

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 12

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption of New)	NOTICE OF PUBLIC HEARING ON
Rules I through VI pertaining to)	PROPOSED ADOPTION
tracking sexual assault evidence kits)	
through a statewide Sexual Assault)	
Kit Tracking System)	

TO: All Concerned Persons

1. On July 16, 2021, at 2:00 p.m., the Department of Justice will hold a public hearing via remote conferencing to consider the proposed adoption of the above-stated rules. Due to the current state of emergency in Montana and 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, <https://mt-gov.zoom.us/j/87102134634?pwd=U2x6dURZd01RZS9kKzJOWngvUURNdz09>
Meeting ID: 871 0213 4634
Password: 925906
- (b) Dial by Telephone, +1 646 558 8656 or +1 406 444 9999
Meeting ID: 871 0213 4634, Password: 925906.

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

2. The Department of Justice 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 Justice no later than July 9, 2021, to advise us of the nature of the accommodation that you need. Please contact Kayla Bragg, Department of Justice, P.O. Box 201417, Helena, MT 59620; telephone (406) 444-5896; or kayla.bragg@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The 2019 Legislature enacted Chapter 138, Laws of 2019 (Senate Bill 52), an act revising the laws on sexual assault kits. The bill was signed by the Governor on April 16, 2019, and is codified at 46-15-405, MCA. The Department of Justice (department or DOJ) is proposing to adopt new rules to implement the legislation, which requires DOJ to adopt rules that govern developing and using the sexual assault kit tracking system.

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

NEW RULE I DEFINITIONS Unless the context indicates otherwise, the words and phrases in this subchapter have the definitions set forth in this rule.

(1) "Administered kit" means a sexual assault evidence kit that has been used to collect forensic evidence from an individual.

(2) "Authorized user" is a person who is designated by a healthcare facility, law enforcement agency, or crime laboratory and who has a registered account in the sexual assault kit tracking system.

(3) "Crime laboratory" means a Montana entity that receives, processes, and tests sexual assault kit evidence.

(4) "Department" means the Montana Department of Justice.

(5) "DOJ Victim Services" means the Montana Department of Justice Office of Victim Services Forensic Rape Examination Payment Program.

(6) "Healthcare facility" means a facility or entity that is licensed, certified, or otherwise authorized by law to administer medical treatment in this state.

(7) "Kit" means a sexual assault evidence kit.

(8) "Law enforcement agency" means a Montana law enforcement service provided directly by a local government as defined in 7-32-201, MCA.

(9) "Stakeholder" means a healthcare facility, law enforcement agency, or crime laboratory in the state of Montana that administers, receives, transfers, or stores sexual assault evidence kits.

(10) "Status" means the current location and status of the kit, including: inventory, collected, held, in evidence, processing, processed, archived, and discarded.

(11) "Tracking system" means the Sexual Assault Kit Tracking System defined in 46-15-405, MCA.

AUTH: 46-15-405, MCA

IMP: 46-15-405, MCA

NEW RULE II REQUIREMENT TO DESIGNATE AUTHORIZED USERS

(1) A stakeholder shall designate at least two authorized users within the healthcare facility, law enforcement agency, or crime laboratory to register for and maintain a sexual assault kit tracking system account.

AUTH: 46-15-405, MCA

IMP: 46-15-405, MCA

NEW RULE III PROCEDURE FOR HEALTHCARE FACILITIES TO USE THE SEXUAL ASSAULT KIT TRACKING SYSTEM (1) Within 72 hours of receiving a kit from DOJ Victim Services, a healthcare facility shall update the status of the kit in the tracking system.

(2) Within 24 hours of administering a kit, a healthcare facility shall update the status of the kit in the tracking system.

(3) A healthcare facility shall update a kit's status in the tracking system before transferring the kit to a law enforcement agency or DOJ Victim Services.

(4) A healthcare facility shall update a discarded or destroyed kit's status in the tracking system.

AUTH: 46-15-405, MCA
IMP: 46-15-405, MCA

NEW RULE IV PROCEDURE FOR LAW ENFORCEMENT AGENCIES TO USE THE SEXUAL ASSAULT KIT TRACKING SYSTEM (1) Within 72 hours of receiving a kit from a healthcare facility or DOJ Victim Services, a law enforcement agency shall update the kit's status in the tracking system.

(2) Within 72 hours of receiving a tested kit from a crime laboratory, a law enforcement agency shall update the kit's status in the tracking system.

(3) A law enforcement agency shall update a kit's status in the tracking system before transferring the kit to a crime laboratory, another law enforcement agency, or DOJ Victim Services.

AUTH: 46-15-405, MCA
IMP: 46-15-405, MCA

NEW RULE V PROCEDURE FOR CRIME LABORATORIES TO USE THE SEXUAL ASSAULT KIT TRACKING SYSTEM (1) Within 72 hours of receiving a kit from a law enforcement agency, a crime laboratory shall update a kit's status in the tracking system.

(2) A crime laboratory shall update a kit's status in the tracking system before transferring the kit to a law enforcement agency.

AUTH: 46-15-405, MCA
IMP: 46-15-405, MCA

NEW RULE VI NOTICE OF VIOLATION (1) A written notice of violation shall contain:

- (a) the date of the notice;
- (b) contact information for the stakeholder;
- (c) contact information for the department;
- (d) a summary of the complaint made by the department, including:
 - (i) the specific provisions of the statute or rule alleged to be violated; and
 - (ii) the specific facts alleged to constitute a violation; and
- (e) a description of the department's suggested corrective action.

(2) If a stakeholder is still in violation 30 days after the date of notice received via certified mail from the department, then the department may provide notice of the alleged violation to any legislative committee with jurisdiction over the stakeholder. The department may also provide public notice of the alleged violation.

AUTH: 46-15-405, MCA
IMP: 46-15-405, MCA

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 Kayla Bragg, Department of Justice, P.O. Box 201417, Helena, MT

59620; telephone (406) 444-5896; or e-mail kayla.bragg@mt.gov, and must be received no later than July 23, 2021.

6. Kayla Bragg, Department of Justice, 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 paragraph 5 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's website at <http://sosmt.gov/ARM/Register>.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by email and by telephone on May 18, 2020.

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

/s/ Hannah E. Tokerud
Hannah E. Tokerud
Rule Reviewer

/s/ Kris Hansen
Kris Hansen
Administrator
Department of Justice

Certified to the Secretary of State June 15, 2021.

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

In the matter of the commissioner's) NOTICE OF PUBLIC HEARING
active supervision of the Board of)
Dentistry regarding designation of)
public health facilities for limited)
access permits)

TO: All Concerned Persons

1. On July 29, 2021, at 10:00 a.m., the Department of Labor and Industry (department) will hold a public hearing via remote conferencing to take public comment regarding whether the Board of Dentistry's implementation of 37-4-405, MCA, through ARM 24.138.509(5) is reasonable and necessary to protect the public health, safety, and welfare pursuant to 37-1-121(1)(d), MCA.

2. 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/83566960789>
Meeting ID: 835 6696 0789, Passcode: 972656; or
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656,
Meeting ID: 835 6696 0789, Passcode: 972656.

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.

3. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on July 22, 2021, to advise us of the nature of the accommodation that you need. Please contact Sarah Braden, P.O. Box 1728, Helena, Montana 59624-1728; telephone (406) 841-2013; Montana Relay 711; or e-mail sbraden@mt.gov.

4. Comment is sought on the following rule provision, which designates public health facilities at which services under a limited access permit may be provided, under the Board of Dentistry's authority to "identify, by rule, other public health facilities and programs, in addition to those listed in subsection (3)(c), at which services under a limited access permit may be provided." 37-4-405(6), MCA.

24.138.509 DENTAL HYGIENE LIMITED ACCESS PERMIT Comment is not requested regarding (1) through (4).

(5) Pursuant to 37-4-405, MCA, the board identifies the following additional public health facilities and programs at which services under a LAP may be provided:

- (a) Dodson School;
- (b) Great Falls Rescue Mission;
- (c) Harlem Elementary School;
- (d) Harlem Junior/Senior High School; and
- (e) Paris Gibson Education Center.

AUTH: 37-4-205, 37-4-401, 37-4-405, MCA

IMP: 37-4-401, 37-4-405, MCA

5. After public comment has been received, the commissioner will issue a decision pursuant to 37-1-121, -122, MCA.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Sarah Braden, Department of Labor and Industry, P.O. Box 1728, Helena, MT 59624-1728, or by e-mail to: sbraden@mt.gov, and must be received no later than July 29, 2021, at 5:00 p.m.

/s/ LAURIE ESAU

Laurie Esau, Commissioner

DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State on June 15, 2021.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.114.401 fee schedule) PROPOSED AMENDMENT

TO: All Concerned Persons

1. On July 16, 2021, at 10:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment of the above-stated rule. 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/82120748766>
Meeting ID: 821 2074 8766, Passcode: 487613
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 821 2074 8766, Passcode: 487613

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 Architects and Landscape Architects no later than 5:00 p.m., on July 9, 2021, to advise us of the nature of the accommodation that you need. Please contact Dan Ritter, Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2244; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsduc@mt.gov (board's e-mail).

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

24.114.401 FEE SCHEDULE (1) The following fees apply to architects:

(a) and (b) remain the same.

(c) License renewal ~~55~~ 40

(d) and (e) remain the same.

(2) The following fees apply to landscape architects:

(a) and (b) remain the same.

(c) License renewal ~~250~~ 170

(3) and (4) remain the same.

AUTH: 37-1-131, 37-1-134, 37-65-204, MCA

IMP: 37-1-134, 37-1-141, 37-65-307, 37-66-309, MCA

REASON: The board determined it is reasonably necessary to amend this rule to comply with the provisions of 37-1-134, MCA, which requires the board to set fees that provide adequate funding for board operations. The board is also required to comply with 17-2-302 and 17-2-303, MCA, by not allowing the board's cash balance to exceed twice the annual appropriation amount. The board is reducing renewal fees to gradually decrease the board's cash balance and meet the statutory requirements while ensuring adequate revenue to support board activities through the next biennium. The board estimates the fee reductions will affect approximately 1,841 renewing licensees and result in a \$37,105 reduction in annual revenue.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsduc@mt.gov, and must be received no later than 5:00 p.m., July 23, 2021.

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

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

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

8. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.114.401 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2244; facsimile (406) 841-2305; or to dlibsduc@mt.gov.

9. Dan Ritter, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF ARCHITECTS AND
LANDSCAPE ARCHITECTS
DALE NELSON
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 15, 2021.

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

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.126.910 impairment evaluator)	PROPOSED AMENDMENT AND
standards, and the repeal of)	REPEAL
24.126.415 participation in disaster and)	
emergency care -- liability of)	
chiropractor and 24.126.501)	
applications)	

TO: All Concerned Persons

1. On July 23, 2021, at 10:00 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/82816124883>
Meeting ID: 828 1612 4883, Passcode: 303676

-OR-

b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 828 1612 4883, Passcode: 303676

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 Chiropractors no later than 5:00 p.m., on July 16, 2021, to advise us of the nature of the accommodation that you need. Please contact Kevin Bragg, Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2390; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdcchi@mt.gov (board's e-mail).

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

24.126.910 IMPAIRMENT EVALUATOR STANDARDS CONTINUING EDUCATION (1) ~~A minimum of four hours of specialized continuing education (CE) relevant to impairment evaluation shall be obtained every four years.~~ Licensees holding impairment evaluator certificates shall, upon release of an updated American Medical Association Guides to the Evaluation of Permanent Impairment edition, obtain two hours of specialized CE relevant to the updated edition.

- (a) remains the same.
- ~~(b) (2) Acceptable CE approved by the board~~ must directly relate to impairment evaluation and shall be affiliated with or approved by:
 - ~~(a) national, regional, or state chiropractic associations;~~
 - ~~(b) state licensing boards;~~
 - ~~(c) academies;~~
 - ~~(d) colleges of chiropractic;~~ or
 - ~~(e) education approved by the Federation of Chiropractic Licensure Board (FCLB) Providers of Approved Continuing Education (PACE).~~
- (3) Licensees shall affirm an understanding of the recurring duty to comply with CE requirements as part of license renewal.
- ~~(c) (4) The department shall conduct a random~~ may randomly audit of up to 50 percent of renewed impairment evaluator certificate holders every four years ~~to verify compliance with the requirements.~~
- ~~(d) A three-month extension will be provided for all licensees who fail to meet the continuing education requirements as a result of an audit. Failure to meet this extension may result in disciplinary action.~~
- ~~(e) (5) Any impairment evaluator seeking a hardship waiver from the CE requirements shall apply to the board, in writing, as soon as possible after the hardship is identified and prior to the end of the period for completing the continuing education. An impairment evaluator may request exemption from CE requirements due to hardship. Requests will be considered by the board.~~
 - ~~(i) Specific details of the hardship must be included.~~
 - ~~(ii) The board must find that a hardship exists.~~
 - ~~(iii) The waiver may be absolute or conditional.~~
- ~~(2) (6) Persistent deviation from generally accepted standards for impairment evaluation may be grounds for disciplinary action, which may include revocation of the impairment evaluator certificate. Licensees found to be in noncompliance with CE requirements may be subject to administrative suspension.~~
- ~~(3) (7) Impairment evaluators must comply with ARM 24.29.1415. This rule is available at www.mtrules.org.~~
- ~~(4) Impairment evaluator licenses shall be renewed annually.~~

AUTH: 37-1-131, 37-1-319, 37-12-201, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-12-201, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify language, processes, and accepted standards. Specifically, the board is reducing the number of additional CE hours that evaluators must obtain during the normal four-year cycle. This is a direct result of the American Medical Association standards having not been updated since 2008. The board concluded that it is reasonable to require additional impairment evaluation CE when the manual is finally updated. Additional changes will align with standard department procedures, maintain continuity with prior changes to the board's other CE rules, and simplify language for ease of use for the reader.

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

24.126.415 PARTICIPATION IN DISASTER AND EMERGENCY CARE --
LIABILITY OF CHIROPRACTOR

AUTH: 37-1-131, 37-12-201, MCA

IMP: 37-1-131, 37-12-104, 37-12-201, MCA

REASON: In 2006, the board adopted this rule in response to a department request to provide for emergency response. During the COVID-19 pandemic, the Governor made specific regulatory suspensions which allowed out-of-state volunteer practitioners to receive remuneration during a declared emergency. The division rule, ARM 24.101.417, was amended accordingly.

While reviewing the board's rules, staff noted that this rule's provisions are adequately addressed in the division rule. Further, the board rule does not allow volunteer chiropractors to receive payment during an emergency and as such creates confusion to potential volunteers. The board determined it is reasonably necessary to repeal this rule to achieve standardization throughout the division.

24.126.501 APPLICATIONS

AUTH: 37-1-131, 37-12-201, MCA

IMP: 37-1-131, 37-12-302, 37-12-304, MCA

REASON: While reviewing the rules, board staff noted this rule contains solely administrative processes which are addressed by standardized department application procedures that apply to all licensure boards. The board concluded it is reasonably necessary to repeal this rule as unnecessary.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdchi@mt.gov, and must be received no later than 5:00 p.m., July 23, 2021.

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

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate

whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdcchi@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

9. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.126.910 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 24.126.415 and 24.126.501 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-841-2390; facsimile (406) 841-2305; or to dlibsdcchi@mt.gov.

10. Kevin Bragg, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF CHIROPRACTORS
MARCUS NYNAS, DC
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 15, 2021.

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

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.189.401 fee schedule,)	PROPOSED AMENDMENT AND
24.189.607 required supervised)	REPEAL
experience, 24.189.913 and)	
24.189.2101 continuing education)	
requirements, 24.189.916 and)	
24.189.2107 continuing education)	
implementation, and 24.189.2301)	
representation of self and services, and)	
the repeal of 24.189.601 psychologist)	
application procedures and 24.189.630)	
licensure as a psychologist by)	
experience (senior))	

TO: All Concerned Persons

1. On July 20, 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/85249650076>
Meeting ID: 852 4965 0076, Passcode: 471649
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 852 4965 0076, Passcode: 471649

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 Psychologists no later than 5:00 p.m., on July 13, 2021, to advise us of the nature of the accommodation that you need. Please contact Sharon Peterson, Board of Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2375; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibspsy@mt.gov (board's e-mail).

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

24.189.401 FEE SCHEDULE (1) through (1)(e) remain the same.

(f) Behavior analyst initial supervision fee, per behavior technician, student intern, or assistant behavior analyst supervised 50 25
(g) and (h) remain the same.

~~(i) Behavior analyst renewal supervision fee, per behavior technician, student intern, or assistant behavior analyst supervised 25~~

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

(2) remains the same.

AUTH: 37-1-134, 37-17-202, 37-17-406, MCA

IMP: 37-1-134, 37-1-141, 37-17-302, 37-17-403, 37-17-406, MCA

REASON: The board is amending the fee in (1)(f) to standardize the board's supervision fees. Since the 2017 regulation of behavior analysts (BA) and assistant behavior analysts, supervisors noticed and questioned the difference between BA and psychologist supervision fees. The board determined there is no reason for the supervision fees to be different and is amending the rule accordingly.

The board is striking the \$25 BA renewal supervision fee as unnecessary after concluding that the renewal process is standardized, routine, and does not require review or approval by staff. The board estimates 22 supervisors and 71 supervisees will be affected by these fee changes, and the fee changes will result in an approximate \$2,325 reduction in annual revenue.

24.189.607 REQUIRED SUPERVISED EXPERIENCE (1) An applicant applying for licensure under [SB 90 Section 2] must submit a psychologist application in the form of a completed supervision proposal and pay the supervision proposal approval fee. This license expires at the conclusion of the approved postdoctoral supervision program unless the licensee provides:

(a) a completed psychologist application;

(b) the applicable fee;

(c) proof of completion of the postdoctoral supervision program;

(d) proof of passage of the board-approved computerized national examination; and

(e) proof of passage of the computerized Montana jurisdiction training course.

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

~~(6)~~ (7) Individual solo private practice does not qualify as acceptable professional experience. The supervisee must be an employee of the postdoctoral training setting and shall not bill ~~directly~~ independently for services provided.

(7) through (13) remain the same but are renumbered (8) through (14).

AUTH: 37-1-131, 37-17-202, MCA

IMP: 37-1-131, 37-17-302, (SB 90 Section 2), MCA

REASON: The 2021 Montana Legislature enacted Chapter 43, Laws of 2021 (Senate Bill 90), an act revising licensure for psychologists. The bill was signed by the Governor on March 1, 2021, and will become effective July 1, 2021.

Senate Bill 90 allows licensure of postdoctoral supervisees to encourage insurance reimbursement for services provided by postdoctoral supervisees. The board determined it is reasonably necessary to add (1) to implement the bill by clearly setting forth the qualifications and application process for postdoctoral supervisees.

Senate Bill 90 provides for a full psychologist license for postdoctoral supervisees. To accommodate the billing system utilized by insurance companies, the board determined it is reasonably necessary to change "directly" to "independently" in (7). This change will clarify that postdoctoral supervisees may bill for services, but only as part of the supervised training program.

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

~~(4) All approved formal continuing education courses must issue a program or certificate of completion containing the following information:~~

- ~~(a) full name and qualifications of the presenter;~~
- ~~(b) title of the presentation attended;~~
- ~~(c) number of hours and date of each presentation attended;~~
- ~~(d) description of the presentation format; and~~
- ~~(e) name of licensee.~~

(4) All CE must be documented to show proof of completion. Documentation must include the following information:

- (a) licensee name;
- (b) course title and description of content;
- (c) presenter or sponsor;
- (d) course date(s); and
- (e) number of CE hours earned.

~~(5) It is the responsibility of the licensee to establish and maintain detailed records of continuing education compliance for a period of three years following submission of a continuing education report. The licensee is responsible for maintaining CE records for three years following the renewal cycle reporting period and for making those records available upon request.~~

AUTH: 37-1-319, ~~37-17-202~~, 37-17-406, MCA

IMP: 37-1-306, 37-1-319, 37-17-406, MCA

REASON: It is reasonably necessary to amend (4) and (5) and ARM 24.189.2101 to align with and facilitate the department's standardized renewal, administrative suspension, and audit procedures, and for better organization and ease of use. The board does not "approve" courses, etc. and has no authority over whether courses issue programs, certificates of completion, etc. Boards may clarify what information is required if audited and require licensees to submit documents upon request.

24.189.916 CONTINUING EDUCATION IMPLEMENTATION REPORTING AND AUDIT (1) remains the same.

(2) A licensed behavior analyst or assistant behavior analyst must earn at least ~~ten~~ 20 continuing education credits, of which ~~one hour~~ two hours must be in

ethics and one hour must be in suicide prevention, during each consecutive calendar year every two years. The two-year cycle will end on the renewal date set by ARM 24.101.413 in odd-numbered years. Continuing education credits may not be carried over from one two-year cycle to another. Continuing education credit shall be reported as follows:

(a) remains the same.

(b) All licensed behavior analysts and licensed assistant behavior analysts must submit affirmation of compliance to the board on each year's license renewal that they understand their duty to comply with the continuing education requirements established by this subchapter for maintaining their license shall affirm an understanding of their recurring duty to comply with CE requirements as a part of license renewal.

(c) The board department may randomly audit up to 50 percent of the renewed licensees attesting to continuing education. Certificates of completion or programs for continuing education credits reported must be submitted upon request of the board. Notices of continuing education audit will be considered properly mailed when addressed to the last known address on file in the board office.

(d) No continuing education programs used to complete delinquent continuing education plan requirements for licensure can be used to meet the continuing education requirements for the next continuing education reporting period. Any continuing education noncompliance determined by the audit may be handled by the board as a disciplinary matter.

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

(c) (f) If a licensee is unable to acquire sufficient continuing education credits to meet the requirements, the licensee may request an exemption. All requests for exemptions will be considered by the board and evaluated on an individual basis. A licensee may request an exemption from CE requirements due to hardship. Requests will be considered by the board.

AUTH: 37-1-131, 37-1-319, ~~37-17-202~~, 37-17-406, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, 37-1-319, 37-17-406, MCA

REASON: The board is amending this rule and ARM 24.189.2107 to align with and facilitate the department's standardized renewal, administrative suspension, and audit procedures, and for better organization and ease of use for staff and the reader. The board is amending both rules' titles to better reflect the changed text.

The board is amending (2) to require that licensees complete a minimum of two hours in ethics and one hour in suicide prevention topics every two years. When eliminating the oral examination for psychologist licensure in 2020, the board discussed the need for continued training in suicide prevention and ethics for all licensees. The board concluded this specialized CE is necessary to ensure board licensees have ongoing training to address Montana's high suicide rate. The board is changing the reporting cycle from yearly to every two years to standardize all reporting cycles for the board and make regulation and audits more efficient.

It is reasonably necessary to amend (2)(b) to align the affirmation of CE required at renewal with the provisions of 37-1-306, MCA, and standard department

procedures. The board is amending (2)(d) and adding (e) to clarify that licensees not in compliance with CE may be subject to administrative suspension per 37-1-321, MCA, and standard department audit procedures.

The board is amending (2)(f) to align with standard department audit procedures that give adequate time (minimum of 85 days) to cure deficiencies and therefore such an exemption is no longer necessary. The board will consider requests for hardship exemptions.

24.189.2101 CONTINUING EDUCATION REQUIREMENTS (1) In accordance with 37-17-202, MCA, the Montana Board of Psychologists hereby establishes requirements for the continuing education of licensed psychologists ~~as a condition of license renewal.~~

(2) through (3)(b) remain the same.

~~(c) All approved formal continuing education courses must issue a program or certificate of completion containing the following information:~~

- ~~(i) full name and qualifications of the presenter;~~
- ~~(ii) title of the presentation attended;~~
- ~~(iii) number of hours and date of each presentation attended;~~
- ~~(iv) description of the presentation format; and~~
- ~~(v) name of licensee.~~

(c) All CE must be documented to show proof of completion. Documentation must include the following information:

- (i) licensee name;
- (ii) course title and description of content;
- (iii) presenter or sponsor;
- (iv) course date(s); and
- (v) number of CE hours earned.

~~(d) It is the responsibility of the licensee to establish and maintain detailed records of continuing education compliance for a period of three years following submission of a continuing education report. The licensee is responsible for maintaining CE records for three years following the renewal cycle reporting period and for making those records available upon request.~~

AUTH: 37-1-319, ~~37-17-202~~, MCA

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

REASON: See REASON for ARM 24.189.913. The board is also amending (1) to align the affirmation of CE required at renewal with the provisions of ARM 24.189.207(2)(b) and 37-1-306, MCA, through standard department procedures.

24.189.2107 CONTINUING EDUCATION IMPLEMENTATION REPORTING AND AUDIT (1) remains the same.

(2) ~~Starting November 1, 2019, a licensed psychologist~~ Licensed psychologists must earn, within a two-year renewal cycle, a minimum of 40 continuing education credits, of which two hours must be in ethics and one hour must be in suicide prevention, every two years on or before the renewal date set by ARM 24.101.413. ~~The two-year cycle will end on the renewal date set by ARM~~

24.101.413 in odd-numbered years. Continuing education credits may not be carried over from one two-year cycle to another.

(a) No continuing education is required for licensees licensed less than one full calendar year on their first reporting date. Licensees licensed less than two full calendar years on the first reporting date shall submit 20 hours of continuing education, including one hour in ethics and one hour in suicide prevention.

(b) ~~All licensed psychologists must submit affirmation of understanding to the board on the appropriate year's license renewal that they understand their duty to comply with the continuing education requirements established by this subchapter for maintaining their license~~ shall affirm an understanding of their recurring duty to comply with CE requirements as a part of license renewal.

(c) ~~The board department may randomly audit up to 50 percent of the renewed licensees attesting to continuing education. Certificates of completion or programs for continuing education credits reported must be submitted upon request of the board. Notices of continuing education audit will be considered properly mailed when addressed to the last known address on file in the board office.~~

(d) No continuing education programs used to complete delinquent continuing education plan requirements for licensure can be used to meet the continuing education requirements for the next continuing education reporting period. ~~Any continuing education noncompliance determined by the audit may be handled by the board as a disciplinary matter.~~

(e) Licensees found to be in noncompliance with continuing education requirements may be subject to administrative suspension.

~~(c) (f) If a licensee is unable to acquire sufficient continuing education credits to meet the requirements, he or she may request an exemption. All requests for exemptions will be considered by the Board of Psychologists and evaluated on an individual basis. A licensee may request an exemption from continuing education requirements due to hardship. Requests will be considered by the board.~~

(g) Psychologists obtaining postdoctoral supervised experience are not required to earn continuing education credits during the period of time they are supervised.

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

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

REASON: See REASON for ARM 24.189.916.

Following a staff request for clarification, the board noted that postdoctoral supervisees are still under supervision and have not yet completed all requirements for full psychologist licensure. It is reasonably necessary for the board to add (2)(g) to clarify that psychological residents are exempt from continuing education requirements while working under psychological resident licenses.

24.189.2301 REPRESENTATION OF SELF AND SERVICES (1) In representation of self or services, a licensee:

(a) remains the same.

(b) shall not represent him/herself as a psychologist or psychological resident while the practitioner's license is currently suspended, revoked or not renewed;

(c) through (3) remain the same.

AUTH: 37-1-131, 37-1-319, 37-17-202, MCA

IMP: 37-1-131, 37-1-316, 37-17-101, (SB 90 Section 2), MCA

REASON: The board is amending this rule to implement Senate Bill 90 as enacted by the 2021 Montana Legislature. When effective July 1, 2021, the bill will extend licensure to postdoctoral supervisees, who are authorized to use the title psychological resident. It is reasonably necessary to amend this rule to add psychological residents once licensed.

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

24.189.601 PSYCHOLOGIST APPLICATION PROCEDURES

AUTH: 37-1-131, 37-17-202, MCA

IMP: 37-1-131, 37-17-302, MCA

REASON: The board determined it is reasonably necessary to repeal this rule because licensure processes are addressed for all boards in standardized department procedures.

24.189.630 LICENSURE AS A PSYCHOLOGIST BY EXPERIENCE
(SENIOR)

AUTH: 37-17-202, MCA

IMP: 37-17-310, MCA

REASON: Senate Bill 90 will repeal 37-17-310, MCA, the statute authorizing licensure of senior psychologists. The board is repealing this rule as the senior psychologist license is being replaced by the psychologist by experience license.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibspsy@mt.gov, and must be received no later than 5:00 p.m., July 23, 2021.

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

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have

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

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on May 13, 2021 by electronic mail, on May 18, 2021 by telephone, and on May 19, 2021 by USPS mail.

9. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.189.401, 24.189.607, 24.189.913, 24.189.916, 24.189.2101, 24.189.2107, and 24.189.2301 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 24.189.601 and 24.189.630 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2375; facsimile (406) 841-2305; or to dlibspsy@mt.gov.

10. Sharon Peterson, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF PSYCHOLOGISTS
LORETTA BOLYARD, Ph.D.
CHAIRPERSON

/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 15, 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 37.34.3005 and 37.86.3607) PROPOSED AMENDMENT
pertaining to developmental)
disabilities program provider rates)
update)

TO: All Concerned Persons

1. On July 15, 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/86879372576>, meeting ID: 868 7937 2576; or

(b) Dial by telephone +1 646 558 8656, meeting ID: 868 7937 2576. Find your local number: <https://mt-gov.zoom.us/u/kbv8oyWBJj>.

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 July 9, 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:

37.34.3005 REIMBURSEMENT FOR SERVICES OF MEDICAID FUNDED DEVELOPMENTAL DISABILITIES HOME AND COMMUNITY-BASED SERVICES (HCBS) WAIVER PROGRAMS (1) remains the same.

(2) The department adopts and incorporates by this reference the rates of reimbursement for the delivery of services and items available through each Home and Community-Based Services Waiver Program as specified in the Montana Developmental Disabilities Program Services Manual, effective July 1, 2020 July 1, 2021. A copy of the manual may be obtained through the Department of Public Health and Human Services, Developmental Services Division, Developmental Disabilities Program, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210 and at <http://dphhs.mt.gov/dsd/developmentaldisabilities/DDPratesinf>.

AUTH: 53-2-201, 53-6-402, MCA
IMP: 53-2-201, 53-6-402, MCA

37.86.3607 CASE MANAGEMENT SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, REIMBURSEMENT (1) Reimbursement for the delivery by provider entities of Medicaid funded targeted case management services to persons with developmental disabilities is provided as specified in the Montana Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures for Targeted Case Management Services for Individuals with Developmental Disabilities Enrolled in the 1915(c) 0208 Home and Community Based (HCBS) Comprehensive Waiver or Eligible Individuals Age 16 and Over, dated ~~March 1, 2020~~ July 1, 2021.

(2) The department adopts and incorporates by this reference the Montana Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures for Targeted Case Management Services for Individuals with Developmental Disabilities Enrolled in the 1915(c) 0208 Home and Community Based (HCBS) Comprehensive Waiver or Eligible Individuals Age 16 and Over, dated ~~March 1, 2020~~ July 1, 2021. A copy of the manual may be obtained through the Department of Public Health and Human Services, Developmental Services Division, Developmental Disabilities Program, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210 and at <http://dphhs.mt.gov/dsd/developmentaldisabilities/DDPratesinf>.

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

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) proposes to amend ARM 37.34.3005 and 37.86.3607 pertaining to reimbursement rates in the Montana Developmental Disabilities Program Services Manual and the Targeted Case Management Services for Individuals with Developmental Disabilities Enrolled in the 1915 (c) 0208 Home and Community Based (HCBS) Comprehensive Waiver or Eligible Individuals Age 16 and Over.

The proposed rule amendments would adopt and incorporate the updated versions of the manuals, dated July 1, 2021, to include grammar and punctuation clean-up and changes in billing and reimbursement of services provided to persons who are recipients of developmental disabilities services through the Medicaid programs.

Based on legislative appropriations in the 2021 legislative session, the Developmental Disabilities Program proposes to implement a 1% average provider rate increase to provider rates, and a retention adjustment for workers who provide direct care to people with developmental disabilities. The proposed manuals, dated July 1, 2021, reflect these rate adjustments.

ARM 37.34.3005

The proposed amendment would give an approximate 1% increase to Medicaid Waiver services, and a \$0.24/hour payment for recruitment and retention of direct care workers to specified services, with an effective date of July 1, 2021.

The proposed amendment would give an approximate 1% provider rate increase to the following waiver services:

Homemaker

Supported Employment Follow Along - BASE

Supported Employment Follow Along - TIER #1

Supported Employment Follow Along - TIER #2

Supported Employment Follow Along hourly

Supported Employment Follow Along - both Self Direct options

Supported Employment - Individual Employment Support

Supported Employment - Individual Employment Support - both Self Direct options

Supported Employment - Co Worker Support

Supported Employment - Co Worker Support - both Self Direct options

Caregiver Training & Support

Caregiver Training & Support - AwC Self Direct

Remote Monitoring

Supports Broker (both Self Direct options)

Behavioral Support Services

Meal Services

Meal Services - Empl Auth Self Direct

Transportation - Mileage Reimbursement

Transportation - Mileage Reimbursement - both Self Direct options

Transportation - Commute Individual

Transportation - Commute Individual Wheelchair Van

Transportation - Commute Shared

Transportation - Commute Shared Wheelchair Van

Transportation - Commute Individual AwC Self Direct

Transportation - Work/Day Integration

Transportation - Work/Day Integration Wheelchair Van

Transportation - Residential Integration Wheelchair Van

Transportation - Residential Integration

Transportation - Res Integration AwC Self Direct

The proposed amendment would give an approximate 1% provider rate increase plus a \$0.24/hour recruitment and retention for direct care workers who serve the Medicaid home and community-based services population in the developmental disabilities waiver.

The following waiver services will receive both rate adjustments:

Congregate Living Hourly (more than 10.95 ave hrs/day, over 4000 annual hrs)

Congregate Living Tier 1 (1-4.8 ave hrs/day. 0-1735.99 annual hrs)

Congregate Living Tier 2 (4.9-5.47 ave hrs/day. 1754-2005.99 annual hours)
Congregate Living Tier 3 (5.48-6.14 ave hrs/day. 2006-2235.99 annual hours)
Congregate Living Tier 4 (6.15-7.14 ave hrs/day. 2236-2605.99 annual hours)
Congregate Living Tier 5 (7.15-7.7 ave hrs/day. 2606-2845.99 annual hours)
Congregate Living Tier 6 (7.8-8.43 ave hrs/day. 2846-3075.99 annual hours)
Congregate Living Tier 7 (8.44-8.75 ave hrs/day. 3076-3194.99 annual hours)
Congregate Living Tier 8 (8.76-9.9 ave hrs/day. 3195-3613.99 annual hours)
Congregate Living Tier 9 (10-10.95 ave hrs/day. 3614-3999.99 annual hours)
Congregate Living Medical
Congregate Living Children's
Residential Habilitation Supported Living no geographic factor
Residential Habilitation Supported Living medium geographic factor
Residential Habilitation Supported Living high geographic factor
Residential Habilitation Supported Living (small agency) no geo factor
Residential Habilitation Supported Living (small agency) Medium geo factor
Residential Habilitation Supported Living (small agency) High geo factor
Residential Habilitation Supported Living - base
Residential Habilitation Supported Living - flex
Residential Habilitation Supported Living rural remote
Residential Habilitation Supported Living medium geographic factor
Residential Habilitation Supported Living high geographic factor
Residential Habilitation Supported Living (small agency) no geo factor
Residential Habilitation Supported Living (small agency) medium geo factor
Residential Habilitation Supported Living (small agency) high geo factor
Residential Habilitation Supported Living - base
Residential Habilitation Supported Living - flex
Residential Habilitation Supported Living rural remote
Residential Training Support (no geographical factor)
Residential Training Support (medium geographical factor)
Residential Training Support (high geographical factor)
Residential Training Support (small agency / no geographical factor)
Residential Training Support (small agency / medium geographical factor)
Residential Training Support (small agency / high geographical factor)
Adult Foster Support (low supervision)
Adult Foster Support (moderate supervision)
Adult Foster Support (enhanced supervision)
Adult Foster Support (intensive supervision)
Assisted Living moderate
Assisted Living enhanced
Personal Care
Companion
Respite
Supported Employment Small Group Hourly (over 8 ave hours per day)
Supported Employment Small Group Hourly - AwC Self Direct
Supported Employment Small Group Tier 1 (0-.5 ave hrs/day)
Supported Employment Small Group Tier 2 (.5-1 ave hrs/day)
Supported Employment Small Group Tier 3 (1.01-1.25 ave hrs/day)

Supported Employment Small Group Tier 4 (1.26-1.75 ave hrs/day)
Supported Employment Small Group Tier 5 (1.76-2.25 ave hrs/day)
Supported Employment Small Group Tier 6 (2.26-2.75 ave hrs/day)
Supported Employment Small Group Tier 7 (2.76-3.25 ave hrs/day)
Supported Employment Small Group Tier 8 (3.26-4.0 ave hrs/day)
Supported Employment Small Group Tier 9 (4.01-4.75 ave hrs/day)
Supported Employment Small Group Tier 10 (4.76-5.5 ave hrs/day)
Supported Employment Small Group Tier 11 (5.51-6.25 ave hrs/day)
Supported Employment Small Group Tier 12 (6.26-6.99 ave hrs/day)
Supported Employment Small Group Tier 13 (7.0-7.99 ave hrs/day)
Retirement Services Hourly (over 8 ave hours per day)
Retirement Services Tier 1 (.1-.5 ave hrs/day)
Retirement Services Tier 2 (.5-1.0 ave hrs/day)
Retirement Services Tier 3 (1.01-1.25 ave hrs/day)
Retirement Services Tier 4 (1.26-1.75 ave hrs/day)
Retirement Services Tier 5 (1.76-2.25 ave hrs/day)
Retirement Services Tier 6 (2.26-2.75 ave hrs/day)
Retirement Services Tier 7 (2.76-3.25 ave hrs/day)
Retirement Services Tier 8 (3.26-4.0 ave hrs/day)
Retirement Services Tier 9 (4.01-4.75 ave hrs/day)
Retirement Services Tier 10 (4.76-5.5 ave hrs/day)
Retirement Services Tier 11 (5.51-6.25 ave hrs/day)
Retirement Services Tier 12 (6.26-6.99 ave hrs/day)
Retirement Services Tier 13 (7.0-7.99 ave hrs/day)
Day Supports and Activities Hourly (over 8 ave hours per day)
Day Supports and Activities Tier 1 (.1-.5 ave hrs/day)
Day Supports and Activities Tier 2 (.5-1.0 ave hrs/day)
Day Supports and Activities Tier 3 (1.01-1.25 ave hrs/day)
Day Supports and Activities Tier 4 (1.26-1.75 ave hrs/day)
Day Supports and Activities Tier 5 (1.76-2.25 ave hrs/day)
Day Supports and Activities Tier 6 (2.26-2.75 ave hrs/day)
Day Supports and Activities Tier 7 (2.76-3.25 ave hrs/day)
Day Supports and Activities Tier 8 (3.26-4.0 ave hrs/day)
Day Supports and Activities Tier 9 (4.01-4.75 ave hrs/day)
Day Supports and Activities Tier 10 (4.76-5.5 ave hrs/day)
Day Supports and Activities Tier 11 (5.51-6.25 ave hrs/day)
Day Supports and Activities Tier 12 (6.26-6.99 ave hrs/day)
Day Supports and Activities Tier 13 (7.0-7.99 ave hrs/day)
Personal Supports (both Self Direct options)

The following Extended State Plan services will receive updates per their established Medicaid State Plan rate methodologies:

Private Duty Nursing (Medicaid State Plan) LPN
Private Duty Nursing (Medicaid State Plan) RN
Psychological Services
Physical Therapy (Medicaid State Plan)

Occupational Therapy (Medicaid State Plan)
Speech Therapy (Medicaid State Plan)
Nutritionist Services (Medicaid State Plan)

The proposed Montana Developmental Disabilities Program Services Manual, dated July 1, 2021, can be found at
<https://dphhs.mt.gov/dsd/developmentaldisabilities/ddpratesinf>.

The department also proposes to use this opportunity to clean up punctuation and grammar in the manual.

ARM 37.86.3607

The proposed amendment would give an approximate 1% rate increase to the following service: Targeted Case Management Services for Individuals with Developmental Disabilities Enrolled in the 1915 (c) 0208 Home and Community Based (HCBS) Comprehensive Waiver or Eligible Individuals Age 16 and Over, with an effective date of July 1, 2021.

The proposed Targeted Case Management Services for Individuals with Developmental Disabilities Enrolled in the 1915 (c) 0208 Home and Community Based (HCBS) Comprehensive Waiver or Eligible Individuals Age 16 and Over, with an effective date of July 1, 2021 can be found at
<https://dphhs.mt.gov/dsd/developmentaldisabilities/ddpratesinf>.

The department also proposes to use this opportunity to clean up punctuation and grammar in the manual.

Fiscal Impact

Waiver rate increases

The provider rate increases are projected to have the following fiscal impact:

1% provider rate increase

\$473,818	General Fund increase
\$880,336	Federal Fund increase
\$1,354,154	Total Funds increase

Direct care retention increase

\$387,158	General Fund increase
\$719,324	Federal Fund increase
\$1,106,482	Total Funds increase

Targeted Case Management increase

The provider rate increase for targeted case management is projected to have the following fiscal impact:

\$14,890.58	General Fund increase
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\$24,054.22 Federal Fund increase
\$38,944.80 Total Funds increase

The department intends to apply these proposed rule amendments retroactively to July 1, 2021. The proposed rule amendments do not result in a negative impact on any party.

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 23, 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/ Adam Meier
Adam Meier, Director
Public Health and Human Services

Certified to the Secretary of State June 15, 2021.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the adoption of an) NOTICE OF ADOPTION OF AN
emergency rule closing the Selway) EMERGENCY RULE
Park Fishing Access Site in)
Beaverhead County)

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Selway Park Fishing Access Site in Beaverhead County:

(a) The Selway Park Fishing Access Site has been subject to severe winds, and a large cottonwood tree has just fallen onto an occupied vehicle.

(b) The site is extremely dangerous as it is possible there may be other unstable trees that could fall.

(c) Persons recreating in the site are in danger of being hit by a falling tree, causing injury or death.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following temporary emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as a temporary emergency rule in Issue No. 12 of the 2021 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 9, 2021, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The temporary emergency rule is effective June 10, 2021, when this rule notice is filed with the Secretary of State.

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

RULE 1 SELWAY PARK FISHING ACCESS SITE TEMPORARY
EMERGENCY CLOSURE (1) The Selway Park Fishing Access Site is located in Beaverhead County.

(2) The Selway Park Fishing Access Site is closed to all public occupation and recreation.

(3) This rule is effective as long as there are dangers from the unstable trees in the Selway Park Fishing Access Site.

(4) This rule will expire as soon as the department determines the Selway Park Fishing Access Site is again safe for occupation and recreation. Signs restricting use of the Selway Park Fishing Access Site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the temporary emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to Jay Pape, Department of Fish, Wildlife and Parks, 1400 S. 19th Avenue, Bozeman, MT 59718; or e-mail jpape@mt.gov. Any comments must be received no later than July 23, 2021.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

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

/s/ Mike Volesky

Mike Volesky

Chief of Operations

Department of Fish, Wildlife and Parks

/s/ Aimee Hawkaluk

Aimee Hawkaluk

Rule Reviewer

Certified to the Secretary of State June 10, 2021.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the repeal of ARM) NOTICE OF REPEAL
23.18.101 through 23.18.108)
pertaining to Certificates of Public)
Advantage)

TO: All Concerned Persons

1. On April 30, 2021, the Department of Justice published MAR Notice No. 23-18-262 pertaining to the proposed repeal of the above-stated rules at page 453 of the 2021 Montana Administrative Register, Issue Number 8.
2. The department has repealed the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ Hannah E. Tokerud
Hannah E. Tokerud
Rule Reviewer

/s/ Kris Hansen
Kris Hansen
Administrator
Department of Justice

Certified to the Secretary of State June 15, 2021.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the repeal of ARM) NOTICE OF REPEAL
24.11.478 pertaining to COVID)
unemployment insurance benefits)

TO: All Concerned Persons

1. On May 14, 2021, the Department of Labor and Industry (department) published MAR Notice No. 24-11-372 pertaining to the public hearing on the proposed repeal of the above-stated rule at page 534 of the 2021 Montana Administrative Register, Issue Number 9.

2. The department held a public hearing in Helena on June 11, 2021, over the Zoom videoconference and telephonic platform and comments were received. Written comments were also received during the public comment period.

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

COMMENT 1: Several commenters suggested that the state of Montana should not opt out of federal pandemic-related unemployment insurance programs which provide federal funding to the state because doing so "jeopardizes Montana's economic recovery" and because of expressed concern of "a substantial loss of income without federal UI benefits."

RESPONSE 1: The comment is noted. However, the concern is outside the scope of this rulemaking, which solely concerns repeal of ARM 24.11.478. Contractual agreements with the U.S. Department of Labor for other pandemic-related programs, such as Pandemic Unemployment Assistance, Pandemic Emergency Unemployment Compensation, Mixed Wage Earners Unemployment Compensation, and Federal Pandemic Unemployment Compensation were terminated effective June 26, 2021, by notice to the U.S. Department of Labor of the same. This rulemaking does not impact those programs.

COMMENT 2: One commenter suggested that repeal of ARM 24.11.478 was unnecessary because, by its own terms, the rule is ineffectual after termination of the state of emergency. The commenter further stated that the rule would need to continue to be applied to claims filed prior to the end of the state of emergency.

RESPONSE 2: The department appreciates the comment. However, the department's obligation to the people of Montana is to ensure accuracy of its administrative rules so as to provide clarity. Repealing the administrative rule at this time makes clear to all those affected the applicable laws relating to unemployment insurance claims. The department acknowledges that the rule will be applied to claims for benefits for weeks prior to the termination date of the rule.

COMMENT 3: One commenter seeks data regarding unemployment rates across multiple years.

RESPONSE 3: The department appreciates the comment; however, it is outside the scope of the current rulemaking which is undertaken to coincide with expanded vaccination rates as well as the termination of the state of emergency in Montana pursuant to House Bill 230 (2021). Nonetheless, a great deal of statistical information regarding Montana's workforce is available at lmi.mt.gov.

COMMENT 4: One commenter requests the "specific coded authority they are implementing these changes under."

RESPONSE 4: The department is vested with rulemaking authority for unemployment insurance by 39-51-302, MCA.

COMMENT 5: One commenter seeks information about the number of claims which will be denied as a result of the repeal of ARM 24.11.478. The commenter suggests that any benefits paid would be "covered by Federal funding so it would have no impact on Montana's fund."

RESPONSE 5: The department is unable to predict the exact number of claimants who might have been eligible for an additional week of benefits absent the repeal of this rule; claims numbers are generally decreasing overall. The department notes that only those claimants who filed a claim for benefits from June 27 through June 30 could have been eligible for benefits, because, pursuant to ARM 24.11.478(9), any separation which arose after termination of the state of emergency would not be subject to the rule. Pursuant to the enactment of House Bill 230 (2021), the state of emergency will end July 1, 2021. The department further notes that unemployment insurance benefits are paid out of the Unemployment Insurance Trust Fund and are not generally reimbursed by federal funding.

4. The department has repealed ARM 24.11.478 as proposed, effective June 27, 2021.

/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 15, 2021.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.29.1611 and 24.29.1616)
pertaining to medical utilization and)
treatment guidelines for workers')
compensation purposes)

TO: All Concerned Persons

1. On May 14, 2021, the Department of Labor and Industry (department) published MAR Notice No. 24-29-371 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 536 of the 2021 Montana Administrative Register, Issue Number 9.

2. The department held a public hearing on June 11, 2021, over the Zoom videoconference and telephonic platform at which members of the public commented. Written comments were received during the public comment period.

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

COMMENT 1: A commenter spoke in favor of the amendments. The commenter noted that a qualified group of experts and stakeholders engaged in the process of developing the 2021 Utilization and Treatment Guidelines for traumatic brain injury.

RESPONSE 1: The department acknowledges the comment.

COMMENT 2: A commenter spoke in favor of the amendments, specifically the update to the April 2021 edition of the ODG Drug Formulary. The commenter complimented the administration of Montana's workers' compensation system.

RESPONSE 2: The department acknowledges the comment.

COMMENT 3: A commenter noted that the amendments to ARM 24.29.1616 only allow for the use of the April 2021 edition of the ODG Drug Formulary for all prescriptions written on or after July 1, 2021. The commenter suggested that the department adopt language that allows for the most current version of the ODG Drug Formulary to be utilized, rather than the current system that requires updated rules for each new edition of the ODG Drug Formulary.

RESPONSE 3: The department acknowledges the comment. If the department adopts a publication by reference, the publication "must be in existence at the time that the agency's notice of proposed rulemaking is published in the register." Section 2-4-307(3)(a)(i), MCA. When adopting material by reference, the department "may not adopt any later amendments or editions of the material adopted." Section 2-4-

307(4), MCA. The department cannot adopt rules that reference publications or editions that are not yet in existence, as such rules would be an unlawful delegation of rulemaking authority to an entity outside the department.

4. The department has amended ARM 24.29.1611 and ARM 24.29.1616 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 15, 2021.

BEFORE THE BOARD OF MILK CONTROL
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF AMENDMENT
ARM 32.24.150 definitions, 32.24.470)	
regulation of unfair trade practices,)	
32.24.512 reports and records,)	
32.24.515 payments to pool)	
producers and adjustment of)	
accounts)	

TO: All Concerned Persons

1. On May 14, 2021, the Board of Milk Control published MAR Notice No. 32-21-316 pertaining to the proposed amendment of the above-stated rules at page 539 of the 2021 Montana Administrative Register, Issue Number 9.
2. The board has amended the above-stated rules as proposed.
3. No comments or testimony were received.
4. These rule amendments are effective July 1, 2021.

/s/ Cinda Young-Eichenfels
Cinda Young-Eichenfels
Rule Reviewer

/s/ Ken Bryan
Ken Bryan
Chair
Board of Milk Control

Certified to the Secretary of State June 15, 2021.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.40.830 pertaining to hospice)
fee schedule)

TO: All Concerned Persons

1. On April 30, 2021, the Department of Public Health and Human Services published MAR Notice No. 37-943 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 462 of the 2021 Montana Administrative Register, Issue Number 8.

2. The department has amended the above-stated rule as proposed.

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

Comment #1: A commenter requested the department consider revising ARM 37.40.830 to remove the requirement for hospice providers to bill Medicaid for room and board and then reimburse nursing home facilities for the cost of the room and board.

Response #1: The change proposed by the commenter would also require revising ARM 37.40.339, which is a separate rule that is not the subject of this proposed rulemaking. The commenter's proposed change is outside the scope of this proposed rulemaking and cannot be made by the department at this time.

4. The department intends to apply this rule amendment retroactively to October 1, 2020. Any decreases in hospice rates will not be applied retroactively and are effective upon adoption of the proposed rule amendment. A retroactive application of the proposed rule does not result in a negative impact to any affected party.

/s/ Robert Lishman
Robert Lishman
Rule Reviewer

/s/ Adam Meier
Adam Meier, Director
Public Health and Human Services

Certified to the Secretary of State June 15, 2021.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the transfer of ARM) NOTICE OF TRANSFER
Title 37, chapter 107, subchapters 1,)
2, and 4 pertaining to the Montana)
Medical Marijuana Program)

TO: All Concerned Persons

1. The Department of Public Health and Human Services transfers the above-stated rules to the Department of Revenue, ARM Title 42, chapter 39, subchapters 1, 2, and 3.

2. This transfer is required because House Bill 701 from the 2021 Legislature transferred the administrative function and responsibilities for the operation of the Montana Medical Marijuana Program from the Department of Public Health and Human Services to the Department of Revenue.

3. The transferred rules are assigned the following numbers under the Department of Revenue:

<u>OLD</u>	<u>NEW</u>	
37.107.102	42.39.101	PURPOSE
37.107.105	42.39.103	PROOF OF MONTANA RESIDENCY
37.107.110	42.39.102	DEFINITIONS
37.107.111	42.39.106	REGISTERED CARDHOLDER APPLICATION PROCESS
37.107.115	42.39.107	LICENSE AND ENDORSEMENT APPLICATION PROCESS
37.107.117	42.39.108	FEES
37.107.118	42.39.111	MARIJUANA AND MARIJUANA-INFUSED PRODUCTS PROVIDER LICENSEE REQUIREMENTS
37.107.119	42.39.112	FINGERPRINT AND BACKGROUND CHECK REQUIREMENTS
37.107.120	42.39.113	MARIJUANA EMPLOYEE PERMIT
37.107.124	42.39.114	TRANSPORTATION AND DELIVERY OF MARIJUANA ITEMS
37.107.127	42.39.117	DENIAL OF REGISTRY IDENTIFICATION CARD APPLICATION OR REVOCATION OF REGISTRY IDENTIFICATION CARD
37.107.128	42.39.118	LEGAL PROTECTIONS -- ALLOWABLE AMOUNTS

<u>OLD</u>	<u>NEW</u>	
37.107.130	42.39.119	DENIAL OR REVOCATION OF APPLICATION, LICENSE, OR ENDORSEMENT
37.107.131	42.39.120	HEALTH CARE FACILITY PROCEDURES
37.107.134	42.39.123	ADVERTISING
37.107.204	42.39.201	PRODUCING MARIJUANA-INFUSED PRODUCTS, CONCENTRATES, AND EXTRACTS
37.107.205	42.39.202	INVENTORY TRACKING SYSTEM USER REQUIREMENTS
37.107.206	42.39.203	INVENTORY TRACKING AND RECONCILIATION
37.107.401	42.39.301	LABELING OF MARIJUANA ITEMS
37.107.402	42.39.302	PACKAGING FOR SALE TO CONSUMER
37.107.405	42.39.305	QUALITY ASSURANCE TESTING SAMPLE REQUIREMENTS
37.107.407	42.39.306	QUALITY ASSURANCE TESTING REQUIREMENTS
37.107.410	42.39.307	FAILED TEST SAMPLES
37.107.413	42.39.310	WASTE MANAGEMENT
37.107.415	42.39.311	REPORTING REQUIREMENTS
37.107.420	42.39.312	MARIJUANA ITEM RECALLS
37.107.425	42.39.313	INSPECTIONS

4. The transfer of the above-described rules shall be effective July 2, 2021.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Brendan Beatty
Brendan Beatty
Director of Revenue

Certified to the Secretary of State June 15, 2021.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 44.5.114 and 44.5.115)
pertaining to clarification of Business)
Services Division filings and fees)

TO: All Concerned Persons

1. On May 14, 2021, the Secretary of State published MAR Notice No. 44-2-242 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 550 of the 2021 Montana Administrative Register, Issue Number 9.
2. The Secretary of State has amended the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ AUSTIN JAMES
Austin James
Rule Reviewer

/s/ CHRISTI JACOBSEN
Christi Jacobsen
Secretary of State

Dated this 15th day of June, 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 January 15, 2021, through June 11, 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 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.

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

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EXECUTIVE BRANCH APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in May 2021 appear. Potential vacancies from July 1, 2021 through September 30, 2021, are also listed.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of June 1, 2021.

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

EXECUTIVE BRANCH APPOINTEES FOR MAY 2021

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
9-1-1 Advisory Council			
Mr. Gary Evans Great Falls	Governor	Kelly	5/26/2021 9/1/2023
Qualifications (if required): Representative of MT Telecommunications Providers			
Mr. Jeff Newton Great Falls	Governor	Winn	5/25/2021 9/1/2021
Qualifications (if required): Representative from the League of Cities and Towns			
Board of Hail Insurance			
Mr. Bing Von Bergen Moccasin	Governor	Tureck	5/1/2021 4/30/2025
Qualifications (if required): Member			
State Employee Charitable Giving Campaign Advisory Council			
Ms. Sandy Booth Helena	Governor	reappointed	5/18/2021 5/1/2023
Qualifications (if required): Employee representative			
Mr. Brett Christian Helena	Governor	None stated	5/18/2021 5/1/2023
Qualifications (if required): Employee representative			

EXECUTIVE BRANCH APPOINTEES FOR MAY 2021

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Employee Charitable Giving Campaign Advisory Council Cont.			
Ms. Samantha Erpenbach	Governor	None stated	5/18/2021
Helena			5/1/2023
Qualifications (if required):	Employee representative		
Ms. Penny Fassett	Governor	reappointed	5/18/2021
Helena			5/1/2023
Qualifications (if required):	Employee representative		
Ms. Jasyn Kall-Harrington	Governor	reappointed	5/18/2021
Helena			5/1/2023
Qualifications (if required):	Federation representative		
Mr. Mike Manion	Governor	reappointed	5/18/2021
Helena			5/1/2023
Qualifications (if required):	Chair and Employee representative		
Mr. Gary Owen	Governor	reappointed	5/18/2021
Great Falls			5/1/2023
Qualifications (if required):	Federation representative		
Ms. Kathy Ralston	Governor	None stated	5/18/2021
Helena			5/1/2023
Qualifications (if required):	Employee representative		

EXECUTIVE BRANCH APPOINTEES FOR MAY 2021

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Employee Charitable Giving Campaign Advisory Council Cont.			
Ms. Hope Stockwell	Governor	reappointed	5/18/2021
Helena			5/1/2023
Qualifications (if required): Employee representative			
Ms. Kirsten Wrzesinski	Governor	reappointed	5/18/2021
Helena			5/1/2023
Qualifications (if required): Employee Representative			

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
9-1-1 Advisory Council		
Mr. Pat Roos, Miles City Qualifications (if required): Representative of the Montana Sheriffs and Peace Officers Assoc.	Governor	9/1/2021
Ms. Jennie Stapp, Helena Qualifications (if required): State Librarian	Governor	9/1/2021
Mr. Clinton Loss, Helena Qualifications (if required): Representative of the Montana Emergency Medical Services Assoc.	Governor	9/1/2021
Mrs. Adriane Beck, Missoula Qualifications (if required): Public Safety Answering Point Manager	Governor	9/1/2021
Mrs. Kimberly Burdick, Fort Benton Qualifications (if required): Representative of the MT Assoc. of Public Safety Communications Officials	Governor	9/1/2021
Mr. Alex Andrew Duman, Missoula Qualifications (if required): Representative of Montana Telecommunications Providers	Governor	9/1/2021
Ms. Peggy J. Glass, Livingston Qualifications (if required): Public Safety Answering Point Manager	Governor	9/1/2021
Mr. George Charles Winn, Bozeman Qualifications (if required): Representative of the Montana League of Cities and Towns	Governor	9/1/2021
Chief Richard E. Cowger, Columbus Qualifications (if required): Representative of the Montana Fire Chief's Assoc.	Governor	9/1/2021

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
9-1-1 Advisory Council Cont. Mr. Jeff Newton, Great Falls Qualifications (if required): Representative from the League of Cities and Towns	Governor	9/1/2021
Advisory Council on Aging Mr. Elmer James Opitz, Helena Qualifications (if required): Public Representative	Governor	7/1/2021
Alternative Health Care Board Ms. Jazmin R. Price, Bozeman Qualifications (if required): Midwife	Governor	9/1/2021
Board of Hearing Aid Dispensers Mr. Eric John Ellingson, Great Falls Qualifications (if required): Licensed Hearing Aid Dispenser	Governor	7/1/2021
Board of Medical Examiners Mrs. Ana Diaz, Billings Qualifications (if required): Member of the general public who is not a medical practitioner	Governor	9/1/2021
Mr. C.E. Abramson, Missoula Qualifications (if required): Member of the general public who is not a medical practitioner	Governor	9/1/2021
Ms. Christine Emerson, Helena Qualifications (if required): Licensed Nutritionist	Governor	9/1/2021

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Medical Examiners Cont.		
Dr. James Wesley Guyer, Billings Qualifications (if required): Doctor of Medicine (MD)	Governor	9/1/2021
Ms. Tammy Louise Scott, Missoula Qualifications (if required): Licensed Physician Assistant	Governor	9/1/2021
Mr. Brian J. Reed, Rollins Qualifications (if required): None Stated	Governor	9/1/2021
Board of Nursing		
Ms. Sharon Sweeney Fee, Livingston Qualifications (if required): Registered Nurse	Governor	7/1/2021
Board of Pharmacy		
Mr. Tony King, Helena Qualifications (if required): Licensed Pharmacist	Governor	7/1/2021
Board of Physical Therapy Examiners		
Ms. Kelsey Wadsworth, Bozeman Qualifications (if required): Licensed Physical Therapist	Governor	7/1/2021
Mr. Pat M. Goodover II, Great Falls Qualifications (if required): Member of the general public	Governor	7/1/2021

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Physical Therapy Examiners Cont. Mrs. Bridget Mennie, Laurel Qualifications (if required): Licensed Physical Therapist	Governor	7/1/2021
Board of Private Security Sergeant Harold Eugene Richardson, Bozeman Qualifications (if required): City Police Department	Governor	8/1/2021
Sheriff Wynn Meehan, Townsend Qualifications (if required): County Sheriff's Office	Governor	8/1/2021
Mr. Darren Bayliss, Billings Qualifications (if required): Contract Security Company	Governor	8/1/2021
Mr. Charles Pesola, Somers Qualifications (if required): Licensed private investigator	Governor	8/1/2021
Board of Professional Engineers and Professional Land Surveyors Mr. Wallace J. Gladstone III, Billings Qualifications (if required): Professional Engineer (Civil)	Governor	7/1/2021
Mr. Byron David Stahly, Helena Qualifications (if required): Professional Engineer (Civil)	Governor	7/1/2021

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Public Accountants		
Ms. Linda Harris, Absarokee Qualifications (if required): Certified Public Accountant	Governor	7/1/2021
Mr. Daniel Vuckovich, Great Falls Qualifications (if required): Certified Public Accountant	Governor	7/1/2021
Board of Radiologic Technologists		
Mr. Daniel Funsch, Missoula Qualifications (if required): Licensed radiologic technologist	Governor	7/1/2021
Ms. Robin Johnson, Dillon Qualifications (if required): Licensed radiologic technologist	Governor	7/1/2021
Mr. Darian Sutton, Helena Qualifications (if required): Licensed radiologic technologist	Governor	7/1/2021
Board of Sanitarians		
Ms. Megan Bullock, Boulder Qualifications (if required): Registered Sanitarian	Governor	7/1/2021
Board of Veteran Affairs		
Mr. Clarence Sivertsen, Belt Qualifications (if required): Veteran from Region 3	Governor	8/1/2021

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Veteran Affairs Cont. Mr. Mike Waters, Billings Qualifications (if required): Representative of Congressman Greg Gianforte	Governor	8/1/2021
Board of Veterinary Medicine Ms. Rebecca Mattix, Bozeman Qualifications (if required): Licensed Veterinarian	Governor	8/1/2021
Board of Water Well Contractors Mr. Kevin Haggerty, Bozeman Qualifications (if required): Water Well Contractor	Governor	7/1/2021
Burial Preservation Board Ms. Skye Gilham, Cut Bank Qualifications (if required): Physical Anthropologist	Governor	9/1/2021
Ms. Jessica Bush, Helena Qualifications (if required): Representative of the Montana State Historical Preservation Officer	Governor	9/1/2021
Mr. Kenneth Weatherwax, Browning Qualifications (if required): Representative of the Blackfeet Nation	Governor	9/1/2021
Mr. John Murray, Browning Qualifications (if required): Representative of the Blackfeet Nation	Governor	9/1/2021

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Burial Preservation Board Cont.		
Mr. Kevin Askan, Pablo Qualifications (if required): Representative of the Confederated Salish and Kootenai Tribes	Governor	9/1/2021
Ms. Maurika Moore, Missoula Qualifications (if required): Representative of the public	Governor	9/1/2021
Certification Committee for Developmental Disabilities Professionals		
Ms. Rebecca deCamara, Helena Qualifications (if required): Developmental Disabilities Program Representative	Governor	9/1/2021
Ms. Linsey Carter, Helena Qualifications (if required): Developmental Disabilities Program Representative	Governor	9/1/2021
Ms. Catherine Murphy, Helena Qualifications (if required): Governor's Appointee	Governor	9/1/2021
Ms. Meghan Peel, Helena Qualifications (if required): None Stated	Governor	9/1/2021
Ms. Heather Zufelt, Boulder Qualifications (if required): None Stated	Governor	9/1/2021
Child Abuse and Neglect Review Commission		
Ms. Georgia J. Cady, Columbus Qualifications (if required): Representative of an organization that works with homeless children and youth	Governor	9/30/2021

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Child Abuse and Neglect Review Commission Cont.		
Ms. Abigail Catherine Eyre, Polson Qualifications (if required): Medical provider with experience in treating co-occurring disorders	Governor	9/30/2021
Ms. Nichole Griffith, Great Falls Qualifications (if required): Rep. of private organizations involved in matters related to child abuse and neglect	Governor	9/30/2021
Ms. Mary Patricia Hansen, Missoula Qualifications (if required): Medical provider who is involved in matters related to child abuse and neglect	Governor	9/30/2021
Ms. Laura Weiss Smith, Helena Qualifications (if required): Rep. of the Child and Family Services Div. of DPHHS	Governor	9/30/2021
Ms. Arlene Templer, Ronan Qualifications (if required): Representative of the Montana Indian Tribes	Governor	9/30/2021
Ms. Jennifer Wihlborg, Missoula Qualifications (if required): Licensed provider who serves children with disabilities	Governor	9/30/2021
Commission on Community Service		
Ms. Tara Ferriter-Smith, Helena Qualifications (if required): Agency Representative (OPI)	Governor	7/1/2021
Mr. Donovan Hawk, Butte Qualifications (if required): Tribal member	Governor	7/1/2021

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Commission on Community Service Cont.		
Ms. Rachel Elizabeth Juel, Bozeman Qualifications (if required): 16 to 25-year-old who is involved in a service	Governor	7/1/2021
Ms. Karin Olsen Billings, Helena Qualifications (if required): Office of Public Instruction Representative	Governor	7/1/2021
Mr. Kevin Sylvester, Bozeman Qualifications (if required): Community Based Organization	Governor	7/1/2021
Ms. Morgan Hubbard, Forsyth Qualifications (if required): 16 to 25-year-old who is involved in a service, national, or campus program	Governor	7/1/2021
Ms. Kimberly Lloyd, Helena Qualifications (if required): Agency Representative-OPI	Governor	7/1/2021
Committee on Telecommunications Access Services for Persons With Disabilities		
Ms. Tina Shorten, Helena Qualifications (if required): Public Service Commission Representative	Governor	7/1/2021
Mr. James M. Streeter, Missoula Qualifications (if required): Disabilities Community	Governor	7/1/2021
Mr. Jay Wilson Preston, Charlo Qualifications (if required): Inter LATA interexchange carrier	Governor	7/1/2021

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Committee on Telecommunications Access Services for Persons with Disabilities Cont.		
Mrs. Sherri Odlin, Missoula	Governor	7/1/2021
Qualifications (if required): Public safety answering point		
Criminal Justice Oversight Council		
Mr. Peter B. Ohman, Bozeman	Governor	8/1/2021
Qualifications (if required): Member who represents the office of state public defender		
Ms. Melissa Kelly, Bozeman	Governor	8/1/2021
Qualifications (if required): Representative of community corrections providers		
Ms. Amy Tenney, Helena	Governor	8/1/2021
Qualifications (if required): Representative of community corrections providers		
Ms. Annette Carter Farley, Helena	Governor	8/1/2021
Qualifications (if required): Member of the board of pardons and parole		
Mr. Andrew Imansees Huff, Helena	Governor	8/1/2021
Qualifications (if required): Member of a state or federally recognized Indian tribe		
Ms. Sarah Kathryn Rossi, Helena	Governor	8/1/2021
Qualifications (if required): Representative of civil rights advocates		
Ms. Kelsen Emily Young, Helena	Governor	8/1/2021
Qualifications (if required): Representative of Crime Victims		

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Family Education Savings Program Oversight Committee		
Mr. Robert W. Minto Jr., Missoula	Governor	7/1/2021
Qualifications (if required): Knowledge, skill and experience in accounting, risk management, investment management		
Ms. Amy Esp, Missoula	Governor	7/1/2021
Qualifications (if required): Member of the general public		
Future Fisheries Review Panel		
Mr. William Frank Wichers, Hamilton	Governor	7/1/2021
Qualifications (if required): Member with expertise in fisheries		
Ms. Karin Fischer Boyd, Bozeman	Governor	7/1/2021
Qualifications (if required): Member from the private sector		
Mr. Anthony Wayne Cate, Missoula	Governor	7/1/2021
Qualifications (if required): Member who is a licensed angler		
Mr. Terry A. Chute, Helena	Governor	7/1/2021
Qualifications (if required): Member with expertise in silviculture		
Mr. Charles E. Dalby, Helena	Governor	7/1/2021
Qualifications (if required): Public member		
Mr. Bruce Farling, Missoula	Governor	7/1/2021
Qualifications (if required): Member who is a licensed angler		

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Future Fisheries Review Panel Cont.		
Mr. Ivan Kloberdanz, Helena Qualifications (if required): Montana High School Student	Governor	7/1/2021
Mr. Clinton F. Peck, Billings Qualifications (if required): Representative of conservation districts	Governor	7/1/2021
Mr. William J. Semmens, Helena Qualifications (if required): Ex-officio member	Governor	7/1/2021
Mr. Luca Welle, Kalispell Qualifications (if required): MT high school student	Governor	7/1/2021
Governor's Advisory Council on Aging		
Senator Gerald Pease, Lodge Grass Qualifications (if required): Public Representative	Governor	7/1/2021
Ms. Laurie Glover, Great Falls Qualifications (if required): Public Representative	Governor	7/1/2021
Ms. Kim Gillan, Red Lodge Qualifications (if required): Public Representative	Governor	7/1/2021
Ground Water Assessment Steering Committee		
Ms. Jane Holzer, Conrad Qualifications (if required): Representative of conservation	Governor	7/1/2021

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Ground Water Assessment Steering Committee Cont.		
Mr. Mark Lee Runkle, Clancy	Governor	7/1/2021
Qualifications (if required): Development Community Representative		
Interstate Commission on Educational Opportunities for Military Children		
BG (Ret.) Harold Joseph Stearns, Missoula	Governor	7/1/2021
Qualifications (if required): Compact Commissioner-Ex-Officio		
Captain Michelle Bogden, Fort Harrison	Governor	7/1/2021
Qualifications (if required): Executive Branch Representative		
Interstate Medical Licensure Compact Commission		
Dr. James Feist, Bozeman	Governor	7/1/2021
Qualifications (if required): Physician member of the Board of Medical Examiners		
Mr. C.E. Abramson, Missoula	Governor	7/1/2021
Qualifications (if required): Public member of the Board of Medical Examiners		
Mr. Ian Marquand, Helena	Governor	7/1/2021
Qualifications (if required): Board of Medical Examiners Executive Officer		
Dr. James N. Burkholder, Helena	Governor	7/1/2021
Qualifications (if required): Physician Member		

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Judicial Standards Commission		
Mr. John Murphy, Great Falls	Governor	7/1/2021
Qualifications (if required): Citizen who is not an attorney or judge of any court, active or retired		
Libby Asbestos Superfund Oversight Committee		
Mr. George F. Jamison, Libby	Governor	7/1/2021
Qualifications (if required): Citizen of Lincoln County		
Montana Achieving a Better Life Experience (ABLE) Program Oversight Committee		
Mr. Jonathan William Bennion, Clancy	Governor	9/1/2021
Qualifications (if required): Experience working on behalf of disabled individuals		
Montana Criminal Justice Oversight Committee		
Ms. Rhonda Lindquist, Helena	Governor	8/1/2021
Qualifications (if required): Office of Public Defender Representative		
Montana Historical Society Board of Trustees		
Secretary Bob Brown, Whitefish	Governor	7/1/2021
Qualifications (if required): Public Representative		
Mr. Thomas Nygard, Bozeman	Governor	7/1/2021
Qualifications (if required): Public Representative		
Ms. Crystal Wong Shors, Helena	Governor	7/1/2021
Qualifications (if required): Public Representative		

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Montana Organic Commodity Advisory Council Director Ben Thomas, Helena Qualifications (if required): Director of the Department of Agriculture	Governor	7/1/2021
Montana Poet Laureate Ms. Melissa Kwasny, Jefferson City Qualifications (if required): Poet Laureate	Governor	8/1/2021
Ms. Mandy Smoker, Helena Qualifications (if required): Poet Laureate	Governor	8/1/2021
Petroleum Tank Release Compensation Board Mr. Jason Rorabaugh, Belgrade Qualifications (if required): Representative of Service Station Dealers	Governor	7/1/2021
Ms. Gretchen Rupp, Bozeman Qualifications (if required): General public	Governor	7/1/2021
Private Land Public Wildlife Advisory Council Representative Duane Ankney, Colstrip Qualifications (if required): Landowner	Governor	8/1/2021
Representative Denley Loge, St. Regis Qualifications (if required): Landowner and Legislator	Governor	8/1/2021

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Private Land Public Wildlife Advisory Council Cont.		
Mr. Ralph E. Bukoskey, Rosebud Qualifications (if required): Sportsman	Governor	8/1/2021
Ms. Cynthia Cohan, Butte Qualifications (if required): Sportsman	Governor	8/1/2021
Mr. M. Lee Cornwell, Glasgow Qualifications (if required): Landowner	Governor	8/1/2021
Mr. Edward Albert Beall, Helena Qualifications (if required): Sportsman	Governor	8/1/2021
Dr. Daniel R. Fiehrer, Helena Qualifications (if required): Sportsman	Governor	8/1/2021
Mr. Richard L. Stuker, Chinook Qualifications (if required): Landowner	Governor	8/1/2021
Mr. Dale Tribby, Miles City Qualifications (if required): Sportsman	Governor	8/1/2021
Mr. Carl L. Zabrocki, Billings Qualifications (if required): Sportsman	Governor	8/1/2021

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Banking Board		
Ms. Kay Clevidence, Victor Qualifications (if required): Active officer in state bank of Montana	Governor	7/1/2021
Mr. David Madison, Shelby Qualifications (if required): Member of the public	Governor	7/1/2021
State Council for Compact on Educational Opportunity for Military Children		
Superintendent Tom Moore, Great Falls Qualifications (if required): Superintendent of a school district	Governor	7/1/2021
State Electrical Board		
Ms. Dawn Achten, Billings Qualifications (if required): Member representing the public	Governor	7/1/2021
State Workforce Innovation Board		
Superintendent Elsie Arntzen, Helena Qualifications (if required): Superintendent of Public Instruction or Designee	Governor	7/1/2021
Commissioner Maureen Wicks, Ledger Qualifications (if required): Local government elected official	Governor	7/1/2021
Mr. Paul Hopfauf, Glendive Qualifications (if required): Business Representative	Governor	7/1/2021

EXECUTIVE BRANCH VACANCIES – JULY 1, 2021 THROUGH SEPTEMBER 30, 2021

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Workforce Innovation Board Cont.		
Mr. Dean Bentley, Butte Qualifications (if required): Business Representative	Governor	7/1/2021
Mr. Ken Fichtler, Helena Qualifications (if required): Governor or Designee	Governor	7/1/2021
Ms. Asta So, Missoula Qualifications (if required): Business Representative	Governor	7/1/2021
Commissioner Clayton Christian, Helena Qualifications (if required): Commissioner of Higher Education	Governor	7/1/2021
Ms. Rebecca Morgan, Missoula Qualifications (if required): Business Representative	Governor	7/1/2021
Ms. Karen Baumgart, Billings Qualifications (if required): Community Organization Representative	Governor	7/1/2021
Mrs. Becky Bey, Billings Qualifications (if required): Business Representative	Governor	7/1/2021
Ms. Heather Michelle O'Hara, Helena Qualifications (if required): Business Representative	Governor	7/1/2021
Mrs. Kristin Ashley Tessman, Helena Qualifications (if required): Workforce Representative	Governor	7/1/2021

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Workforce Innovation Board Cont.		
Ms. Jennifer J. Kobza, Billings Qualifications (if required): Business Representative	Governor	7/1/2021
Ms. Melanie Schwartz, Billings Qualifications (if required): Workforce Representative	Governor	7/1/2021
Mrs. Jolene Schalper, Great Falls Qualifications (if required): Business Representative	Governor	7/1/2021
Ms. Morgan Marks, Helena Qualifications (if required): Workforce representative	Governor	7/1/2021
State-Tribal Economic Development Commission		
Mr. Carl Kipp, Browning Qualifications (if required): Blackfeet Nation Alternate Representative	Governor	7/1/2021
Ms. Cheryl Reevis, Browning Qualifications (if required): Blackfeet Nation Representative	Governor	7/1/2021
Chairman Gerald Gray, Billings Qualifications (if required): Little Shell Tribal Representative	Governor	7/1/2021
Mr. Clarence Sivertsen, Belt Qualifications (if required): Little Shell Tribal Alternate	Governor	7/1/2021

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Statewide Public Safety Communications System Advisory Council		
Attorney General Tim Fox, Helena Qualifications (if required): Attorney General	Governor	7/1/2021
Mr. Raphael Graybill, Helena Qualifications (if required): Representative of the Governor's Office	Governor	7/1/2021
Commissioner Joseph Briggs, Great Falls Qualifications (if required): Representative of county government	Governor	7/1/2021
Sheriff Leo Dutton, Helena Qualifications (if required): Law Enforcement Representative	Governor	7/1/2021
Captain Jeffrey Scott Newton, Great Falls Qualifications (if required): Representative of a municipality	Governor	7/1/2021
Ms. Marjean Rebecca Penny, Bozeman Qualifications (if required): Representative of the Assoc. of Public Safety Communications Officials	Governor	7/1/2021
Mr. Joshua D. Turnsplenty, Hays Qualifications (if required): Representative of tribal governments	Governor	7/1/2021
Mr. Joshua L. Waldo, Bozeman Qualifications (if required): Representative of the fire protection community	Governor	7/1/2021
Mr. David Thomas Webster, Helena Qualifications (if required): Representative of the emergency medical community	Governor	7/1/2021

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Teachers' Retirement System Board		
Mr. Jeffrey A. Greenfield, Shepherd Qualifications (if required): Active member of the retirement system	Governor	7/1/2021
Tourism Advisory Council		
Ms. Tami Burke, Glasgow Qualifications (if required): Missouri River Country Region Representative	Governor	7/1/2021
Mr. Joseph Willauer, Butte Qualifications (if required): Southwest Montana Country Region Representative	Governor	7/1/2021
Mr. Brian Sprenger, Bozeman Qualifications (if required): Yellowstone Country Region Representative	Governor	7/1/2021
Mr. Alger Swingley, Great Falls Qualifications (if required): Tribal member from the private sector	Governor	7/1/2021
Upper Clark Fork River Basin Remediation and Restoration Advisory Council		
Mr. James J. Kambich, Butte Qualifications (if required): Citizen voting member	Governor	9/1/2021
Mr. William Rossbach, Missoula Qualifications (if required): Citizen Voting Member	Governor	9/1/2021
Mr. Elton Ringsak, Butte Qualifications (if required): Citizen Voting Member	Governor	9/1/2021

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Upper Clark Fork River Basin Remediation and Restoration Advisory Council Cont.		
Ms. Maureen Connor, Philipsburg Qualifications (if required): Citizen Voting Member	Governor	9/1/2021
Ms. Susan Peterson, Drummond Qualifications (if required): Citizen Voting Member	Governor	9/1/2021
Mr. James H. Davison, Anaconda Qualifications (if required): Citizen Voting Member	Governor	9/1/2021
Ms. Maggie Schmidt, Deer Lodge Qualifications (if required): Citizen Voting Member	Governor	9/1/2021
Upper Columbia Conservation Commission		
Mr. Thomas L. Finch Jr., Helena Qualifications (if required): Rep of veterans' employment and training service office in the U.S. Department of Labor	Governor	8/1/2021
Western Interstate Commission for Higher Education		
Commissioner Clayton Christian, Helena Qualifications (if required): Educator engaged in the field of higher education in Montana	Governor	7/1/2021

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