

MONTANA ADMINISTRATIVE REGISTER

2021 ISSUE NO. 11
JUNE 11, 2021
PAGES 673-726



MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 11

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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) 438-6122.

Page Number

TABLE OF CONTENTS

PROPOSAL NOTICE SECTION

LABOR AND INDUSTRY, Department of, Title 24

24-159-89 (Board of Nursing) Notice of Public Hearing on Proposed Amendment and Repeal - Definitions - Fees - Qualifications for Executive Director of the Board - Nurse Licensure Compact Rules - Program Standards - Program Annual Report - Establishment of a New Program - Program Director - Program Faculty - Waiver of Faculty Qualifications - General Requirements for Licensure as Medication Aide I and II - Prohibited Intravenous (IV) Therapies - Temporary Practice Permit - LPN and RN Licensure by Examination for Internationally Educated Applicants - Licensure by Endorsement - Renewals - Application for Prescriptive Authority - Prescribing Practices - APRN Competence Development - Purpose - Criteria for Delegation of Nursing Tasks - General Nursing Functions and Tasks That May Not Be Delegated - Conduct of Nurses - Grounds for Denial of a License.

673-686

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-944 Notice of Public Hearing on Proposed Amendment - Updating Medicaid and Non-Medicaid Provider Rates, Fee Schedules, and Effective Dates.

687-699

PUBLIC HEALTH AND HUMAN SERVICES, Continued

37-946 Notice of Public Hearing on Proposed Amendment - Youth Care Facility Requirements.	700-710
37-948 Notice of Public Hearing on Proposed Amendment - Nursing Facility Reimbursement.	711-714

RULE ADOPTION SECTION

ADMINISTRATION, Department of, Title 2

2-59-613 Notice of Adoption and Amendment - Examination Fees - Revocation and Suspension of Mortgage Licenses - Consumer Complaints - Confidentiality Agreements - Sharing Arrangements - Reinstatement of Expired or Suspended Licenses - Mortgage Loan Origination Disclosure Form - Bona Fide Not-For-Profit Certification - Applications for Initial Licenses Near Year End.	715
--	-----

LABOR AND INDUSTRY, Department of, Title 24

24-29-367 Notice of Amendment - Medical Fee Schedules for Workers' Compensation Purposes.	716
---	-----

SPECIAL NOTICE AND TABLE SECTION

Function of Administrative Rule Review Committee.	717-718
How to Use ARM and MAR.	719
Recent Rulemaking by Agency.	720-726

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

In the matter of the amendment of ARM)	NOTICE OF PUBLIC HEARING ON
24.159.301 definitions, 24.159.401)	PROPOSED AMENDMENT AND
fees, 24.159.416 qualifications for)	REPEAL
executive director of the board,)	
24.159.502 nurse licensure compact)	
rules, 24.159.604 program standards,)	
24.159.612 program annual report,)	
24.159.625 establishment of a new)	
program, 24.159.650 program director,)	
24.159.655 program faculty,)	
24.159.663 waiver of faculty)	
qualifications, 24.159.910 general)	
requirements for licensure as)	
medication aide I, 24.159.911 general)	
requirements for licensure as)	
medication aide II, 24.159.1011)	
prohibited intravenous (IV) therapies,)	
24.159.1021 temporary practice permit,)	
24.159.1029 LPN licensure by)	
examination for internationally educated)	
applicants, 24.159.1221 temporary)	
practice permit, 24.159.1229 RN)	
licensure by examination for)	
internationally educated applicants,)	
24.159.1418 licensure by endorsement,)	
24.159.1427 renewals, 24.159.1463)	
application for prescriptive authority,)	
24.159.1464 prescribing practices,)	
24.159.1469 APRN competence)	
development, 24.159.1601 purpose,)	
24.159.1611 criteria for delegation of)	
nursing tasks, 24.159.1625 general)	
nursing functions and tasks that may)	
not be delegated, 24.159.2301 conduct)	
of nurses, and the repeal of)	
24.159.1023, 24.159.1223, and)	
24.159.1416 grounds for denial of a)	
license)	

TO: All Concerned Persons

1. On July 2, 2021, at 9:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment and repeal of the above-stated

rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/86010681047>
Meeting ID: 860 1068 1047, Passcode: 425183
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 860 1068 1047, Passcode: 425183

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

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 Nursing no later than 5:00 p.m., on June 25, 2021, to advise us of the nature of the accommodation that you need. Please contact Missy Poortenga, Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2380; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or nurse@mt.gov (board's e-mail).

3. GENERAL REASONABLE NECESSITY STATEMENT: The board intended to convene a rules committee meeting in March of 2020 to complete a thorough review of all board rules. That meeting was delayed until April 7, 2021, due to the COVID-19 pandemic and declared emergency in Montana. The committee made several recommendations for amendments and repeals which the full board accepted during the April 21, 2021 board meeting. This notice contains the committee's accepted recommendations as well as several clarifying changes suggested by board staff.

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

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

(3) through (10) remain the same but are renumbered (4) through (11).

(~~11~~) (12) "Delegation" means the act of authorizing and directing a ~~UAP~~ an AP to perform a specific nursing task in a specific situation in accordance with these rules.

(12) through (45) remain the same but are renumbered (13) through (46).

~~(46)~~ (3) "~~Unlicensed assistive~~ Assistive person" or "~~UAP~~ AP" means any person, regardless of title, who is not a licensed nurse and who functions in an assistive role to the nurse and receives delegation of nursing tasks.

(47) remains the same.

AUTH: 37-1-131, 37-8-202, MCA

IMP: 37-1-131, 37-8-101, 37-8-102, 37-8-202, 37-8-422, MCA

REASON: The board is amending this rule and several others in this notice to change "unlicensed assistive person" to "assistive person" or AP. In 2019, a Joint Statement on Delegation was issued from the American Nurses Association (ANA) and the National Council of State Boards of Nursing (NCSBN). The statement recommended no longer using the term "unlicensed" in reference to assistive personnel and recognized it is the role the assistive person is fulfilling that determines appropriate delegation. The board is updating the term in this rule and ARM 24.159.1601, 24.159.1611, and 24.159.1625.

24.159.401 FEES (1) through (8) remain the same.

~~(9) The fee for the board resending a renewal application is \$20.~~

~~(10) The fee for a printed copy of the laws and rules book is \$15. The fee for a copy of the laws and rules in CD-Rom format is \$5, with no restrictions on downloading laws and rules from the board web site or making duplicate copies from the original copy ordered.~~

(11) through (18) remain the same but are renumbered (9) through (16).

AUTH: 37-1-134, 37-1-319, 37-8-202, 37-8-426, MCA

IMP: 37-1-134, 37-1-141, 37-8-202, 37-8-426, MCA

REASON: The board is amending this rule to strike two outdated and erroneous fees. All communication with license applicants is guided by the department's standardized application and renewal procedures. While most renewal communications are done by email, the department does not charge to send a renewal form by mail.

The department no longer provides copies of the board's laws and rules in either printed or CD-Rom formats. The official versions of the Montana Code Annotated are online through the Montana legislature's website and the administrative rules are found on the Secretary of State's website. Links are provided to these pages on the board's website.

24.159.416 QUALIFICATIONS FOR EXECUTIVE DIRECTOR OF THE BOARD (1) An executive director shall provide administrative services to the board to ensure:

(a) and (b) remain the same.

(c) that licensure and related processes are efficient and effective; and

~~(d) oversight of licensee compliance with nursing statutes and rules, including administrative direction of staff and board member compliance activities; and~~

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

(2) remains the same.

AUTH: ~~37-8-202, 37-8-204, 37-8-319~~, MCA

IMP: 37-8-204, MCA

REASON: Division rules and standardized department procedures dictate that these services are provided to all licensure boards through the department's compliance unit, rather than the executive officer. The board is striking (1)(d) to align with the standardized procedures and further recognize that the executive officer's involvement in compliance activities may implicate a licensee's due process rights in disciplinary proceedings.

Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

24.159.502 ~~ENHANCED~~ NURSE LICENSURE COMPACT RULES

(1) remains the same.

(2) The compact rules can be found at <https://www.ncsbn.org/enlcrules.htm> on the National Council for State Boards of Nursing web site (www.ncsbn.org) under the Licensure Compacts tab.

AUTH: 37-8-202, MCA

IMP: 37-8-501, MCA

REASON: It is reasonably necessary to update this rule to include the current online location of the nurse licensure compact rules.

24.159.604 PROGRAM STANDARDS (1) All programs shall meet these standards:

(a) remains the same.

(b) The program identifies the national standards it uses as the basis for the purpose and expected outcomes of the program.

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

~~(c) The program shall implement a comprehensive, systematic plan for ongoing evaluation that is based on program outcomes and incorporates continuous improvement.~~

~~(d) The curriculum shall provide didactic and clinical learning experiences consistent with program outcomes.~~

~~(e) Faculty and students shall participate in program planning, implementation, evaluation, and continuous improvement.~~

~~(f) The program administrator shall be a professionally and academically qualified RN with institutional authority and administrative responsibility for the program.~~

~~(g) Professionally, academically, and clinically qualified nurse faculty shall be sufficient in number and expertise to accomplish program outcomes and quality improvement.~~

~~(h) The fiscal, human, physical, clinical, and technical learning resources shall be adequate to support program processes, security, and outcomes.~~

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

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-202, 37-8-301, MCA

REASON: In carrying out site visits and reviewing self-study documents received from schools requiring site visit surveys, board staff noticed that (1)(c) through (h) are already addressed in ARM 24.159.606, 24.159.609, 24.159.650, 24.159.655 and 24.159.670. The board's contracted educational consultant, after a 2019 site survey, also recommended the board strike the provisions from this rule as they are better addressed under the stated rules. The board is striking the duplicated provisions from this rule as recommended.

24.159.612 PROGRAM ANNUAL REPORT (1) remains the same.

(2) The purpose of the annual report is to provide current data for ongoing program evaluation by the board. The annual report must be submitted using the template posted to the board web site on July 1 of each year. The report must include:

(a) and (b) remain the same.

(c) names and qualifications of full-time and part-time faculty, ~~and Clinical Resource Registered Nurses (CRRNs),~~ and Clinical Resource Licensed Practical Nurses (CRLPNs);

(d) through (h) remain the same.

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-202, 37-8-301, 37-8-302, MCA

REASON: In 2019, the board adopted ARM 24.159.667, the clinical resource licensed practical nurse (CRLPN) rule, which allows LPNs working in long term care settings to serve as clinical instructors of practical nursing students in those settings. In 2020, the National Council of State Boards of Nursing (NCSBN) released recommendations for evidence-based template annual reports. Following the rule's effective date, staff noted that regulation of CRRNs should be consistent with CRLPNs in terms of reporting and faculty oversight. The rules committee agreed, and the board determined it is reasonably necessary to amend this rule to achieve the consistency in regulation.

24.159.625 ESTABLISHMENT OF A NEW PROGRAM (1) and (2) remain the same.

(3) The next step is Phase II, application for initial approval for admission of students. The applicant shall provide the following information to the board:

(a) remains the same.

(b) list of sufficient qualified faculty, CRRNs, CRLPNs, and administrative staff to develop and initiate the program;

(c) through (7) remain the same.

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-202, 37-8-301, 37-8-302, MCA

REASON: See REASON for ARM 24.159.612.

24.159.650 PROGRAM DIRECTOR (1) remains the same.

- (2) The program director is responsible for:
- (a) ensuring that all faculty, CRRNs, CRLPNs, and preceptors meet the requisite qualifications and maintaining current records of those qualifications and performance evaluations;
 - (b) through (3) remain the same.

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-202, 37-8-301, MCA

REASON: See REASON for ARM 24.159.612.

24.159.655 PROGRAM FACULTY (1) There must be a sufficient number of qualified faculty to meet the purposes and objectives of the program. Faculty includes all nurses employed by the program to provide didactic and/or clinical/laboratory experiences. Clinical resource nurses (CRRNs and CRLPNs) and preceptors are not considered faculty.

(2) through (10) remain the same.

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-202, 37-8-301, MCA

REASON: See REASON for ARM 24.159.612.

24.159.663 WAIVER OF FACULTY QUALIFICATIONS (1) remains the same.

(2) Programs may employ a maximum of ten percent or ~~two faculty members~~ 2.0 FTE, whichever is greater, based on total faculty FTE, who do not hold a graduate degree in nursing (for registered nurse education programs) or a baccalaureate degree in nursing (for practical nurse education programs). Those individuals shall have no more than five years from the date of employment to obtain the requisite degree.

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-202, 37-8-301, MCA

REASON: At the October 9, 2019, board meeting, representatives from Great Falls College of MSU requested the board amend this rule. Due to hiring parameters in community colleges, it is easier to hire a part-time faculty member who is also a staff nurse than a full-time faculty member. The board is amending this rule to support the smaller nursing programs when filling faculty roles, especially in specialty areas such as maternal health, care of children, and mental health, while still ensuring quality instructors in these smaller programs.

24.159.910 GENERAL REQUIREMENTS FOR LICENSURE AS MEDICATION AIDE I (1) through (4) remain the same.

(5) ~~Renewal notices will be sent as specified in ARM 24.101.414, which~~
Renewal forms must be completed and returned to the board before the date set by
ARM 24.101.413, together with the renewal fee.

AUTH: 37-1-131, 37-8-202, MCA

IMP: 37-1-131, 37-1-141, 37-8-101, 37-8-202, MCA

REASON: In reviewing the rules, staff noted that the division rule on renewal
notification, ARM 24.101.414, was repealed in 2015. It is reasonably necessary for
the board to strike the erroneous citation from this rule, ARM 24.159.911 and
24.159.1427.

24.159.911 GENERAL REQUIREMENTS FOR LICENSURE AS
MEDICATION AIDE II (1) through (3) remain the same.

(4) ~~Renewal notices will be sent as specified in ARM 24.101.414, which~~
Renewal forms must be completed and returned to the board before the date set by
ARM 24.101.413, together with the renewal fee.

AUTH: 37-8-426, MCA

IMP: 37-8-423, 37-8-426, MCA

24.159.1011 PROHIBITED INTRAVENOUS (IV) THERAPIES (1) The
practical nurse may not perform any of the following IV therapy procedures:

(a) through (e) remain the same.

(f) perform arterial sticks, arterial blood draws, or arterial inline flushes.

(2) remains the same.

AUTH: 37-1-131, 37-8-202, MCA

IMP: 37-1-131, 37-8-202, MCA

REASON: Board staff is often asked whether ARM 24.159.1011(1)(f) prohibits LPNs
from drawing blood or flushing a venous access device. ARM 24.159.1010 clearly
provides that practical nurses meeting the education and competency requirements
of the rule may draw blood from a venous access device and perform intermittent
flushes for line patency maintenance on a venous access device. However, the
current language of this rule may be misunderstood to prohibit all blood draws and
inline flushes. The rules committee recommended the board amend this rule to
clarify that arterial blood draws and arterial inline flushes are prohibited IV therapies
and the board is amending the rule accordingly.

24.159.1021 TEMPORARY PRACTICE PERMIT (1) through (3) remain the
same.

~~(4) An applicant for licensure by endorsement in Montana may be granted a
temporary permit to practice practical nursing provided the applicant has submitted a
completed application as described in ARM 24.159.1028 and that the initial
screening by board staff shows no current discipline as identified in ARM
24.159.1028 in the last two years. Online verification of licensure from a U.S. board~~

~~of nursing web site may serve as verification for the purpose of issuing a temporary permit. 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 90 days of issuance of the temporary permit to the endorsement applicant, the temporary permit shall expire on the 90th day following its issuance unless an extension is granted by the board.~~

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

AUTH: 37-1-319, 37-8-202, MCA

IMP: 37-1-305, 37-1-319, 37-8-103, MCA

REASON: In 2015, the legislature passed House Bill 115 which enacted federal criminal history background checks for all nursing board applicants. Following the changes, a temporary practice permit for an endorsing nurse applicant has the same requirements as full licensure. Current provisions may mislead applicants to believe there is a quick way to become licensed when that may not be realistic. Board staff requested the rules committee consider these changes to clarify the actual process. The board determined it is reasonably necessary to amend this rule and ARM 24.159.1221 and 24.159.1418 per the committee's recommendations.

24.159.1029 LPN LICENSURE BY EXAMINATION FOR INTERNATIONALLY EDUCATED APPLICANTS (1) An internationally educated applicant for licensure as an LPN by examination shall submit to the board the required fees and a completed application, including the following information:

(a) Results of a credentials review by a board-specified credentials review agency or another board of nursing that verifies the equivalency of the international LPN education program to LPN education programs in the United States;

(b) through (2) remain the same.

AUTH: 37-1-131, 37-8-202, 37-8-415, MCA

IMP: 37-1-131, 37-8-415, 37-8-416, 37-8-418, MCA

REASON: The board received several fraudulent applications in 2018-2019. Once all the applications were reviewed, department staff concluded that credential agencies that both evaluate the education and assess licensure status in the country of education were more robust and produced reports that better assist licensure staff in accurately determining licensure qualifications. Following discussion, the board and department staff selected acceptable credential review agencies that produce more reliable reports while still ensuring the application process remains accessible. The specified agencies are listed on the board's website under the License Information tab.

24.159.1221 TEMPORARY PRACTICE PERMIT (1) through (3) remain the same.

~~(4) An applicant for licensure by endorsement in Montana may be granted a temporary permit to practice registered nursing provided the applicant has submitted a completed application as described in ARM 24.159.1228 and that the initial~~

~~screening by board staff shows no current discipline as identified in ARM 24.159.1228 in the last two years. Online verification of licensure from a U.S. board of nursing web site may serve as verification for the purpose of issuing a temporary permit. 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 90 days of issuance of the temporary permit to the endorsement applicant, the temporary permit shall expire on the 90th day following its issuance unless an extension is granted by the board.~~

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

AUTH: 37-1-319, 37-8-202, MCA

IMP: 37-1-305, 37-1-319, 37-8-103, MCA

REASON: See REASON for ARM 24.159.1021.

24.159.1229 RN LICENSURE BY EXAMINATION FOR INTERNATIONALLY EDUCATED APPLICANTS (1) An internationally educated applicant for licensure as an RN by examination shall submit to the board the required fees and a completed application, including the following information:

(a) Results of a credentials review by a board-specified credentials review agency or another board of nursing that verifies the equivalency of the international RN education program to RN education programs in the United States;

(b) through (2) remain the same.

AUTH: 37-1-131, 37-8-202, 37-8-405, MCA

IMP: 37-1-131, 37-1-134, 37-8-405, 37-8-406, MCA

REASON: See REASON for ARM 24.159.1029.

24.159.1418 LICENSURE BY ENDORSEMENT (1) remains the same.

~~(2) The board may, on a case-by-case basis, issue a license to an applicant for APRN licensure by endorsement, whose license is under investigation or in disciplinary action of a board in another jurisdiction, or to an applicant who is under investigation for a felony criminal offense.~~

~~(3) An applicant for APRN licensure by endorsement in Montana may be granted a temporary APRN permit concurrent with a temporary permit to practice registered nursing, pursuant to ARM 24.159.1221.~~

AUTH: 37-1-131, 37-8-202, 37-8-409, MCA

IMP: 37-1-131, 37-1-304, 37-8-409, MCA

REASON: See REASON for ARM 24.159.1021.

24.159.1427 RENEWALS (1) APRN license renewal is concurrent with RN license renewal. ~~Renewal notices will be sent as specified by ARM 24.101.414.~~ The licensee shall submit the renewal application by the date set by ARM

24.101.413, together with the renewal fee. ~~The renewal application includes affirmation that:~~

~~(a) all continuing education requirements have been met during the renewal period;~~

~~(b) the quality assurance plan has been followed; and~~

~~(c) the national professional organization practice standards and guidelines for appropriate role and population focus have been followed.~~

(2) and (3) remain the same.

AUTH: 37-1-131, 37-8-202, MCA

IMP: 37-1-131, 37-1-134, 37-1-141, 37-8-202, MCA

24.159.1463 APPLICATION FOR PRESCRIPTIVE AUTHORITY (1) The APRN seeking prescriptive authority shall submit a completed application and the appropriate fee for prescriptive authority as specified in ARM 24.159.401. There are three options for receiving initial or endorsed prescriptive authority:

~~(2) (a)~~ The APRN seeking prescriptive authority who has graduated from an accredited program in the last five years and does not currently hold prescriptive authority from another board jurisdiction shall submit:

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

~~(3) (b)~~ The APRN seeking prescriptive authority who has graduated more than five years ago from an accredited program and does not currently hold prescriptive authority from another board jurisdiction must complete either a graduate level course of three semester credits or 45 contact hours of continuing education in the past five years that includes instruction in pharmacodynamics, pharmacokinetics, and pharmacotherapeutics of all broad categories of agents.

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

(5) and (6) remain the same but are renumbered (2) and (3).

AUTH: 37-1-131, 37-8-202, MCA

IMP: 37-1-131, 37-8-202, MCA

REASON: Board staff consistently receives questions regarding prescriptive authority applications and qualifications. It is therefore reasonably necessary for the board to amend this rule to address the confusion by clarifying the three options available for APRNs to obtain prescriptive authority in Montana.

24.159.1464 PRESCRIBING PRACTICES (1) through (6) remain the same.

(7) An APRN with prescriptive authority may not delegate the prescribing or dispensing of drugs to any other person unless delegating to a pharmacist through a collaborative pharmacy practice agreement as defined in 37-7-101, MCA.

AUTH: 37-1-131, 37-8-202, MCA

IMP: 37-1-131, 37-8-202, MCA

REASON: Board staff receive multiple inquiries regarding if APRNs can establish collaborative practice agreements with pharmacists. After reviewing the rules, staff

noted that this rule appears to be the only one limiting an APRN from establishing a collaborative pharmacy practice agreement. The board determined it is reasonably necessary to amend this rule to clarify that APRNs with prescriptive authority may delegate to pharmacists under such an agreement.

24.159.1469 APRN COMPETENCE DEVELOPMENT (1) through (1)(b) remain the same.

(i) ~~(ii)~~ For the APRN who holds prescriptive authority, ~~12 of the 24~~ half of the contact hours must be in pharmacotherapeutics, where no more than two of these contact hours may concern the study of herbal or complementary therapies.

(ii) ~~(i)~~ At renewal, ~~APRN licensees licensed by examination less than one full year are not required to complete the 24 contact hours.~~ APRN licensees licensed by ~~examination at least one year, but less than two full years,~~ shall complete one contact hour per month licensed ~~one-half of the credit required for renewal.~~

(c) remains the same.

AUTH: 37-1-131, 37-1-319, 37-8-202, MCA

IMP: 37-1-131, 37-8-202, 37-8-409, MCA

REASON: The board is amending this rule to address confusion and questions that consistently come to board staff and make the rule easier to follow. Further, it is reasonably necessary to amend this rule to align these standards with the prorating of CE contact hours for RNs and LPNs in ARM 24.159.2102.

24.159.1601 PURPOSE (1) remains the same.

(a) serve as a standard for nurses who delegate to an ~~unlicensed~~ assistive person (~~UAP~~ AP); and

(b) remains the same.

AUTH: 37-1-131, 37-8-202, MCA

IMP: 37-1-131, 37-8-202, MCA

REASON: See REASON for ARM 24.159.301.

24.159.1611 CRITERIA FOR DELEGATION OF NURSING TASKS

(1) and (2) remain the same.

(3) Delegation of a nursing task to a ~~UAP~~ an AP shall be based solely on the determination of the patient's nurse, who has personally assessed the patient's condition, so that delegation can be performed without jeopardizing the patient's welfare.

(4) and (5) remain the same.

(a) that the ~~UAP~~ AP has the education and demonstrated competency to perform the delegated task;

(b) the task delegated is consistent with the ~~UAP's~~ AP's job description;

(c) patient needs match the ~~UAP's~~ AP's qualifications, available resources, and appropriate supervision;

(d) through (g) remain the same.

(h) for delegation of a routine task on stable patients, there is verification that the ~~UAP~~ AP follows each written facility policy or procedure when performing the delegated task;

(i) through (6) remain the same.

AUTH: 37-1-131, 37-8-202, MCA

IMP: 37-1-131, 37-8-202, MCA

REASON: See REASON for ARM 24.159.301.

24.159.1625 GENERAL NURSING FUNCTIONS AND TASKS THAT MAY NOT BE DELEGATED (1) remains the same.

(2) A nurse may not delegate to a ~~UAP~~ an AP the authority to receive verbal orders from providers.

(3) A nurse may not delegate to a ~~UAP~~ an AP the task of teaching or counseling patients or a patient's family relating to nursing and nursing services.

AUTH: 37-1-131, 37-8-202, MCA

IMP: 37-1-131, 37-8-202, MCA

REASON: See REASON for ARM 24.159.301.

24.159.2301 CONDUCT OF NURSES (1) through (1)(b) remain the same.

(c) All nurses are required to report unprofessional conduct of nurses to the board. ~~The board does not accept anonymous complaints.~~

(2) remains the same.

AUTH: 37-1-319, 37-8-202, MCA

IMP: 37-1-316, 37-1-319, 37-8-202, MCA

REASON: The board is one of only a handful of boards in Montana that prohibits anonymous complaints by rule. However, standardized department complaint procedure provides that staff may review information received from an anonymous source to determine whether to proceed with a complaint. Department staff recommends the board remove this prohibition from its rules to utilize the standard procedures and better allow the board to fulfill its mission of public protection when receiving unprofessional conduct allegations.

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

24.159.1023 GROUNDS FOR DENIAL OF A LICENSE

AUTH: 37-1-136, 37-8-202, MCA

IMP: 37-1-136, 37-1-137, 37-1-316, MCA

REASON: On May 15, 2021, the board amended ARM 24.159.403 and adopted 24.159.413 and 24.159.414 to implement a standardized division-wide procedure for

processing nonroutine licensure applications. The board is now repealing this rule and ARM 24.101.1223 and 24.159.1416 as unnecessary because the new rules and procedure adequately address grounds for license denial.

24.159.1223 GROUNDS FOR DENIAL OF A LICENSE

AUTH: 37-1-136, 37-8-202, MCA

IMP: 37-1-136, 37-1-137, 37-1-316, MCA

24.159.1416 GROUNDS FOR DENIAL OF A LICENSE

AUTH: 37-1-136, 37-8-202, MCA

IMP: 37-1-136, 37-1-137, 37-1-316, MCA

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 Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to nurse@mt.gov, and must be received no later than 5:00 p.m., July 9, 2021.

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

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 Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to nurse@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, do not apply.

10. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.159.301, 24.159.401, 24.159.416, 24.159.502, 24.159.604, 24.159.612, 24.159.625, 24.159.650, 24.159.655, 24.159.663, 24.159.910, 24.159.911, 24.159.1011, 24.159.1021, 24.159.1029, 24.159.1221, 24.159.1229, 24.159.1418, 24.159.1427, 24.159.1463, 24.159.1464, 24.159.1469,

24.159.1601, 24.159.1611, 24.159.1625, and 24.159.2301 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 24.159.1023, 24.159.1223, and 24.159.1416 will not significantly and directly impact small businesses.

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

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

BOARD OF NURSING
SHARON SWEENEY FEE, PHD, RN, CNE
PRESIDENT

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

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 1, 2021.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.85.104, 37.85.105, and) PROPOSED AMENDMENT
37.85.106 pertaining to updating)
Medicaid and non-Medicaid provider)
rates, fee schedules, and effective)
dates)

TO: All Concerned Persons

1. On July 1, 2021, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/87819771558>; meeting ID: 878 1977 1558; or

(b) Dial by telephone +1 646 558 8656; meeting ID: 878 1977 1558. Find your local number: <https://mt-gov.zoom.us/j/87819771558>.

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 June 25, 2021, to advise us of the nature of the accommodation that you need. Please contact Heidi Clark, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.85.104 EFFECTIVE DATES OF PROVIDER FEE SCHEDULES FOR MONTANA NON-MEDICAID SERVICES (1) The department adopts and incorporates by reference the fee schedule for the following programs within the Addictive and Mental Disorders Division and Developmental Services Division on the dates stated:

(a) Mental health services plan provider reimbursement, as provided in ARM 37.89.125, is effective ~~July 1, 2020~~ July 1, 2021.

(b) 72-hour presumptive eligibility for adult-crisis stabilization services reimbursement for services, as provided in ARM 37.89.523, is effective ~~July 1, 2020~~ July 1, 2021.

(c) Youth respite care services, as provided in ARM 37.87.2203, is effective ~~July 1, 2020~~ July 1, 2021.

(d) Substance use disorder services provider reimbursement, as provided in ARM 37.27.905, is effective ~~July 1, 2020~~ July 1, 2021.

(2) remains the same.

AUTH: 53-2-201, 53-6-101, 53-6-113, MCA

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

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

(2) The department adopts and incorporates by reference, the resource-based relative value scale (RBRVS) reimbursement methodology for specific providers as described in ARM 37.85.212 on the date stated.

(a) Resource-based relative value scale (RBRVS) means the version of the Medicare resource-based relative value scale contained in the Medicare Physician Fee Schedule adopted by the Centers for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services and published at ~~84 Federal Register 221, page 62568 (November 12, 2019) effective January 1, 2020~~ 85 Federal Register 248, page 84472 (December 28, 2020) effective January 1, 2021, which is adopted and incorporated by reference. Procedure codes created after January 1, 2021 will be reimbursed using the relative value units from the Medicare Physician Fee Schedule in place at the time the procedure code is created.

(b) Fee schedules are effective ~~January 1, 2021~~ July 1, 2021. The conversion factor for physician services is ~~\$39.54~~ \$41.88. The conversion factor for allied services is ~~\$24.66~~ \$24.75. The conversion factor for mental health services is ~~\$23.40~~ \$21.44. The conversion factor for anesthesia services is \$30.57.

(c) Policy adjusters are effective ~~July 1, 2016~~ July 1, 2021. The maternity policy adjuster is ~~442%~~ 100%. The family planning policy adjuster is 105%. The psychological testing for youth policy adjuster is 145%. The psychological testing policy adjuster applies only to psychologists. The evaluation and management policy adjuster is 83.67%.

(d) The BCBA/BCBA-D services policy adjuster is ~~405%~~ 115.8% effective ~~July 1, 2020~~ July 1, 2021.

(e) The payment-to-charge ratio is effective ~~July 1, 2020~~ July 1, 2021 and is ~~45.2%~~ 44.4% of the provider's usual and customary charges.

(f) through (h) remain the same.

(i) Optometric services receive a ~~447.50%~~ 115.69% provider rate of reimbursement adjustment to the reimbursement for allied services as provided in ARM 37.85.105(2) effective ~~July 1, 2020~~ July 1, 2021.

(j) and (k) remain the same.

(3) The department adopts and incorporates by reference, the fee schedule for the following programs within the Health Resources Division, on the date stated.

(a) remains the same.

(b) The outpatient hospital services fee schedules including:

(i) the Outpatient Prospective Payment System (OPPS) fee schedule as published by the Centers for Medicare and Medicaid Services (CMS) in Federal Register Volume 84, Issue 218, page 61142 (November 12, 2019) Federal Register Volume 85, Issue 249, page 85866 (December 29, 2020), effective January 1, 2020 January 1, 2021, and reviewed annually by CMS as required in 42 CFR 419.5 (2016) as updated by the department;

(ii) remains the same.

(iii) the Medicaid statewide average outpatient cost-to-charge ratio is ~~48%~~ 41.06%; and

(iv) the bundled composite rate of ~~\$255.47~~ \$258.02 for services provided in an outpatient maintenance dialysis clinic effective on or after July 1, 2020 July 1, 2021.

(c) The hearing aid services fee schedule, as provided in ARM 37.86.805, is effective January 1, 2021 July 1, 2021.

(d) The Relative Values for Dentists, as provided in ARM 37.86.1004, reference published in ~~2020~~ 2021 resulting in a dental conversion factor of ~~\$34.71~~ \$35.06 and fee schedule is effective January 1, 2021 July 1, 2021.

(e) remains the same.

(f) The outpatient drugs reimbursement, dispensing fees range as provided in ARM 37.86.1105(3)(b) is effective July 1, 2020 July 1, 2021:

(i) for pharmacies with prescription volume between 0 and 39,999, the minimum is ~~\$2.23~~ \$6.06 and the maximum is ~~\$15.42~~ \$15.57;

(ii) for pharmacies with prescription volume between 40,000 and 69,999, the minimum is ~~\$2.23~~ \$6.06 and the maximum is ~~\$13.36~~ \$13.49; or

(iii) for pharmacies with prescription volume greater than 70,000, the minimum is ~~\$2.23~~ \$6.06 and the maximum is ~~\$11.30~~ \$11.41.

(g) remains the same.

(h) The outpatient drugs reimbursement, vaccine administration fee as provided in ARM 37.86.1105(6), will be \$21.32 for the first vaccine and ~~\$14.34~~ \$15.50 for each additional administered vaccine, effective January 1, 2021 July 1, 2021.

(i) remains the same.

(j) The home infusion therapy services fee schedule, as provided in ARM 37.86.1506, is effective July 1, 2020 July 1, 2021.

(k) Montana Medicaid adopts and incorporates by reference the Region D Supplier Manual, effective January 1, 2021 July 1, 2021, which outlines the Medicare coverage criteria for Medicare covered durable medical equipment, local coverage determinations (LCDs), and national coverage determinations (NCDs) as provided in ARM 37.86.1802, effective January 1, 2021 July 1, 2021. The prosthetic devices, durable medical equipment, and medical supplies fee schedule, as provided in ARM 37.86.1807, is effective January 1, 2021 July 1, 2021.

(l) The nutrition services fee schedule, as provided in ARM 37.86.2207(2), is effective July 1, 2020 July 1, 2021.

(m) remains the same.

(n) The orientation and mobility specialist services fee schedule, as provided in ARM 37.86.2207(2), is effective July 1, 2020 July 1, 2021.

(o) The transportation and per diem fee schedule, as provided in ARM 37.86.2405, is effective ~~July 1, 2020~~ July 1, 2021.

(p) The specialized nonemergency medical transportation fee schedule, as provided in ARM 37.86.2505, is effective ~~July 1, 2020~~ July 1, 2021.

(q) The ambulance services fee schedule, as provided in ARM 37.86.2605, is effective ~~January 1, 2021~~ July 1, 2021.

(r) The audiology fee schedule, as provided in ARM 37.86.705, is effective ~~July 1, 2020~~ July 1, 2021.

(s) The therapy fee schedules for occupational therapists, physical therapists, and speech therapists, as provided in ARM 37.86.610, are effective ~~July 1, 2020~~ July 1, 2021.

(t) The optometric services fee schedule, as provided in ARM 37.86.2005, is effective ~~January 1, 2021~~ July 1, 2021.

(u) The chiropractic fee schedule, as provided in ARM 37.85.212(2), is effective ~~July 1, 2020~~ July 1, 2021.

(v) The lab and imaging services fee schedule, as provided in ARM 37.85.212(2) and 37.86.3007, is effective ~~January 1, 2021~~ July 1, 2021.

(w) The Targeted Case Management for Children and Youth with Special Health Care Needs fee schedule, as provided in ARM 37.86.3910, is effective ~~July 1, 2020~~ July 1, 2021.

(x) The Targeted Case Management for High Risk Pregnant Women fee schedule, as provided in ARM 37.86.3415, is effective ~~July 1, 2020~~ July 1, 2021.

(y) The mobile imaging services fee schedule, as provided in ARM 37.85.212, is effective ~~January 1, 2021~~ July 1, 2021.

(z) The licensed direct-entry midwife fee schedule, as provided in ARM 37.85.212, is effective ~~January 1, 2021~~ July 1, 2021.

(aa) The private duty nursing services fee schedule, as provided in ARM 37.86.2207(2), is effective ~~July 1, 2020~~ July 1, 2021.

(4) The department adopts and incorporates by reference, the fee schedule for the following programs within the Senior and Long Term Care Division on the date stated:

(a) The home and community-based services for elderly and physically disabled persons fee schedule, as provided in ARM 37.40.1421, is effective ~~October 1, 2020~~ July 1, 2021.

(b) The home health services fee schedule, as provided in ARM 37.40.705, is effective ~~July 1, 2020~~ July 1, 2021.

(c) The personal assistance services fee schedule, as provided in ARM 37.40.1135, is effective ~~July 1, 2020~~ July 1, 2021.

(d) The self-directed personal assistance services fee schedule, as provided in ARM 37.40.1135, is effective ~~July 1, 2020~~ July 1, 2021.

(e) The community first choice services fee schedule, as provided in ARM 37.40.1026, is effective ~~July 1, 2020~~ July 1, 2021.

(5) The department adopts and incorporates by reference, the fee schedule for the following programs within the Addictive and Mental Disorders Division on the date stated:

(a) The mental health center services for adults fee schedule, as provided in ARM 37.88.907, is effective ~~October 1, 2020~~ July 1, 2021.

(b) The home and community-based services for adults with severe disabling mental illness fee schedule, as provided in ARM 37.90.408, is effective ~~July 1, 2020~~ July 1, 2021.

(c) The substance use disorder services fee schedule, as provided in ARM 37.27.905, is effective ~~July 1, 2020~~ July 1, 2021.

(6) For the Developmental Services Division, the department adopts and incorporates by reference the Medicaid youth mental health services fee schedule, as provided in ARM 37.87.901, effective ~~January 1, 2021~~ July 1, 2021.

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

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

37.85.106 MEDICAID BEHAVIORAL HEALTH TARGETED CASE MANAGEMENT FEE SCHEDULE (1) remains the same.

(2) The Department of Public Health and Human Services (department) adopts and incorporates by reference the Medicaid Behavioral Health Targeted Case Management Fee Schedule effective ~~July 1, 2020~~ July 1, 2021, for the following programs within the Developmental Services Division (DSD) and the Addictive and Mental Disorders Division (AMDD):

(a) through (3) remain the same.

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

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

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.85.104, 37.85.105, and 37.85.106 pertaining to updating Medicaid and non-Medicaid provider rates, fee schedules, and effective dates.

The following explanation represents the reasonable necessity for the proposed amendments. The department administers the Montana Medicaid and non-Medicaid program to provide health care to Montana's qualified low income, elderly, and disabled residents. Medicaid is a public assistance program paid for with state and federal funds appropriated to pay health care providers for the covered medical services they deliver to Medicaid members.

The proposed amendments are explained below, with reference to the specific subsections of ARM 37.85.104, 37.85.105, and 37.85.106.

ARM 37.85.104 Effective Dates of Provider Fee Schedules for Montana Non-Medicaid Services

(1)(a), (b), and (d) Addictive and Mental Disorders Division Non-Medicaid Fee Schedules

The department proposes to amend the fee schedules for the Mental Health Services Plan, 72-Hour Presumptive Eligibility for Adult Crisis Stabilization, and non-

Medicaid Substance Use Disorder Services July 1, 2021. This change is necessary to incorporate the legislatively approved provider rate increase.

The proposed July 1, 2021 fee schedules can be found at <https://medicaidprovider.mt.gov/proposedfs>.

(1)(c) Children's Mental Health Bureau Fee Schedule

Although the department proposes no changes to youth respite care services, the date for this fee schedule must be amended to July 1, 2021, because the department proposes changes in other parts of that fee schedule and the date will be changed. See below at ARM 37.85.105(6).

The proposed July 1, 2021 fee schedules can be found at <https://medicaidprovider.mt.gov/proposedfs>.

ARM 37.85.105 Effective Dates, Conversion Factors, Policy Adjusters, And Cost-To-Charge Ratios of Montana Medicaid Provider Fee Schedules

(2)(a) Resource-Based Relative Value Scale (RBRVS) Federal Register

The department proposes to adopt the January 1, 2021, federal register for the RBRVS reimbursement methodology. This adoption is necessary to adopt and incorporate the most up-to-date changes made by the Centers for Medicare and Medicaid Services (CMS).

(2)(b) RBRVS Conversion Factors (CF)

For allied health services, mental health services, and anesthesia services, the conversion factors were calculated and proposed to provide for an overall provider rate increase of 1.0%, effective July 1, 2021.

For the physician services conversion factor, the department is directed by 53-6-125, MCA, to increase the conversion factor by the consumer price index for medical care for the previous year which for this adjustment period is 6%.

(2)(c) Policy Adjustors

Montana Medicaid utilizes payment policy adjustors to modify reimbursement. Effective July 1, 2021, Montana Medicaid is proposing to decrease the maternity policy adjustor to 1.0 and is proposing a new policy adjustor of 0.8367 for Evaluation and Management codes (CPT 99202-99499). These proposed changes are necessary to offset the Medicare increases in RVUs and to maintain budget neutral expenditures for physicians. Physicians were excluded from the provider rate increase approved in HB2 by the Montana Legislature.

(2)(d) BCBA/BCBA-D Services Policy Adjuster

The BCBA/BCBA-D services policy adjuster rate of reimbursement changed from 105% to 115.8% effective July 1, 2021, due to changes in relative values.

(2)(e) Payment to Charge Ratio

The payment to charge ratio, which is utilized to price some allowable procedures which do not have set reimbursement, is proposed to be 44.4%, effective July 1, 2021. This ratio is updated annually as part of the department's annual RBRVS updates and will change when there are changes in the average provider charges and/or changes to reimbursement.

(2)(i) Optometric Services Provider Rate of Reimbursement

The optometric services provider rate of reimbursement changed from 117.50% to 115.69% due to changes in relative values and an increase in the allied health conversion factor. This will ensure the optical service provider rate increase meets the provider rate increase approved by the Montana Legislature.

The proposed July 1, 2021 fee schedules can be found at <https://medicaidprovider.mt.gov/proposedfs>.

(3)(b)(i) Outpatient Prospective Payment System (OPPS) Federal Register

Effective July 1, 2021, the department proposes to adopt the January 1, 2021, federal register for the OPPS reimbursement methodology. This adoption is necessary to ensure outpatient hospital updates are aligned with CMS.

(3)(b)(iii) Medicaid Statewide Average Cost-to-Charge Ratio

The Medicaid statewide average cost-to-charge ratio is calculated utilizing submitted cost reports and is updated annually. The proposed updated cost-to-charge ratio is 41.06%. Individual hospital cost-to-charge ratios can fluctuate annually which can result in shifts to the Montana statewide average cost-to-charge ratio. This ratio is required to be updated annually to keep the ratio current.

(3)(b)(iv) Outpatient Maintenance Dialysis Clinic

The bundled composite rate for outpatient maintenance dialysis clinics is proposed to increase to \$258.02 to incorporate the provider rate increase approved by the Montana Legislature.

The proposed July 1, 2021 fee schedules can be found at <https://medicaidprovider.mt.gov/proposedfs>.

(3)(c), (j), (l), and (n) through (aa) Fee Schedules

The department proposes the adoption of fee schedules effective July 1, 2021. The fee schedules incorporate changes proposed within this rule notice, including federal register changes, conversion factor updates, and the legislatively approved provider rate increases. The above-listed subsections represent the following fee schedules: hearing aid services; home infusion therapy services; nutrition services; orientation and mobility specialist services; transportation and per diem fee schedule; specialized nonemergency medical transportation; ambulance services, audiology services; physical, occupational, and speech therapy services; optometric services; EPSDT chiropractic services; lab and imaging services; Targeted Case Management (TCM) for Children and Youth with Special Health Care Needs; TCM

for High Risk Pregnant Women; mobile imaging services; licensed direct-entry midwife; and private duty nursing.

The proposed July 1, 2021 fee schedules can be found at <https://medicaidprovider.mt.gov/proposedfs>.

(3)(d) Dental Reimbursement

The department proposes three changes to this subsection: 1) adoption of the Relative Values for Dentist reference published in 2021; 2) modification of the dental conversion factor to \$35.06; and 3) adoption of the July 1, 2021 Dental Services fee schedules. These proposed changes are necessary to incorporate the legislatively approved provider rate increase and keep current with updated dental procedure codes.

The proposed July 1, 2021 fee schedules can be found at <https://medicaidprovider.mt.gov/proposedfs>.

(3)(f) Outpatient Drugs Dispensing Fee

Annually the department surveys enrolled pharmacies to establish the state fiscal year minimum dispensing fee. The results from the annual survey provide the data necessary to calculate the minimum dispensing fee, which is proposed to be \$6.06. The maximum dispensing fee, for each volume range, is proposed to increase to incorporate the legislatively approved provider rate increase.

(3)(h) Outpatient Drugs Reimbursement Vaccine Administration Fee

The department proposes to increase the fee paid for each additional vaccine administered to \$15.50. This change is necessary to maintain a vaccine administration fee aligned with physicians.

(3)(k) Prosthetic Devices, Durable Medical Equipment, and Medical Supplies

The department proposes to revise the effective date of the reference to the Region D Supplier Manual to July 1, 2021, and to revise the effective date of local coverage determinations (LCDs) and national coverage determinations (NCDs), that are provided in ARM 37.86.1802 to July 1, 2021.

The department also proposes to revise the effective dates for the durable medical equipment fee schedule to July 1, 2021, to reflect the Calendar Year 2021 Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) fee schedule. This allows the department to update department set fees, Medicare fees, additions, deletions, or changes to procedure codes when Medicare releases and updates their fee schedule.

The proposed July 1, 2021 fee schedules can be found at <https://medicaidprovider.mt.gov/proposedfs>.

(4)(a) through (e) Senior and Long-Term Care Division

The department proposes the adoption of fee schedules effective July 1, 2021. The changes incorporate the legislatively approved provider rate increase. The above-listed subsections are for the following fee schedules: home and community-based services for elderly and physically disabled persons; home health services; personal assistance services; self-directed personal services; and community first choices services.

The proposed July 1, 2021 fee schedules can be found at <https://medicaidprovider.mt.gov/proposedfs>.

(5) Addictive and Mental Disorders Division

The department proposes to amend the fee schedules for Mental Health Center Services for Adults, Home and Community Based Services for Adults with Severe and Disabling Mental Illness, and Substance Use Disorder Services to July 1, 2021. This is necessary to incorporate the provider rate increase approved by the Montana Legislature during the 2021 regular session.

The proposed July 1, 2021 fee schedules can be found at <https://medicaidprovider.mt.gov/proposedfs>.

(6) Developmental Services Division Medicaid youth mental health services fee schedule

The department proposes to revise the effective dates and reimbursements on the Medicaid youth mental health services fee schedule to July 1, 2021. This update incorporates the legislatively approved provider rate increase.

The proposed July 1, 2021 fee schedules can be found at <https://medicaidprovider.mt.gov/proposedfs>.

ARM 37.85.106 Medicaid Behavioral Health Targeted Case Management Fee Schedule

(2) Fee schedule

The department proposes to amend ARM 37.85.106 to update the fee schedule date for the Medicaid Behavioral Health Targeted Case Management Fee Schedule to July 1, 2021. This proposed change is necessary to incorporate the provider rate increase approved by the Montana Legislature during the 2021 regular session.

The proposed July 1, 2021 fee schedules can be found at <https://medicaidprovider.mt.gov/proposedfs>.

Fiscal Impact

The following table displays the number of providers affected by the amended fee schedules, effective dates, conversion factors, and rates for services for SFY 2022 based on the proposed amendments.

Provider Type	SFY 2022 Budget Impact (Federal Funds)	SFY 2022 Budget Impact (State Funds)	SFY 2022 Budget Impact (Total Funds)	Active Provider Count
Ambulance	\$95,729	\$26,255	\$121,984	201
Audiologist	\$1,456	\$606	\$2,062	75
BCBA/BCBA-D	\$8,483	\$4,566	\$13,049	32
Chemical Dependency Clinic	\$168,548	\$27,680	\$196,228	52
Community First Choice	\$99,697	\$28,321	\$128,018	68
Dental	\$468,518	\$179,232	\$647,750	672
Denturist	\$25,834	\$6,875	\$32,709	18
Dialysis Clinic	\$26,768	\$10,383	\$37,151	25
Durable Medical Equipment	\$207,410	\$80,659	\$288,069	501
EPSDT - Chiropractic	\$5,904	\$2,889	\$8,793	157
Free Standing Birthing Center	\$0	\$0	\$0	2
Hearing Aid Dispenser	\$1,446	\$560	\$2,006	34
Home & Comm Based Services	\$209,055	\$112,365	\$321,420	561
Home Health Agency	\$2,026	\$590	\$2,616	26
Home Infusion Therapy	\$16,212	\$5,249	\$21,461	16
Hospital	\$0	\$0	\$0	431
Indep Diag Testing Facility	\$9,003	\$2,515	\$11,518	26
Laboratory	\$197,479	\$39,208	\$236,687	191
Licensed Clinical Social Worker	\$148,660	\$43,244	\$191,904	904
Licensed Professional Counselor	\$229,333	\$71,003	\$300,336	1,086
Mental Health Center	\$237,522	\$106,970	\$344,492	37
Mid-Level Practitioner	\$0	\$0	\$0	5,547
Mobile Imaging Service	\$507	\$178	\$685	2

Nutritionist/Dietician	\$981	\$460	\$1,441	126
Occupational Therapist	\$31,403	\$15,322	\$46,725	309
Optician	\$911	\$288	\$1,199	29
Optometrist	\$49,869	\$15,849	\$65,718	237
Orientation and Mobility	\$12	\$6	\$18	4
Personal and Commercial Transportation	\$1,218	\$555	\$1,773	12
Personal Care Agency	\$1,675	\$694	\$2,369	68
Personal Care Agency - Adult MH	\$89	\$25	\$114	68
Personal Care Agency - Child MH	\$5	\$3	\$8	68
Pharmacy Dispensing Fee	\$259,840	\$61,043	\$320,883	447
Physical Therapist	\$70,546	\$17,462	\$88,008	1,005
Physician	\$0	\$0	\$0	13,068
Podiatrist	\$0	\$0	\$0	80
Private Duty Nursing Agency	\$31,578	\$16,996	\$48,574	5
Psychiatric Res Treatment Facility	\$139,582	\$74,225	\$213,807	26
Psychiatrist	\$0	\$0	\$0	192
Psychologist	\$14,053	\$4,038	\$18,091	349
Public Health Clinic	\$2,724	\$909	\$3,633	43
CSCT Children's Mental Health	\$166,164	\$89,425	\$255,589	440
Speech Pathologist	\$25,955	\$13,371	\$39,326	284
Targeted Case Management - Children and Youth with Special Health Care Needs	\$392	\$194	\$586	14
Targeted Case Management - High Risk Pregnant Women	\$127	\$63	\$190	4
Targeted Case Management - Mental Health	\$79,259	\$37,471	\$116,730	22

Therapeutic Family Care	\$46,936	\$25,136	\$72,072	14
Therapeutic Group Home	\$148,550	\$79,590	\$228,140	26
Transportation Non-Emergency	\$68	\$35	\$103	7

The department intends for the proposed amendments to be effective retroactively to July 1, 2021.

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: Heidi Clark, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., July 9, 2021.

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

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

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified by email on June 1, 2021.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will significantly and directly impact small businesses.

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

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement

and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

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

/s/ Erica Johnston for Adam Meier
Adam Meier, Director
Public Health and Human Services

Certified to the Secretary of State June 1, 2021.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.97.102, 37.97.106,) PROPOSED AMENDMENT
37.97.126, 37.97.127, 37.97.132,)
37.97.142, 37.97.148, 37.97.903,)
37.97.905, 37.97.906, and 37.97.907)
pertaining to youth care facility)
requirements)

TO: All Concerned Persons

1. On July 1, 2021, at 9:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/81082335828>; meeting ID: 810 8233 5828; or

(b) Dial by telephone +1 646 558 8656; meeting ID: 810 8233 5828. Find your local number: <https://mt-gov.zoom.us/j/81082335828>.

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 June 25, 2021, to advise us of the nature of the accommodation that you need. Please contact Heidi Clark, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

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

(1) through (3) remain the same.

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

(a) and (b) remain the same.

(c) ~~chemical dependence issues~~ substance use;

(d) and (e) remain the same.

(f) psychiatric history (interventions, responses to treatment, medications);
and

(g) developmental history;

(h) medical history;

~~(g)~~ (i) social and educational history; and

(j) identified strengths and needs.

(5) through (7) remain the same.

(8) "Discharge plan" means a realistic plan developed at the time of admission to transition the youth to a less restrictive and appropriate placement with specific services identified and available.

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

(9) "Family" means the youth, the youth's biological, adoptive, or foster family members, siblings, grandparents, or someone who, though unrelated by birth or marriage, has such a close emotional relationship with the youth that they may be considered part of the family.

(10) through (12) remain the same.

(13) "Mental health professional" means a licensed clinical psychologist, licensed clinical social worker (LCSW), licensed marriage and family therapist (LMFT), licensed clinical professional counselor (LCPC), or any of following licensure candidates under Title 37, chapter 22, 23, or 37, MCA:

(a) social worker licensure candidate;

(b) professional counselor licensure candidate; or

(c) marriage and family therapist licensure candidate.

(13) through (16) remain the same but are renumbered (14) through (17).

~~(17) (18) "Program manager" means an employee of a therapeutic group home provider who is responsible for the overall management and supervision of the program and trains and supervises direct care staff. A program manager shall must~~ have a bachelor's degree in human services, or the experience and education, equivalent to a bachelor's degree. Human services experience equivalent to a bachelor's degree for a nondegree program manager is six years. Each year of post-secondary education in human services for a nondegree program manager equals one year of experience.

(18) through (21) remain the same but are renumbered (19) through (22).

~~(22) (23) "Therapeutic intervention" means interventions provided by the program manager under the supervision of the LCS to provide youth with activities and opportunities to improve social, emotional and/or behavioral skill development and reduce symptoms of the youth's serious emotional disturbance. Interventions include implementing behavior modification techniques and offering psycho-educational groups and activities. Interventions may be provided to the youth individually, in a group setting or with the youth and family that are implemented as~~

described in the TGH trauma informed treatment model addressing goals and objectives identified in the youth's treatment plan.

~~(23)~~ (24) "Therapeutic milieu" means the entire treatment environment in which comprehensive treatment is delivered as described in the TGH's policy and procedures.

~~(24)~~ (25) "Therapeutic services" means the provision of therapy and therapeutic interventions to reduce the impairment of the youth's mental disability and to improve the youth's functional level; to alleviate the emotional disturbances; to reverse or change maladaptive patterns of behavior, and to encourage personal growth and development. Therapeutic services must be provided under a treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma specific interventions to address trauma's consequences and facilitate healing.

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

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

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

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

37.97.106 YOUTH CARE FACILITY (YCF): LICENSES (1) remains the same.

(2) A therapeutic group home must be accredited by the following independent organizations:

(a) The Commission on Accreditation of Rehabilitation Facilities (CARF);

(b) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO);

(c) Council on Accreditation (COA); or

(d) another independent, not-for-profit accrediting organization that has been approved by the Secretary of the U.S. Department of Health and Human Services.

~~(2) through (5)~~ remain the same but are renumbered ~~(3) through (6).~~

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

IMP: 41-3-1142, 52-2-113, 52-2-603, 52-2-622, MCA

37.97.126 YOUTH CARE FACILITY (YCF): DISCHARGE SUMMARY

(1) The YCF must develop and implement written discharge policies and procedures that include discharge planning to begin at the time of admission.

~~(1)~~ (2) Within ten business days of the discharge of a youth from the YCF, a discharge report must be completed, and include:

- (a) through (g) remain the same.
- (h) youth's continuing needs and recommendations for follow-up services for the youth;
- (i) and (j) remain the same.
- (3) Therapeutic group homes must document that the youth, parent/legal guardian, and placing agency participated in the development of the discharge plan and summary.
- (2) remains the same but is renumbered (4).

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

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

- 37.97.127 YOUTH CARE FACILITY (YCF): CASE RECORDS (1) A YCF shall maintain a written case record for each youth which shall include administrative, treatment, and educational data from the time of admission until the time the youth is discharged from the YCF. A youth's case record must include but is not limited to the following:
- (a) remains the same.
 - (b) the name, address, and telephone number of the parent(s) or guardian of the youth;
 - (i) therapeutic group homes must maintain contact information on all known family members and document outreach efforts;
 - (c) through (2) remain the same.

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

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

- 37.97.132 YOUTH CARE FACILITY (YCF): GENERAL REQUIREMENTS FOR ALL ADMINISTRATORS, STAFF, INTERNS, AND VOLUNTEERS (1) remains the same.
- (2) A YCF must maintain records for each staff member, volunteer, contracted personnel, and intern regarding the following:
 - (a) through (h) remain the same.
 - (i) "personal statement of health for licensure" form as provided by the department; ~~and~~
 - (j) a copy of an independent contractor status and contractual agreement for contacted personnel; and
 - (j) remains the same but is renumbered (k).
 - (3) through (8) remain the same.

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

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

- 37.97.142 YOUTH CARE FACILITY (YCF): STAFF TRAINING (1) through (3) remain the same.
- (4) Therapeutic group homes must include training on trauma informed care in initial orientation training.

(4) through (8) remain the same but are renumbered (5) through (9).

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

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

37.97.148 YOUTH CARE FACILITY (YCF): CASE PLAN (1) Each YCF ~~shall~~ must develop a case plan for each youth in care. A case plan is a specific plan for providing care, treatment, and services of any kind to a specific youth.

(2) The case plan must include but is not limited to the following:

(a) through (e) remain the same.

(f) measurable goals and objectives; and

(g) the responsibilities of the youth, staff, and custodial parent or guardian for meeting the goals and objectives; and

(h) identification of all treatment members.

(3) The initial case plan must: be developed with the youth (over the age of 5), parent/legal guardian, and placing agency and within seven business days after admission.

~~(a) be developed within seven business days after admission; and~~

~~(b) be updated at least every three months from the day of development.~~

~~(4) The placing agency, parent or guardian, and the youth must be involved in developing the case plan.~~

(4) The case plan must be reviewed and updated at least every three months from the day of development, be conducted face-to-face with the youth, and document the input of the youth (over the age of 5), parent/legal guardian, and placing agency.

(a) If the parent/legal guardian or placing agency are unable to attend face-to-face, telecommunication must be provided at a time that is convenient for the parent/legal guardian and placing agency.

(5) remains the same.

(6) ~~In addition to the requirements of this rule, therapeutic~~ Therapeutic group homes must also meet the treatment plan requirements in ARM 37.97.907.

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

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

37.97.903 THERAPEUTIC GROUP HOMES (TGH): STAFFING (1) In addition to the requirements specified in ~~ARM 37.97.142~~ ARM 37.97.141, TGH providers must meet staffing requirements specified in this rule to provide a therapeutic environment and treatment interventions identified in the youth's individual treatment plan.

(2) A TGH with four or fewer youth ~~shall~~ must have a ratio of youth to direct care staff of no more than 2:1 present for 15 hours each day between 7:00 a.m. and 7:30 a.m., or beginning at some other reasonable morning half hour which is approximately 15 hours prior to the bedtime of the youth.

(3) A TGH with five or more youth ~~shall~~ must have a minimum of two direct care staff present for 15 hours each day between 7:00 a.m. and 7:30 a.m., or beginning at some other reasonable morning half hour which is approximately 15

hours prior to the bedtime of the youth.

(4) Exceptions to youth to direct care staff ratio:

(a) and (b) remain the same.

(c) The program manager may be counted in the direct care ratio during the morning hours between 6:00 a.m. and 8:00 a.m., or beginning at some other reasonable two-hour time frame prior to the youth leaving for school.

(5) remains the same.

(6) ~~Each~~ A TGH must employ a program manager shall be who is responsible for no more than 16 youth. The program manager may not be counted in the direct care staffing to youth ratio except as provided in (4)(b) and (c).

(7) ~~An individual providing therapy~~ A TGH must employ or contract with a mental health professional as defined in ARM 37.97.102(25) ARM 37.97.102(13) must meet the requirements of ARM 37.97.102(9). Services must be provided on-site or as specified in the treatment model. The mental health professional must not be counted in the direct care staffing to youth ratio.

(8) Program managers and ~~lead clinical staff~~ mental health professionals may be the same employee as long as they meet the minimum qualifications of both positions and have sufficient time to carry out the functions of both positions.

~~(9) Lead clinical staff shall be responsible for the supervision and overall provision of treatment services to youth in the TGH. The lead clinical staff must not be counted in the direct care staff to youth ratio.~~

(9) The TGH must have nursing services available 24 hours a day seven days a week as described in the TGH's treatment model.

(10) remains the same.

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

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

37.97.905 THERAPEUTIC GROUP HOMES (TGH): CLINICAL ASSESSMENT ~~(1) A clinical assessment must be completed on a youth admitted to a TGH within ten business days (Monday through Friday), of admission unless a current clinical assessment that has been completed within the last 12 months is submitted with the youth's referral packet.~~

(1) A TGH must develop written policies and procedures to implement a trauma informed treatment model designed to address the identified emotional, behavioral, and clinical needs of the youth.

(2) The mental health professional must complete a clinical assessment on a youth admitted to a TGH within ten business days (Monday through Friday) of admission, unless a clinical assessment has been completed within the last three months prior to admission and is submitted with the youth's referral packet.

(3) All assessments must be documented in the youth's case record.

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

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

37.97.906 THERAPEUTIC GROUP HOMES (TGH): THERAPEUTIC SERVICE REQUIREMENTS (1) The therapeutic services provided by the ~~lead~~

~~clinical staff and the program manager~~ mental health professionals are "therapy," and services provided by the program manager or direct care staff are "therapeutic intervention" services. The purpose of ~~both~~ therapeutic services is to:

(a) through (d) remain the same.

(2) Each youth must receive 75 minutes of therapy and 75 minutes of therapeutic intervention services per week (Sunday through Saturday). Therapy includes individual and group or family therapy as clinically indicated based on the specific treatment needs of the youth. Therapy requirements include the following:

(a) Individual therapy must be provided at least 50 minutes out of the required 75 minutes per week. Individual therapy may be provided in two 25- minute sessions per week as clinically appropriate. ~~The lead clinical staff shall~~ mental health professional must document specific reasons why a 50-minute therapy session cannot be provided.

(b) Family therapy must be provided to the youth ~~and biological, adoptive, or foster family members with whom the youth previously resided or plans to reside with upon discharge~~ and family members as defined in ARM 37.97.102(9) and provided as outlined in the youth's treatment plan. If family therapy is not appropriate based on the particular situation of the youth, ~~the lead clinical staff shall~~ mental health professional must document specific reasons why family therapy cannot be provided.

(3) In the event the ~~lead clinical staff and/or program manager~~ mental health professional is unavailable due to vacation, illness, or if the youth is on a home visit, or similar circumstance, ~~therapeutic services can be suspended for no more than 780 minutes per calendar year per youth. The amount of minutes will be prorated for youth placed in the facility for less than one year~~ alternative arrangements for therapy must be made based on the program's policy and procedures. The TGH must document why therapy was not provided and what alternative arrangements were made.

(4) Therapy sessions and therapeutic interventions must address the youth's treatment goals and objectives in the treatment plan, and each session must be documented in the case record by the ~~lead clinical staff~~ individual providing the service. Documentation must include the signature of the person who provided the therapy service and the date, start and end times of each session.

~~(5) Each youth shall receive from the program manager or lead clinical staff 75 minutes of therapeutic interventions per week. Therapeutic interventions are as clinically indicated based on the specific needs of the youth.~~

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

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

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

37.97.907 THERAPEUTIC GROUP HOMES (TGH): TREATMENT PLAN

~~(1) In addition to the requirements specified in ARM 37.97.148, the treatment plan must document specific and measurable objectives and interventions based on a clinical assessment related to the youth's mental health needs.~~

~~(2) Treatment plans must be reviewed and updated at least every 30 days.~~

~~(3) All direct care staff and treatment team members, including the lead~~

clinical staff involved in the care of the youth, shall read and sign off on the treatment plan within seven days of its development or update.

~~(4) A copy of the treatment plan must be provided to the youth's placing agency and custodial parent or guardian within ten days of the plan's development or update.~~

(1) A TGH must develop and implement a treatment plan for each youth in care based on the results of the clinical assessment.

(2) The initial treatment plan must be developed within 10 business days of admission and include:

(a) names of treatment team members including appropriate biological family, relatives, and fictive kin of the youth, appropriate school personnel, placing agency representative, and other professionals as appropriate;

(b) contact information for all treatment team members;

(c) the youth's physical and medical needs;

(d) behavior management issues;

(e) short-term and long-term mental and behavioral goals with corresponding time frames;

(f) specific interventions with corresponding time frames in accordance with the TGH treatment model;

(g) identifying how the TGH will facilitate participation of family members in the treatment of the youth, including siblings;

(h) identifying how the TGH will facilitate family visitation or contact outside of family therapy;

(i) criteria for the youth's completion of the program;

(j) education plans; and

(k) a discharge plan, including planning for aftercare services, and estimated discharge date.

(3) Treatment plans must be reviewed and updated at least every 30 days from the date of development and:

(a) be conducted face-to-face with the youth and document the input of the youth (over the age of 5), parent/legal guardian, and placing agency;

(b) include all treatment team members;

(c) be conducted at a time that is convenient for the youth's family; and

(d) if treatment team members are unable to attend face-to-face, telecommunication must be provided at a time that is convenient for the parent/legal guardian and placing agency;

(4) The TGH must document in the youth's case record notification to all treatment team members of the time and place of the treatment plan review.

(5) All direct care staff and treatment team members, including the mental health professional involved in the care of the youth, must read and sign off on the treatment plan within seven days of its development or update.

(6) A copy of the treatment plan must be provided to the youth's placing agency and parent/legal guardian within ten days of the plan's development or update.

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

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

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) proposes to amend Youth Care Facility administrative rules to incorporate requirements of the Family First Prevention Services Act (act) signed into law on February 9, 2018. The law implemented changes to federal Title IV-E funding requirements which allow reimbursement for care in certain residential treatment programs. In Montana, these programs are identified as Youth Care Facility, Therapeutic Group Home facilities. The act seeks to limit the use of congregate or group care for children with a new emphasis on family care. The proposed changes implement the specific requirements of the act and focus on increasing family involvement to reduce the amount of time the youth spends in the group setting and return to a family setting.

ARM 37.97.102 is proposed to be amended to update definitions used throughout this chapter. The department has amended the definition of "family" to include requirements of the act. Minor changes are also provided for clarity.

ARM 37.97.106 is proposed to be amended to increase oversight for therapeutic group homes through an accrediting organization that has been approved by the secretary of the U.S. Department of Health and Human Services.

ARM 37.97.126 is proposed to be amended to increase the emphasis on discharge planning of the youth and to increase involvement of family members and placing agencies in the youth's discharge plan.

ARM 37.97.127 is proposed to be amended to increase contact and improve relationships with the youth and family members.

ARM 37.97.132 is proposed to be amended to ensure documentation that independent contractors meet the licensing requirements of this rule and identify the services provided to youth in care.

ARM 37.97.142 is proposed to be amended to ensure all staff receive training on the provider's trauma informed treatment model prior to working with youth.

ARM 37.97.148 is proposed to be amended to ensure the youth and the family are provided the opportunity to participate in and have input into the youth's case plan.

ARM 37.97.903 is proposed to be amended to allow changes to staffing requirements of the program manager and mental health professional and adding licensed nursing services as required by the act. The proposed changes will increase the amount of time the program manager can provide direct care, allow direct care staff to provide therapeutic interventions and will increase the provider's ability to provide services by a licensed clinician.

ARM 37.97.905 is proposed to be amended to implement a trauma informed treatment model and ensure documentation of an updated clinical assessment for the youth.

ARM 37.97.906 is proposed to be amended to clarify which staff can provide therapy and therapeutic interventions.

ARM 37.97.907 is proposed to be amended to implement the trauma informed treatment model into the treatment planning process and to increase family involvement in order to improve the quality of treatment services provided to the youth, maintain family connections, and increase family involvement.

Fiscal Impact

The department does not anticipate that the proposed amendments will cause any fiscal impact.

The department intends for these proposed amendments to be effective July 24, 2021.

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: Heidi Clark, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., July 9, 2021.

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

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

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

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

10. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies,

make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

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

/s/ Aleea Sharp
Aleea Sharp
Rule Reviewer

/s Erica Johnston for Adam Meier
Adam Meier, Director
Public Health and Human Services

Certified to the Secretary of State June 1, 2021.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.40.307 pertaining to nursing) PROPOSED AMENDMENT
facility reimbursement)

TO: All Concerned Persons

1. On July 1, 2021, at 11:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/84203399216>; meeting ID: 842 0339 9216; or

(b) Dial by telephone +1 646 558 8656; meeting ID: 842 0339 9216. Find your local number: <https://mt-gov.zoom.us/j/84203399216>.

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 June 25, 2021, to advise us of the nature of the accommodation that you need. Please contact Heidi Clark, 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 dpshslegal@mt.gov.

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

37.40.307 NURSING FACILITY REIMBURSEMENT (1) remains the same.

(2) Effective July 1, 2020, and in subsequent rate years, the reimbursement rate for each nursing facility will be determined using the flat rate component specified in (2)(a) and the quality component specified in (2)(b).

(a) The flat rate component is the same per diem rate for each nursing facility and will be determined each year through a public process. Factors that could be considered in the establishment of this flat rate component include cost of providing nursing facility services and Medicaid recipient access to nursing facility services. The flat rate component for state fiscal year (SFY) ~~2021~~ 2022 is ~~\$208.06~~ \$208.71.

(b) remains the same.

(c) The total payment rate available for the period ~~July 1, 2020~~ July 1, 2021, through ~~June 30, 2021~~ June 30, 2022, will be the rate as computed in (2), plus any additional amount computed in ARM 37.40.311 and 37.40.361. Copies of the

department's current nursing facility Medicaid reimbursement rates per facility are posted at <https://medicaidprovider.mt.gov/26#1875810541-fee-schedules---nursing-facility-medicaid-rates> and may be obtained from the Department of Public Health and Human Services, Senior & Long-Term Care Division, P.O. Box 4210, Helena, MT 59604-4210.

(3) Providers who, as of July 1 of the rate year, have not filed with the department a cost report covering a period of at least six months participation in the Medicaid program in a newly constructed facility will have a rate set at the flat rate component as computed on ~~July 1, 2020~~ July 1, 2021. Following a change in provider as defined in ARM 37.40.325, the per diem rate for the new provider will be set at the previous provider's rate, as if no change in provider had occurred.

(4) through (12) remain the same.

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

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

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.40.307 by revising nursing facility reimbursement rates for the upcoming State Fiscal Year (SFY) 2022.

The proposed amendments set the flat rate component for Medicaid nursing facility reimbursement at \$208.71 for SFY 2022. This rate equates to an increase of 0.03% from SFY 2021. The rate calculation includes House Bill (HB) 2 funding appropriated by the Montana Legislature during the 67th Legislative Session and annualized SFY 2021 Medicaid paid days to determine nursing facility providers' reimbursement according to the methodology outlined under subsection two of the rule. In balancing the factors that may be considered under section 53-6-113, MCA, and ARM 37.40.307(2) to establish the rate, the department's primary consideration was the availability of appropriated funds.

Copies of the department's proposed nursing facility Medicaid reimbursement rates per facility are posted at: <https://medicaidprovider.mt.gov/26#1875810541-fee-schedules---nursing-facility-medicaid-rates>.

The proposed amendments are necessary for the department to provide notice of the change to Medicaid nursing facility provider rates.

Fiscal Impact

The estimated total funding available for SFY 2022 for nursing facility reimbursement is approximately \$202,291,885 of combined state funds, federal funds, and patient contributions. These amounts do not include at risk provider funds or direct care wage funding. Nursing facility reimbursement will include an increase of 0.03% in provider rates. The estimated total cost of this rate increase is approximately \$414,206.

Anticipated days for SFY 2022 are 911,636, using estimates from SFY 2021 Medicaid paid days.

The SFY 2022 appropriated funding for lump-sum payments to providers for direct care and ancillary workers is \$6,970,153 for the nursing facility direct-care worker wage program and \$3,959,056 for certified nursing assistant only direct care worker wages program.

During SFY 2021, 68 nursing facility providers participated in the Medicaid nursing facility payment program and approximately 3,900 recipients received services in nursing facilities under Medicaid.

The department intends to apply the proposed amendments retroactively to July 1, 2021.

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: Heidi Clark, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., July 9, 2021.

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

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

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

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

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

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

/s/ Robert Lishman
Robert Lishman
Rule Reviewer

/s/ Erica Johnston for Adam Meier
Adam Meier, Director
Public Health and Human Services

Certified to the Secretary of State June 1, 2021.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW)	NOTICE OF ADOPTION AND
RULE I pertaining to examination fees)	AMENDMENT
and the amendment of ARM)	
2.59.1707, 2.59.1709, 2.59.1730,)	
2.59.1731, 2.59.1737, 2.59.1751, and)	
2.59.1753 pertaining to revocation and)	
suspension of mortgage licenses,)	
consumer complaints, confidentiality)	
agreements and sharing)	
arrangements, reinstatement of)	
expired or suspended licenses,)	
mortgage loan origination disclosure)	
form, bona fide not-for-profit)	
certification, and applications for initial)	
licenses near year end)	

TO: All Concerned Persons

1. On April 16, 2021, the Department of Administration published MAR Notice No. 2-59-613 pertaining to the proposed adoption and amendment of the above-stated rules at page 381 of the 2021 Montana Administrative Register, Issue Number 7.

2. No comments were received.

3. The department has adopted NEW RULE I (ARM 2.59.1760) exactly as proposed.

4. The department has amended ARM 2.59.1707, 2.59.1709, 2.59.1730, 2.59.1731, 2.59.1737, 2.59.1751, and 2.59.1753 exactly as proposed.

By: /s/ Misty Ann Giles
Misty Ann Giles, Director
Department of Administration

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

Certified to the Secretary of State June 1, 2021.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.29.1433, 24.29.1534, and)
24.29.1538 pertaining to medical fee)
schedules for workers' compensation)
purposes)

TO: All Concerned Persons

1. On April 16, 2021, the Department of Labor and Industry (department) published MAR Notice No. 24-29-367 pertaining to the public hearing on the proposed amendment to the above-stated rules at page 397 of the 2021 Montana Administrative Register, Issue Number 7.

2. The department held a public hearing in Helena on May 11, 2021, over the Zoom videoconference and telephonic platform at which one person commented on the proposed rule actions. Written comments were not received during the public comment period.

3. The department has thoroughly considered the comment made. A summary of the comment and the department's response are as follows:

COMMENT 1: A commenter spoke in favor of the proposed rules, noting that the amendments to the proposed rules are based on the governing statutes and rules.

RESPONSE 1: The department acknowledges the comment.

4. The department has amended ARM 24.29.1433, 24.29.1534, and 24.29.1538 as proposed.

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Alternate Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 1, 2021.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

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

Economic Affairs Interim Committee:

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

Education and Local Government Interim Committee:

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

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

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

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

Environmental Quality Council:

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

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

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

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

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

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

Definitions:

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

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

Use of the Administrative Rules of Montana (ARM):

Known
Subject

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

Statute

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

RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through March 31, 2021. This table includes notices in which those rules adopted during the period December 11, 2020, through May 28, 2021, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through March 31, 2021, 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 2020 or 2021 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.

ADMINISTRATION, Department of, Title 2

- | | |
|--------------------------------------|---|
| 2-11-614 | Adoption of a State Plan of Operation for Federal Surplus Property, p. 378 |
| 2-13-605 | Next Generation 9-1-1 Technology Standards and Baseline Principles, p. 1719, 1857, 2237 |
| 2-59-607 | Activities of Loan Production Offices - Assessments - Dividends - Conversion Applications - Merger Applications - Examination Fees for Trust Companies, p. 152, 328 |
| 2-59-610 | Application for Organizing a New Credit Union - Annual Reports, p. 97, 275 |
| 2-59-613 | Examination Fees - Revocation and Suspension of Mortgage Licenses - Consumer Complaints - Confidentiality Agreements - Sharing Arrangements - Reinstatement of Expired or Suspended Licenses - Mortgage Loan Origination Disclosure Form - Bona Fide Not-For-Profit Certification - Applications for Initial Licenses Near Year End, p. 381 |
| (Public Employees' Retirement Board) | |
| 2-43-611 | Investment Policy Statements for the Defined Contribution Retirement Plan, the Montana Fixed Fund, and the 457(b) Deferred Compensation Plan, p. 201, 465 |

(State Banking Board)

2-60-608 Closure or Relocation of Bank Branches, p. 1, 228

AGRICULTURE, Department of, Title 4

4-20-270 Hemp, p. 1946, 59

4-21-271 Plant Health Quarantines, p. 114

4-21-272 Plant Health Quarantines, p. 100, 552

STATE AUDITOR, Office of, Title 6

6-261 Surety Insurance Producers Who Sell, Solicit, or Negotiate
Commercial Bail Bonds, p. 739, 1860, 410

(Classification Review Committee)

6-263 Establishment, Deletion, or Revision of Classifications for Various
Industries for Supplementing the NCCI Basic Manual for Workers'
Compensation and Employers Liability Insurance, p. 447

COMMERCE, Department of, Title 8

8-94-186 Administration of the Federal Community Development Block Grant
(CDBG) Program—Planning Grants, p. 288, 554

8-94-187 Administration of the Montana Coal Endowment Program (MCEP)—
Planning Grants, p. 591

8-111-185 Definitions - Housing Credit Allocation Procedure, p. 2287, 229

(Board of Investments)

8-97-100 Board of Investments Rules, p. 205, 466

EDUCATION, Title 10

FISH, WILDLIFE AND PARKS, Department of, Title 12

12-530 Closing the Shields River to All Motorized Watercraft, p. 1690, 62

12-533 Field Trial Regulations - Game Bird Dog Training - Game Bird Farms,
p. 2093, 172

12-538 Closing Giant Springs State Park in Cascade County, p. 116

12-539 Closing Pictograph Cave State Park in Yellowstone County, p. 118

12-540 Closing the Yellowstone River 100 Yards Upstream and Downstream
of the Twin Bridges Road Bridge in Stillwater County, p. 175

12-542 Closing the Ennis Fishing Access Site and the Valley Garden Fishing
Access Site in Madison County, p. 230

12-543 Closing the York's Islands Fishing Access Site in Broadwater County,
p. 232

12-544 Closing the Springdale Bridge Fishing Access Site in Park County, p.
434

(Fish and Wildlife Commission)

- 12-531 Recreational Use on the Madison River, p. 1722, 2324
- 12-534 Closing the Boulder River to All Motorized Watercraft, p. 1953, 430
- 12-535 Use of Remote-Controlled Devices and Drones While Fishing, p. 1956, 431
- 12-537 Limiting Tepee Lake to Manually Operated Watercraft, p. 2226, 432
- 12-541 Policy Regarding the Management of Black Bear, p. 389
- 12-545 Use of Deer or Elk Urine to Mask Human Odor, p. 391
- 12-546 Implementation of the Commercial Use Cap on the Madison River, p. 395

ENVIRONMENTAL QUALITY, Department of, Title 17

- 17-415 Nutrient Standards Variances, p. 2290

(Board of Environmental Review)

- 17-413 Air Quality Operation Fees, p. 1550, 2335
- 17-414 Selenium Standards for Lake Koocanusa and the Kootenai River, p. 1789, 2336

TRANSPORTATION, Department of, Title 18

- 18-183 Motor Fuels Tax, p. 1795, 2238
- 18-184 Motor Carrier Services Safety Requirements, p. 450

CORRECTIONS, Department of, Title 20

(Board of Pardons and Parole)

- 20-25-70 Parole Guidelines - Conditional Discharge From Supervision, p. 1556, 1693, 2401

JUSTICE, Department of, Title 23

- 23-18-249 Montana 24/7 Sobriety Program Act, p. 1804, 2407
- 23-18-262 Certificates of Public Advantage, p. 453

(Public Safety Officers Standards and Training Council)

- 23-13-260 Certification of Public Safety Officers, p. 4, 616

LABOR AND INDUSTRY, Department of, Title 24

Boards under the Business Standards Division are listed in alphabetical order by chapter following the department notices.

- 24-11-369 Unemployment Insurance Benefits Related to the COVID-19 Pandemic, p. 2229, 120

- 24-11-372 COVID Unemployment Insurance Benefits, p. 534
- 24-13-366 HELP-Link, p. 1958, 2409
- 24-17-363 Prevailing Wage Rates for Public Works Projects, p. 1862, 2410
- 24-21-362 Apprenticeship and Training Program, p. 1964, 2419
- 24-22-368 Implementation of the Montana Employment Advancement Right Now Program Act, p. 1969, 2420
- 24-29-364 Drug Formulary in the Utilization and Treatment Guidelines for Workers' Compensation and Occupational Disease, p. 2030, 2431
- 24-29-365 Reimbursement of Workers' Compensation Premiums Due to Providing High-Quality Work-Based Learning Opportunities, p. 2033, 2432
- 24-29-367 Medical Fee Schedules for Workers' Compensation Purposes, p. 397
- 24-29-370 Use of Signatures When Documents Are Being Electronically Transmitted, p. 11, 276
- 24-29-371 Medical Utilization and Treatment Guidelines for Workers' Compensation Purposes, p. 536
- 24-101-310 Nonroutine Applications and Criminal Convictions, p. 290, 556
- 24-122-1 Boiler Operator Licensing - Fee Schedule for Boiler Operating Engineers - Approval of Training Courses - Examinations - Renewals, p. 20, 468
- 24-131-1 Construction Blaster Licensing - Fees - Training Programs - Variances - Requirements, p. 24, 469
- 24-135-3 License Requirements for Crane and Hoisting Operating Engineers - Fees - Incorporation by Reference of American National Standards Institute B30.5, p. 29, 470
- 24-142-2 Elevator Licensing - Fee Schedule - Licensee Responsibilities - Elevator Mechanic and Limited Mechanic Licensure Qualifications - Examinations - Licensure by Reciprocity or Endorsement - Apprentice Registration, p. 34, 475
- 24-144-2 Fire Protection License Program - Definitions - Duty to Report Changes - Proof of Insurance - Fees - Who Must Obtain an Endorsement - Endorsement Examinations - Fireworks Wholesaler Permit Applications - Continuing Education - Duplicate License or Endorsement - Apprenticeship Programs - Application Procedure - Fireworks Wholesale Permits - Renewals, p. 39, 565
- 24-301-350 Incorporation by Reference of the International Energy Conservation Code, p. 2303, 177
- 24-301-353 Modifications to the International Building Code Applicable to Both the Department's and Local Government Code Enforcement Programs, p. 596
- (Board of Personnel Appeals)
- 24-26-353 Practices of and Procedures Before the Board of Personnel Appeals, p. 1977, 2422

(Board of Athletic Trainers)

24-118-6 Definitions - Unprofessional Conduct - Applications - Supervision - Renewals, p. 14, 564

(Board of Dentistry)

24-138-79 Approved Clinical Exam Criteria for Dentists and Dental Hygienists, p. 2098, 121

24-138-80 Denturist Committee - Fees - Dental Hygienist Functions - License Display - Licensure and Certification of Dentists, Dental Hygienists, and Denturists - Continuing Education Requirements - Dentist and Denturist Unprofessional Conduct - Screening Panel - Dental Hygienist Unprofessional Conduct - Justifiable Criticism and Expert Testimony - Infectious Waste - Public Service and Quality of Care - Patient Selection - Patient Records - Emergency Service - Consultation and Referral - Rebate and Split Fees - Volunteer Licensee Scope - Dental and Dental Hygiene Schools - Dentist Specialist License - Licensure After Denial or Revocation - Grounds for Denial - Severability - Multiple-Specialty Announcements, p. 213, 473

(Board of Medical Examiners)

24-156-87 Definitions - Training of Student Physician Assistants - Application for Physician Assistant License - Physician Assistant Fees - Reporting to the Board - Supervision of Physician Assistant - Patient Rights - Unprofessional Conduct - Management of Infectious Wastes - Physician Assistant License Renewal, p. 1561, 65

24-156-90 ECP Scope of Practice, p. 1866, 277

24-156-91 Audit and Continuing Education Reporting Requirements - Continuing Education Audit, p. 456

(Board of Occupational Therapy Practice)

24-165-25 Definitions - Deep Modality Endorsement, p. 593

(Board of Plumbers)

24-180-50 Fee Schedule - Temporary Exceptions - Renewal of Endorsement - Continuing Education Requirements, p. 102, 329

(Board of Professional Engineers and Professional Land Surveyors)

24-183-44 Definitions - Teaching of Land Surveying Subjects - Continuing Professional Competency—Continuing Education, p. 401

(Board of Real Estate Appraisers)

24-207-44 Approval of Qualifying and Continuing Education Courses, p. 108, 436

(Board of Realty Regulation)

24-210-46 Fee Schedule - Unprofessional Conduct - Citations and Fines - Prelicensing Education—Salespersons and Brokers - Continuing Real

Estate Education - Continuing Property Management Education - New
Licensee Mandatory Continuing Education—Salespersons, p. 2296,
619

LIVESTOCK, Department of, Title 32

- 32-20-314 Special Requirements for Swine, p. 2104, 179
- 32-21-315 Diagnostic Laboratory Fees, p. 158
- 32-21-317 Diagnostic Laboratory Fees, p. 599

(Board of Milk Control)

- 32-20-313 Milk Control Assessments, p. 2101, 69
- 32-21-316 Definitions - Regulation of Unfair Trade Practices - Reports and
Records - Payments to Pool Producers and Adjustment of Accounts,
p. 539

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

- 36-22-200 Oil and Gas Leases on State Lands, p. 459
- 36-22-203 Management of State Forested Lands, p. 1046, 2239
- 36-22-210 Rangeland Management, p. 2107, 330

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

- 37-932 Substantiation of Abuse and Neglect Reports - Disclosure of
Information, p. 2040, 2434
- 37-933 Updating Medicaid Provider Rates, Fee Schedules, and Effective
Dates, p. 2048, 2111, 51, 180
- 37-934 Home Support Services (HSS) Program Redesign, p. 2054, 2435
- 37-935 Health and Economic Livelihood Partnership (HELP) Act, p. 2062,
2438
- 37-936 Montana Telecommunications Access Program (MTAP) Financial
Eligibility Criteria, p. 2113, 70
- 37-937 Substance Use Disorder (SUD) State Approval, p. 2309, 182
- 37-938 Big Sky Rx Benefit, p. 2314, 183
- 37-939 Newborn Screening, p. 2317, 184
- 37-940 Licensed Marriage and Family Therapists - Policy Changes for
Medication Assisted Treatment, p. 52, 164, 331
- 37-941 Update of Effective Dates and Inclusion of Medicaid Manual Changes,
p. 168, 334
- 37-942 Low Income Weatherization Assistance Program, p. 405, 621
- 37-943 Hospice Fee Schedule, p. 462
- 37-945 Fees for Copies of Birth Certificates - Amendment of Birth Certificate
Gender Designations - Issuance of a Replacement Certificate, p. 608

PUBLIC SERVICE REGULATION, Department of, Title 38

- 38-2-247 Investigation and Discovery, p. 2320, 568
- 38-2-248 Commission Procedural Rules, p. 545
- 38-5-246 Pipeline Safety, p. 2232, 580
- 38-5-248 Advanced Metering Opt-Out, p. 111

REVENUE, Department of, Title 42

- 42-1024 Updates to the Montana Reappraisal Plan and Classification and Valuation Manuals, p. 1832, 2078, 71
- 42-1025 Trended Depreciation Schedules for Valuing Personal Property, p. 1869, 2276
- 42-1026 Montana Achieving a Better Life Experience (ABLE) Program Accounts and Family Education Plan Savings Accounts, p. 2116, 76
- 42-1027 Revisions to Definitions of Oil Stripper Well Bonus - Stripper Well Exemption, p. 2128, 77
- 42-1028 Tax Credits for Contributions to Qualified Education Providers, p. 2235, 122
- 42-1029 Common Carrier Reporting of Alcoholic Beverage Shipments, p. 56, 234

SECRETARY OF STATE, Office of, Title 44

- 44-2-242 Clarification of Business Services Division Filings and Fees, p. 550
 - 44-2-243 Records and Information Management Fees, p. 613
- (Commissioner of Political Practices)
- 44-2-241 Payment Threshold--Inflation Adjustment for Lobbyists, p. 2131, 78