerous questions to staff from applicants and prospective supervisors, the board is defining criteria for "related field" in (2)(b)(ii). The amendment will clearly set forth the criteria the board utilizes to ensure LAC candidates are supervised by qualified individuals.

24.219.501 LCSW LICENSE REQUIREMENTS – ORIGINAL APPLICANTS APPLICATION PROCEDURES (1) Applicants for LCSW licensure not currently licensed in another state or jurisdiction must submit a completed application on forms provided by the department. Completed applications include appropriate fees and required documentation.

(2) Applicants must meet the following requirements:

(a) have a degree that meets the requirements in 37-22-301, MCA;

(b) have completed supervised post-degree work that meets the requirements in 37-22-301, MCA, and ARM 24.219.504;

(c) have passed an examination as described in [NEW RULE III] within four years of the date of application;

(d) have completed a Federal Bureau of Investigation fingerprint background check per 37-22-301, MCA, within six months of the application date;

(e) provide reference letters that meet the requirements in 37-22-301, MCA; and

(f) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.

(3) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.

~~(1) Any person seeking licensure as a clinical social worker must apply on the board's official forms which may be obtained through the department. All requirements with documentation must be met at the time of application. Incomplete applications will not be considered by the board.~~

~~(2) The 3000 hours of experience required by 37-22-301(2), MCA, shall have been completed in their entirety at the time of submission of the application.~~

~~(3) Completed applications must be accompanied by:~~

~~(a) application fee;~~

~~(b) verification of the applicant's doctorate or masters degree in social work provided directly from the school to the board office; and~~

~~(c) three reference letters as required by 37-22-301(2), MCA, including one from the applicant's supervisor, which shall include:~~

~~(i) inclusive dates and total hours of supervision in increments no less than 15 minutes;~~

~~(ii) names of applicant and supervisor (include type of license and number) and signature of both;~~

~~(iii) content summary (excluding confidential information);~~

~~(iv) recommendation to approve for licensure or not;~~

~~(v) number of supervised hours satisfactorily completed; and~~

~~(vi) supervisor must attest to the above under penalty of law. Falsification or misrepresentation of any of the above may be considered misrepresentations and a violation of professional ethics, which may result in discipline of the supervisor's license.~~

~~(4) The applicant shall be notified in writing of the results of the evaluation of the application for examination.~~

~~(5) The license will be effective as of the date all requirements, including payment of the original license fee, are met. An applicant shall not work as a~~

licensed social worker until the effective date of the license.

~~(6) Applicants shall be allowed a maximum of three attempts to successfully pass the examination.~~

~~(7) After the third attempt, if the applicant has not achieved a passing score, the applicant must request in writing to the board to retake the examination. The board may require the applicant to complete a preapproved remediation plan prior to additional exam administrations.~~

~~(8) If the applicant fails to satisfy the requirements for licensure within one year of the date the application is determined by the department to be complete, the application will expire, the application fee will be forfeited, and a new completed application and application fee will be required.~~

~~(9) If an applicant has previously held a license to practice as a social worker in this state, and the previous license was terminated as a result of the applicant's failure to renew the license, the applicant shall complete ten hours of board-approved continuing education credits for each year that the applicant's license was terminated. The applicant shall submit proof of completion of these hours at the time of application.~~

~~(10) The Association of Social Work Boards' (ASWB) generalist examination is not an approved examination for the purpose of obtaining licensure as a clinical social worker.~~

~~(11) All applicants must submit the fingerprint and background check required by the board.~~

AUTH: 37-1-131, ~~37-1-319~~, 37-22-201, MCA

IMP: 37-1-131, ~~37-1-306~~, 37-22-301, MCA

REASON: The board is amending this rule and ARM 24.219.505 and 24.219.512 to separate and clearly set forth licensure requirements by applicant type. Following amendment, this rule will apply solely to original applicants for LCSW licensure, while requirements for candidates and out-of-state applicants will be in ARM 24.219.505 and 24.219.512.

The board is relocating specific LCSW examination provisions to NEW RULE III. For consistency with other board license types, the board is amending (2)(c) to require exam passage within four years of application. The board concluded more recent test results will help ensure competency as original applicants have no practice experience.

As part of the ongoing effort to standardize administrative procedures provided to all boards, the department raised concerns regarding records retention and potential burden for the department to maintain terminated license records indefinitely. At the same time, staff questioned whether terminated licensees had to make new application. To address these issues and eliminate potential confusion, the board determined it is reasonably necessary to eliminate (9). Per statute and standardized department application procedures, terminated licensees who are not actively licensed and practicing in any jurisdiction must reapply with a new application and meet all current licensure requirements at the time of application.

24.219.504 LCSW SUPERVISED WORK EXPERIENCE REQUIREMENTS

(1) Applicants applying under ARM 24.219.501 must meet the supervised work experience requirements in 37-22-301, MCA, and as defined in ARM 24.219.301.

(2) As a part of the requirements in (1), at least 100 hours must include supervision by a qualified supervisor under ARM 24.219.421.

(a) Of those 100 hours, at least 50 hours must be individual and supervised face-to-face by an LCSW; and

(b) Of the 50 hours in (a), at least ten hours must include direct observation of service delivery as defined in ARM 24.219.301.

(3) Supervisors must provide at least two hours of supervision for every 160 hours of social work as defined in 37-22-102, MCA.

(4) Candidates must clearly indicate they are social worker licensure candidates in all professional and private communications.

(5) When an LCSW candidate who applied under ARM 24.219.505 completes the requirements of (1) through (3), the candidate will qualify for the examination per [NEW RULE III]. Upon proof of passage of the exam, a candidate will be issued an LCSW license without further application.

(6) A supervisor must have experience and expertise with the candidate's client population (e.g., child, adolescent, adult, chemically dependent) and methods of practice (i.e., individual, group, family, crisis, or brief interventions).

~~(1) For the purpose of meeting the 3000-hour requirement of 37-22-301(2)(b), MCA, an applicant or licensure candidate shall provide verification of the following:~~

~~(a) 3000 supervised hours spent providing psychotherapy or clinical social work services to individuals, families, and groups, of which at least 50 percent shall include the application of psychosocial methods in direct client contact;~~

~~(b) supervision, on a form approved by the board, which shall include at least 100 documented hours of individual or group supervision by a qualified supervisor. At least 50 percent of the 100 hours shall be individual and face-to-face by a licensed social worker, and at least ten hours of which includes direct observation of the service delivery. Each supervisory session shall be documented with a record of supervision. The applicant or licensure candidate must maintain the record of supervision, which may be requested by the board and must include:~~

~~(i) date and length of supervision in increments not less than 15 minutes;~~

~~(ii) names of applicant or licensure candidate, supervisor (including type of license and number), and signatures of both;~~

~~(iii) content summary (excluding confidential information);~~

~~(iv) evidence of the applicant's or licensure candidate's minimal competencies in the areas of an identified theory base, application of a differential diagnosis, establishing and monitoring a treatment plan, development and appropriate use of the professional relationship, assessing the client for risk of imminent danger, and implementing a professional and ethical relationship with clients and colleagues;~~

~~(v) content demonstrating the applicant's or licensure candidate's developing competence in the areas identified in (1)(b)(iv); and~~

~~(vi) attestation of the record of supervision by the supervisor. Falsification or misrepresentation of the record of supervision shall be considered unprofessional~~

conduct and may result in discipline of the supervisor's license.

~~(c) supervision which has been conducted on a regular basis. No more than 160 hours of social work experience shall transpire without providing at least two hours of supervision. Less frequent supervision may take place under unusual circumstances only with prior approval by the board.~~

~~(d) supervisor's experience and expertise with the applicant's or licensure candidate's client population (i.e., child, adolescent, adult, chemically dependent) and methods of practice (i.e., individual, group, family, crisis or brief interventions).~~

~~(e) supervisor's relationship with the applicant or licensure candidate which shall not constitute a conflict of interest, such as (but not limited to) being in a cohabitation or financially dependent relationship with the applicant or licensure candidate, or being the applicant's or licensure candidate's parent, child, spouse, or sibling.~~

~~(f) a supervision agreement in writing and in a format approved by the board. The agreement shall include, but not be limited to:~~

~~(i) the applicant's or licensure candidate's and supervisor's names, signatures, and dates;~~

~~(ii) terms of the agreement including the duties of the applicant or candidate and supervisor, the obligations of the applicant or candidate and supervisor under this rule, frequency and method of supervision, duration and termination provisions; and~~

~~(iii) a statement of compliance with applicable patient privacy laws and the supervisor's qualifications.~~

~~(2) All reports and/or assessment interpretations and results sent to other public or private agencies that affect the current social status of a client must be reviewed by and contain the approval and signature of the supervisor. These reports shall identify the supervisee's "in-training" nonlicensed status or identify that the supervisee is a social worker licensure candidate.~~

~~(3) All therapeutic interventions and the assessment results and interpretations used in the planning and/or implementation of those therapeutic interventions shall be reviewed and preapproved by the supervisor on a continual and ongoing basis.~~

~~(4) All professional communications, both private and public, including advertisements, shall clearly indicate the supervisee's "in-training" and nonlicensed status or indicate that the supervisee is a social worker licensure candidate.~~

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-22-301, 37-22-313, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clearly set forth only the experience requirements necessary to obtain full LCSW licensure. The board is consolidating record requirements for all license types in NEW RULE I to simplify and standardize the rules.

24.219.505 SOCIAL WORKER LICENSURE CANDIDATE APPLICATION PROCEDURES LCSW CANDIDATE LICENSE REQUIREMENTS (1) Applicants for LCSW candidate licenses apply using the same application as LCSW applicants.

- (2) Applicants for LCSW candidate licensure must:
- (a) have a degree that meets the requirements in 37-22-301, MCA;
 - (b) have a supervisor that meets the requirements in ARM 24.219.421;
 - (c) have completed a Federal Bureau of Investigation fingerprint background check per 37-22-313, MCA, within six months of the application date;
 - (d) provide reference letters that meet the requirements in 37-22-301, MCA;
- and
- (e) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.
- (3) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.
- ~~(1) A person seeking licensure as a social worker licensure candidate must apply on the board's official forms which may be obtained through the department. All requirements with documentation must be met at the time of application. Incomplete applications will not be considered by the board.~~
- ~~(2) A completed social worker licensure candidate application must include:~~
- ~~(a) application fee;~~
 - ~~(b) official transcripts provided directly from the institution documenting the applicant's completion of a doctorate or master's degree in social work from a program accredited by the council on social work education (CSWE) or a program approved by the board as required by 37-22-301(2)(a), MCA; and~~
 - ~~(c) the licensure candidate's proposed training and supervision plan.~~
- ~~(3) A training and supervision plan is subject to board approval, must be in a form approved by the board, and must include:~~
- ~~(a) identification of the candidate and qualified supervisors;~~
 - ~~(b) the supervisors' license types, license numbers, and amount of post-licensure experience or training in clinical supervision;~~
 - ~~(c) verification that any and all licenses held by the supervisors in all jurisdictions are unrestricted with no pending discipline;~~
 - ~~(d) a proposed record of supervision in a form approved by the board that will address and document the licensure candidate's experience for the purpose of meeting the requirements of 37-22-301(2)(b), MCA, and satisfy the requirements of ARM 24.219.504(1); and~~
 - ~~(e) a signed supervision agreement between the candidate and supervisors addressing the duties of the candidate and supervisors, the obligations of the candidate and supervisor under ARM 24.219.504, confidentiality, frequency and method of supervision, and duration and termination of the supervision agreement.~~
- ~~(4) All licensure candidate applicants must submit the fingerprint and background check required by the board.~~

AUTH: 37-1-131, 37-22-201, MCA
IMP: 37-1-131, 37-22-313, MCA

REASON: The board is amending this rule and ARM 24.219.501 and 24.219.512 to separate and clearly set forth licensure requirements by applicant type. Following amendment, this rule will apply solely to applicants for LCSW candidates, while

requirements for original and out-of-state LCSW applicants will be in ARM 24.219.501 and 24.219.512.

24.219.512 LICENSURE OF OUT-OF-STATE LCSW LICENSE REQUIREMENTS – OUT-OF-STATE APPLICANTS (1) Applicants for LCSW licensure who are currently licensed in another state or jurisdiction must submit a completed application on forms provided by the department. Completed applications include appropriate fees and required documentation.

(2) Applicants must:

(a) hold a current, active license in good standing in another state or jurisdiction. At the time of application, the standards of that state or jurisdiction must be substantially equivalent to Montana standards;

(b) have passed an examination as described in [NEW RULE III] or a similar examination per 37-22-301, MCA;

(c) have completed a Federal Bureau of Investigation fingerprint background check per 37-22-301, MCA, within six months of the application date;

(d) provide reference letters that meet the requirements in 37-22-301, MCA; and

(e) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.

(3) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.

~~(1) A license to practice as a social worker in Montana may be issued to the holder of an out-of-state social worker license at the discretion of the board, provided the applicant completes and files with the board an application for licensure and the required application fee. The applicant must meet the following requirements:~~

~~(a) The applicant holds a valid and unrestricted license to practice as a social worker in another state or jurisdiction, which was issued under standards equivalent to or greater than current standards in this state. Official written verification of such licensure status must be received by the board directly from the other state(s) or jurisdiction(s).~~

~~(b) The applicant holds a Masters Degree in Social Work (MSW) or an equivalent Council on Social Work Education (CSWE)-approved degree, and shall supply a copy of the certified transcript sent directly from a college, university, or institution accredited by the CSWE.~~

~~(c) The applicant shall supply proof of successful completion of the Association of Social Work Boards' (ASWB) clinical examination or another board-approved licensing examination. The ASWB generalist examination is not an approved examination for purposes of obtaining licensure as a clinical social worker. Applicant scores on the examination must be forwarded directly to the board.~~

~~(d) The applicant shall submit proof of completion of 3000 hours of supervised social work experience as defined in 37-22-301, MCA. The applicant may verify the experience hours by affidavit, and need not supply a supervisor's signature upon reasonable explanation of why the supervisor's signature is unavailable to the applicant.~~

~~(e) The applicant shall submit proof of continuous practice as a social worker~~

in another jurisdiction for the two years immediately preceding the date of application in Montana.

~~(f) The applicant shall submit three reference letters as provided in 37-22-301, MCA.~~

~~(g) The applicant shall answer questions about the applicant's character and fitness to practice on a form prescribed by the board, and the applicant shall provide all information required by the board in response to these questions.~~

~~(2) All applicants must submit the fingerprint and background check required by the board.~~

~~(3) The board may verify qualifications for licensure by reference to information supplied in an applicant's official record with the national registry of the ASWB. The applicant must request that this information be provided to the board in the manner required by the ASWB and the board. The applicant shall be solely responsible for paying any fee associated with this service.~~

~~(4) An applicant for licensure by endorsement in Montana may be granted a temporary permit to practice clinical social work, provided the applicant has submitted a completed application as described in this subchapter and that the initial screening by board staff shows that the current license is in good standing and not on probation or subject to ongoing disciplinary action. The temporary permit will remain valid until a license is granted or until notice of proposal to deny license is served, whichever occurs first. In the event that neither contingency has occurred within one year of issuance of the temporary permit to the endorsement applicant, the temporary permit shall expire and may not be renewed.~~

AUTH: 37-1-131, ~~37-1-319~~, 37-22-201, MCA

IMP: 37-1-131, 37-1-304, ~~37-1-305~~, 37-22-301, MCA

REASON: The board is amending this rule and ARM 24.219.501 and 24.219.505 to separate and clearly set forth licensure requirements by applicant type. Following amendment, this rule will apply solely to out-of-state LCSW applicants for licensure, while requirements for original LCSW applicants and candidates will be in ARM 24.219.501 and 24.219.505.

The board determined it is reasonably necessary to amend this rule to align the standards for out-of-state applicants with the proper statutory authority. Following a review and recommendations by board staff, the board is amending this rule to facilitate licensure of those licensed in states or jurisdictions with requirements substantially equivalent to Montana's.

24.219.601 LCPC LICENSE REQUIREMENTS – ORIGINAL APPLICANTS APPLICATION PROCEDURE (1) Applicants for LCPC licensure not currently licensed in another state or jurisdiction must submit a completed application on forms provided by the department. Completed applications include appropriate fees and required documentation.

(2) Applicants must meet the following requirements:

(a) have a degree from an accredited institution that meets the requirements in 37-23-202(1)(a) or (2), MCA. If the degree program is not CACREP-accredited,

the program must include completion of Council for Accreditation of Counseling and Related Educational Programs (CACREP) core competencies;

(i) The degree can only have a maximum of 12 post-baccalaureate graduate semester (18 quarter) credits or up to 20 semester (30 quarter) credits of a completed graduate counseling degree transferred from other institutions or programs;

(ii) Credits earned during the degree program that were obtained more than six years prior to the date of graduation do not count toward the education requirements in this rule and 37-23-202(1) or (2), MCA;

(b) have completed a supervised work experience that meets the requirements in 37-23-202, MCA, and ARM 24.219.604;

(c) have passed an examination as described in [NEW RULE V] within four years of the date of the application;

(d) have completed a Federal Bureau of Investigation fingerprint background check per 37-23-202, MCA, within six months of the application date; and

(e) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.

(3) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.

~~(1) Any person seeking licensure as a professional counselor must apply on the board's official forms, which may be obtained through the board office. All requirements with documentation must be met at the time of application. Incomplete applications will not be considered by the board.~~

~~(2) Completed applications must include:~~

~~(a) application fee;~~

~~(b) all verifications, transcripts, etc., as requested on the application; and~~

~~(c) three nomination letters as required by 37-23-202(1)(d), MCA.~~

~~(3) The applicant shall be notified in writing of the results of the evaluation of the application.~~

~~(4) The license will be effective as of the date all requirements, including payment of the original license fee, are met. An applicant shall not work as a licensed professional counselor until the effective date of the license.~~

~~(5) Applicants shall be allowed a maximum of three attempts to successfully pass the examination.~~

~~(6) After the third attempt, if the applicant has not achieved a passing score, the applicant must request in writing to the board to retake the examination. The board may require the applicant to complete a preapproved remediation plan prior to additional exam administrations.~~

~~(7) If the applicant achieved a passing score on the National Counselor Examination for Licensure and Certification (NCE) or the National Clinical Mental Health Counseling Examination (NCMHCE) administered by the National Board of Counselor Certification (NBCC) as part of the applicant's graduate program, the passing examination score will be accepted for licensure. Examination results are valid within four years of the date the applicant took the examination that resulted in the passing score.~~

~~(8) If the applicant fails to satisfy the requirements for licensure within one~~

~~year of the date the application is determined by the department to be complete, the application will expire, the application fee will be forfeited, and a new completed application and application fee will be required.~~

~~(9) If an applicant has previously held a license to practice as a professional counselor in this state, and the previous license was terminated as a result of the applicant's failure to renew the license, the applicant shall complete ten hours of board-approved continuing education credits for each year that the applicant's license was terminated. The applicant shall submit proof of completion of these hours at the time of application.~~

~~(10) All applicants must submit the fingerprint and background check required by the board.~~

AUTH: 37-1-131, ~~37-1-319~~, 37-22-201, MCA

IMP: 37-1-131, ~~37-1-306~~, 37-23-202, MCA

REASON: The board is amending this rule and ARM 24.219.605 and 24.219.612 to separate and clearly set forth licensure requirements by applicant type. Following amendment, this rule will apply solely to original applicants for LCPC licensure, while requirements for candidates and out-of-state applicants will be in ARM 24.219.605 and 24.219.612.

The board is relocating specific LCPC examination provisions to NEW RULE V. For consistency with other board license types, the board is amending (2)(c) to require exam passage within four years of application. The board concluded more recent test results will help ensure competency as original applicants have no practice experience.

As part of the ongoing effort to standardize administrative procedures provided to all boards, the department raised concerns regarding records retention and potential burden for the department to maintain terminated license records indefinitely. At the same time, staff questioned whether terminated licensees had to make new application. To address these issues and eliminate potential confusion, the board determined it is reasonably necessary to eliminate (9). Per statute and standardized department application procedures, terminated licensees who are not actively licensed and practicing in any jurisdiction must reapply with a new application and meet all current licensure requirements at the time of application.

24.219.604 LCPC SUPERVISED WORK EXPERIENCE REQUIREMENTS

~~(1) For the purpose of meeting the 3000-hour requirement of 37-23-202(1)(b), MCA, an applicant must provide verification of 3000 hours of counseling practice supervised by a qualified supervisor. "3000 hours" is defined as clock hours of experience working in a counseling setting. The hours shall have been completed in their entirety at the time of submission of the application.~~

~~(a) 1500 of these hours may be obtained prior to completion of the academic degree. This can include hours earned in practicums, internships and work sites approved by the program faculty.~~

~~(i) Exclusive of the advanced practicum requirement, the degree candidate shall receive one hour of face-to-face supervision and/or consultation for every 15 hours of work from a licensed mental health professional, a licensed member of the~~

faculty staff or an on-site counseling professional deemed appropriate by the faculty staff.

~~(ii) Appropriate sites for this predegree counseling experience is left to the discretion of the counseling faculty of the institution offering the degree.~~

~~(iii) All treatment interventions and assessment results and interpretations shall be reviewed and approved by the supervisor or appropriate faculty prior to their use or implementation.~~

~~(b) At least 1500 hours must be obtained post-degree and after all of the academic requirements have been completed, which shall include at least:~~

~~(1) Applicants applying under ARM 24.219.601 must meet the supervised work experience requirements in 37-23-202, MCA, and as defined in ARM 24.219.301.~~

~~(a) Up to 1500 of the 3000 hours required in 37-23-202(1)(b), MCA, may be obtained pre-degree under the academic requirements of the degree program. In order to qualify as experience under this rule the hours must be approved by the graduate program.~~

~~(i) (b) Any hours obtained post-degree must include 1000 hours direct client contact under face-to-face client contact supervision in a clinical setting as defined in ARM 24.219.301. No more than 250 client contact hours of which of those 1000 hours may be in a group or co-facilitative counseling therapy situation.~~

~~(2) For all of the 3000 supervised work experience hours required under 37-23-202, MCA, supervisors must provide at least one hour of face-to-face supervision and consultation for every 20 hours of professional counseling as defined in 37-23-102, MCA.~~

~~(3) Candidates must clearly indicate they are a professional counselor licensure candidate in all professional and private communications.~~

~~(4) A candidate will be issued an LCPC license without further application upon proof of:~~

~~(a) passage of the examination in [NEW RULE V] within four years of the date of application; and~~

~~(b) completion of the requirements in (1) through (3) of this rule.~~

~~(ii) Clinical setting is defined as any public and/or private agency whose primary functions are:~~

~~(A) conducting psychosocial assessments and diagnoses for the purpose of establishing treatment goals and objectives;~~

~~(B) planning, implementing and evaluating treatment plans that use treatment interventions to facilitate human development and to identify and remediate mental, emotional or behavioral disorders and associated distresses that interfere with mental health, social functioning, or the functioning of established social units;~~

~~(C) selecting, administering, scoring, and interpreting psychosocial assessment instruments to assess personal characteristics and using nonstandardized methods and techniques for understanding human behavior in relation to coping with or adapting to changing life situations;~~

~~(D) implementing counseling treatment interventions using those cognitive, affective, behavioral sciences that are specifically implemented in the context of a therapeutic relationship; or~~

~~(E) evaluating information to identify needs or problems of an individual or~~

social units to determine the advisability of referral to other specialists, informing the individual(s) of the judgment, and communicating as requested or considered appropriate with the referral sources.

~~(c) All reports and/or assessment interpretations and results sent to other public or private agencies that affects the current social status of a client must be reviewed by and contain the approval and signature of the supervisor. These reports shall identify the supervisee's "in-training" nonlicensed status or identify that the supervisee is a professional counselor licensure candidate.~~

~~(d) All therapeutic interventions and the assessment results and interpretations used in the planning and/or implementation of those therapeutic interventions shall be reviewed and preapproved by the supervisor on a continual and ongoing basis.~~

~~(e) All professional communications, both private and public, including advertisements, shall clearly indicate the supervisee's "in-training" and nonlicensed status or indicate that the supervisee is a professional counselor licensure candidate.~~

~~(f) The applicant or licensure candidate must receive a minimum of one hour of face-to-face supervision and consultation for every 20 hours of work experience. No more than 80 hours of work experience may transpire without receiving the required hours of supervision and/or consultation. Less frequent supervision may take place only with prior approval of the licensure board. Any hours earned without appropriate supervision will not be counted towards licensure.~~

~~(2) Supervision guidelines are as follows:~~

~~(a) A supervisor must be a qualified supervisor.~~

~~(b) A supervision agreement shall be in writing and in a format approved by the board. The agreement shall include, but not be limited to:~~

~~(i) the applicant's or licensure candidate's and supervisor's names, signatures, and dates;~~

~~(ii) terms of the agreement including the duties of the applicant or candidate and supervisor, the obligations of the applicant or candidate and supervisor under this rule, frequency and method of supervision, duration and termination provisions; and~~

~~(iii) a statement of compliance with applicable patient privacy laws and the supervisor's qualifications.~~

~~(c) A supervisor's relationship with the applicant or licensure candidate shall not constitute a conflict of interest, such as, but not limited to, being in a cohabitation or financially dependent relationship with the applicant or licensure candidate, or being the applicant's or licensure candidate's parent, child, spouse, or sibling.~~

~~(d) A record of supervision must be maintained by the applicant or licensure candidate and may be requested by the board in its review of the application. The record of supervision must include:~~

~~(i) date and length of supervision in increments not less than 15 minutes;~~

~~(ii) names of applicant or licensure candidate, supervisor (including type of license and number), and signatures of both;~~

~~(iii) content summary (excluding confidential information);~~

~~(iv) evidence of the applicant's or licensure candidate's minimal competencies in the areas of an identified theory base, application of a differential~~

diagnosis, establishing and monitoring a treatment plan, development and appropriate use of the professional relationship, assessing the client for risk of imminent danger, and implementing a professional and ethical relationship with clients and colleagues;

~~(v) content demonstrating the applicant's or licensure candidate's developing competence in the areas identified in; and~~

~~(vi) attestation of the record of supervision by the supervisor. Falsification or misrepresentation of the record of supervision shall be considered unprofessional conduct and may result in discipline of the supervisor's license.~~

~~(e) A supervisor must attest to the above under penalty of law. Falsification or misrepresentation of any of the above may be considered misrepresentation and a violation of professional ethics, which may result in discipline of the supervisor's license.~~

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-23-202, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clearly set forth only the experience requirements necessary to obtain full LCPC licensure. The board is consolidating record requirements for all license types in NEW RULE I to simplify and standardize the rules.

24.219.605 PROFESSIONAL COUNSELOR LICENSURE CANDIDATE APPLICATION PROCEDURES LCPC CANDIDATE LICENSE REQUIREMENTS

(1) Applicants for LCPC candidate licenses apply using the same application as LCPC applicants.

(2) Applicants must meet the following requirements:

(a) have a degree from an accredited institution that meets the requirements in 37-23-202(1)(a) or (2), MCA. If the degree program is not CACREP-accredited, the program must include completion of Council for Accreditation of Counseling and Related Educational Programs (CACREP) core competencies:

(i) The degree can only have a maximum of 12 post-baccalaureate graduate semester (18 quarter) credits or up to 20 semester (30 quarter) credits of a completed graduate counseling degree transferred from other institutions or programs; and

(ii) Credits earned during the degree program that were obtained more than six years prior to the date of graduation do not count toward the education requirements in this rule and 37-23-202(1) or (2), MCA;

(b) have a supervisor that meets the requirements in ARM 24.219.421;

(c) have completed a Federal Bureau of Investigation fingerprint background check per 37-23-213, MCA, within six months of the application date; and

(d) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.

(3) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.

- ~~(1) A person seeking licensure as a professional counselor licensure candidate must apply on the board's official forms which may be obtained through the department. All requirements with documentation must be met at the time of application. Incomplete applications will not be considered by the board.~~
- ~~(2) A completed professional counselor licensure candidate application must include:~~
- ~~(a) the application fee;~~
 - ~~(b) official transcripts provided directly from the institution documenting the applicant's completion of a planned graduate program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) or a program approved by the board as required by 37-23-202, MCA;~~
 - ~~(c) documentation of all supervised counseling experience completed prior to completion of the academic degree. Experience must be completed and documented pursuant to the requirements of ARM 24.219.604; and~~
 - ~~(d) the licensure candidate's proposed training and supervision plan.~~
- ~~(3) A training and supervision plan is subject to board approval, must be in a form approved by the board, and must include:~~
- ~~(a) identification of the candidate and qualified supervisors;~~
 - ~~(b) the supervisors' license types, license numbers, and amount of post-licensure experience or training in clinical supervision;~~
 - ~~(c) verification that any and all licenses held by the supervisors in all jurisdictions are unrestricted with no pending discipline;~~
 - ~~(d) a proposed record of supervision in a form approved by the board that will address and document the licensure candidate's experience for the purpose of meeting the requirements of 37-23-202(1)(b), MCA, and satisfy the requirements of ARM 24.219.604; and~~
 - ~~(e) a signed supervision agreement between the candidate and supervisors addressing the duties of the candidate and supervisors, the obligations of the candidate and supervisor under ARM 24.219.604, confidentiality, frequency and method of supervision, and duration and termination of the supervision agreement.~~
- ~~(4) All applicants must submit the fingerprint and background check required by the board.~~

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-23-213, MCA

REASON: The board is amending this rule and ARM 24.219.601 and 24.219.612 to separate and clearly set forth licensure requirements by applicant type. Following amendment, this rule will apply solely to applicants for LCPC candidates, while requirements for original and out-of-state LCPC applicants will be in ARM 24.219.601 and 24.219.612.

24.219.612 LICENSURE OF OUT-OF-STATE LCPC LICENSE REQUIREMENTS – OUT-OF-STATE APPLICANTS (1) Applicants for LCPC licensure who are currently licensed in another state or jurisdiction must submit a completed application on forms provided by the department. Completed applications include appropriate fees and required documentation.

(2) Applicants must:

(a) hold a current, active license in good standing in another state or jurisdiction. At the time of application, the standards of that state or jurisdiction must be substantially equivalent to Montana standards;

(b) have a degree that meets the requirements in 37-23-202(1)(a) or (2).
MCA;

(c) have completed supervised post-degree work that meets the requirements in 37-23-202, MCA, and ARM 24.219.604;

(d) have passed an examination as described in [NEW RULE V];

(e) have completed a Federal Bureau of Investigation fingerprint background check per 37-23-202, MCA, within six months of the application date; and

(f) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.

(3) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.

~~(1) A license to practice as a licensed professional counselor in Montana may be issued to the holder of an out-of-state licensed professional counselor or equivalent license at the discretion of the board, provided the applicant completes and files with the board an application for licensure and the required application fee. The applicant must meet the following requirements:~~

~~(a) The applicant holds a valid and unrestricted license to practice as a licensed professional counselor or equivalent in another state or jurisdiction, which was issued under standards substantially equivalent to or greater than current standards in this state. Official written verification of such licensure status must be received by the board directly from the other state(s) or jurisdiction(s).~~

~~(b) The applicant holds a graduate degree, which meets the requirements of 37-23-202, MCA, and shall supply a copy of the certified transcript sent directly from an accredited college, university, or institution, and shall complete the degree summary sheet provided by the board.~~

~~(c) The applicant shall supply proof of successful completion of the National Counselor Examination (NCE) or another board-approved licensing examination. Applicant scores on the examination must be forwarded directly to the board.~~

~~(d) The applicant shall submit proof of completion of 3000 hours of supervised counseling practice as defined in 37-23-202, MCA. The applicant may verify the experience hours by affidavit, and need not supply a supervisor's signature upon reasonable explanation of why the supervisor's signature is unavailable to the applicant.~~

~~(e) The applicant shall submit proof of continuous practice as a licensed professional counselor or equivalent in another jurisdiction for the two years immediately preceding the date of application in Montana.~~

~~(f) The applicant shall answer questions about the applicant's character and fitness to practice on a form prescribed by the board, and the applicant shall provide all information required by the board in response to these questions.~~

~~(2) All applicants must submit the fingerprint and background checks required by the board.~~

~~(3) An applicant for licensure by endorsement in Montana may be granted a temporary permit to practice professional counseling, provided the applicant has submitted a completed application as described in this subchapter and that the initial screening by board staff shows that the current license is in good standing and not on probation or subject to ongoing disciplinary action. The temporary permit will remain valid until a license is granted or until notice of proposal to deny license is served, whichever occurs first. In the event that neither contingency has occurred within one year of issuance of the temporary permit to the endorsement applicant, the temporary permit shall expire and may not be renewed.~~

AUTH: 37-1-131, ~~37-1-319~~, 37-22-201, MCA

IMP: 37-1-131, 37-1-304, ~~37-1-305~~, 37-23-202, MCA

REASON: The board is amending this rule and ARM 24.219.601 and 24.219.605 to separate and clearly set forth licensure requirements by applicant type. Following amendment, this rule will apply solely to out-of-state LCPC applicants for licensure, while requirements for original LCPC applicants and candidates will be in ARM 24.219.601 and 24.219.605.

The board determined it is reasonably necessary to amend this rule to align the standards for out-of-state applicants with the proper statutory authority. Following a review and recommendations by board staff, the board is amending this rule to facilitate licensure of those licensed in states or jurisdictions with requirements substantially equivalent to Montana's.

24.219.701 LMFT LICENSE REQUIREMENTS – ORIGINAL APPLICANTS APPLICATION PROCEDURES (1) Applicants for LMFT licensure not currently licensed in another state or jurisdiction must submit a completed application on forms provided by the department. Completed applications include appropriate fees and required documentation.

(2) Applicants must have a degree that:

(a) meets the requirements in 37-37-201, MCA;

(b) is a minimum of a master's degree in marriage and family counseling from a program accredited by the Council for the Accreditation of Counseling and Related Educational Programs (CACREP) or Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE); or

(c) is a minimum of a master's degree from an accredited institution consisting of a minimum of 60 semester hours or 90 quarter hours. Those hours must include a minimum of 48 semester hours or 72 quarter hours of courses in:

(i) foundations of relational/systemic practice, theories, and models;

(ii) biopsychosocial health and development across the life span;

(iii) clinical treatment with individuals, couples, and families;

(iv) ethics in marriage and family therapy;

(v) diverse, multicultural, and/or underserved communities; and

(vi) systemic/relational assessment and mental health diagnosis and treatment.

(3) In addition to the requirements in (2), applicants must:

(a) have completed supervised work experience that meets the requirements in 37-37-201, MCA, and ARM 24.219.704;

(b) have passed an examination as described in [NEW RULE VI] within four years of the date of application;

(c) have completed a Federal Bureau of Investigation fingerprint background check per 37-37-201, MCA, within six months of the application date; and

(d) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.

(4) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.

~~(1) Any person seeking licensure as a marriage and family therapist must apply on the board's official forms, which may be obtained through the department. All requirements with documentation must be met at the time of application. Incomplete applications will not be considered by the board.~~

~~(2) Completed applications must include:~~

~~(a) application fee;~~

~~(b) verification of the applicant's education via official transcripts provided directly from the school(s) and/or educational institution(s) to the board office; and~~

~~(c) three professional or academic reference letters, including one from the applicant's supervisor which shall include:~~

~~(i) name of applicant and supervisor, including the supervisor's type of license and number and signature;~~

~~(ii) dates and total hours of supervision received and number of supervised hours of clinical contact; and~~

~~(iii) recommendation to approve for licensure or not.~~

~~(3) An applicant must achieve a passing score on the National Marriage and Family Therapy Licensing Examination administered by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB).~~

~~(4) Applicants shall be given written notice of examination eligibility or ineligibility.~~

~~(5) The license will be effective as of the date all requirements, including payment of the original license fee, are met. An applicant shall not work as a licensed marriage and family therapist until the effective date of the license.~~

~~(6) Applicants shall be allowed a maximum of three attempts to successfully pass the examination.~~

~~(7) After the third attempt, if the applicant has not achieved a passing score, the applicant must request in writing to the board to retake the examination. The board may require the applicant to complete a preapproved remediation plan prior to additional exam administrations.~~

~~(8) If the applicant achieved a passing score on the National Marriage and Family Therapy Licensing Examination administered by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) as part of the applicant's graduate program, the passing examination score will be accepted for licensure. Examination results are valid within four years of the date the applicant took the examination that resulted in the passing score.~~

~~(9) If the applicant fails to satisfy the requirements for licensure within one year of the date the application is determined by the department to be complete, the application will expire, the application fee will be forfeited, and a new completed application and application fee will be required.~~

~~(10) All applicants must submit the fingerprint and background check required by the board.~~

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-37-201, MCA

REASON: The board is amending this rule and ARM 24.219.705 and 24.219.712 to separate and clearly set forth licensure requirements by applicant type. Following amendment, this rule will apply solely to original applicants for LMFT licensure, while requirements for candidates and out-of-state applicants will be in ARM 24.219.705 and 24.219.712.

The board is amending this rule to increase the degree credits required to qualify for licensure from 48 semester credits to 60 semester credits. The board determined this is reasonably necessary as the national standard is 60 credits. Additionally, the board is updating the areas of study in (2)(c) to reflect current national standards.

The board is relocating specific LMFT examination provisions to NEW RULE VI. For consistency with other board license types, the board is amending (3)(b) to require exam passage within four years of application. The board concluded more recent test results will help ensure competency as original applicants have no practice experience.

24.219.704 LMFT SUPERVISED WORK EXPERIENCE REQUIREMENTS

~~(1) For the purpose of meeting the 3,000 clock hour requirement of 37-37-201, MCA, an applicant shall provide verification of the following:~~

~~(a) up to 500 client contact hours accumulated during the attainment of the graduate degree, with:~~

~~(1) Applicants applying under ARM 24.219.701 must meet the supervised work experience requirements in 37-37-201, MCA, and as defined in ARM 24.219.301.~~

~~(2) As a part of the requirements in (1), the hours obtained post-degree must include:~~

~~(i) (a) supervision of up to 100 individual hours, using a 5:1 ratio of client contact hours to supervision hours of which at least 75 percent are in individual supervision as described in (1)(d) above; and~~

~~(ii) (b) group supervision must consist consisting of no more than six candidates supervisees; and~~

~~(b) (c) at least a minimum of 1000 post-degree hours of client contact accumulated after the attainment of the graduate degree and within the last five years; with a minimum of 50 percent of those hours providing services to couples and families, and under the supervision of a qualified supervisor, using There must be a 5:1 ratio of client contact hours to supervision hours with:~~

~~(i) at least 200 hours of face-to-face supervision of which at least 75 percent~~

150 hours are in individual supervision ~~as defined in (1)(d) above~~, and of which a minimum of 80 hours is earned with each supervisor; and

(ii) at least 50 percent 100 hours of supervision must involve involving raw clinical data, i.e., live observation in the therapy room or through a one-way mirror or live-feed camera, videotape, or audiotape.

(3) Candidates must clearly indicate they are a marriage and family therapist licensure candidate in all professional and private communications.

(4) When an LMFT candidate completes the requirements of (1) and (2) of this rule, the candidate will qualify for the examination per [NEW RULE VI]. Upon proof of passage of the examination, a candidate will be issued an LMFT license without further application.

~~(c) the 3,000 hours shall have been completed in their entirety at the time of submission of the application.~~

~~(2) Supervision guidelines are as follows:~~

~~(a) A supervisor must be a qualified supervisor.~~

~~(b) A supervision agreement shall be in writing and in a format approved by the board. The agreement shall include, but not be limited to:~~

~~(i) the applicant's or licensure candidate's and supervisor's names, signatures, and dates;~~

~~(ii) terms of the agreement including the duties of the applicant or candidate and supervisor, the obligations of the applicant or candidate and supervisor under this rule, frequency and method of supervision, duration and termination provisions; and~~

~~(iii) a statement of compliance with applicable patient privacy laws and the supervisor's qualifications.~~

~~(c) The supervisor's relationship with the applicant or licensure candidate shall not constitute a conflict of interest, such as, but not limited to, being in a cohabitation or financially dependent relationship with the applicant or licensure candidate, or being the applicant's or licensure candidate's parent, child, spouse, or sibling.~~

~~(d) A record of supervision must be maintained by the applicant or licensure candidate and may be requested by the board in its review of the application. The record of supervision must include:~~

~~(i) date and length of supervision in increments not less than 15 minutes;~~

~~(ii) names of applicant or licensure candidate, supervisor (including type of license and number), and signatures of both;~~

~~(iii) content summary (excluding confidential information);~~

~~(iv) evidence of the applicant's or licensure candidate's minimal competencies in the areas of an identified theory base, application of a differential diagnosis, establishing and monitoring a treatment plan, development and appropriate use of the professional relationship, assessing the client for risk of imminent danger, and implementing a professional and ethical relationship with clients and colleagues;~~

~~(v) content demonstrating the applicant's or licensure candidate's developing competence; and~~

~~(vi) attestation of the record of supervision by the supervisor. Falsification or misrepresentation of the record of supervision shall be considered unprofessional~~

conduct and may result in discipline of the supervisor's license.

~~(e) The supervisor must attest to the above under penalty of law. Falsification or misrepresentation of any of the above may be considered misrepresentation and a violation of professional ethics, which may result in discipline of the supervisor's license.~~

~~(3) All reports and/or assessment interpretations and results sent to other public or private agencies that affect the current status of a client must be reviewed by and contain the approval and signature of the supervisor. These reports shall identify the supervisee's nonlicensed status or identify that the supervisee is a marriage and family therapist licensure candidate.~~

~~(4) All therapeutic interventions and the assessment results and interpretations used in the planning and/or implementation of those therapeutic interventions shall be reviewed and preapproved by the supervisor on a continual and ongoing basis.~~

~~(5) All professional communications, both private and public, including advertisements, shall clearly indicate the supervisee's nonlicensed status or indicate that the supervisee is a marriage and family therapist licensure candidate.~~

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-37-201, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clearly set forth only the experience requirements necessary to obtain full LMFT licensure. The board is consolidating record requirements for all license types in NEW RULE I to simplify and standardize the rules.

24.219.705 MARRIAGE AND FAMILY THERAPIST LICENSURE
CANDIDATE APPLICATION PROCEDURES LMFT CANDIDATE LICENSE
REQUIREMENTS (1) Applicants for LMFT candidate licenses apply using the
same application as LMFT applicants.

(2) Applicants must have a degree that:

(a) meets the requirements in 37-37-201, MCA;

(b) is a minimum of a master's degree in marriage and family counseling from a program accredited by the Council for the Accreditation of Counseling and Related Educational Programs (CACREP) or the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE); or

(c) is a minimum of a master's degree from an accredited institution consisting of a minimum of 60 semester hours or 90 quarter hours. Those hours must include a minimum of 48 semester hours or 72 quarter hours of courses in:

(i) foundations of relational/systemic practice, theories, and models;

(ii) biopsychosocial health and development across the life span;

(iii) clinical treatment with individuals, couples, and families;

(iv) ethics in marriage and family therapy;

(v) diverse, multicultural, and/or underserved communities; and

(vi) systemic/relational assessment and mental health diagnosis and treatment.

(3) In addition to the education requirements in (2), applicants must:

- (a) have a supervisor that meets the requirements in ARM 24.219.421;
- (b) have completed a Federal Bureau of Investigation fingerprint background check per 37-37-205, MCA, within six months of the application date; and
- (c) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.

(4) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.

~~(1) A person seeking licensure as a marriage and family therapist licensure candidate must apply on the board's official forms which may be obtained through the department. All requirements with documentation must be met at the time of application. Incomplete applications will not be considered by the board.~~

~~(2) A completed marriage and family therapist licensure candidate application must include:~~

- ~~(a) the application fee;~~
- ~~(b) official transcripts provided directly from the institution documenting the applicant's completion of a master's degree or doctoral degree in:~~
 - ~~(i) marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE);~~
 - ~~(ii) marriage and family counseling from a program accredited by the Council for the Accreditation of Counseling and Related Educational Programs (CACREP);~~
 - ~~or~~

~~(iii) a closely related field, for example, marriage and family counseling with an educational program consisting of a minimum of 48 semester hours (or 72 quarter hours) that includes at least 36 hours of courses comprised of human development, family development/family dynamics, marriage and family systems/systems theory, marriage and family therapy, ethics in marriage and family therapy, and research in marriage and family therapy;~~

- ~~(c) documentation of all supervised marriage and family therapy experience completed prior to completion of the academic degree. Experience must be completed and documented pursuant to the requirements of ARM 24.219.704; and~~
- ~~(d) the licensure candidate's proposed training and supervision plan.~~

~~(3) A training and supervision plan is subject to board approval, must be in a form approved by the board, and must include:~~

- ~~(a) identification of the candidate and qualified supervisors;~~
- ~~(b) the supervisors' license types, license numbers, and amount of post-licensure experience or training in clinical supervision;~~
- ~~(c) verification that any and all licenses held by the supervisors in all jurisdictions are unrestricted with no pending discipline;~~
- ~~(d) a proposed record of supervision in a form approved by the board that will address and document the licensure candidate's experience for the purpose of meeting the requirements of 37-37-201(1)(c), MCA, and satisfy the requirements of ARM 24.219.704; and~~

~~(e) a signed supervision agreement between the candidate and supervisors addressing the duties of the candidate and supervisors, the obligations of the candidate and supervisor under ARM 24.219.704, confidentiality, frequency and~~

method of supervision, and duration and termination of the supervision agreement.
~~(4) All applicants must submit the fingerprint and background check required by the board.~~

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-37-205, MCA

REASON: The board is amending this rule and ARM 24.219.701 and 24.219.712 to separate and clearly set forth licensure requirements by applicant type. Following amendment, this rule will apply solely to applicants for LMFT candidates, while requirements for original and out-of-state LMFT applicants will be in ARM 24.219.701 and 24.219.712.

The board is amending this rule to increase the degree credits required for licensure from 48 semester credits to 60 semester credits. The board determined this is reasonably necessary as the national standard is 60 credits. Additionally, the board is updating the courses in (2)(c) to reflect current national standards.

24.219.712 LICENSURE OF OUT-OF-STATE LMFT LICENSES – OUT-OF-STATE APPLICANTS (1) Applicants for licensure who are currently licensed in another state or jurisdiction must submit a completed application on forms provided by the department. Completed applications include appropriate fees and required documents.

(2) Applicants must:

(a) hold a current, active license in good standing in another state or jurisdiction to practice marriage and family therapy under a scope of practice recognized in Montana. At the time of application, the standards of that state or jurisdiction must be substantially equivalent to Montana standards;

(b) pass an examination as required in 37-37-201, MCA;

(c) have completed a Federal Bureau of Investigation fingerprint background check per 37-37-201, MCA, within six months of the application date; and

(d) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.

(3) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.

~~(1) A license to practice as a licensed marriage and family therapist in the state of Montana may be issued to the holder of an out-of-state marriage and family therapist license, provided the applicant completes, and files with the board, an application for licensure and the required application fee. The candidate must have held a valid and unrestricted license as a licensed marriage and family therapist in another state or jurisdiction, which was issued under standards equivalent to or greater than current standards in this state. Official written verification of such licensure status must be received by the board directly from the other state(s) or jurisdiction(s).~~

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-1-304, 37-37-201, MCA

REASON: The board is amending this rule and ARM 24.219.701 and 24.219.705 to separate and clearly set forth licensure requirements by applicant type. Following amendment, this rule will apply solely to out-of-state LMFT applicants for licensure, while requirements for original LMFT applicants and candidates will be in ARM 24.219.701 and 24.219.705.

The board determined it is reasonably necessary to amend this rule to align the standards for out-of-state applicants with the proper statutory authority. Following a review and recommendations by board staff, the board is amending this rule to facilitate licensure of those licensed in states or jurisdictions with requirements substantially equivalent to Montana's.

24.219.907 CBHPSS LICENSE REQUIREMENTS – ORIGINAL APPLICANTS APPLICATION PROCEDURES (1) Applicants for CBHPSS certification not currently licensed in another state or jurisdiction must submit a completed application on forms provided by the department. Completed applications include appropriate fees and required documentation.

(2) Applicants must meet the following requirements:

(a) proof of completion of a training course with examination as described in ARM 24.219.912;

(b) have a supervisor that meets the requirements in ARM 24.219.421;

(c) attestation of having been diagnosed with and having received treatment for a behavioral health disorder as per 37-38-202, MCA;

(d) attestation to being in recovery per 37-38-202, MCA, and ARM 24.219.301;

(e) have completed a Federal Bureau of Investigation fingerprint background check per 37-38-202, MCA, within six months of the application date; and

(f) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.

(3) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.

(4) Once certified, CBHPSS must clearly indicate their certification in all professional and private communications and may use the titles in 37-38-201, MCA.

~~(1) Any person seeking certification as a CBHPSS must apply on the board's official forms, which may be obtained through the department or from the board web site. All requirements must be met at the time of application. Incomplete applications will not be considered by the board.~~

~~(2) Completed applications must include:~~

~~(a) payment of an application fee;~~

~~(b) attestation by the applicant of the applicant's diagnosed behavioral health disorder;~~

~~(c) attestation by the applicant of the applicant's behavioral health disorder recovery that does not include any period of incarceration, or hospitalization or any inpatient admission related to a behavioral health disorder that exceeds 72 hours, within the two years immediately preceding application;~~

~~(d) receipt of fingerprint and background results as reported to the board office by the Department of Justice within 90 days of making application;~~

~~(e) official transcripts or training certificates provided directly from the provider documenting completion of 40 hours of the training course in behavioral health peer support, per ARM 24.219.912; and~~

~~(f) a written agreement and supervision plan between the applicant and the qualified supervisor who will provide supervision once the certificate is issued. The agreement shall include:~~

~~(i) the name and signatures of the applicant and supervisor, including the supervisor's license type, license number, signature, and the service delivery site; and~~

~~(ii) a work plan that complies with the supervision guidelines outlined in ARM 24.219.916.~~

~~(3) Individuals who have practiced as behavioral health peer support specialists prior to October 1, 2017, shall complete all requirements of this rule.~~

~~(a) Training hours may include peer support specialist education hours completed in the past five years.~~

~~(b) On-the-job training does not qualify as approvable education hours.~~

~~(4) The certificate will be effective as of the date all requirements are met and the certificate is issued by the board office.~~

~~(5) An applicant shall not work as a CBHPSS until the effective date of the certificate.~~

~~(6) If the applicant fails to satisfy the requirements for certification within one year of the date the application is determined by the department to be incomplete, the application will expire, the application fee will be forfeited, and a new completed application and application fee will be required.~~

AUTH: 37-1-131, 37-38-202, MCA

IMP: 37-1-131, 37-38-202, MCA

REASON: The board is amending this rule to address applicant questions by clearly setting forth the requirements for original CBHPSS certification.

The board is consolidating supervision requirements for all license types in NEW RULE I to simplify and standardize the rules.

24.219.912 CBHPSS TRAINING COURSE AND EXAMINATIONS

EDUCATION REQUIREMENTS ~~(1) Applicants must provide documentation of completion of 40 hours of a training course in behavioral health peer support.~~

~~(2) All training programs must be approved by the board and those approved programs shall be posted on the board's web site. All education programs must provide content in the following domains:~~

(1) Board-approved training courses must include an examination that must be passed. The course must provide content including but not limited to:

(a) Substance Abuse and Mental Health Services Administration (SAMHSA) core competencies;

(b) through (s) remain the same.

~~(3) The training course in behavioral health peer support shall include successful completion of an exam. Exam scores shall be submitted with the training course.~~

AUTH: 37-1-131, 37-38-202, MCA

IMP: 37-1-131, 37-38-202, MCA

REASON: For clarity and simplification, the board is relocating application requirements for original applicants to ARM 24.219.907 and out-of-state applicants to ARM 24.219.923, and replacing "program" with "course" to match statutory language.

24.219.923 CERTIFICATION OF CBHPSS CERTIFICATION REQUIREMENTS – OUT-OF-STATE APPLICANTS (1) Applicants for CBHPSS certification who are currently licensed in another state or jurisdiction must submit a completed application on forms provided by the department. Completed applications include appropriate fees and required documents.

(2) Applicants must:

(a) hold a current, active license in good standing in another state or jurisdiction for peer support under a scope of practice recognized in Montana. At the time of application, the standards of that state or jurisdiction must be substantially equivalent to Montana standards;

(b) have completed a Federal Bureau of Investigation fingerprint background check per 37-38-202, MCA, within six months of the application date; and

(c) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.

(3) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.

(4) Once certified, CBHPSS must clearly indicate their certification in all professional and private communications and may use the titles in 37-38-201, MCA.

~~(1) Certification as a CBHPSS may be issued to the holder of an out-of-state peer support specialist license or certificate, provided the applicant meets the requirements of ARM 24.219.907. Official written verification of such licensure or certification status must be received by the board directly from the other state(s) or jurisdiction(s).~~

AUTH: 37-1-131, 37-38-202, MCA

IMP: 37-1-131, 37-1-304, 37-38-202, MCA

REASON: The board determined it is reasonably necessary to amend this rule to address confusion by clearly setting forth CBHPSS certification requirements for out-of-state applicants.

The board is also amending this rule to align the standards for out-of-state applicants with the proper statutory authority. Following a review and recommendations by board staff, the board is amending this rule to facilitate

certification of those licensed in states or jurisdictions with requirements substantially equivalent to Montana's.

24.219.5005 GAMBLING DISORDER EDUCATION REQUIREMENT FOR CURRENT LICENSED ADDICTION COUNSELOR LAC LICENSEES (1) LAC licensees licensed on or before August 20, 2017, whose licenses have been administratively suspended for not obtaining 15 hours of education pertaining to gambling disorder assessment and counseling by August 20, 2017, can bring their licenses into compliance if they meet the following requirements:

(a) submit proof of completion of gambling disorder assessment and counseling education that meets the boards continuing education requirements in ARM 24.219.5017 and 24.219.5018;

(b) meet any other board requirements for reactivation for an administratively suspended license; and

(c) if the license is in expired status, meet the requirements for renewing an expired license per ARM 24.101.408.

(2) Education obtained to meet this requirement can also count toward annual CE requirements described in ARM 24.219.5016.

~~(1) For individuals holding a valid Montana LAC license on or before August 20, 2017, the gambling disorder assessment and counseling education requirement in ARM 24.219.5004(3)(i) shall be satisfied as follows:~~

~~(a) Licensees shall obtain 15 hours of education regarding gambling disorder assessment and counseling. These education credits:~~

~~(i) shall count towards the licensees current continuing education renewal requirement;~~

~~(ii) may be obtained by any means delineated in ARM 24.219.5018; and~~

~~(iii) must be completed no more than three years prior to, or one year following August 20, 2016.~~

~~(b) Licensees shall submit proof of compliance with this requirement to the board office no later than August 20, 2017.~~

AUTH: 37-1-131, 37-35-103, MCA

IMP: 37-1-321, ~~37-35-102~~, 37-35-103, MCA

REASON: The board determined it is reasonably necessary to amend this rule and remove obsolete requirements. Licensees who did not meet the requirement to obtain the gambling education credits by August 20, 2017, had their licenses placed on administrative suspension. The board is further amending this rule to outline the process for coming into compliance and being taken off administrative suspension for licensees still able to reactivate their licenses.

24.219.5006 LICENSED ADDICTION COUNSELOR APPLICATION PROCEDURES LAC LICENSE REQUIREMENTS – ORIGINAL APPLICANTS

(1) Applicants for LAC licensure not currently licensed in another state or jurisdiction must submit a completed application on forms provided by the department. Completed applications include appropriate fees and required documentation.

- (2) Applicants must meet the following education requirements:
- (a) have a degree that meets the requirements in 37-35-202(2)(a) or (b), MCA. A "comparable" degree is defined in 37-35-202(9), MCA; and
 - (b) have completed 330 contact hours of training in addiction studies completed either in whole or in part of the degree in (a). If not all 330 required hours were completed as part of the degree, then the applicant can complete those outside of the degree in (a). The 330 hours must be in the following areas:
 - (i) minimum of 60 hours in chemical dependency assessment and patient placement (must include chemical dependency assessment, biopsychosocial testing, diagnosis, referrals, and patient placement);
 - (ii) minimum of 90 hours in counseling;
 - (iii) minimum of 30 hours in pharmacology (must include drug classification, effects, detoxification, and withdrawal);
 - (iv) minimum of 10 hours in ethics;
 - (v) minimum of 30 hours in alcohol and drug studies;
 - (vi) minimum of 30 hours in treatment planning and documentation;
 - (vii) minimum of 20 hours in multicultural competency which includes knowledge of and sensitivity to the cultural factors and needs of diverse populations and demonstrates competency in applying culturally relevant skills;
 - (viii) minimum of 30 hours in co-occurring disorders; and
 - (ix) minimum of 30 hours in gambling/gaming disorder assessment and counseling.
- (3) In addition to the requirements in (1) and (2), applicants must:
- (a) have completed a supervised work experience that meets the requirements in ARM 24.219.5008;
 - (b) have passed an examination as described in [NEW RULE VII] within four years of the date of the application;
 - (c) have completed a Federal Bureau of Investigation fingerprint background check per 37-35-202, MCA, within six months of the application date; and
 - (d) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.
- (4) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.
- (1) An individual seeking licensure in Montana as a licensed addiction counselor (LAC) must submit the following:
- (a) a completed application;
 - (b) official transcripts to verify graduation and completion of the requirements of 37-35-202, MCA, and ARM 24.219.5004, sent directly from the accredited college or university;
 - (c) specific information regarding the licensed addiction counseling qualified treatment setting satisfying ARM 24.219.5010 where the supervised work experience will be completed;
 - (d) specific information regarding the applicants supervisor and demonstrating the supervisor has met the qualifications listed in ARM 24.219.5009, including:

- ~~(i) name and qualifications of the supervisor responsible for the supervised work experience;~~
- ~~(ii) verification that any and all licenses held by the supervisor in other jurisdictions are unrestricted with no pending discipline; and~~
- ~~(iii) proof that the supervisor has at least three years of licensed addiction counseling experience post licensure in an approved addiction counseling treatment setting;~~
- ~~(e) documentation, on a form approved by the board, that the applicant has satisfied the supervised experience requirements in ARM 24.219.5008;~~
- ~~(f) the fingerprint and background check required by the board; and~~
- ~~(g) required application fee payment.~~
- ~~(2) Except as provided in (5), all supervised experience hours must be completed pursuant to ARM 24.219.5008 before an individual is eligible to take the written examination.~~
- ~~(3) The addiction counselor written examination shall cover four content areas, including, but not limited to:~~
 - ~~(a) pharmacology of psychoactive substances;~~
 - ~~(b) counseling practice;~~
 - ~~(c) theoretical based counseling; and~~
 - ~~(d) professional issues.~~
- ~~(4) Applicants must receive a passing score on the Level 1 or Level 2 written examination prescribed by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NCC), on the Northwest Certification II, or on the Southwest Certification II. Test results are sent to the applicants and the department. Applicants receive an "overall" score for the examination and separate scores for each of the content areas.~~
- ~~(5) If the applicant achieved a passing score on the NCC Level 1 or Level 2 examination, the Northwest Certification II examination, or the Southwest Certification II examination as part of the applicants education program, the passing examination score will be accepted for licensure.~~
- ~~(6) Examination results are valid within four years of the date the applicant took the examination that resulted in the passing score.~~
- ~~(7) Applicants shall be allowed a maximum of three attempts to successfully pass the examination.~~
- ~~(8) After the third attempt, if the applicant has not achieved a passing score, the applicant must request in writing to the board to retake the examination. The board may require the applicant to complete a preapproved remediation plan prior to additional exam administrations.~~

AUTH: 37-1-131, 37-35-103, 37-35-202, MCA

IMP: 37-1-131, 37-35-103, 37-35-202, MCA

REASON: The board is amending this rule and ARM 24.219.5007 and 24.219.5013 to separate and clearly set forth LAC licensure requirements by applicant type. Following amendment, this rule will apply solely to original applicants for LAC licensure, while requirements for candidates and out-of-state applicants will be in ARM 24.219.5007 and 24.219.5013.

Additionally, the board is reducing the education hours in (2)(b) from 15 hours of ethics to 10 while increasing the number of multicultural competency hours from 15 to 20. The board concluded this change will more accurately capture the minimum education competencies necessary to practice in Montana.

24.219.5007 LICENSURE OF OUT-OF-STATE LAC LICENSE REQUIREMENTS – OUT-OF-STATE APPLICANTS (1) Applicants for LAC licensure who are currently licensed in another state or jurisdiction must submit a completed application on forms provided by the department. Completed applications include appropriate fees and required documents.

(2) Applicants must:

(a) hold a current, active license in good standing in another state or jurisdiction to practice addiction counseling. At the time of application, the standards of that state or jurisdiction must be substantially equivalent to Montana standards;

(b) have completed a Federal Bureau of Investigation fingerprint background check per 37-35-202, MCA, within six months of the application date; and

(c) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.

(3) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.

~~(1) A license to practice as a licensed addiction counselor in Montana may be issued to the holder of an out-of-state licensed addiction counselor or equivalent license at the discretion of the board, provided the applicant completes and files with the board an application for licensure and pays the required application fee. The applicant shall:~~

~~(a) hold a valid and unrestricted license to practice as a licensed addiction counselor or equivalent in another state or jurisdiction that was issued under standards substantially equivalent to or greater than current standards in this state. Official written verification of such licensure status must be received by the board directly from the other state(s) or jurisdiction(s);~~

~~(b) hold a degree, which meets the requirements of 37-35-202, MCA, and shall supply a copy of the certified transcript sent directly from an accredited college, university, or institution, and complete the degree summary sheet provided by the board;~~

~~(i) Candidates who did not obtain the addiction-specific education hours within their degree must complete an addiction-specific education summary sheet.~~

~~(c) supply proof of successful completion of the National Association of Alcoholism and Drug Abuse Counselors Certification Commission Level 1 or Level 2 examination, the Northwest Certification II examination, or the Southwest Certification II examination or another board-approved licensing examination. The applicants scores on the examination must be forwarded directly to the board;~~

~~(d) submit proof of completion of the hours of addiction counseling experience required in ARM 24.219.5008. The applicant may verify the experience hours by affidavit and need not supply a supervisors signature upon reasonable explanation of why the supervisors signature is unavailable to the applicant;~~

~~(e) submit proof of continuous practice as a licensed addiction counselor or equivalent in another jurisdiction for the two years immediately preceding the date of application in Montana; and~~

~~(f) answer questions about the applicants character and fitness to practice on a form prescribed by the board, and provide all information required by the board in response to these questions.~~

~~(2) All applicants must submit the fingerprint and background checks required by the board.~~

~~(3) An out-of-state applicant for licensure in Montana may be granted a temporary permit to practice addiction counseling, provided:~~

~~(a) the applicant has submitted a completed application as described in this subchapter; and~~

~~(b) the initial screening by board staff shows the current license is in good standing and not on probation or subject to ongoing disciplinary action.~~

~~(i) The temporary permit will remain valid until a license is granted or until notice of proposal to deny license is served, whichever occurs first.~~

~~(ii) In the event that neither contingency has occurred within one year of issuance of the temporary permit, the temporary permit shall expire and may not be renewed.~~

AUTH: 37-1-131, 37-35-103, 37-35-202, MCA

IMP: 37-1-131, 37-1-304, 37-35-103, 37-35-202, MCA

REASON: The board is amending this rule and ARM 24.219.5006 and 24.219.5013 to separate and clearly set forth licensure requirements by applicant type. Following amendment, this rule will apply solely to out-of-state LAC applicants for licensure, while requirements for original LAC applicants and candidates will be in ARM 24.219.5006 and 24.219.5013.

The board determined it is reasonably necessary to amend this rule to align the standards for out-of-state applicants with the proper statutory authority. Following a review and recommendations by board staff, the board is amending this rule to facilitate licensure of those licensed in states or jurisdictions with requirements substantially equivalent to Montana's.

24.219.5008 LAC SUPERVISED WORK EXPERIENCE REQUIREMENTS

(1) Applicants applying under ARM 24.219.5006 must meet the supervised work experience requirement which includes:

(4) (a) A minimum of seven months and 1000 hours of supervised work experience hours in a licensed an addiction counseling qualified treatment setting pursuant to ARM 24.219.5010 is required for licensure. program as defined in ARM 24.219.5010; and

(b) the criteria for supervised work experience in ARM 24.219.301.

~~(2) An LAC applicants or licensure candidates supervised experience must be documented on weekly timesheets.~~

~~(a) The weekly timesheets must document work experience in the following 11 skill areas:~~

(2) As part of the required hours in (1) at least 500 hours must be in the following skill areas under face-to-face supervision by the supervisor:

- (i) (a) screening, minimum of 30 hours;
- (ii) (b) assessment/patient placement, minimum of 100 hours;
- (iii) (c) treatment planning, minimum of 50 hours;
- (iv) (d) referrals, minimum of 20 hours;
- (v) (e) case management, minimum of 50 hours;
- (vi) (f) individual counseling, minimum of 60 hours;
- (vii) (g) group counseling, minimum of 100 hours;
- (viii) (h) client education, minimum of 35 hours;
- (ix) (i) documentation, minimum of 35 hours;
- (x) (j) professional and ethical responsibilities, minimum of 10 hours; and
- (xi) (k) multicultural competency, minimum of 10 hours.

(3) The 1000 hours of supervised work experience must be completed in not more than two different qualified treatment programs.

(4) Candidates must clearly indicate they are an addiction counselor licensure candidate in all professional and private communications.

(5) When an LAC candidate completes the requirements of (1) and (2) of this rule, the candidate will qualify for the examination per [NEW RULE VII]. Upon proof of passage of the examination, a candidate will be issued an LAC license without further application.

~~(b) The weekly timesheets must be signed by the supervisor and submitted to the department with an application for licensure.~~

~~(c) The supervisor must observe the work of the LAC applicant or licensure candidate in each of the 11 skill areas. Observation may occur via Skype or other similar technological means.~~

~~(d) A summary sheet for each supervisor named must also be attached to the weekly timesheets to verify the LAC applicant or licensure candidate has met the required minimum hours in the 11 skill areas. This summary sheet shall summarize the weekly timesheets.~~

~~(e) LAC applicants and licensure candidates must complete the required minimum hours in the 11 skill areas as follows. The remaining hours must be under onsite clinical supervision in each of the 11 skill areas.~~

Skill Areas	Hours
screening	30
assessment/patient placement	100
treatment planning	50
referrals	20
case management	50
individual counseling	60
group counseling	100
client education	35
documentation	35

professional and ethical responsibilities	10
multicultural competency	10
TOTAL	500

~~(3) An LAC applicant or licensure candidate may select any of the 11 skill areas in order to accumulate the remaining supervised work experience hours.~~

~~(4) The supervisor's relationship with the LAC applicant or licensure candidate shall not constitute a conflict of interest, including, but not limited to being in a cohabitation or financially dependent relationship with the LAC applicant or licensure candidate, or being the applicant's or licensure candidate's parent, child, spouse, or sibling.~~

~~(5) Supervised work experience hours may be gained through paid work experience, academic internship hours, or unpaid volunteer work if the LAC applicant or licensure candidate is supervised by a qualified supervisor in a qualified treatment setting.~~

~~(6) Supervised work experience must be completed in not more than two different treatment settings.~~

AUTH: 37-1-131, 37-35-103, 37-35-202, MCA

IMP: 37-1-131, 37-35-103, 37-35-202, MCA

REASON: The board determined it is reasonably necessary to amend this rule to address confusion by clearly setting forth the experience requirements necessary for full LAC licensure. The board is consolidating record requirements for all license types in NEW RULE I to simplify and standardize the rules.

The board is striking "licensed" from (1)(a) to remove potential confusion since the board does not license addiction counseling treatment programs. Instead the amendment specifies qualified treatment programs as referenced in 37-35-202, MCA, and defined in ARM 24.219.5010.

24.219.5010 QUALIFIED TREATMENT PROGRAM SETTING (1) Qualified treatment ~~settings~~ programs include those addiction treatment programs where ~~licensed addiction counselor (LAC) applicants or licensure~~ candidates may obtain supervised work experience based on nationally recognized patient placement criteria. Criteria for these treatment settings may include settings that provide the basis for a continuum of care for patients with addictions and settings that include any level of care as defined by American Society of Addiction Medicine (ASAM) in The ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions (October 24, 2013).

(2) Qualified treatment ~~settings~~ programs for supervised work experience are:

(a) through (f) remain the same.

(3) Qualified treatment ~~settings~~ programs must have a direct referral relationship for the provision of:

- (a) through (e) remain the same.
- (4) Qualified treatment settings programs must demonstrate the individualized treatment plans including:
 - (a) through (e) remain the same.

AUTH: 37-1-131, 37-35-103, 37-35-202, MCA

IMP: 37-1-131, 37-35-103, 37-35-202, MCA

REASON: The board is amending this rule to change "setting" to "program" to match statutory language.

24.219.5013 ADDICTION COUNSELOR LICENSURE CANDIDATE APPLICATION PROCEDURES LAC CANDIDATE LICENSE REQUIREMENTS

- (1) Applicants for LAC candidate licenses apply using the same application as LAC applicants.
- (2) Applicants for LAC candidate must meet the following education requirements:
 - (a) have a degree that meets the requirements in 37-35-202(2)(a) or (b), MCA. A "comparable" degree is defined in 37-35-202(9), MCA; and
 - (b) have completed 330 contact hours of training in addiction studies completed either in whole or in part of the degree in (a). If not all 330 required hours were completed as part of the degree, then the applicant can complete those hours outside of the degree in (a). The 330 hours must be in the following areas:
 - (i) minimum of 60 hours in chemical dependency assessment and patient placement (must include chemical dependency assessment, biopsychosocial testing, diagnosis, referrals, and patient placement);
 - (ii) minimum of 90 hours in counseling;
 - (iii) minimum of 30 hours in pharmacology (must include drug classification, effects, detoxification, and withdrawal);
 - (iv) minimum of 10 hours in ethics for addiction counselors;
 - (v) minimum of 30 hours in alcohol and drug studies;
 - (vi) minimum of 30 hours in treatment planning and documentation;
 - (vii) minimum of 20 hours in multicultural competency which includes knowledge of and sensitivity to the cultural factors and needs of diverse populations and demonstrates competency in applying culturally relevant skills;
 - (viii) minimum of 30 hours in co-occurring disorders; and
 - (ix) minimum of 30 hours in gambling/gaming disorder assessment and counseling.
- (3) In addition to the requirements in (1) and (2), applicants must:
 - (a) have completed a Federal Bureau of Investigation fingerprint background check per 37-35-202, MCA, within six months of the application date; and
 - (b) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.
- (4) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.

~~(1) A person seeking licensure as an addiction counselor licensure candidate must apply on the boards official forms which may be obtained through the department. All requirements with documentation must be met at the time of application. Incomplete applications will not be considered by the board.~~

~~(2) A completed addiction counselor licensure candidate application must include:~~

~~(a) the application fee;~~

~~(b) official transcripts provided directly from the institution documenting the applicants completion of the education required by ARM 24.219.5004; and~~

~~(c) the licensure candidates proposed training and supervision plan.~~

~~(3) A training and supervision plan is subject to board approval, must be in a form approved by the board, and must include:~~

~~(a) identification of the candidate and qualified supervisors;~~

~~(b) the supervisors license types, license numbers, and amount of post-licensure experience in a qualified treatment setting;~~

~~(c) verification that any and all licenses held by the supervisors in all jurisdictions are unrestricted with no pending discipline;~~

~~(d) identification of the applicants qualified treatment setting and evidence that the qualified treatment setting satisfies the requirements of ARM 24.219.5010;~~

~~(e) a proposed record of supervision in a form approved by the board that will address and document the licensure candidates experience for the purpose of meeting the requirements of ARM 24.219.5008; and~~

~~(f) a signed supervision agreement between the candidate and supervisors addressing the duties of the candidate and supervisors, the obligations of the candidate and supervisor under ARM 24.219.5008, confidentiality, frequency and method of supervision, and duration and termination of the supervision agreement.~~

~~(4) All applicants must submit the fingerprint and background check required by the board.~~

AUTH: 37-1-131, 37-35-103, 37-35-202, MCA

IMP: 37-1-131, 37-35-103, 37-35-202, MCA

REASON: The board is amending this rule and ARM 24.219.5006 and 24.219.5007 to separate and clearly set forth licensure requirements by applicant type. Following amendment, this rule will apply solely to applicants for LAC candidates, while requirements for original and out-of-state LAC applicants will be in ARM 24.219.5006 and 24.219.5007.

Additionally, the board is reducing the education hours in (2)(b) from 15 hours of ethics to 10 while increasing the number of multicultural competency hours from 15 to 20. The board concluded this change will more accurately capture the minimum education competencies necessary to practice in Montana.

5. The proposed new rules are as follows:

NEW RULE I GENERAL SUPERVISION AND RECORDKEEPING
REQUIREMENTS – LCSW, LCPC, LMFT, AND CANDIDATES AND CBHPSS

(1) A supervisor must meet the requirements of ARM 24.219.421.

(2) Candidates must maintain the following records for a minimum of seven years from the date of licensure as an LCSW, LCPC, LMFT, or LAC or seven years from the expiration of their candidate license if they do not obtain a Montana LCSW, LCPC, LMFT, or LAC license:

- (a) names and license numbers of candidate and supervisor;
- (b) date and length of supervision sessions in increments not less than 15 minutes with a description of the supervised work experience as required under ARM 24.219.504, 24.219.604, 24.219.704, or 24.219.5008;
- (c) content summary of the supervision session (excluding confidential information);
- (d) content demonstrating the candidate's developing competence under ARM 24.219.504, 24.219.604, 24.219.704, or 24.219.5008; and

(e) supervisor attestation within the record that the records are accurate.

(3) CBHPSS must maintain the following records seven years from the date a supervisor ceased to supervise the CBHPSS:

- (a) names and license numbers of candidate and supervisor;
- (b) date and length of supervision sessions in increments of not less than 15 minutes with a description of supervision;
- (c) content summary of the supervision session (excluding confidential information); and
- (d) supervisor attestation within the record that the records are accurate.

(4) Candidates, CBHPSS, and supervisors must comply with applicable client privacy laws.

(5) Supervisors of candidates and CBHPSS must:

- (a) review and sign all reports and/or assessment interpretations and results sent to other public or private agencies that affect the current status of a client;
- (b) preapprove on a continual and ongoing basis all therapeutic interventions or supportive interventions and the assessment results and interpretations used in the planning and/or implementation of those therapeutic interventions; and
- (c) maintain records showing licensees have met the supervision requirements in this rule and [NEW RULE II] for a minimum of seven years after the date the supervisor ceased to supervise the candidate or CBHPSS.

(6) The supervisor may be subject to disciplinary action for failure to adequately supervise the candidate or CBHPSS under this board's statutes and rules.

(7) The board may request records from candidates and CBHPSS at any time.

(8) The board may annually randomly audit a board-determined percentage of candidates and CBHPSS who have renewed their licenses to evaluate:

- (a) whether records are being maintained in compliance with this rule; and
- (b) that the supervision requirements of this rule and [NEW RULE II], and ARM 24.219.504, 24.219.604, 24.219.704, or 24.219.5008 are being met.

AUTH: 37-1-131, 37-22-201, 37-35-103, 37-35-202, MCA

IMP: 37-1-131, 37-22-301, 37-23-202, 37-35-103, 37-35-202, 37-37-201, 37-38-202, MCA

REASON: The board is adopting this new rule to consolidate supervised work experience recordkeeping provisions for all license types for simplicity and ease of use. The board is setting a records retention period for seven years from when a supervisor/supervisee relationship ends for consistency among supervised license types and to ensure candidates maintain records a minimum of two years after the maximum length of a candidate license.

Additionally, to ensure both sides of the supervision relationship are represented in the records, the new rule will require that supervisors, as well as candidates, maintain supervision records. This change will help ensure a more complete documentation of the supervision, should discrepancies arise.

In consolidating supervision and record requirements for all license types in this new rule, the board will no longer require candidates to submit supervision logs at the end of a candidacy for licensure. Supervisors and candidates will maintain records and ultimately attest to the candidate having complied with supervision requirements. The board determined it is reasonably necessary to add a specific time for records retention and hold licensees responsible to maintain documents instead of the department maintaining logs as part of a licensing record. These changes align with and facilitate the department's standardized application and records management procedures.

To ensure that candidates are obtaining the necessary supervision throughout the term of their candidate license, the board is adding (8) to allow a random compliance audit of a percentage of actively licensed candidates.

NEW RULE II CHANGE OF SUPERVISOR (1) An LCSW, LCPC, LMFT, or LAC candidate or CBHPSS cannot practice without a supervisor as described in this chapter.

(2) When there is a change in supervisor, using forms provided by the department:

(a) the candidate or CBHPSS must notify the board at least ten business days prior to the change;

(b) the new supervisor must notify the board at least ten business days prior to the change; and/or

(c) the individual ceasing to supervise a candidate or CBHPSS must notify the board of termination of supervision within ten business days following termination of supervision.

(3) The supervisor, candidate, or CBHPSS may be subject to disciplinary action for failure to report change in supervisor.

AUTH: 37-1-131, 37-22-201, 37-35-103, 37-35-202, MCA

IMP: 37-1-131, 37-22-301, 37-23-202, 37-35-103, 37-35-202, 37-37-201, 37-38-202, MCA

REASON: The board is consolidating change of supervisor requirements for all license types into this rule for simplicity, ease of use, and to require the use of department-provided forms. Current rules require only that candidates and CBHPSS licensees notify the board of supervision changes. To reduce confusion about when a supervision relationship has changed, this new rule requires that

supervisors also notify the board. This change will help standardize the notification process and facilitate department efficiencies and recordkeeping.

NEW RULE III EXAMINATION – LCSW (1) The following examinations are approved for licensure:

- (a) Association of Social Work Boards (ASWB) clinical examination; or
- (b) other licensing examinations approved by the board.
- (2) Individuals who have not already passed an approved examination will be approved by department staff to register for the ASWB examination upon:
 - (a) submission of a complete application under ARM 24.219.501 or 24.219.512 where all requirements with the exception of the examination have been met; or
 - (b) proof of completion of supervised work experience requirements as described in ARM 24.219.504.
- (3) Applicants or candidates may not take the ASWB examination more than three times unless approved by the board to retake the examination. Applicants or candidates requesting to retake the examination must submit a request including but not limited to a specific study plan.

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-22-301, MCA

REASON: The board is relocating specific LCSW examination standards and procedures in this new rule that applies to all methods of LCSW application and eliminates unnecessary duplication in multiple rules. The board is also adding the requirement to submit a study plan in (3) so applicants are aware of the minimum information required to petition to retake an exam after failing at least three times.

NEW RULE IV ADDITIONAL EDUCATION REPORTING – LCPC

(1) Applicants whose education meets the requirements of 37-23-202(2), MCA, instead of 37-23-201(1)(a), MCA, who qualify for licensure in ARM 24.219.601, 24.219.605, or 24.219.612, must submit proof of having completed the additional graduate-level hours of education within five years from the date of licensure.

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-23-202, MCA

REASON: The board is relocating this requirement from ARM 24.219.603(3) since the requirement is not related to initial application requirements. People who need to show proof of having met this requirement have already been issued a license and are not applicants.

NEW RULE V EXAMINATION – LCPC (1) The examinations administered by the entities described in 37-23-202, MCA, are approved for licensure.

(2) Individuals who have not already passed an approved examination can be approved by department staff to register for one of the approved examinations:

(a) upon submission of a complete application under ARM 24.219.601 or 24.219.612 where all requirements with the exception of the examination have been met; or

(b) once a candidate license is issued and the licensee requests to be approved to take the exam.

(3) Applicants or candidates may not take an examination more than three times unless approved by the board to retake the examination. Applicants or candidates requesting to retake the examination must submit a request including but not limited to a specific study plan.

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-23-202, MCA

REASON: The board is relocating specific LCPC examination standards and procedures in this new rule that applies to all methods of LCPC application and eliminates unnecessary duplication in multiple rules. The board is also adding the requirement to submit a study plan in (3) so licensees are aware of the minimum information required to petition to retake an exam after failing at least three times.

NEW RULE VI EXAMINATION – LMFT (1) The following examinations are approved for licensure:

(a) the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) examination in marriage and family therapy; or

(b) other licensing examinations approved by the board.

(2) Individuals who have not already passed an approved examination will be approved by department staff to register for the AMFTRB examination upon:

(a) submission of a complete application under ARM 24.219.701 or 24.219.712 where all requirements with the exception of the examination have been met; or

(b) proof of completion of supervised work experience requirements as described in ARM 24.219.705.

(3) Applicants or candidates may not take the AMFTRB examination more than three times unless approved by the board to retake the examination. Applicants or candidates requesting to retake the examination must submit a request including but not limited to a specific study plan.

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-37-201, MCA

REASON: The board is relocating specific LMFT examination standards and procedures in this new rule that applies to all methods of LMFT application and eliminates unnecessary duplication in multiple rules. The board is also adding the requirement to submit a study plan in (3) so licensees are aware of the minimum information required to petition to retake an exam after failing at least three times.

NEW RULE VII EXAMINATION – LAC (1) The following examinations are approved for licensure:

- (a) Level 1 or Level 2 National Certification Commission for Addiction Professionals (NCC AP);
- (b) Northwest Certification II;
- (c) Southwest Certification II; or
- (d) International Certification and Reciprocity Consortium (IC&RC) Alcohol and Drug Counselor (ADC) examination or Advanced Alcohol and Drug Counselor (AADC) exam.

(2) Individuals who have not already passed an approved examination can be approved by department staff to register for an examination upon:

(a) submission of a complete application under ARM 24.219.5006 or 24.219.5007 where all requirements with the exception of the examination have been met; or

(b) proof of completion of supervised work experience requirements as described in ARM 24.219.5008.

(3) An applicant or candidate may not take the examination more than three times unless approved by the board to retake the examination. Applicants requesting to retake the examination must submit a request including but not limited to a specific study plan.

AUTH: 37-1-131, 37-35-103, 37-35-202, MCA

IMP: 37-1-131, 37-35-103, 37-35-202, MCA

REASON: The board is consolidating LAC examination standards and procedures in this new rule that apply to all application methods and will eliminate unnecessary duplication in multiple rules. The board is also amending this rule for simplicity, better organization, and ease of use for the reader.

In addition to the board-approved exams in (1), the board is adding the International Certification and Reciprocity Consortium (IC&RC) Alcohol and Drug Counselor (ADC) examination and Advanced Alcohol and Drug Counselor (AADC) exam to meet licensure qualifications. These two exams are widely accepted for addiction counseling licensure across the United States.

The board is adding the requirement to submit a study plan in (3) so licensees are aware of the minimum information required when petitioning to retake an exam after failing at least three times.

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

24.219.506 SOCIAL WORKER LICENSURE CANDIDATE REQUIREMENTS

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-22-313, MCA

REASON: The board is repealing this rule as unnecessary as all relevant provisions are moving to NEW RULE II to consolidate changes of supervision for all candidates and CBHPSS.

24.219.603 LCPC EDUCATION REQUIREMENTS

AUTH: 37-1-131, 37-22-201, MCA
IMP: 37-1-131, 37-23-202, MCA

REASON: The board is repealing this rule as unnecessary since all relevant provisions are in statute or moving to ARM 24.219.601 and 24.219.605.

24.219.703 LMFT EDUCATION REQUIREMENTS

AUTH: 37-1-131, 37-22-201, MCA
IMP: 37-1-131, 37-37-201, MCA

REASON: The board is repealing this rule as unnecessary since all relevant provisions are in statute or moving to ARM 24.219.701 and 24.219.705.

24.219.707 TEMPORARY PRACTICE PERMIT

AUTH: 37-1-131, 37-1-319, 37-22-201, MCA
IMP: 37-1-131, 37-1-305, MCA

REASON: The board is repealing this rule as an unnecessary restatement of 37-1-305, MCA.

24.219.901 DEFINITIONS

AUTH: 37-1-131, 37-38-102, 37-38-202, MCA
IMP: 37-1-131, 37-38-102, 37-38-202, MCA

REASON: The board is repealing this rule as unnecessary since all relevant definitions are being consolidated in ARM 24.219.301.

24.219.902 SUPERVISOR QUALIFICATIONS

AUTH: 37-1-131, 37-38-202, MCA
IMP: 37-1-131, 37-38-202, MCA

REASON: The board is repealing this rule as unnecessary since all relevant provisions are moving to ARM 24.219.421.

24.219.903 MILITARY TRAINING OR EXPERIENCE

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

REASON: The board is repealing this rule as unnecessary since all relevant provisions are moving to ARM 24.219.415.

24.219.916 CBHPSS POST-CERTIFICATION CLINICAL SUPERVISION REQUIREMENTS

AUTH: 37-1-131, 37-38-202, MCA
IMP: 37-1-131, 37-38-202, MCA

REASON: The board is repealing this rule as unnecessary since all relevant provisions are moving to NEW RULES I and II.

24.219.5001 DEFINITIONS

AUTH: 37-35-103, MCA
IMP: 37-35-102, 37-35-103, MCA

REASON: The board is repealing this rule as unnecessary since all relevant definitions are being consolidated in ARM 24.219.301.

24.219.5003 MILITARY TRAINING OR EXPERIENCE

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

REASON: The board is repealing this rule as unnecessary since all relevant provisions are moving to ARM 24.219.415.

24.219.5004 EDUCATION REQUIREMENT

AUTH: 37-35-103, MCA
IMP: 37-35-103, 37-35-202, MCA

REASON: The board is repealing this rule as unnecessary since all relevant provisions are in statute or moving to ARM 24.219.5006 and 24.219.5008.

24.219.5009 SUPERVISOR QUALIFICATIONS

AUTH: 37-35-103, MCA
IMP: 37-35-103, 37-35-202, MCA

REASON: The board is repealing this rule as unnecessary since all relevant provisions are moving to ARM 24.219.421.

24.219.5011 NONRESIDENT LICENSED ADDICTION COUNSELOR SERVICES

AUTH: 37-35-103, MCA
IMP: 37-35-201, MCA

REASON: The board is repealing this rule as an unnecessary restatement of 37-35-201, MCA.

24.219.5014 ADDICTION COUNSELOR LICENSURE CANDIDATE REQUIREMENTS

AUTH: 37-35-103, MCA

IMP: 37-35-103, 37-35-202, MCA

REASON: The board is repealing this rule as unnecessary since all relevant provisions are moving to NEW RULES I and II.

7. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Behavioral Health, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdbbh@mt.gov, and must be received no later than 5:00 p.m., November 15, 2019.

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

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

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

11. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.219.301, 24.219.415, 24.219.421, 24.219.501, 24.219.504, 24.219.505, 24.219.512, 24.219.601, 24.219.604, 24.219.605, 24.219.612, 24.219.701, 24.219.704, 24.219.705, 24.219.712, 24.219.907, 24.219.912, 24.219.923, 24.219.5005, 24.219.5006, 24.219.5007, 24.219.5008, 24.219.5010, and 24.219.5013 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the adoption of NEW RULES I through VII 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 24.219.506, 24.219.603, 24.219.703, 24.219.707, 24.219.901, 24.219.902, 24.219.903, 24.219.916, 24.219.5001, 24.219.5003, 24.219.5004, 24.219.5009, 24.219.5011, and 24.219.5014 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Behavioral Health, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; facsimile (406) 841-2305; or to dlibsdbbh@mt.gov.

12. Lucy Richards, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF BEHAVIORAL HEALTH
CATHY JENNI, LCPC, LMFT
CHAIRPERSON

/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 October 8, 2019.

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

In the matter of the amendment of) AMENDED NOTICE OF PUBLIC
ARM 37.40.307 and 37.85.105) HEARING ON PROPOSED
pertaining to assisted living and) AMENDMENT
nursing facility reimbursement)

TO: All Concerned Persons

1. On October 4, 2019, the Department of Public Health and Human Services published MAR Notice No. 37-898 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1735 of the 2019 Montana Administrative Register, Issue Number 19.

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 October 22, 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 MT 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

3. The Statement of Reasonable Necessity contains an error in the web address for the department's proposed nursing facility Medicaid reimbursement rates and omitted the web address for the department's proposed Medicaid daily rate for assisted living facilities.

4. Part of the statement of reasonable necessity is being amended as follows, new matter underlined, deleted matter interlined:

Copies of the department's proposed nursing facility Medicaid reimbursement rates are posted at: ~~<https://dphhs.mt.gov/sltc/csb/provider#28702384-nursing-facilities-and-swing-bed-services>~~ <https://dphhs.mt.gov/sltc/csb/provider#28702384-nursing-facilities-and-swing-bed-services> and copies of the department's proposed Medicaid daily rate for assisted living facilities are posted at: <http://medicaidprovider.mt.gov/proposedfs>.

5. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210, no later than 5:00 p.m. on November 1, 2019. Comments may also be faxed to (406) 444-9744 or e-mailed to dphhslegal@mt.gov.

/s/ Robert Lishman
Robert Lishman, Rule Reviewer

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

Certified to the Secretary of State October 8, 2019.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF EXTENSION OF
ARM 42.12.222 and 42.13.101	)	COMMENT PERIOD ON
pertaining to implementation of a	)	PROPOSED AMENDMENT
point-based penalty system and)	
revising procedures relating to)	
revocation, lapse, or suspension of)	
alcoholic beverage licenses)	

TO: All Concerned Persons

1. On September 6, 2019, the Department of Revenue published MAR Notice No. 42-1003 pertaining to the public hearing on the proposed amendment of the above-referenced rules at page 1505 of the 2019 Montana Administrative Register, Issue Number 17.

2. A public hearing was held on September 30, 2019. The current deadline for public comment ends at 5:00 p.m., October 4, 2019. The department has extended the public comment period through 5:00 p.m., November 1, 2019, to allow interested persons additional time to comment on the proposed amendment of the above-referenced rules.

3. The Department of Revenue will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5:00 p.m. on October 25, 2019. Please contact Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or todd.olson@mt.gov.

4. Concerned persons may submit their data, views, or arguments concerning the proposed rulemaking, in writing, to: Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail todd.olson@mt.gov and must be received no later than 5:00 p.m., November 1, 2019.

/s/ Todd Olson

Todd Olson
Rule Reviewer

/s/ Gene Walborn

Gene Walborn
Director of Revenue

Certified to the Secretary of State October 8, 2019.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.21.154, 42.21.155,) PROPOSED AMENDMENT
42.21.158, and 42.22.1311 pertaining)
to trended depreciation schedules for)
valuing personal property)

TO: All Concerned Persons

1. On November 13, 2019, at 11:30 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue 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, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on October 25, 2019. Please contact Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or todd.olson@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY. In MAR Notice No. 42-2-999, effective January 1, 2019, the department proposed and adopted, among other amendments, the general reorganization of ARM Title 42, chapter 21, subchapter 1, through the consolidation or repeal of several rules regarding the department's personal property descriptions, valuation methodologies, and reporting requirements.

MAR Notice No. 42-2-999 also stated that the rulemaking was the first step of a two-step process, where the second step would contain the department's proposal to remove the trended depreciation schedules for tangible personal property (schedules) and trend factor tables for industrial machinery and equipment (tables) from publication in administrative rule and cross-reference their official publication on the department's internet website at <http://www.mtrevenue.gov>. The department notes that, as a matter of current and past business practice, it posts the annual schedules and tables on its website for ease of public reference.

The department now proposes to amend ARM 42.21.155 and 42.22.1311 to complete the removal of the lengthy schedules and tables from these rules as described above and proposes to adopt and incorporate by reference the department's Personal Property Depreciation Schedules and Trend Tables publication. The proposed 2020 Personal Property Depreciation Schedules and Trend Tables publication has been posted to the department's website concurrent with the publication of this proposal notice in the Montana Administrative Register.

The department determines these actions are necessary to officially adopt into rule its current and past business practice to provide more-readily available resources via the internet, which is intended to streamline the department's administrative rules and provide taxpayers with greater transparency to the personal property reporting process.

The department also proposes to amend ARM 42.21.154 to address other necessary revisions to personal property valuation methodologies.

Lastly, the department also proposes removing current ARM 42.21.154(8), because the department no longer believes it necessary to specify the rule's effective date. Unless otherwise provided in law, valuation and reporting laws apply to an entire tax year beginning January 1 of each year. As for the department's proposed removal of ARM 42.21.155(5) and 42.22.1311(4), these amendments are necessary because the adoption and incorporation of the department's annual Personal Property Depreciation Schedules and Trend Tables publication will make the effective dates in the rules unnecessarily redundant.

While this general statement of reasonable necessity covers the basis for the following proposed rulemaking actions, it is supplemented below, where necessary, to explain rule-specific changes.

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

42.21.154 ANNUAL VALUATION OF PERSONAL PROPERTY (1) Except as provided in ~~(4)~~ (5) and ~~(6)~~ (7), personal property is valued annually using the cost approach to market value. The market value is determined by multiplying a trended depreciation percentage times the installed original cost of the property. The department has established specific categories of personal property which are provided in ARM 42.21.155.

(2) Taxable supplies, defined in ARM 42.21.160, are valued at 100% of their acquired cost.

(2) through (5) remain the same but are renumbered (3) through (6).

~~(6)~~ (7) For farm machinery and equipment and heavy equipment, the department will apply the valuation methods in descending order beginning with the method in (a) and proceeding, where necessary, through the method in ~~(e)~~ (d) until a market value can be determined for the equipment.

(a) The market value will be the "average wholesale" or a comparable category of value as shown in the online version of the national agricultural and implement valuation guide known as Equipment Watch (Equipment Watch), as of September-October of the year prior to the year of assessment. Equipment Watch is adopted and incorporated by reference in accordance with 15-8-111, MCA, and may be reviewed in a department field office or purchased from the publisher: Dataquest, 1290 Ridder Park Drive, San Jose, California 95131 Informa Business Media, Inc., 1166 Avenue of the Americas, 10th Floor, New York, NY 10036.

(b) remains the same.

(c) For all farm machinery and equipment, and heavy equipment that cannot be valued under (a) and (b), the department may determine ~~the original free~~

on-board value (FOB) using archival valuation guidebooks and best available data. If an original FOB cannot be ascertained, the department may use trending to determine the FOB. ~~The FOB or trended FOB will be depreciated to arrive at a value that approximates average wholesale value~~ a trended average wholesale value if an average wholesale value is available for the same make and model with a different year new.

~~(d) A trended average wholesale value will be applied to the equipment if:~~
~~(i) the equipment cannot be valued under (a), but an average wholesale value is available for the same make and model with a different year new; and~~
~~(ii) the equipment cannot be valued under (c) or the value as calculated under (c) results in a higher value being placed on a piece of equipment than the last year listed in Equipment Watch for the same make and model.~~ The trended average wholesale value will be determined by trending the average wholesale value as found in Equipment Watch, for the same make and model with a different year new.

~~(e) (d)~~ If the valuation methods in (a) through ~~(d)~~ (c) cannot be used, the owner or applicant must certify to the department the year acquired and the acquired price. If the item was acquired through a means other than the open marketplace, the owner must provide a reasonable estimate of the item's value at the time of acquisition. The reported value will be trended and depreciated. If the owner fails to provide this required information or in the department's opinion the information provided does not accurately reflect the item's fair market value, the department may estimate the fair market value of the farm machinery and equipment, or heavy equipment item.

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

~~(8) This rule is effective for tax years beginning after December 31, 2018.~~

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

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

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity provided at the beginning of this notice, it is necessary for the department to amend ARM 42.21.154 to provide taxable supplies valuation in proposed (2), the updated Equipment Watch publisher's address described in proposed (7)(a), and revisions to the valuation method hierarchy for farm machinery and equipment and heavy equipment in proposed (7)(c) and (d).

Taxable supplies are referenced in other portions of the department's administrative rules and reporting forms but have been inadvertently omitted from inclusion in the personal property valuation rules. The department proposes to add this personal property type which is necessary to provide taxpayers with descriptions of all personal property classes that are subject to annual reporting and valuation.

The department proposes the amendment of the publisher's address in (7)(a), which is necessary for the adoption and incorporation of the published resource to comply with 2-4-307, MCA, and ARM 1.2.210.

The department also proposes amending the valuation method hierarchy for farm machinery and equipment, and heavy equipment in proposed (7)(c) as the department intends to discontinue determinations of value based on original free on

board (FOB) value or a trended FOB value, if the original FOB value cannot be ascertained. The removal of FOB values is necessary because the department has analyzed FOB values since implementation of the rulemaking in MAR Notice No. 42-2-999, and it concludes that approximately 85% of the personal property valuations fall into the guidelines described in (a), (b), and (d), and removal of FOB values in favor of trended average wholesale value will provide taxpayers with a more stable, consistent, and predictable values from year to year and when valuation methods change.

The department also proposes to add a sentence to proposed (7)(d) that provides that the department will estimate fair market value for equipment when the owner does not provide the item's value at the time of acquisition or provides information that does not accurately reflect the item's fair market value in the opinion of the department. This proposed amendment is necessary for the department to fulfill its valuation duties when a taxpayer's reporting form is missing information, when the taxpayer declines to provide information, or when information is misreported or otherwise unreported.

Based on the department's proposed amendments in proposed (2), it will be necessary to renumber rule sections, and renumber sections in proposed (7) based on the proposed amendments.

42.21.155 CATEGORIES FOR PERSONAL PROPERTY CATEGORIES;
AND TRENDED DEPRECIATION METHODOLOGIES SCHEDULES; TREND
FACTOR CALCULATION (1) and (2) remain the same.

(3) Prior to January 1 of each year, the department will use cost index trends for equipment and depreciation percentages for furniture and fixtures from the previous July's edition of Marshall & Swift Valuation Service Guide (Marshall & Swift Guide) to calculate the trend factors and the trended percent good for the schedules in (4). The Marshall & Swift Guide is a widely recognized valuation authority which the department adopts and incorporates by reference. The Marshall & Swift Guide may be reviewed at the department's central office or purchased from the publisher: Corelogic, 777 South Figueroa, 12th Floor 40 Pacifica Street, Suite 900, Los Angeles Irvine, California 90026-0307 92618.

(a) and (b) remain the same.

(4) The department shall post its trended depreciation schedules for the upcoming tax year for the categories of personal property described below on the department's internet website located at <http://www.mtrevenue.gov>. The department adopts and incorporates by reference its 2020 Personal Property Depreciation Schedules and Trend Tables publication, effective January 1, 2020. The Depreciation Schedules and Trend Tables publication contains the detailed schedules and tables the department uses for valuing personal property and industrial machinery and equipment. The personal property categories and trended depreciation methodologies that apply to the Depreciation Schedules and Trend Tables publication are as follows:

(a) Computerized Equipment - a four-year depreciation and a residual percentage will be applied to computerized equipment such as computers, peripheral equipment that cannot function independently of a computer, computerized medical equipment, and gaming machines. The four-year

depreciation schedule was developed and implemented after consultation with industry representatives; the trend factors are calculated from the office equipment category of the Marshall & Swift Guide.

Computerized Equipment

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
2018	70	1.000	70
2017	45	1.022	46
2016	20	1.039	21
2015	10	1.038	10
older	5	1.051	5

(b) Office and Commercial Equipment - a five-year depreciation and a residual percentage will be applied to non-computerized equipment such as office equipment and furnishings, specialized medical equipment, janitorial equipment, coin-operated washers and dryers, beauty and barber shop equipment, tanning beds, furnishings for hotels, motels, rental apartments, rental homes, nursing home and other care facilities, and locally assessed cable tv dishes. The trend factors are calculated from the average of all category of the Marshall & Swift Guide.

Office and Commercial Equipment

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
2018	85	1.000	85
2017	69	1.026	71
2016	52	1.047	54
2015	34	1.038	35
2014	23	1.048	24
older	18	1.062	18

(c) Furniture, Fixtures, and Miscellaneous Equipment - a ten-year depreciation and a residual percentage will be applied to all other commercial furniture and fixtures such as handheld and non-handheld shop and construction tools and equipment, medical and dental chairs and tables, theater equipment, survey equipment, billboards and signage, garbage bins, coin-operated pool and other game tables, gas pumps, bar and restaurant equipment and furnishings, bowling alleys and equipment, excepting auto-scorers which have a four-year depreciation, photo and developing equipment, mortuary equipment, safes, security systems, port-a-potties, locally assessed cable tv towers, ski lift equipment including aerial lifts, surface lifts, portable lifts and tows including the towers, cables, ropes, sheave assemblies, the conveying devices, power units, and all accessories. The trend factors are calculated from the average of all category of the Marshall & Swift Guide.

Furniture, Fixtures, and Miscellaneous Equipment

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
2018	92	1.000	92
2017	84	1.026	86
2016	76	1.047	80
2015	67	1.038	70
2014	58	1.048	61
2013	49	1.062	52
2012	39	1.070	42
2011	30	1.101	33
2010	24	1.135	27
2009	21	1.127	24
older	20	1.159	23

(d) Seismograph Units and Allied Equipment - a five-year depreciation and a residual percentage will be applied to seismograph units and allied equipment. An 80 percent wholesale factor is used for wheeled seismograph units. The trend factors are calculated from the chemical industry category of the Marshall & Swift Guide.

Wheeled Seismograph Units

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	WHOLESALE FACTOR	WHOLESALE TRENDED % GOOD
2019	100	1.000	80	80
2018	85	1.000	80	68
2017	69	1.019	80	56
2016	52	1.032	80	43
2015	34	1.021	80	28
2014	23	1.030	80	19
2013 and older	18	1.042	80	15

Seismograph Allied Equipment

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
2019	100	1.000	100
2018	85	1.000	85
2017	69	1.019	70
2016	52	1.032	54
2015	34	1.021	35
2014	23	1.030	24
2013 and older	18	1.042	19

(e) Oil Drilling, Workover, and Service Rigs - a ten-year depreciation and a residual percentage will be applied to all oil drilling, workover, and service rigs. An 80 percent wholesale factor is applied to self-propelled wheeled workover and service rigs. The trend factors are calculated from the chemical industry category of the Marshall & Swift Guide.

Self-Propelled Wheeled Workover and Service Rigs

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	WHOLESALE FACTOR	WHOLESALE TRENDED % GOOD
2019	100	1.000	80	80
2018	92	1.000	80	74
2017	84	1.019	80	68
2016	76	1.032	80	63
2015	67	1.021	80	55
2014	58	1.030	80	48
2013	49	1.042	80	41
2012	39	1.044	80	33
2011	30	1.072	80	26
2010	24	1.101	80	21
2009	21	1.086	80	18
older	20	1.124	22	18

Drill Rigs

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	WHOLESALE TRENDED % GOOD
2019	100	1.000	100
2018	92	1.000	92
2017	84	1.019	86
2016	76	1.032	78
2015	67	1.021	68
2014	58	1.030	60
2013	49	1.042	51
2012	39	1.044	41
2011	30	1.072	32
2010	24	1.101	26
2009	21	1.086	23
older	20	1.124	22

(f) Oil and Gas Field Machinery and Equipment - a fifteen-year depreciation and a residual percentage will be applied to oil and gas field machinery and equipment. The trend factors are calculated from the chemical industry category of the Marshall & Swift Guide.

Oil and Gas Field Machinery and Equipment

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
2019	100	1.000	100
2018	95	1.000	95
2017	90	1.019	92
2016	85	1.032	88
2015	79	1.021	81
2014	73	1.030	75
2013	68	1.042	71
2012	62	1.044	65
2011	55	1.072	59
2010	49	1.101	54
2009	43	1.086	47
2008	37	1.124	42
2007	31	1.175	36
2006	26	1.244	32
2005	23	1.307	30
2004	21	1.418	30
older	20	1.467	29

(g) Farm Machinery and Equipment - a twenty-year depreciation and a residual percentage will be applied to farm machinery and equipment. A 50 percent wholesale factor is applied. The trend factors are calculated from the average of all category of the Marshall & Swift Guide.

Farm Machinery and Equipment

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	WHOLESALE FACTOR	WHOLESALE TRENDED % GOOD
2019	100	1.000	50	50
2018	97	1.000	50	49
2017	93	1.026	50	48
2016	90	1.047	50	47
2015	86	1.038	50	45
2014	82	1.048	50	43
2013	78	1.062	50	41
2012	74	1.070	50	40
2011	70	1.101	50	39
2010	65	1.135	50	37
2009	60	1.127	50	34
2008	55	1.159	50	32
2007	50	1.205	50	30
2006	45	1.271	50	29

2005	40	1.330	50	27
2004	35	1.430	50	25
2003	31	1.479	50	23
2002	27	1.504	50	20
2001	24	1.513	50	18
2000	22	1.526	50	17
1999	21	1.554	50	16
older	20	1.559	50	16

(h) Heavy Equipment - a twenty-year depreciation and a residual percentage will be applied to heavy equipment. A 50 percent wholesale factor is applied. The trend factors are calculated from the contractor's equipment category of the Marshall & Swift Guide.

Heavy Equipment

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	WHOLESALE FACTOR	WHOLESALE TRENDED % GOOD
2019	100	1.000	50	50
2018	97	1.000	50	49
2017	93	1.018	50	47
2016	90	1.034	50	47
2015	86	1.032	50	44
2014	82	1.045	50	43
2013	78	1.059	50	41
2012	74	1.079	50	40
2011	70	1.115	50	39
2010	65	1.147	50	37
2009	60	1.143	50	34
2008	55	1.177	50	32
2007	50	1.214	50	30
2006	45	1.257	50	28
2005	40	1.313	50	26
2004	35	1.403	50	25
2003	31	1.444	50	22
2002	27	1.466	50	20
2001	24	1.478	50	18
2000	22	1.486	50	16
1999	21	1.512	50	16
older	20	1.524	50	15

~~(5) This rule is effective for tax years beginning after December 31, 2018.~~

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

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

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity provided at the beginning of this notice, the department proposes to amend ARM 42.21.155 by revising the rule catchphrase to reflect the rule's updated content in accordance with ARM 1.2.214. The department also proposes the amendment of the publisher's address in (3), which is necessary for the adoption and incorporation of the published resource to comply with 2-4-307, MCA, and ARM 1.2.210.

42.21.158 PERSONAL PROPERTY REPORTING REQUIREMENTS

(1) through (13) remain the same.

~~(14) The department will provide educational information on the class eight personal property exemption to all individual taxpayers or business entities the department is aware of that currently have class eight business personal property.~~

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

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

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity provided at the beginning of this notice, it is necessary for the department to amend ARM 42.21.158 to remove (14) as the provision is obsolete. With the passage of Senate Bill 96 in the 2013 Legislative Session, the department fulfilled the rule requirement stated in (14) by providing notice to business equipment owners in November 2013 that the first \$100,000 in the statewide aggregate market value of an individual or business entity's class eight business equipment would be exempt from taxation beginning in tax year 2014.

42.22.1311 INDUSTRIAL MACHINERY AND EQUIPMENT TREND

FACTORS (1) Prior to January 1 of each year, the department calculates Trend factors will be used to value industrial machinery and equipment for ad valorem tax purposes pursuant to ARM 42.22.1306. The department uses annual cost indexes from the Marshall & Swift Guide described in ARM 42.21.155. The current index is divided by the annual index for each year to arrive at a trending factor. Each major industry has its own trend factor table containing industry descriptions with the applicable trend table number and life expectancy. Where no index exists in the Marshall & Swift Guide for an industry, that industry is grouped with other industries using similar equipment. Industrial machinery and equipment remain taxable at the level of the final year of life expectancy until its disposal. The department will utilize the trend table and life expectancy indicated in the industry table below.

<u>Industry</u>	<u>Trend Table</u>	<u>Life</u>
<u>Description</u>		<u>Expectancy</u>
(a) Aircraft/Airframe Mfg.	(1)	15

(b)	Alcohol Plant	(4)	15
(c)	Baking	(2)	12
(d)	Bentonite	(21)	20
(e)	Bottling	(3)	12
(f)	Brewing & Distilling	(4)	20
(g)	Candy & Confectionery	(5)	20
(h)	Cardboard Container	(25)	20
(i)	Cement Manufacturing	(6)	20
(j)	Cereal Products	(14)	16
(k)	Chemical Manufacturing	(7)	12
(l)	Clay Products	(8)	15
(m)	Coal Crushing & Handling	(21)	20
(n)	Coal Fired Power Gener.	(28)	16
(o)	Concrete Products	(6)	18
(p)	Concrete Ready Mix	(6)	18
(q)	Contractor Equipment	(9)	10
(r)	Creamery & Dairy	(10)	12
(s)	Egg Packing	(16)	20
(t)	Electric Power Equipment	(11)	16
(u)	Electrical Equipment Mfg.	(12)	10
(v)	Electronic Component Mfg.	(12)	10
(w)	Feed Milling	(14)	16
(x)	Fertilizer Distribution	(30)	10
(y)	Fertilizer Manufacturing	(7)	12
(z)	Fish Cannery	(13)	12
(aa)	Flour, Cereal & Feed	(14)	16
(ab)	Flour Milling	(14)	16
(ac)	Foundry	(20)	15
(ad)	Fruit Cannery	(15)	12
(ae)	Fruit Packing	(16)	12
(af)	Furniture Manufacturing	(31)	10
(ag)	Gasohol Plant	(4)	15
(ah)	Glass Manufacturing	(32)	15
(ai)	Grain Handling Facilities	(14)	16
(aj)	Graphite Products	(21)	20
(ak)	Gypsum	(21)	20
(al)	Heap Leach Mechanical	(21)	20
(am)	Heap Leach Pads	(21)	5
(an)	Honey Processing	(15)	12
(ao)	Hydroelectric Generation	(11)	20
(ap)	Industrial Shop Equipment	(9)	10
(aq)	Laundry & Drycleaning	(17)	10
(ar)	Leather Fabrication	(29)	20
(as)	Lime/Calcium Beneficiation	(21)	20

<u>Industry</u>	<u>Trend Table</u>	<u>Life</u>
<u>Description</u>		<u>Expectancy</u>

(at)	Logging Equipment	(18)	10
(au)	Meat Packing	(19)	12
(av)	Metal Fabrication	(20)	20
(aw)	Metal Machining & Milling	(20)	15
(ax)	Metal Working	(20)	20
(ay)	Mining & Milling	(21)	15
(az)	Natural Gas Processing	(23)	16
(ba)	Noncommercial electrical generation machinery and equipment that qualifies under 15-6-226, MCA	(11)	16
(bb)	Nonferrous Smelting	(21)	15
(bc)	Oil Refining	(23)	16
(bd)	Open Pit Mining/Quarrying	(21)	15
(be)	Ore Milling/Concentrating	(21)	15
(bf)	Oxygen Generation	(7)	20
(bg)	Paint Manufacturing	(22)	12
(bh)	Peat Moss/Compost Plant	(30)	20
(bi)	Petroleum	(23)	16
(bj)	Phosphate Beneficiation	(21)	20
(bk)	Plastic Products Mfg.	(32)	20
(bl)	Pole Treating Equipment	(18)	10
(bm)	Polystyrene	(32)	20
(bn)	Printing	(24)	12
(bo)	Pulp & Paper Mfg.	(25)	13
(bp)	Refrigeration	(26)	12
(bq)	Renewable Energy Generation	(11)	20
(br)	Rifle Manufacturing	(20)	15
(bs)	Rubber & Vulcanizing	(27)	15
(bt)	Sawmill Equipment	(18)	10
(bu)	Seed Treating & Cleaning	(14)	16
(bv)	Silicon Processing	(23)	15
(bw)	Stationary Asphalt Plant	(6)	15
(bx)	Steam Power Generation	(28)	16
(by)	Stone Products	(21)	15
(bz)	Sugar Refinery	(23)	18
(ca)	Sulphur Manufacturing	(23)	12
(cb)	Talc Beneficiation	(21)	20
(cc)	Textile Fabrication	(29)	10
(cd)	Underground Mining	(21)	10
(ce)	Vegetable Oil Extraction	(14)	20
(cf)	Vermiculite Processing	(21)	20
(cg)	Warehousing	(30)	10
(ch)	Wood Pellet Plant	(14)	16
(ci)	Wood Products, Reconstituted	(31)	10
(cj)	Woodworking	(31)	20

Note: 1. Lab equipment is included in its related industry's table at ten-year life expectancy.

(2) Tables 1 through 32 represent the yearly trend factors for each industry.

	TABLE 1	TABLE 2	TABLE 3	TABLE 4	TABLE 5
YEAR	Airplane Mfg.	Baking	Bottling	Brew/Dist.	Candy Confect.
2018	1.000	1.000	1.000	1.000	1.000
2017	1.024	1.025	1.021	1.017	1.024
2016	1.046	1.048	1.039	1.030	1.047
2015	1.030	1.040	1.027	1.024	1.039
2014	1.034	1.051	1.036	1.035	1.051
2013	1.044	1.065	1.049	1.049	1.066
2012	1.045	1.075	1.053	1.058	1.077
2011	1.076	1.105	1.082	1.086	1.107
2010	1.116	1.141	1.118	1.116	1.143
2009	1.097	1.132	1.107	1.109	1.136
2008	1.129	1.160	1.136	1.141	1.163
2007	1.175	1.207	1.186	1.192	1.210
2006	1.240	*	*	1.263	1.299
2005	1.305	*	*	1.327	1.358
2004	1.412	*	*	1.434	1.460
2003	*	*	*	1.484	1.513
2002	*	*	*	1.510	1.538
2001	*	*	*	1.520	1.548
2000	*	*	*	1.536	1.566
1999	*	*	*	1.565	1.597
1998	*	*	*	*	*

	TABLE 6	TABLE 7	TABLE 8	TABLE 9	TABLE 10
YEAR	Cement Mfg.	Chemical Mfg.	Clay Mfg.	Contractor Eq.	Creamery/Dairy
2018	1.000	1.000	1.000	1.000	1.000
2017	1.018	1.015	1.020	1.015	1.022
2016	1.035	1.028	1.040	1.031	1.041
2015	1.028	1.018	1.035	1.030	1.033
2014	1.036	1.026	1.045	1.042	1.046
2013	1.049	1.038	1.059	1.057	1.061
2012	1.060	1.040	1.071	1.077	1.071
2011	1.096	1.068	1.106	1.113	1.100
2010	1.127	1.097	1.139	1.145	1.135
2009	1.112	1.082	1.131	1.140	1.131
2008	1.162	1.120	1.183	*	1.156
2007	1.214	1.171	1.233	*	1.205
2006	1.278	*	1.300	*	*
2005	1.341	*	1.361	*	*
2004	1.457	*	1.470	*	*
2003	1.515	*	*	*	*
2002	1.546	*	*	*	*
2001	1.556	*	*	*	*

2000	1.571	*	*	*	*
1999	1.597	*	*	*	*
1998	*	*	*	*	*

	TABLE 11	TABLE 12	TABLE 13	TABLE 14	TABLE 15
YEAR	Elec. Pwr. Equip.	Elec. Equip. Mfg.	Cannery/Fish	Flour, Cert. Feed	Cannery/Fruit
2018	1.000	1.000	1.000	1.000	1.000
2017	1.029	1.028	1.025	1.023	1.026
2016	1.053	1.052	1.049	1.042	1.049
2015	1.023	1.028	1.040	1.034	1.042
2014	1.019	1.027	1.052	1.044	1.055
2013	1.020	1.032	1.067	1.058	1.071
2012	1.008	1.025	1.076	1.066	1.085
2011	1.031	1.052	1.107	1.097	1.115
2010	1.088	1.103	1.143	1.133	1.151
2009	1.079	1.088	1.133	1.123	1.146
2008	1.083	*	1.163	1.153	1.169
2007	1.143	*	1.210	1.202	1.213
2006	1.237	*	*	1.281	*
2005	1.327	*	*	1.346	*
2004	1.452	*	*	1.453	*
2003	1.519	*	*	1.506	*
2002	*	*	*	*	*

	TABLE 16	TABLE 17	TABLE 18	TABLE 19	TABLE 20
YEAR	Packing/ Fruit	Laundry/ Clean	Logging Equip.	Packing/ Meat	Metal Work
2018	1.000	1.000	1.000	1.000	1.000
2017	1.026	1.024	1.021	1.023	1.022
2016	1.050	1.045	1.042	1.045	1.045
2015	1.047	1.035	1.030	1.041	1.031
2014	1.062	1.044	1.038	1.055	1.036
2013	1.080	1.058	1.050	1.071	1.047
2012	1.101	1.066	1.061	1.083	1.047
2011	1.131	1.096	1.093	1.115	1.079
2010	1.165	1.132	1.124	1.148	1.116
2009	1.164	1.122	1.109	1.143	1.094
2008	1.187	*	*	1.179	1.135
2007	1.228	*	*	1.226	1.179
2006	*	*	*	*	1.245
2005	*	*	*	*	1.299
2004	*	*	*	*	1.402
2003	*	*	*	*	1.447
2002	*	*	*	*	1.471
2001	*	*	*	*	1.473
2000	*	*	*	*	1.483

1999	*	*	*	*	1.504
1998	*	*	*	*	*

	TABLE 21	TABLE 22	TABLE 23	TABLE 24	TABLE 25
YEAR	Mine Mill	Paint Mfg.	Petroleum	Printing	Paper Mfg.
2018	1.000	1.000	1.000	1.000	1.000
2017	1.021	1.021	1.014	1.022	1.024
2016	1.038	1.041	1.024	1.042	1.044
2015	1.036	1.030	1.014	1.030	1.034
2014	1.048	1.039	1.022	1.034	1.044
2013	1.063	1.052	1.033	1.043	1.059
2012	1.084	1.057	1.040	1.047	1.069
2011	1.131	1.089	1.071	1.074	1.101
2010	1.169	1.125	1.098	1.107	1.136
2009	1.168	1.112	1.081	1.097	1.124
2008	1.221	1.151	1.126	1.121	1.160
2007	1.272	1.202	1.181	1.160	1.206
2006	1.328	*	1.256	*	1.268
2005	1.393	*	1.330	*	*
2004	1.510	*	1.445	*	*
2003	*	*	1.496	*	*
2002	*	*	*	*	*

	TABLE 26	TABLE 27	TABLE 28	TABLE 29	TABLE 30
YEAR	Refrigeration	Rubber	Steam Power	Textile	Warehousing
2018	1.000	1.000	1.000	1.000	1.000
2017	1.024	1.019	1.020	1.018	1.024
2016	1.045	1.039	1.038	1.033	1.048
2015	1.037	1.031	1.023	1.019	1.042
2014	1.047	1.039	1.028	1.025	1.054
2013	1.061	1.050	1.039	1.038	1.068
2012	1.068	1.051	1.039	1.044	1.085
2011	1.100	1.079	1.068	1.070	1.116
2010	1.138	1.110	1.106	1.097	1.149
2009	1.130	1.094	1.096	1.082	1.142
2008	1.169	1.134	1.133	*	*
2007	1.219	1.178	1.187	*	*
2006	*	1.242	1.267	*	*
2005	*	1.293	1.335	*	*
2004	*	1.387	1.455	*	*
2003	*	*	1.508	*	*
2002	*	*	*	*	*

	TABLE 31	TABLE 32
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YEAR	Woodworking	Glass Mfg.
2018	1.000	1.000
2017	1.032	1.021
2016	1.064	1.038
2015	1.062	1.027
2014	1.082	1.034
2013	1.101	1.046
2012	1.120	1.052
2011	1.150	1.083
2010	1.185	1.120
2009	1.175	1.108
2008	1.203	1.145
2007	1.242	1.198
2006	1.292	1.269
2005	1.340	1.337
2004	1.432	1.455
2003	1.476	1.513

~~(*) Equipment remains taxable at the level of the final year of life expectancy until its disposal.~~

(2) The department shall post its trend factor tables for industrial machinery and equipment for the upcoming tax year on the department's internet website located at <http://www.mtrevenue.gov>. The department adopts and incorporates by reference its 2020 Personal Property Depreciation Schedules and Trend Tables publication, effective January 1, 2020. The Depreciation Schedules and Trend Tables publication contains the detailed schedules and tables the department uses for valuing personal property and industrial machinery and equipment.

(3) Mining machinery and equipment is engaged in the extraction, excavation, burrowing, or otherwise freeing raw material from the earth. Mobile mining equipment moves under its own power or on its own wheels and chassis, including any attachments used with or attached to such equipment, but does not include equipment that requires a foundation for the performance of the function for which it was designed and built. Mobile mining equipment used for extraction is valued by using the procedures established for heavy equipment found in ARM 42.21.154 and 42.21.155.

~~(4) This rule is effective for tax years beginning after December 31, 2018.~~

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-8-111, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity provided at the beginning of this notice, the department proposes amending ARM 42.22.1311 by transferring language from (2) to proposed (1) to provide necessary background regarding the structure and general methodology of the industrial trend factor tables, specify that equipment remains taxable at the level of the final year of life expectancy until of its disposal, and make small clarifying amendments. The relocation and clarification is necessary for

consistency in rule organization and content.

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: Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail todd.olson@mt.gov and must be received no later than 5:00 p.m., November 20, 2019.

6. Todd Olson, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

7. The Department of Revenue 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 e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in number 5 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

8. An electronic copy of this notice is available on the department's web site at www.mtrevenue.gov, or through the Secretary of State's web site at sosmt.gov/ARM/register.

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/ Todd Olson

Todd Olson
Rule Reviewer

/s/ Gene Walborn

Gene Walborn
Director of Revenue

Certified to the Secretary of State October 8, 2019.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.13.1202 pertaining to beer) PROPOSED AMENDMENT
wholesaler and table wine distributor)
limited delivery exceptions)

TO: All Concerned Persons

1. On November 8, 2019, at 10:30 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rule. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue 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, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on October 25, 2019. Please contact Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or todd.olson@mt.gov.

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

42.13.1202 BEER WHOLESALER AND TABLE WINE DISTRIBUTOR -
CONDITIONS FOR OPERATING (1) In addition to all other alcoholic beverage
licensing requirements, a beer wholesaler and table wine distributor shall:

(a) through (c) remain the same.

(d) except as provided in (2), deliver alcoholic beverages using its own
employees, trucks, and equipment;

(e) through (i) remain the same.

(2) When a beer wholesaler or table wine distributor's trucks and equipment
are incapable of delivering alcoholic beverages to a retail licensee's premises due to
the unique physical location of the retail licensee's premises - examples of which are
premises located on an island or atop a mountain - the beer wholesaler or table wine
distributor may request the assistance of the retail licensee to deliver the alcoholic
beverages if:

(a) the beer wholesaler or table wine distributor's employee remains with the
alcoholic beverages to be delivered until delivery has occurred at the licensed
premises; and

(b) the beer wholesaler or table wine distributor seeks prior department
approval on a form provided by the department.

(2) and (3) remain the same but are renumbered (3) and (4).

AUTH: 16-1-303, MCA

IMP: 16-3-212, 16-3-231, 16-3-232, 16-3-242, 16-3-301, 16-3-404, 16-3-406, 16-4-103, 16-4-106, 16-4-108, 16-4-402, 16-4-415, MCA

REASONABLE NECESSITY: The department was notified by members of the wholesale beer and wine industry that delivery of beer and table wine to certain retail licensees is occasionally not possible due to the unique physical location of some licensed premises. Examples include premises that are located on islands or atop of ski hills where travel or delivery is not possible.

Based on these circumstances, the department finds it necessary to propose amendments to ARM 42.13.1202 to include an exception to the delivery requirements in (1)(d) when these unique premises circumstances exist. The exception, provided in proposed (2), allows the beer wholesaler or table wine distributor to request the assistance of the retail licensee in the fulfillment of the delivery. The department further proposes to require the beer wholesaler or table wine distributor's employee to remain with the alcoholic beverages until delivery has occurred at the retailer's licensed premises to ensure the statutory requirement placed on the beer wholesaler or table wine distributor in 16-3-219, MCA, is met. Finally, the department proposes to require the beer wholesaler/table wine distributor to seek prior department approval for these instances. This is necessary because the beer wholesaler/table wine distributor must demonstrate special circumstances requiring alternative delivery and prior approval ensures the exception is not abused.

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: Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail todd.olson@mt.gov and must be received no later than 5:00 p.m., November 15, 2019.

5. Todd Olson, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

6. The Department of Revenue 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 e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in number 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available on the department's web site at www.mtrevenue.gov, or through the Secretary of State's web site at sosmt.gov/ARM/register.

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

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

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Gene Walborn
Gene Walborn
Director of Revenue

Certified to the Secretary of State October 8, 2019.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the adoption of an) NOTICE OF ADOPTION OF AN
emergency rule closing Pictograph) EMERGENCY RULE
Cave State Park in Yellowstone)
County)

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule:

(a) The entry road to Pictograph Cave State Park is covered in ice and snow and is impassable.

(b) Persons entering the park are at risk of:

(i) injury due to the possibility of sliding off of the road or slipping and falling.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 20 of the 2019 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on November 1, 2019, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The emergency rule is effective October 9, 2019, when this rule notice is filed with the Secretary of State.

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

NEW RULE I PICTOGRAPH CAVE STATE PARK EMERGENCY CLOSURE

(1) Pictograph Cave State Park is located in Yellowstone County.

(2) Pictograph Cave State Park is closed to all public occupation and recreation as signed.

(3) This rule is effective as long as the entry road into the park is impassable.

(4) This rule will expire as soon as the department determines the park is again safe for occupation and recreation. This will depend on the extent and duration of ice and snow on the entry road. Signs closing the state park will be removed when the rule is no longer effective.

AUTH: 2-4-303, 23-1-106, MCA

IMP: 2-4-303, 23-1-106, MCA

5. The rationale for the emergency rule is as set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Kaedy Gangstad, Department of Fish, Wildlife and Parks Legal Unit, P.O. Box 200701, Helena, MT, 59720; or e-mail kgangstad@mt.gov. Any comments must be received no later than November 15, 2019.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

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

/s/ Martha Williams

Martha Williams

Director

Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

Zach Zipfel

Rule Reviewer

Certified to the Secretary of State October 9, 2019.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption of	)	NOTICE OF ADOPTION AND
New Rule I pertaining to antique	)	AMENDMENT
gambling devices and the)	
amendment of ARM 23.16.102,)	
23.16.104, 23.16.107, 23.16.118,)	
23.16.209, 23.16.301, 23.16.502,)	
23.16.503, 23.16.1701,)	
23.16.1702, 23.16.1703,)	
23.16.1704, 23.16.1706,)	
23.16.1712, 23.16.1714,)	
23.16.1823, 23.16.1901, and)	
23.16.1920 pertaining to gambling)	
operator license applications and)	
processing, escrowed funds,)	
illegal devices, VGM permit)	
eligibility, sports pool games and)	
sports tabs, shake-a-day games,)	
and VGM specifications and)	
restrictions)	

TO: All Concerned Persons

1. On September 6, 2019, the Department of Justice published MAR Notice No. 23-16-258 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 1448 of the 2019 Montana Administrative Register, Issue Number 17.

2. The department has amended ARM 23.16.102, 23.16.104, 23.16.107, 23.16.118, 23.16.209, 23.16.301, 23.16.502, 23.16.503, 23.16.1701, 23.16.1702, 23.16.1703, 23.16.1704, 23.16.1706, 23.16.1712, 23.16.1714, 23.16.1823, and 23.16.1901, and adopted New Rule I (23.16.210) as proposed.

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

23.16.1920 AARS, CTVS, AND VGM HARDWARE AND SOFTWARE SPECIFICATIONS (1) and (2) remain as proposed.

(3) Any device communicating with a VGM ~~through a physical interface~~ shall be tested and approved by the department before being offered for sale, sold, or installed/connected to any permitted VGM. This does not include proprietary business software that only receives data published from a Tier 1 site controller.

AUTH: 23-5-115, 23-5-621, MCA

IMP: 23-5-603, 23-5-621, 23-5-631, 23-5-637, MCA

4. The department conducted a public hearing on September 27, 2019, on the proposed adoption and amendment and accepted comments through 5:00 p.m., October 7, 2019. The department has thoroughly considered the one comment received at the public hearing and testimony offered in support. No written comments were submitted in the comment period following the public hearing. A summary of the comment received and the department's response follows:

COMMENT #1: The Montana Coin Machine Operators Association appeared through its representative and offered both oral and written comments at the public hearing. The association suggested the proposed amendment to ARM 23.16.1920 could be improved to clarify the scope of the rule. The association suggested eliminating language that could inadvertently exclude devices meant to be tested and suggested adding a sentence to avoid improperly including data published from a Tier 1 site controller.

RESPONSE #1: The department concurs and has revised the amendments to ARM 23.16.1920 as recommended by the Montana Coin Machine Operators Association.

/s/ Hannah Tokerud
Hannah Tokerud
Rule Reviewer

/s/ Timothy C. Fox
Timothy C. Fox
Attorney General
Department of Justice

Certified to the Secretary of State October 8, 2019.

BEFORE THE BOARD OF HEARING AID DISPENSERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 24.150.401 fees, 24.150.402	)	REPEAL
record retention, 24.150.404 fee)	
abatement, 24.150.503 traineeship)	
requirements and standards,)	
24.150.601 minimum testing,)	
24.150.602 transactional document)	
requirements - form and content,)	
24.150.2201 continuing education)	
requirements, 24.150.2301)	
unprofessional conduct,)	
and the repeal of 24.150.2204)	
standards for approval)	

TO: All Concerned Persons

1. On May 24, 2019, the Board of Hearing Aid Dispensers published MAR Notice No. 24-150-41 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 582 of the 2019 Montana Administrative Register, Issue No. 10.
2. On June 14, 2019, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. No comments were received by the June 21, 2019 deadline.
3. The board has amended ARM 24.150.401, 24.150.402, 24.150.404, 24.150.503, 24.150.601, 24.150.602, 24.150.2201, and 24.150.2301 exactly as proposed.
4. The board has repealed ARM 24.150.2204 exactly as proposed.

BOARD OF HEARING AID DISPENSERS
MICHAEL SPINTI
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 October 8, 2019.

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.201.1108 alternatives and)
exemptions, 24.201.2148 verification,)
24.201.2402 exercise of practice)
privilege in other jurisdictions,)
24.201.2410 enforcement against)
license holders and practice privilege)
holders)

TO: All Concerned Persons

1. On August 9, 2019, the Board of Public Accountants (board) published MAR Notice No. 24-201-52 regarding the public hearing on the proposed amendment of the above-stated rules, at page 1151 of the 2019 Montana Administrative Register, Issue No. 15.

2. On September 5, 2019, a public hearing was held on the proposed amendment of the above-stated rules in Helena. No comments were received by the September 6, 2019 deadline.

3. The board has amended ARM 24.201.1108, 24.201.2148, 24.201.2402, and 24.201.2410 exactly as proposed.

BOARD OF PUBLIC ACCOUNTANTS
RANETTA JONES, CPA
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 October 8, 2019.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 32.3.104 subject diseases or)
conditions and 32.4.502 pertaining to)
importation of restricted or prohibited)
alternative livestock)

TO: All Concerned Persons

1. On June 7, 2019, the Department of Livestock published MAR Notice No. 32-19-297 regarding the proposed amendment of the above-stated rules at page 714 of the 2019 Montana Administrative Register, Issue Number 11.

2. At the request of representatives from the captive cervid industry to allow the representatives adequate time to gather data for the completion of their comments, on July 5, 2019, the department extended the comment period for MAR Notice No. 32-19-297 to August 5, 2019, at page 947 of the 2019 Montana Administrative Register, Issue Number 13.

3. The department has amended ARM 32.3.104 as proposed.

4. The department received one comment in support of the proposed changes for ARM 32.3.104. Thank you for your comment. The department agrees the proposed changes to Montana's reportable disease list are appropriate.

5. The department is not proceeding with the proposed rule amendment for ARM 32.4.502 pertaining to importation of restricted or prohibited alternative livestock. The department received multiple comments on the proposed rule. The comments addressed three specific areas regarding the proposal. These include: the authority of the department to enact such rules, the potential for the proposed rule to be in violation of the Commerce Clause of the U.S. Constitution, and a lack of scientific evidence to support the proposed changes. The department appreciates all the comments received. The department has taken these comments into consideration and intends to file a replacement notice of proposed rulemaking at a future date in order to address these concerns.

BY: /s/ Michael S. Honeycutt
Michael S. Honeycutt
Executive Officer
Board of Livestock
Department of Livestock

BY: /s/ Cinda Young-Eichenfels
Cinda Young-Eichenfels
Rule Reviewer

Certified to the Secretary of State October 8, 2019.

BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 36.12.101, 36.12.1501, and	)	REPEAL
36.16.107 and the repeal of ARM)	
36.12.2101 and 36.12.5001)	
pertaining to Water Rights and Water)	
Reservations)	

TO: All Concerned Persons

1. On August 23, 2019, the Department of Natural Resources and Conservation published MAR Notice No. 36-22-204 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 1295 of the 2019 Montana Administrative Register, Issue Number 16.

2. The department has amended and repealed the above-stated rules as proposed.

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

COMMENT #1: The commenter is concerned that the definition of "appropriation right" that was enacted by the 2019 Montana Legislature in Chapter 59, Laws 2019 (House Bill 57) amending 85-2-102, MCA does not properly consider "vested water rights." The commenter states, in part, "Legislation has not provided in Montana Code a clear, plain meaning definition of Vested Water Right...DNRC through rulemaking should not delete a definition but rather provide a clear plain meaning of the definition..."

RESPONSE #1: As stated in the reasonable necessity in the Notice of Public Hearing on Proposed Amendment and Repeal, the statute now defines "appropriation right" as it pertains to Title 85, chapter 2, MCA. The department should not repeat in rule what is expressly defined in statute or have a conflicting definition of the same term. Therefore, it is necessary to amend the administrative rule. Legislation defining "vested water rights" would be required to address the commenter's concern.

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

/s/ Barbara Chillcott
BARBARA CHILLCOTT
Rule Reviewer

Certified to the Secretary of State October 8, 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 ADOPTION AND
Rules I through III, and the) AMENDMENT
amendment of ARM 37.86.4401,)
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 July 26, 2019, the Department of Public Health and Human Services published MAR Notice No. 37-877 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 1017 of the 2019 Montana Administrative Register, Issue Number 14. On September 20, 2019, the department published a notice of extension of comment period on proposed adoption and amendment at page 1603 of the 2019 Montana Administrative Register, Issue Number 18.

2. The department has adopted New Rule I (37.86.4408), New Rule II (37.86.4409), and New Rule III (37.86.4410) as proposed. The department has amended the above-stated rules as proposed.

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

COMMENT #1: Several commenters expressed support of the modification of change in scope of service process and Alternative Payment Methodology option.

RESPONSE #1: The department thanks the commenters for their support.

COMMENT #2: One commenter requested to reduce the advance notice of a prospective change in scope application from 120 days to 90 days.

RESPONSE #2: The rule provides for 120 days' notice in advance of the prospective change in scope of service to ensure the department has sufficient time to review the application and calculate the temporary PPS rate prior to the start of the new service. The effective date for a temporary PPS rate in New Rule II will be the date the services are implemented, whether the application is submitted at 120 days or 90 days.

COMMENT #3: A commenter questioned why the rules require FQHCs to provide information on any changes in scope of project as defined by the federal Health Resources and Services Administration (HRSA).

RESPONSE #3: The department must ensure that the service has been approved by HRSA and that reimbursement for such service at the PPS rate is appropriate. Rural Health Clinics and Urban Indian Health Centers do not receive HRSA funding, so they are exempt from the HRSA scope of project requirement.

COMMENT #4: One commenter requested that the Administrative Rules of Montana include a defined formula for determining the incremental change in the baseline PPS rate.

RESPONSE #4: The department determined the comment is well taken and that the calculations should be published in the administrative rules. On September 10, 2019, the department filed a Notice of Extension of Comment Period on Proposed Adoption and Amendment, which proposed further amendment of ARM 37.86.4412 to include the calculation to determine the amount of an incremental change. The notice, which was published on September 20, 2019, extended the comment period to allow for comments on the proposed further amendment, although none were received.

COMMENT #5: A clear definition of a qualifying event was requested to be included in Administrative Rule and the Provider Manual.

RESPONSE #5: In (3) of New Rule I, the department explains the circumstances that a facility must demonstrate in order to satisfy the requirements for a change in scope of service. The explanations in (3)(a) through (3)(g) are sufficiently clear and unambiguous to give facilities an understanding of what constitutes a change in scope of service.

4. The department intends to apply these rules retroactively to July 1, 2019. A retroactive application of the proposed rules does not result in a negative impact to any affected party.

/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 October 8, 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 ADOPTION AND
Rules I through VIII and the repeal of) REPEAL
ARM 37.107.305 and 37.107.306)
pertaining to medical marijuana)
testing laboratories)

TO: All Concerned Persons

1. On September 6, 2019, the Department of Public Health and Human Services published MAR Notice No. 37-889 pertaining to the public hearing on the proposed adoption and repeal of the above-stated rules at page 1480 of the 2019 Montana Administrative Register, Issue Number 17.

2. The department has adopted the following rules as proposed: New Rules III (37.107.307), IV (37.107.309), V (37.107.311), and VI (37.107.313).

3. The department has repealed the following rules as proposed: ARM 37.107.305 and 37.107.306.

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

NEW RULE I (37.107.301) MARIJUANA TESTING LABORATORY
LICENSURE AND ACCREDITATION (1) remains as proposed.

(2) An applicant for a testing laboratory license must provide, to the department's state laboratory, documentation to support fulfillment of these requirements, which includes but is not limited to the following:

(a) through (c) remain as proposed.

(d) ~~landlord~~ property owner permission form for laboratories, if applicable;

(e) through (10) remain as proposed.

AUTH: 50-46-344, MCA

IMP: 50-46-311, 50-46-326, 50-46-329, 50-46-344, Chap. 292, section 7, L. of 2019, MCA

NEW RULE II (37.107.302) MARIJUANA TESTING LABORATORY
GENERAL REQUIREMENTS (1) through (6) remain as proposed.

(7) A licensed marijuana testing laboratory may:

(a) obtain samples of marijuana items from providers, registered cardholders, or other licensees for testing as provided in this subchapter;

(b) through (22) remain as proposed.

AUTH: 50-46-344, MCA

IMP: 50-46-303, 50-46-311, 50-46-312, 50-46-326, 50-46-329, 50-46-344, Chap. 292, section 7, L. of 2019, MCA

NEW RULE VII (37.107.315) MARIJUANA TESTING LABORATORY
FAILED TEST SAMPLES (1) through (10) remain as proposed.

(11) Failed harvests, lots, or test batches may be remediated as long as the remediation method does not impart any substance or effect to the usable marijuana, marijuana concentrates, or marijuana-infused products that may have a toxic or deleterious effect on the health of the consumer.

(12) remains as proposed.

(13) No remediated harvests, lots, or test batches may be sold or transferred ~~to a provider for sale~~ until the completion and successful passage of all quality assurance testing, and the results certified in a certificate of analysis, as required in these rules and Montana statute.

(14) With the exception of moisture analysis or residual solvent screening, if a remediated sample from a failed harvest, lot, or test batch that fails quality assurance testing it cannot be remediated again and the harvest lot or test batch must be destroyed. Harvest lots or test batches that fail initial quality assurance testing for moisture analysis or residual solvent screening may be remediated and retested a maximum of two times.

(15) remains as proposed.

AUTH: 50-46-344, MCA

IMP: 50-46-311, 50-46-326, 50-46-329, 50-46-344, Chap. 292, section 7, L. of 2019, MCA

NEW RULE VIII (37.107.316) MARIJUANA TESTING LABORATORY
QUALITY ASSURANCE TESTING REQUIREMENTS (1) through (3) remain as proposed.

(4) Marijuana-infused products must be tested for the following:

(a) cannabinoid profile; and

(b) microbiological screening.

(5) remains as proposed.

(6) The sample and related lot or test batch fail quality assurance testing for moisture analysis if the results exceed moisture content of ~~more~~ greater than ~~twelve~~ 12.0 percent.

(7) remains as proposed.

(8) The sample and related lot or test batch fail quality assurance testing for microbiological screening if the results exceed the following limits:

(a) and (b) remain as proposed.

(c) Culturable Mold: more than 10,000 colony forming units (CFU) per gram of culturable mold material;

(d) and (e) remain as proposed.

(9) A sample and related lot or test batch fail quality assurance testing for residual solvents if the results exceed the limits provided in the table below.

Residual Solvents	
Solvent*	ppm
Acetone	5,000
Benzene	2
Butanes	5,000
Chloroform	2
Cyclohexane	3,880
Dichloromethane	600
Ethyl acetate	5,000
Heptanes	5,000
Hexanes	290
Isopropanol (2-propanol)	5,000
Methanol	3,000
Pentanes	5,000
Propane	5,000
Toluene	890
Xylene**	2,170

*And isomers thereof.

**Usually 60% m-xylene, 14% p-xylene, 9% o-xylene with 17% ethyl benzene.

Residual Solvents	Chemical Abstract Services (CAS) Registry Number	ppm
Acetone	67-64-1	5,000
Benzene	71-43-2	2
Total Butanes	See ¹	5,000
* n-butane	106-97-8	
* iso-butane	75-28-5	
Chloroform	67-66-3	2
Cyclohexane	110-82-7	3,880
Dichloromethane	75-09-2	600
Ethyl acetate	141-78-6	5,000
Heptane	142-82-5	5,000
Total Hexanes	See ²	290
* n-hexane	110-54-3	
* 2-methylpentane	107-83-5	
* 3-methylpentane	96-14-0	
* 2,2-dimethylbutane	75-83-2	
* 2,3-dimethylbutane	79-29-8	
Isopropanol (2-propanol)	67-63-0	5,000
Methanol	67-56-1	3,000
Total Pentanes	See ³	5,000
* n-pentane	109-66-0	
* iso-pentane	78-78-4	
* neo-pentane	463-82-1	

<u>Propane</u>	<u>74-98-6</u>	<u>5,000</u>
<u>Toluene</u>	<u>108-88-3</u>	<u>890</u>
<u>Total Xylenes</u>	<u>See⁴</u>	<u>2,170</u>
<u>* 1,2-dimethylbenzene</u>	<u>95-47-6</u>	
<u>* 1,3-dimethylbenzene</u>	<u>108-38-3</u>	
<u>* 1,4-dimethylbenzene</u>	<u>106-42-3</u>	

1 Total butanes should be calculated as sum of n-butane and iso-butane.

2 Total hexanes should be calculated as sum of n-hexane, 2-methylpentane, 3-methylpentane, 2,2-dimethylbutane and 2,3-dimethylbutane.

3 Total pentanes should be calculated as sum of n-pentane, iso-pentane, and neo-pentane.

4 Total xylenes should be calculated as sum of 1,2-dimethylbenzene, 1,3-dimethylbenzene, and 1,4-dimethylbenzene.

(10) and (11) remain as proposed.

(12) Providers must adhere to testing requirements for all marijuana and marijuana products intended for sale or transfer to cardholders.

(a) through (e) remain as proposed.

(f) All cannabinoid products listed in (e) must use marijuana extract and concentrate that has passed quality assurance testing requirements ~~for direct sale or transfer to cardholders~~ as set forth in (d).

AUTH: 50-46-344, MCA

IMP: 50-46-303, 50-46-308, 50-46-311, 50-46-326, 50-46-344, Chap. 292, section 7, L. of 2019, MCA

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

COMMENT #1: Several comments were received from laboratories and a provider regarding inconsistent language pertaining to quality assurance testing for marijuana/cannabis infused products in New Rule VIII(4), (12)(e), and (12)(f).

RESPONSE #1: The department agrees with the various commenters' observations and has revised the rule to remedy the inconsistency by adding microbiological screening to (4)(b) to be consistent with (12)(e) and modifying the language in (12)(f) to be consistent with (12)(d).

COMMENT #2: A commenter disagreed with New Rule IV(3), which states that the laboratory must incorporate a Laboratory Control Sample (LCS) in each analytical chemistry batch for quality control purposes. The commenter states that this control is unnecessary, burdensome, and is only required in EPA regulated environments.

RESPONSE #2: The department disagrees. The LCS is a sample with a known value, usually prepared and certified by an outside agency, which is carried through the preparation and analysis procedures as if it were a true sample. The LCS is important to establish that the testing system in use is under control or operating as expected in order to yield a valid result. The equivalent of an LCS is common in other regulated testing environments such as FDA, CLIA, EPA, and USDA to name a few. It can be referred to as a certified reference material, an external quality control sample, or an independent check solution or sample, but irrespective of the name, it serves as an important quality control requirement in high quality laboratory testing environments.

COMMENT #3: A commenter expressed concerns over the proposed frequency (at least every six months for each analyte/method) of proficiency testing proposed in New Rule V(2)(a) and stated that it is financially burdensome. The commenter suggested once every four years would be acceptable. Another commenter stated that once every four years was too infrequent, but once a year might be okay.

RESPONSE #3: The department disagrees with both comments. Proficiency testing is mandated in legislation as a requirement to ensure that the laboratory is able to meet all testing requirements and serves as a means to ensure that laboratory staff are proficient and remain proficient in performing their laboratory testing responsibilities. The proposed frequency of proficiency testing for marijuana testing laboratories is in keeping with or even less stringent than other regulated laboratory testing environments.

COMMENT #4: A commenter recommended that New Rule VIII(6) be revised to clarify the action limit for moisture testing to be expressed as greater than 12.0 percent rather than "more than twelve percent."

RESPONSE #4: The department agrees and has revised the rule accordingly.

COMMENT #5: A commenter asked for a definition of the term "analytical batch" used in New Rule IV(3).

RESPONSE #5: The department will define the term "analytical batch" as part of a future rulemaking proposal by adding the term in the definitions rule in ARM 37.107.110.

COMMENT #6: A commenter expressed concerns about the use of "matrix spikes" as a required quality control sample in New Rule IV(3). The commenter was concerned that restrictions on shipping concentrated, controlled substances might interfere with their ability to obtain adequate reference materials for quality control use and that the cost of obtaining reference materials might be prohibitive.

RESPONSE #6: The department agrees that the availability of vendors for reference concentrates may be more limited for controlled cannabinoids than for other analytes. However, matrix spikes are used to evaluate the performance of an

analytical procedure when testing a specific type of matrix and should be part of an overall approach to ensure laboratory quality.

COMMENT #7: A commenter asked for clarification of New Rule VIII(9), regarding residual solvents. The commenter indicated that the footnote to the provided table of solvents which read "and isomers thereof" was too vague and requested that the department provide clarification by adding the specific isomers and/or their CAS numbers.

RESPONSE #7: The department agrees and has revised the table to include solvent isomers and their CAS numbers.

COMMENT #8: A commenter requested that adequate time be provided for laboratories to procure instrumentation, validate methods, and add heavy metals to their ISO certification prior to the quality assurance testing implementation date in a future rule amendment.

RESPONSE #8: The department agrees and will ensure that laboratories have adequate time to implement heavy metals testing prior to its mandated quality assurance testing date.

COMMENT #9: A commenter suggested that a "trip blank" be added to the required quality control samples in New Rule IV(3) due to their concerns regarding possible solvent contamination of provider test samples during transportation to and storage in the testing laboratory.

RESPONSE #9: As the commenter mentioned, a trip blank is generally used only when sampling for volatile organic compound studies and serves a useful purpose for this type of analytical procedure. While the commenter presents a genuine concern, it is difficult to perceive how an equally useful quality control sample would be implemented for marijuana testing procedures in a manner that would improve the quality and reliability of testing outcomes. Therefore, New Rule IV(3) will not be revised at this time.

COMMENT #10: A commenter suggested the department should provide marijuana testing laboratories with approved quality assurance test methods for laboratories to follow, similar to EPA methods for public drinking water testing.

RESPONSE #10: The department disagrees. There are currently no nationally recognized standardized testing methods for testing medical marijuana products. Although many testing laboratories use similar testing equipment and analytical methods, marijuana testing laboratories must develop and validate their testing methods. The new rules proposed by the department communicate additional requirements that testing laboratories are expected to fulfill in order to ensure quality and consistency of results.

COMMENT #11: A commenter indicated that New Rule VII (Marijuana Testing Laboratory Failed Test Samples) is in direct conflict with ARM 37.107.410.

RESPONSE #11: The department agrees and will repeal ARM 37.107.410 through a future rulemaking process.

COMMENT #12: A commenter suggested that New Rule VII should allow for more than one chance to remediate a sample from a failed test.

RESPONSE #12: The department agrees that failed testing for moisture or solvents may be remediated up to two times before requiring destruction for the harvest lot or test batch. Remediation for all other failed quality assurance tests may only occur once. The department has revised the rule accordingly.

COMMENT #13: A commenter suggested that following a remediation of a failed harvest or test batch, providers should only have to retest for those analytes that the original harvest lot test batch failed.

RESPONSE #13: The department disagrees. Since remediation processes and methods are not standardized or validated like EPA methods, such practices or processes may unintentionally impart or impose changes to the physical, chemical, or biological composition of the failed harvest lot or test batch.

COMMENT #14: A commenter stated that New Rule VII(13) has the word "provider" which should probably be "cardholder."

RESPONSE #14: The department has revised the language to meet the intent of the rule.

COMMENT #15: A commenter stated New Rule VIII (Marijuana Testing Laboratory Quality Assurance Testing Requirement) is in direct conflict with ARM 37.107.407.

RESPONSE #15: The department agrees and will repeal ARM 37.107.407 through a future rulemaking process.

COMMENT #16: A commenter stated that New Rule VIII(12) is confusing and unnecessary and should be deleted.

RESPONSE #16: The department disagrees and believes that (12) provides clarification of testing requirements for marijuana products at different stages of production.

COMMENT #17: A commenter suggested that New Rule II(9) should include the dates and times that testing began and ended as well as the test method used and the initials of the analyst running the test.

RESPONSE #17: The department disagrees. Most of the requested items are already included in New Rule II. However, the intent of the rule is not to provide an all-inclusive list for every item that a laboratory must document. Marijuana testing laboratories must maintain a quality management system that allows for traceability of sample related information or data in all phases of the testing process. The state laboratory will audit laboratories on an annual basis to ensure that licensed marijuana testing laboratories' practices can accomplish this.

COMMENT #18: "In the interest of providing a level playing field," a commenter wanted to know if the new rules provide a time extension for existing laboratories to achieve ISO accreditation.

RESPONSE #18: The proposed new rules do not provide an extension for existing laboratories with provisional licenses to achieve ISO accreditation. The proposed new rules clearly indicate that current licenses will not be reissued a laboratory license without having achieved and maintained ISO accreditation and meeting all of the additional requirements in New Rules I and II.

COMMENT #19: A commenter provided a list of items they believe should be addressed in rule, including: penalties for violations, rules for product labels, sampling protocols, sample storage and transportation protocols, a list of penalties for different levels of violations, penalties for sampling, provider rules for batching, and laboratory rules for batching.

RESPONSE #19: Many of the suggestions provided by the commenter are outside of the scope of this rulemaking process, which is limited to rules governing medical marijuana testing labs. Additionally, many of the suggestions are already currently addressed by statute in the Montana Medical Marijuana Act, existing rules, and/or Medical Marijuana Program guidance documents.

As to laboratory batching, the department is unsure how the commenter defines laboratory batching as the term can have different connotations in a laboratory setting. If the commenter's use of this term refers to the practice of combining multiple different test samples into a single test sample for the purpose of decreasing analytical cost, maximizing profit and/or increasing throughput, as opposed to enhancing testing quality, then this practice is inconsistent with the intent of the proposed new rules for marijuana testing laboratories and would not be supported by the department.

COMMENT #20: A commenter provided a written statement to the department expressing their displeasure with department programs and state personnel.

RESPONSE #20: The comments are outside the scope of this rulemaking process.

COMMENT #21: A commenter noted that New Rule I(2)(d) uses the term "landlord permission form" while Chapter 292, Laws of Montana 2019, replaced references to landlords in the Medical Marijuana Act with references to property owners. The

commenter asks whether the landlord permission form should be referred to as a property owner permission form.

RESPONSE #21: The department agrees the landlord permission form should be referred to as a property owner permission form and has revised the rule accordingly.

COMMENT #22: A commenter noted that New Rule II(7)(a) provides that a "licensed marijuana testing laboratory may obtain samples of marijuana items from providers or other licensees for testing," but does not address testing of samples submitted by registered cardholders as permitted under 50-46-311(8)(c), MCA.

RESPONSE #22: The department has revised the rule to take into account that registered cardholders may submit samples of marijuana items for testing as allowed under the statute.

COMMENT #23: A commenter recommends that mandatory heavy metals testing be implemented immediately.

RESPONSE #23: Mandatory heavy metals testing will be addressed in a future rulemaking and in a manner that allows marijuana testing laboratories to have adequate time to implement heavy metals testing prior to its mandated quality assurance testing date.

COMMENT #24: A commenter recommends the department maintain current rules for marijuana infused product testing of pesticides when precursor materials for the marijuana infused product has been tested for pesticides and that the department adopt California pesticide standards for marijuana infused products when the precursors have not been tested for pesticides.

RESPONSE #24: The proposed New Rule VIII ensures that all marijuana extracts and concentrates (precursors) are tested for pesticides when intended for further processing and before direct sale or transfer to cardholders. The new rule does not allow for marijuana infused products to be produced when the precursors have not been tested for pesticides, and therefore no further modification of this rule is required for this purpose.

COMMENT #25: A commenter recommends that New Rule II(4) should be modified as follows: "A licensed marijuana testing laboratory may refer no more than 25% of the quality assurance testing requirements defined in [New Rule VIII] to another licensed marijuana testing laboratory in Montana, for a limited period approved by the state."

RESPONSE #25: The department disagrees with the recommended revisions as they do not meet the intent of the new rule. New Rule II allows medical marijuana testing laboratories to send limited amounts of testing to other licensed medical marijuana laboratories under certain circumstances including but not limited to

instances of instrument failure, personnel loss, natural disaster, compliance issues, or business considerations. It would not permit a licensed laboratory or license applicant to exist as a sample collection entity that purely refers samples to another licensed laboratory for testing.

COMMENT #26: A commenter would like the department to create a new rule that mandates the medical marijuana testing laboratory sample retention period.

RESPONSE #26: A licensed medical marijuana laboratory should define their sample retention policy or standard operating procedure in the laboratory's quality manual. Policies or procedures may differ between laboratories as long as they are in accordance with department requirements for sample conditions of storage, security, retesting, and disposal.

COMMENT #27: A commenter has recommended that KEIF, hash, and pressed rosin be excluded from residual solvent screening before transfer or direct sale to cardholders because they are mechanically produced.

RESPONSE #27: The department disagrees. Since production methods for these products are not standardized among manufacturers, the department cannot assume that solvents or other chemicals may not be introduced during the production process.

COMMENT #28: A commenter requests that New Rule VIII(8)(c) be revised for clarity and consistency to read: "Culturable Mold: more than 10,000 colony forming units (CFU) per gram of material."

RESPONSE #28: The department agrees with the proposed revision and has revised the rule accordingly.

COMMENT #29: A commenter mentioned several instances where there may be a potential conflict between requirements of the proposed new rules and METRC or the METRC Lab User Guide.

RESPONSE #29: The proposed new rules are intended to provide necessary quality standards and requirements for medical marijuana testing laboratories in the pre-analytical, analytical, and post analytical phases of laboratory testing. The METRC manual and Lab User Guide is intended to instruct medical marijuana laboratories on how to enter data into the seed to sale tracking system. The rules adopted in this notice set the controlling requirements with respect to laboratory practices in those testing phases. The department will review and consider revising the METRC Lab User Guide in order to avoid potential sources of confusion.

COMMENT #30: A commenter stated the department should look into whether retesting via METRC is sufficient or whether it needs to add a formal mechanism/form for retesting requests by providers.

RESPONSE #30: The department does not believe it is necessary to have a department form for the provider to request retesting by a medical marijuana laboratory or to seek permission from the state laboratory. However, in keeping with good laboratory practices, the laboratory should have a process in their quality manual for documenting testing requests or changes in testing requests from their clients. As long as failed tests and remediation/retesting are performed in adherence to the requirements of New Rule VII, the laboratory can continue to enter retesting in METRC as usual.

COMMENT #31: A commenter stated that "Mold" should read, "Total Yeast and Mold," in New Rule VIII(8)(c).

RESPONSE #31: The department disagrees as yeast is not referenced anywhere else in New Rule VIII.

/s/ Robert Lishman
Robert Lishman
Rule Reviewer

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

Certified to the Secretary of State October 8, 2019.

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

In the matter of the adoption of	)	NOTICE OF ADOPTION OF
Emergency Rules I through IV	)	EMERGENCY RULES
pertaining to prohibiting the sale of)	
flavored vapor products to reduce)	
youth risk of vaping-associated lung)	
injury or death)	

TO: All Concerned Persons

1. The Department of Public Health and Human Services (department) is adopting the following emergency rules in response to the concurrent epidemic of youth e-cigarette or vapor products use (vaping) and the emerging outbreak of lung injury and death associated with vaping. The rules prohibit the sale of flavored vaping products, regardless of whether they contain nicotine or tetrahydrocannabinol (THC).

According to the Centers for Disease Control and Prevention (CDC), Food and Drug Administration (FDA) and the National Youth Tobacco Survey, national youth vaping rates increased 78 percent from 2017 to 2018. FDA, *Youth Tobacco Use: Results from the National Youth Tobacco Survey*, <https://www.fda.gov/tobacco-products/youth-and-tobacco/youth-tobacco-use-results-national-youth-tobacco-survey> (last updated May 29, 2018). In late 2018, then FDA Commissioner Scott Gottlieb, M.D., issued a statement that was unequivocal: "I now have good reason to believe that it's reached nothing short of an epidemic proportion of growth." FDA, *Statement from FDA Commissioner Scott Gottlieb, M.D., on new steps to address epidemic of youth e-cigarette use*, <https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-new-steps-address-epidemic-youth-e-cigarette-use> (last updated Sept. 12, 2018). The United States Surgeon General, Jerome Adams, M.D., repeated this alarm in December officially declaring youth vaping an epidemic and warning that action must be promptly taken to protect the health of young people. Office of the Surgeon General, *Surgeon General's Advisory on E-cigarette Use Among Youth*, <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf> (last accessed Oct. 2, 2019).

Montana historically has ranked above the national average in youth vaping rates. In 2019, 58 percent of high school-aged youth reported ever trying vaping, 30 percent reported vaping in the past month, and 13 percent report frequent use (at least 20 days in the prior 30-day period). Legislative efforts such as adding vapor products to the Youth Access to Tobacco Products Control Act (16-11-301, MCA, et seq.) seem to have failed to check youth vaping growth in the state. For example, the rate of high school students reporting frequent vaping has grown 243 percent since 2017. Montana Office of Public Instruction, *2019 Youth Risk Behavior Survey*,

https://opi.mt.gov/Portals/182/Page%20Files/YRBS/2019YRBS/2019_MT_YRBS_FullReport.pdf?ver=2019-08-23-083248-820 (last accessed Oct. 2, 2019).

Research indicates that nicotine exposure occurring as a result of vaping may induce epigenetic changes that sensitize the brain to other drugs and prime it for future substance abuse. Menglu Yuan, Sarah J. Cross, Sandra E. Loughlin, Frances M. Leslie, *Nicotine and the Adolescent Brain*, 593.16 *Journal of Physiology*, 3397–3412 (2015). This concern is compounded by the popularity with youth of a product called JUUL. Teens between 15 and 17 years old have 16 times greater odds of using JUUL than 25- to 34-year-olds. Truth Initiative, *Behind the explosive growth of JUUL*, <https://truthinitiative.org/research-resources/emerging-tobacco-products/behind-explosive-growth-juul> (posted Jan. 3, 2019). JUUL is unique in that it has one of the highest levels of nicotine of any vapor product on the market and uses nicotine salts—a chemical formulation that greatly increases the rate and amount of nicotine delivered into the blood. *Id.*

A meta-analysis of 21 prior studies also recently revealed that young people who vaped were also 3.5 times more likely to use marijuana. Reuters, *Teen vaping tied to marijuana use*, <https://www.reuters.com/article/us-health-kids-smoking/teen-vaping-tied-to-marijuana-use-idUSKCN1V324S> (posted Aug. 19, 2019). Likewise, studies of the impact of THC—the psychoactive component in marijuana—on the young brain consistently show evidence of both structural brain abnormalities and altered neural activity. American Psychological Association, *Marijuana and the developing brain*, <https://www.apa.org/monitor/2015/11/marijuana-brain> (posted Nov. 2015).

Vaping products contain a liquid that may contain nicotine, THC, and other cannabinoid oils, flavoring, propylene glycol, vegetable glycerin, and other ingredients. Vaping liquids may also contain chemicals such as diacetyl, formaldehyde, acrolein, acrylonitrile, propylene oxide, crotonaldehyde, and acetaldehyde, as well as metals such as nickel, lead, and chromium.

The federal Centers for Disease Control and Prevention, the federal Food and Drug Administration, and state and local health departments nationally are investigating a multistate outbreak of lung injury and death associated with vaping. As of October 3, 2019, the CDC had confirmed 1080 cases across 48 states and U.S. territories, including 21 fatalities in 15 different states. The department has confirmed two cases in Montana and is tracking several potential cases.

The only commonality in all cases is a history of vaping, but victims otherwise report mixed histories of using vapor products containing THC, nicotine, or a combination of both. Cases show diverse symptoms and signs of injury, including cough, chest pain, shortness of breath, low levels of blood oxygen, abnormal chest X-rays or CT scans, and pathologic evidence of severe damage to the lungs. People suffering from the condition have experienced grievous harm to their health with some requiring admission to intensive care units and mechanical ventilation. Several other states have already taken steps to protect the public from this harm.

Promulgation of these emergency rules is necessary because no other administrative act can be taken to avert this imminent peril to public health, safety, and welfare of Montana youth who vape or may be considering trying vapor products. The explosive growth of youth use of vapor products in the state has been concerning, but the present outbreak of lung injury and death associated with vaping gives rise to an immediate and alarming condition of public health importance. For the foregoing reasons, the department enacts these emergency rules. These rules will remain in effect no longer than 120 days after the date of enactment.

2. EMERGENCY RULE I provides definitions that apply to this rulemaking. These definitions are necessary to clarify that a flavor includes any substance, including mint or menthol, that imparts a taste or smell to a vapor product other than the natural taste or smell that comes from the psychoactive plant component of a nicotine or THC-containing product. These definitions clarify that the emergency rules apply to all individual and corporate entities that sell vapor products in the normal course of business. The definitions further clarify that the rules are intended to apply to all electronic smoking products that produce a vapor or aerosol, regardless of whether they do or do not contain nicotine or THC.

3. EMERGENCY RULE II is necessary to curtail the sale or distribution of flavored vapor products within the state of Montana by any means, including by remote or online methods. Emergency Rule II protects Montana youth who vape or may be considering trying vapor products by temporarily removing from intrastate commerce the flavored, youth-targeted products that have been identified as a primary draw to vaping—a practice that is presently inflicting grievous injury to and illness on people throughout the country, including Montana.

4. EMERGENCY RULE III is part of a comprehensive, national effort to expand outbreak reporting to capture information related to lung injury and death associated with vaping. The inclusion of this rule allows public health officials and medical practitioners to better respond to individual cases, but also allows for the gathering of critical information to identify a root cause of the present outbreak and recommend appropriate control measures to stop its spread. Under the rule, cases of unexplained vaping-associated lung injury will be immediately reportable to the department in order to conduct surveillance activities necessary for the investigation, monitoring, control, and prevention of this condition.

5. EMERGENCY RULE IV is necessary to prevent the impairment of functioning of the remaining emergency rules package should a single provision or portion of any provision be invalidated by a court of competent jurisdiction.

6. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. If you require an accommodation, contact Gwen Knight at the 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.

7. The emergency rules are effective October 22, 2019. This fourteen-day delay in effectiveness will allow for all impacted parties sufficient opportunity to receive notice and come into compliance.

8. The text of the emergency rules provides as follows:

EMERGENCY RULE I DEFINITIONS As used in these emergency rules, the following definitions apply:

(1) "Flavored vapor product" means a vapor product that imparts a taste or smell other than the taste or smell of tobacco or marijuana. This includes but is not limited to menthol, mint, wintergreen, fruit, chocolate, cocoa, vanilla, honey, or the taste or smell of any candy, dessert, alcoholic beverage, herb, or spice. A vapor product shall be presumed to be a flavored vapor product if a retailer, manufacturer, or a manufacturer's agent or employee has made a statement or claim directed to consumers or the public, whether expressed or implied, that the product or device has a distinguishable taste or aroma other than the taste or aroma of tobacco or marijuana.

(2) "Person" means a natural person, company, corporation, firm, partnership, organization, or other legal entity.

(3) "Vapor product" means a noncombustible product, regardless of nicotine or Tetrahydrocannabinol (THC) content, that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from a solution or other substance. The term includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container that may contain nicotine or THC in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

AUTH: 2-4-303, 50-1-202, MCA

IMP: 50-1-202, MCA

EMERGENCY RULE II DISTRIBUTION OF FLAVORED VAPOR PRODUCTS PROHIBITED (1) A person shall not sell, offer for sale, give, or otherwise distribute flavored vapor products to persons within this state.

(2) A person shall not transport within this state flavored vapor products intended for sale or distribution within this state by any person.

(3) These rules apply with equal force regardless of whether a retailer or reseller is physically located in this state or utilizes online or other remote sale methods that are intended to deliver flavored vapor products to this state.

AUTH: 2-4-303, 50-1-202, MCA

IMP: 50-1-202, MCA

EMERGENCY RULE III REPORTING REQUIREMENTS (1) Cases of pulmonary illness associated with the use of vaping products are a reportable disease and condition under ARM 37.114.203 and are subject to the reporting requirements set forth under ARM Title 37, chapter 114, subchapter 2.

AUTH: 2-4-303, 50-1-202, MCA
IMP: 50-1-202, 50-2-118, MCA

EMERGENCY RULE IV SEVERABILITY (1) If any rule or subsection of these emergency rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.

AUTH: 2-4-303, 50-1-202, MCA
IMP: 50-1-202, MCA

9. The rationale for these emergency rules is as set forth in paragraphs 1 through 5.

10. It is presently unknown whether a standard rulemaking procedure will be undertaken prior to the expiration of these emergency rules. The necessity and efficacy of these emergency rules will be continuously evaluated as the investigation into the outbreak of vaping-associated pulmonary injury develops.

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

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

/s/ Nicholas Domitrovich
Nicholas Domitrovich
Rule Reviewer

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

Certified to the Secretary of State October 8, 2019.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

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

TO: All Concerned Persons

1. On July 26, 2019, the Secretary of State published MAR Notice No. 44-2-234 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 1045 of the 2019 Montana Administrative Register, Issue Number 14. On September 6, 2019, the Secretary of State published an amended notice of proposed adoption of the above-stated rule at page 1517 of the 2019 Montana Administrative Register, Issue Number 17.

2. The following rule is being adopted as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

NEW RULE I (44.3.117) PERFORMANCE STANDARDS FOR ACCESSIBLE VOTING TECHNOLOGY DEVICES (1) A At a minimum, a voter interface device must meet the Elections Assistance Commission's (EAC) standards for Voluntary Voting System Guidelines (VVSG) version 1.0 or greater adopted by the EAC on December 13, 2005, for accessible voting technology for electors with hearing, vision, speech, or ambulatory impairments. However, in lieu of meeting VVSG version 1.0, a voter interface device may meet VVSG versions greater than 1.0 that were adopted by the EAC on or before September 6, 2019.

(2) The U.S. Election Assistance Commission (EAC) was created for the purpose of helping states implement the Help America Vote Act of 2002 (HAVA). The EAC is an independent, bipartisan commission charged with developing guidance to meet HAVA requirements and adopting VVSG. The VVSG are a set of specifications and requirements against which voting systems can be tested to determine if the systems meet required standards. Some factors examined under these tests include basic functionality, accessibility, and security capabilities. HAVA mandates that the EAC develop and maintain these requirements.

(3) VVSG copy of VVSG 1.0 may be found at: <https://www.eac.gov/documents/2017/03/15/vvsg-10-vol-1-voluntary-voting-system-guidelines-vvsg/>.

3. The final adoption of this rule incorporates suggested grammatical and/or wording revisions for rule clarity purposes.

/s/ Austin James
Austin James
Rule Reviewer

/s/ Dana Corson
Dana Corson
Director of Elections
Secretary of State

Dated this 8th day of October, 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 June 30, 2019. This table includes notices in which those rules adopted during the period April 26, 2019, through October 4, 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 June 30, 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 Nursing)

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(Board of Occupational Therapy Practice)

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(Board of Pharmacy)

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(Board of Public Accountants)

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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 September 2019 appear. Potential vacancies from November 1, 2019 through January 31, 2020, are also listed.

IMPORTANT

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

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Directors of the State Compensation Insurance Fund			
Mr. Matthew Mohr Bozeman	Governor	Reappointed	9/13/2019 5/1/2023
Qualifications (if required): Policy holder			
Commission for Human Rights			
Dr. Margaret H. Campbell Havre	Governor	Bear Don't Walk	9/20/2019 1/1/2023
Qualifications (if required): Public Representative			
Committee on Telecommunications Access Services for Persons with Disabilities			
Mrs. Sherri Odlin Missoula	Governor	Peart	9/20/2019 7/1/2021
Qualifications (if required): Public safety answering point			
Mr. Jay Wilson Preston Charlo	Governor	Reappointed	9/13/2019 7/1/2021
Qualifications (if required): Inter LATA interexchange carrier			
Ms. Barbara Varnum Polson	Governor	Daumiller	9/20/2019 7/1/2020
Qualifications (if required): Person without a disability, senior citizen			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
District Court Judge in the Fourth Judicial District			
Mr. Jason Troy Marks Missoula	Governor	Townsend	9/9/2019 12/31/2022
Qualifications (if required): None Stated			
Family Support Services Advisory Council			
Mrs. Abigail Harris Forsyth	Governor	McKee	9/13/2019 4/1/2020
Qualifications (if required): Parent Representative, Region 1			
Future Fisheries Review Panel			
Mr. Anthony Wayne Cate Missoula	Governor	Willauer	9/20/2019 7/1/2021
Qualifications (if required): Member who is a licensed angler			
Mr. Terry A. Chute Helena	Governor	Reappointed	9/20/2019 7/1/2021
Qualifications (if required): Member with expertise in silviculture			
Mr. Charles E. Dalby Helena	Governor	Reappointed	9/20/2019 7/1/2021
Qualifications (if required): Public member			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Future Fisheries Review Panel Cont.			
Mr. Bruce Farling Missoula	Governor	Johns	9/20/2019 7/1/2021
Qualifications (if required): Member who is a licensed angler			
Ms. Karin Fischer Boyd Bozeman	Governor	Reappointed	9/20/2019 7/1/2021
Qualifications (if required): Member from the private sector			
Mr. Ivan Klobberdanz Helena	Governor	Yonce	9/20/2019 7/1/2021
Qualifications (if required): Montana High School Student			
Mr. Clinton F. Peck Billings	Governor	Reappointed	9/20/2019 7/1/2021
Qualifications (if required): Representative of conservation districts			
Mr. William J. Semmens Helena	Governor	Reappointed	9/20/2019 7/1/2021
Qualifications (if required): Ex-officio member			
Mr. William Frank Wichers Hamilton	Governor	Reappointed	9/20/2019 7/1/2021
Qualifications (if required): Member with expertise in fisheries			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Governor's Montana Forest Action Advisory Council			
Mr. Jim Durglo	Governor	None Stated	9/13/2019
Pablo			9/15/2020
Qualifications (if required): Representative of the Confederated Salish and Kootenai Tribe			
Mr. Tony Incashola	Governor	None Stated	9/13/2019
Pablo			9/15/2020
Qualifications (if required): Confederated Salish and Kootenai Tribe Alternate			
Mr. Ray King	Governor	None Stated	9/13/2019
Harlem			9/15/2020
Qualifications (if required): Fort Belknap Community Alternate			
Councilman Warren Morin	Governor	None Stated	9/13/2019
Harlem			9/15/2020
Qualifications (if required): Representative of the Fort Belknap Community			
Mr. Clarence Sivertsen	Governor	None Stated	9/13/2019
Belt			9/15/2020
Qualifications (if required): Representative of the Little Shell Chippewa Tribe			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Invasive Species Council			
Mr. Bob Cloninger	Governor	Miller	9/13/2019
Helena			5/1/2023
Qualifications (if required): Department of Transportation Director			
Land Information Advisory Council			
Mr. Carl John Healy, Sr.	Governor	Walks Over Ice	9/20/2019
Harlem			6/30/2021
Qualifications (if required): Indian Tribal Interests			
Montana Council on Developmental Disabilities			
Ms. Cindee Bianchini	Governor	Carlson	9/13/2019
Helena			1/1/2023
Qualifications (if required): Parent and family advocate			
Mr. Devin Howard Booth	Governor	Harrison	9/13/2019
Kalispell			1/1/2021
Qualifications (if required): Self-advocate			
Ms. Ann Buss	Governor	Evermann	9/13/2019
Helena			1/1/2021
Qualifications (if required): DPHHS Title V			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Council on Developmental Disabilities Cont.			
Mr. David Eaton Livingston	Governor	Merrill	9/13/2019 1/1/2021
Qualifications (if required): Local, nongovernmental agency			
Ms. Chanda Hermanson Helena	Governor	Marks	9/13/2019 1/1/2021
Qualifications (if required): DPHHS, Vocational Rehabilitation			
Ms. Kerrie Reidelbach Helena	Governor	Higgins	9/13/2019 1/1/2021
Qualifications (if required): DPHHS, Older Americans Act			
Ms. Tara Lynn Thomas Billings	Governor	Reappointed	9/13/2019 1/1/2023
Qualifications (if required): Parent and family advocate			
Mrs. Constance Wethern Glasgow	Governor	Reappointed	9/13/2019 1/1/2023
Qualifications (if required): Parent and family advocate			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Rehabilitation Council			
Ms. Barbara Louise Davis Missoula	Governor	Reappointed	9/20/2019 10/1/2022
Qualifications (if required): Statewide Independent Living Council Representative			
Ms. Kathy Jean Hampton Helena	Governor	Reappointed	9/20/2019 10/1/2022
Qualifications (if required): Client assistance program			
Ms. Katherine Mary Meier Great Falls	Governor	Reappointed	9/20/2019 10/1/2021
Qualifications (if required): Representative of individuals with disabilities			
Statewide Public Safety Communications System Advisory Council			
Commissioner Joseph Briggs Great Falls	Governor	Reappointed	9/20/2019 7/1/2021
Qualifications (if required): Representative of county government			
Sheriff Leo Dutton Helena	Governor	Curry	9/20/2019 7/1/2021
Qualifications (if required): Law Enforcement Representative			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Statewide Public Safety Communications System Advisory Council Cont.			
Mr. Raphael Graybill Helena	Governor	Reappointed	9/20/2019 7/1/2021
Qualifications (if required): Representative of the Governor's Office			
Captain Jeffrey Scott Newton Great Falls	Governor	Burton	9/20/2019 7/1/2021
Qualifications (if required): Representative of a municipality			
Ms. Marjean Rebecca Penny Bozeman	Governor	Reappointed	9/20/2019 7/1/2021
Qualifications (if required): Representative of the Assoc. of Public Safety Communications Officials			
Mr. Joshua D. Turnsplenty Hays	Governor	DesRosier	9/20/2019 7/1/2021
Qualifications (if required): Representative of tribal governments			
Mr. Joshua L. Waldo Bozeman	Governor	Reappointed	9/20/2019 7/1/2021
Qualifications (if required): Representative of the fire protection community			
Mr. David Thomas Webster Helena	Governor	Loss	9/20/2019 7/1/2021
Qualifications (if required): Representative of the emergency medical community			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2019

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Traumatic Brain Injury Advisory Council			
Ms. Angela K. Grant	Governor	Haugrose	9/20/2019
Arlee			1/1/2020
Qualifications (if required): Representative of injury control or prevention programs			
Ms. Carla Hunsley	Governor	Boyer	9/20/2019
Fort Peck			1/1/2021
Qualifications (if required): Survivor or Family of Survivor of Traumatic Brain Injury			

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2019 THROUGH JANUARY 31, 2020

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Chiropractors Dr. Amy Pezo, Helena Qualifications (if required): Chiropractor	Governor	1/1/2020
Board of Personnel Appeals Ms. Anne L. MacIntyre, Helena Qualifications (if required): Attorney with General Labor-Management experience	Governor	1/1/2020
Board of Speech-Language Pathologists and Audiologists Mr. Rich Turner, Billings Qualifications (if required): Public member who is a consumer of speech-language pathology or audiology	Governor	12/31/2019
 Mrs. Rachel Glazer Stransberry, Lewistown Qualifications (if required): Speech-Language Pathologists	 Governor	 12/31/2019
Grass Conservation Commission Mr. Jeffrey Allen Willmore, Roy Qualifications (if required): Holds an active grazing preference rights within a state district	Governor	1/1/2020
Mr. Gregory Martin Oxarart, Malta Qualifications (if required): Officer of or serves on the board of directors of a state district	Governor	1/1/2020

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2019 THROUGH JANUARY 31, 2020

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Judicial Nomination Commission		
Mr. Karl Englund, Missoula Qualifications (if required): Elected	Supreme Court	12/31/2019
Ms. Janice Bishop, Missoula Qualifications (if required): Lay member who is neither a judge nor attorney active or retired	Governor	1/1/2020
Labor-Management Advisory Council		
Lt. Governor Mike Cooney, Helena Qualifications (if required): None Stated	Governor	12/31/2019
Mr. Don Judge, Helena Qualifications (if required): Representing Employees	Governor	12/31/2019
Mr. Doug Buman, Seattle, WA Qualifications (if required): Representing Employees	Governor	12/31/2019
Ms. Annette Hoffman, Billings Qualifications (if required): Representing Employers	Governor	12/31/2019
Mr. Eric Strauss, Helena Qualifications (if required): Ex-officio Member	Governor	12/31/2019
Mr. Lance Zanto, Helena Qualifications (if required): Representing Employers	Governor	12/31/2019

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2019 THROUGH JANUARY 31, 2020

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Labor-Management Advisory Council Cont.		
Mr. Jim Larson, Billings Qualifications (if required): Representing Employees	Governor	12/31/2019
Mr. Al Smith, Helena Qualifications (if required): Employees chosen by the Montana Trial Lawyers Association	Governor	12/31/2019
Ms. Vicki Evans, Great Falls Qualifications (if required): Employers representing self-insurers	Governor	12/31/2019
Mr. Adam Haight, Helena Qualifications (if required): Representing Employees	Governor	12/31/2019
Mr. Bridger Mahlum, Helena Qualifications (if required): Employers representing Montana Chamber of Commerce	Governor	12/31/2019
Mr. Mike Marsh, Billings Qualifications (if required): Representing Employers	Governor	12/31/2019
Montana Alfalfa Seed Committee		
Mr. Tom Matchett, Billings Qualifications (if required): Actively engaged in the growing of alfalfa seed	Governor	12/1/2019
Mr. Tom Neibur, Malta Qualifications (if required): Actively engaged in the growing of alfalfa seed	Governor	12/1/2019

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2019 THROUGH JANUARY 31, 2020

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Resource Conservation Advisory Council		
Mr. Doug Bonsell, Ekalaka Qualifications (if required): Eastern Montana	Governor	1/1/2020
State Employee Group Benefits Advisory Council		
Director Sheila Hogan, Helena Qualifications (if required): Executive Branch Representative	Governor	12/31/2019
Representative Jim Keane, Butte Qualifications (if required): Legislature Representative	Governor	12/31/2019
Ms. Peggy MacEwen, Helena Qualifications (if required): Executive Branch Representative	Governor	12/31/2019
Ms. Samantha Chase, Helena Qualifications (if required): Executive Branch Representative	Governor	12/31/2019
Ms. Penny Fassett, Helena Qualifications (if required): Executive Branch Representative	Governor	12/31/2019
Ms. Diane Fladmo, Helena Qualifications (if required): State Employees and labor organizations	Governor	12/31/2019
Ms. Susan Fox, Helena Qualifications (if required): Legislative Branch	Governor	12/31/2019

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2019 THROUGH JANUARY 31, 2020

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Employee Group Benefits Advisory Council Cont.		
Ms. Cheryl Grey, Helena Qualifications (if required): Executive Branch Representative	Governor	12/31/2019
Ms. Mandi Hinman, Helena Qualifications (if required): Executive Branch Representative	Governor	12/31/2019
Mr. Jim Lewis, Helena Qualifications (if required): Retired State Employees' Representative	Governor	12/31/2019
Mr. Quint Nyman, Helena Qualifications (if required): State Employees and Labor Organizations	Governor	12/31/2019
Mr. Duane Preshinger, Helena Qualifications (if required): Ex-Officio member representing the Dept. of Administration	Governor	12/31/2019
Ms. Amy Sassano, Helena Qualifications (if required): Executive Branch Representative	Governor	12/31/2019
Mr. Derek Shepherd, Helena Qualifications (if required): Judicial Branch	Governor	12/31/2019
Statewide Independent Living Council		
Ms. Leanne Beers, Missoula Qualifications (if required): Person with a disability	Governor	12/1/2019

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2019 THROUGH JANUARY 31, 2020

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Statewide Independent Living Council Cont.		
Ms. Jennifer Cleland, Billings Qualifications (if required): Person with a disability	Governor	12/1/2019
Mr. Scott Lee Birkenbuel, Bozeman Qualifications (if required): None Stated	Governor	12/1/2019
Trauma Care Committee		
Mr. Clinton Loss, Helena Qualifications (if required): Montana Emergency Medical Services Association	Governor	11/1/2019
Dr. Whitney Gum, Billings Qualifications (if required): Member of the American College of Emergency Physicians	Governor	11/1/2019
Traumatic Brain Injury Advisory Council		
Dr. Ruth Elizabeth Ross, Missoula Qualifications (if required): Member of the public	Governor	1/1/2020
Ms. Joanna Susanne Reed, Helena Qualifications (if required): Representative of injury control or prevention programs	Governor	1/1/2020
Ms. Ann Geiger, Whitehall Qualifications (if required): Advocate for Brain-Injured Persons	Governor	1/1/2020
Ms. April Haugrose, Great Falls Qualifications (if required): Representative of injury control or prevention programs	Governor	1/1/2020

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2019 THROUGH JANUARY 31, 2020

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Traumatic Brain Injury Advisory Council Cont.		
Ms. Angela K. Grant, Arlee	Governor	1/1/2020
Qualifications (if required): Representative of injury control or prevention programs		
Yellowstone River Recreation Project Advisory Council		
Ms. Kathleen Aragon, Billings	Governor	12/31/2019
Qualifications (if required): Member of the public		
Mr. Ted Lovec, Billings	Governor	12/31/2019
Qualifications (if required): Member of the public		

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COREY STAPLETON
SECRETARY OF STATE

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