

# MONTANA ADMINISTRATIVE REGISTER

2021 ISSUE NO. 18  
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# MONTANA ADMINISTRATIVE REGISTER

## ISSUE NO. 18

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.174.401 and the adoption of	)	PROPOSED AMENDMENT AND
New Rules I through III pertaining to	)	ADOPTION
dispenser registration for medical	)	
practitioners	)	

TO: All Concerned Persons

1. On October 15, 2021, at 10:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment and adoption 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/82087767178>  
Meeting ID: 820 8776 7178, Passcode: 997924  
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656  
Meeting ID: 820 8776 7178, Passcode: 997924

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 Pharmacy no later than 5:00 p.m., on October 8, 2021, to advise us of the nature of the accommodation that you need. Please contact Marcie Bough, Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2371; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or [dlibsdpha@mt.gov](mailto:dlibsdpha@mt.gov) (board's e-mail).

3. GENERAL REASON: The board determined it is reasonably necessary to amend one existing rule and adopt three new rules to implement the statutory amendments of Chapter 454, Laws of 2021 (Senate Bill 374). The bill allows medical practitioners, as defined in 37-2-101(7), MCA, to dispense drugs under the standards of 37-2-104(1) through (7), MCA, when registered to dispense by the board. The bill becomes effective October 1, 2021.

Once registered, dispensing medical practitioners must comply with statutory dispensing standards in the bill, existing board rules, state and federal requirements for dispensing prescription drugs, and the proposed new rules. Registrants must also follow board requirements for labeling, storage, and recordkeeping, are subject to board inspection, and are prohibited from dispensing controlled substances.

In drafting the new rules, the board reviewed similar dispensing authorities in other states and gathered feedback from medical, pharmacy, and public stakeholders involved in the legislative process. The board reviewed rule discussion drafts and included stakeholder input during meetings on June 18, July 22, and July 29, 2021, at which time proposed language was finalized.

Noting the new dispensing authority provides opportunities for more flexibility in patient care and access to prescription drugs, the board is adopting the new rules to ensure patient safety and that dispensing requirements are maintained. To help ensure patient safety, the new rules establish requirements for registrants that are similar to patient safety provisions required of pharmacists in pharmacy settings. Such requirements include provisions on patient drug utilization review, prescription order and patient labeling, dispensing records, patient counseling, overall recordkeeping, and inspections.

The board is adopting NEW RULES I, II, and III to establish dispensing registration qualifications, practice requirements for dispensing, and recordkeeping requirements. When applicable, the rules reference board statutes and rules to comprehensively provide all related provisions.

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

24.174.401 FEE SCHEDULE (1) through (22) remain the same.  
(23) Drugs dispensed by a medical practitioner original registration 240  
(24) Drugs dispensed by a medical practitioner annual renewal fee 150  
(23) remains the same but is renumbered (25).

AUTH: 37-1-134, 37-2-104, 37-7-201, 50-32-314, MCA

IMP: 37-1-134, ~~37-1-305~~, 37-2-104, 37-7-201, ~~37-7-302~~, 37-7-306, 37-7-321, 37-7-604, 37-7-605, 37-7-703, 50-32-314, MCA

REASON: The board is amending this rule to implement SB 374 by setting fees for original dispenser registration and the annual renewal. The proposed fees are the same as the current fees for certified pharmacy licenses. The board estimates 49 applicants and renewing registrants for a \$9,600 cumulative impact to annual revenue. The board also projects \$6,000 in expenses related to annual inspections by board inspectors.

Authority and implementation citations are being amended to reflect all statutes implemented through the rule, including the SB 374 changes, and provide the complete sources of the board's rulemaking authority.

5. The proposed new rules are as follows:

NEW RULE I QUALIFICATIONS FOR DISPENSER REGISTRATION

(1) An applicant for a registration to dispense drugs as a medical practitioner, pursuant to 37-2-104, MCA, shall:

- (a) be a licensed medical practitioner as defined in 37-2-101(7), MCA;
- (b) be in good standing as that term is defined in this chapter;

- (c) complete the application on a form supplied by the board;
- (d) pay the required application fee and renewal fee; and
- (e) be located in Montana.
- (2) The applicant shall:
  - (a) state each location in Montana at which prescription drugs will be dispensed; and
  - (b) grant permission to the board to inspect each location at which prescription drugs will be dispensed during the normal business hours.
- (3) Registrants must conspicuously display the dispenser license at all times in the place of business for which the license is issued.

AUTH: 37-7-201, MCA

IMP: 37-2-104, 37-7-201, MCA

NEW RULE II DISPENSING REQUIREMENTS (1) A dispenser registrant shall:

- (a) create a written or electronic prescription drug order for each drug dispensed and maintain such information in the patient's chart or record, pursuant to ARM 24.174.831, and 37-7-101(43) and 50-31-307, MCA, which shall include the following, but not be limited to:
  - (i) patient's name;
  - (ii) name of drug;
  - (iii) strength;
  - (iv) dosage form;
  - (v) quantity;
  - (vi) directions for use;
  - (vii) date of issuance; and
  - (viii) prescriber's name;
- (b) perform in person the final verification check of each drug prior to dispensing that, at a minimum, includes the following:
  - (i) ensuring the prescription drug product and label match the prescription drug order and the information on the manufacturer's label with respect to drug, dosage form, strength, quantity, and drug identification number;
  - (ii) verifying the prescription product label matches the prescription drug information with respect to prescription requirements in ARM 24.174.831;
  - (iii) verifying the drug has not expired and will not expire within the duration of use;
  - (iv) ensuring the registrant has completed a prospective drug utilization review after reviewing the patient profile; and
  - (v) documenting that the final verification check was completed by the registrant; and
- (c) directly prepare, dispense, and deliver the drug, including subsequent fills or refills, in person to their patient(s) pursuant to the provisions in 37-2-104(2) and 50-31-307, MCA. The drug may not be dispensed or delivered by mail or common carrier.

(2) A registrant shall comply with all federal and state statutes and regulations regarding dispensing of prescription drugs, including all requirements for the registrant to:

(a) perform a prospective drug utilization review, pursuant to 37-7-101(17) and 37-7-406, MCA, and ARM 24.174.902;

(b) provide patient labeling, pursuant to 37-7-101(14), MCA, and ARM 24.174.301(23), 24.174.832, and 24.174.833, including:

(i) the prescription label shall contain the name, address, and phone number of the registrant, name of patient, name and strength of drug, directions for use, and date of filling;

(ii) the prescription label must be securely attached to the outside of the container in which the drug is dispensed; and

(iii) the registrant shall provide Medication Guides and/or Patient Package Inserts, comply with Risk Evaluation and Mitigation Strategies, and/or other labeling requirements as required by the U.S. Food and Drug Administration;

(c) develop a protocol to manage, store, and secure prescription drug dispensing inventory, pursuant to ARM 24.174.301(43), 24.174.814, 24.174.818, and 24.174.819, including:

(i) operating in a sanitary manner;

(ii) restricting access only to authorized individuals as determined by the registrant;

(iii) assuring that physical access to prescription drugs for dispensing is denied to all individuals at all times when a registrant is not on the premises, except with regard to dispensing pursuant to 37-2-104(8), MCA;

(d) maintain recordkeeping, pursuant to ARM 24.174.833, with records available for inspection by the board;

(e) compound drug products, including non-sterile and sterile products, pursuant to ARM 24.174.841;

(f) provide patient counseling, pursuant to 37-7-101(31) and 37-7-406, MCA, and ARM 24.174.903;

(g) provide notification that the patient may request dispensing of a less expensive therapeutically equivalent generic or interchangeable biologic product pursuant to 37-7-502 and 37-7-506, MCA, if applicable; and

(h) implement and have in place a quality assurance program to detect, identify, and prevent prescription errors, pursuant to ARM 24.174.407.

(3) With regard to inspections by the board or its designee, a registrant shall resolve conditions identified in an inspection report, if applicable.

(4) Prescription drugs dispensed by a registrant may not be transferred to another practitioner or pharmacist for subsequent filling or refills.

AUTH: 37-7-201, MCA

IMP: 37-2-104, 37-7-201, MCA

### NEW RULE III DISPENSER RECORDKEEPING REQUIREMENTS

(1) A registrant shall keep readily retrievable at each dispensing location records of dispensing and inventory, pursuant to ARM 24.174.833:

(a) a copy of the registrant's dispenser license;



- (b) a record of each final verification check by the registrant;
  - (c) the registrant's protocols for handling drug recalls, including the arrangements for notifying patients;
  - (d) the registrant's protocols for disposal of drugs;
  - (e) with respect to a supplier from whom the registrant purchased prescription drugs:
    - (i) the name, address, and phone number of each wholesale drug distributor supplier, as defined in 37-7-602(8), MCA, and ARM 24.174.1201; and
    - (ii) documentation including:
      - (A) for each wholesale drug distributor supplier, the number and the expiration date of the license issued by the board; and
      - (B) for any pharmacy supplier acting as a wholesale drug distributor, the number and the expiration date of the pharmacy license issued by the board;
  - (f) any other purchasing, inventory, and dispensing records required by state or federal statutes or regulations;
  - (g) a manual or electronic dispensing record must be maintained separately from the patient medical record and kept for a minimum of two years. If an electronic health information system, as defined in 37-7-101(22), MCA, is utilized, the system must be able to produce a separate dispensing record; and
  - (h) the dispensing record must show, at a minimum, the following for original and subsequent fills or refills, in compliance with ARM 24.174.833:
    - (i) name of patient;
    - (ii) unique identifier;
    - (iii) dose, dosage form, quantity dispensed, and either the brand name of drug or generic name and name of manufacturer;
    - (iv) directions for use;
    - (v) date of dispensing; and
    - (vi) initials of registrant dispensing the prescription.
- (2) In addition to meeting the requirements of [NEW RULE II], the registrant shall comply with any other state or federal law or regulation relating to dispensing of prescription drugs.
- (3) Records must be available for inspection by the board.

AUTH: 37-7-201, MCA

IMP: 37-2-104, 37-7-201, MCA

6. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdp@mt.gov](mailto:dlibsdp@mt.gov), and must be received no later than 5:00 p.m., October 22, 2021.

7. An electronic copy of this notice of public hearing is available at [www.pharmacy.mt.gov](http://www.pharmacy.mt.gov) (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system

maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

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

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on July 16, 2021, by telephone.

10. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.174.401 will not significantly and directly impact small businesses.

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

Documentation of the board's above-stated determinations is available upon request to the Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2371; facsimile (406) 841-2305; or to [dlibsdpba@mt.gov](mailto:dlibsdpba@mt.gov).

11. Marcie Bough, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF PHARMACY  
TONY KING, RPh  
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 September 14, 2021.

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.201.101 board organization,	)	PROPOSED AMENDMENT AND
24.201.301 definitions, 24.201.505	)	REPEAL
firms – registration, and 24.201.532	)	
nonroutine applications, and the	)	
repeal of 24.201.401 board meetings,	)	
24.201.405 committees, 24.201.524	)	
cheating, 24.201.1101 introduction,	)	
and 24.201.2101 renewals	)	

TO: All Concerned Persons

1. On October 15, 2021, at 1:00 p.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/82691975975>

Meeting ID: 826 9197 5975, Passcode: 685047

-OR-

b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656

Meeting ID: 826 9197 5975, Passcode: 685047

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 Public Accountants no later than 5:00 p.m., on October 8, 2021, to advise us of the nature of the accommodation that you need. Please contact Kevin Bragg, Board of Public Accountants, 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 [dlibsdpac@mt.gov](mailto:dlibsdpac@mt.gov) (board's e-mail).

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

24.201.101 BOARD ORGANIZATION (1) The Board of Public Accountants hereby adopts and incorporates the organizational rules of the Department of Labor and Industry as listed in chapter 1 of this title with the following exception:

(a) ~~The organizational chart does not indicate that the board of public~~

~~accountants is subject to the overall supervision and control of the department or the director of that department. The autonomy of the board of public accountants is clearly preserved by law and no intent exists to change that fact.~~

AUTH: ~~2-4-201, 37-50-201, 37-50-203~~, MCA

IMP: 2-4-201, MCA

REASON: During a comprehensive review of board rules, staff noted that this rule states a 1984 board opinion when autonomous boards were changed to administrative attachments. Since 2-15-1756(6), MCA, provides the board-department relationship, the board concluded that the exception creates unnecessary confusion and striking (1)(a) will also standardize the board's organizational rule with the other licensing boards attached to the department.

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

24.201.301 DEFINITIONS (1) through (3) remain the same.

~~(4) "Commission" means compensation for recommending or referring any product or services to be supplied by another person or entity.~~

~~(5) "Contingent fee" means a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged, unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. Solely for purposes of this rule, fees are not regarded as being contingent if fixed by courts or other public authorities, or in tax matters, if determined based on the result of judicial proceeding or the finding of governmental agencies. A firm's permit holder's or practice privilege holder's fees may vary depending, for example, on the complexity of services.~~

~~(6) through (12) remain the same but are renumbered (4) through (10).~~

~~(13) "GAAP" means the generally accepted accounting principles.~~

~~(14) through (17) remain the same but are renumbered (11) through (14).~~

~~(18) "MSCPA" means the Montana Society of Certified Public Accountants.~~

~~(19) through (32) remain the same but are renumbered (15) through (28).~~

(29) "SEC" means the Securities and Exchange Commission.

~~(33) through (42) remain the same but are renumbered (30) through (39).~~

AUTH: 37-1-319, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, MCA

REASON: Following a comprehensive review of board rules, staff noted several definitions that are never utilized in board rule. While the definitions are of note to the profession, they are not material to understanding board requirements. Staff also noted that several definitions relate to prior unprofessional conduct regulations that are now codified at 37-1-316, MCA. Finally, staff noted that the acronym "SEC" is used in the definition of PCAOB/Public Company Accounting Oversight Board at (21) but is not defined. Following staff recommendations, the board is amending this rule to remove unused and unnecessary definitions and add the definition of "SEC."

24.201.505 FIRMS – REGISTRATION (1) and (2) remain the same.

(3) All firms must annually register with the board by December 31. Annual registration must include all of the items of a new firm registration as outlined above and the level and type of public accounting services provided since the last firm registration.

AUTH: 37-50-203, MCA

IMP: 37-50-335, MCA

REASON: While repealing ARM 24.201.2101 in this notice, the board is moving a relevant provision to (3) so that all firm registration requirements are in a single rule.

24.201.532 NONROUTINE APPLICATIONS ~~(1) All applications, except applications for firm registration, out-of-state licensees seeking a Montana license under ARM 24.201.528, and foreign applicants seeking a Montana license under ARM 24.201.529, are considered nonroutine and must be reviewed by the board to determine compliance with qualifications for licensure.~~

~~(2) (1)~~ For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference. Further, applications in which staff is unable to determine whether the experience requirements of ARM 24.201.502 have been met are nonroutine.

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

AUTH: 37-1-131, MCA

IMP: 37-1-101, 37-1-131, MCA

REASON: In May of 2021, all boards amended their rules as part of a cooperative project to standardize the processing of nonroutine applications and specifically those applications with past criminal convictions. Following the project, the board's new executive officer comprehensively reviewed the board's processes and administrative rules and suggested amendments to this rule.

Historically, the board has reviewed all initial licensure applications for satisfaction of licensure requirements, and more recently, for completion of experience requirements. Noting that application review occupies a significant part of both staff and board meeting time, the board agrees that staff can properly assess experience and licensure qualifications in the majority of applications. When staff cannot make the assessment, the board will review those nonroutine applications. The board determined it is reasonably necessary to amend this rule to further align with department standardization by allowing staff review of initial applications.

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

24.201.401 BOARD MEETINGS

AUTH: 37-50-201, 37-50-203, MCA

IMP: 37-50-201, 37-50-203, MCA

REASON: To standardize rules across the division, the board is repealing this unnecessary rule on procedural meeting standards. All professional licensing boards may follow parliamentary procedure, but there is no express requirement to strictly adhere to those rules. Additionally, the board is statutorily mandated by 37-50-201, MCA, to meet once a year and elect officers. Repealing this rule will not affect the board's operations nor the statutory requirements on meeting notices.

#### 24.201.405 COMMITTEES

AUTH: 37-50-201, MCA

IMP: 37-50-201, MCA

REASON: After reviewing the board's use of committees and external contacts for consultation and noting that this rule had not been revisited since its adoption in 1980, the board decided to repeal this rule since the board holds sole statutory authority and accountability to act on behalf of the public. The repeal will not affect the board's ability to consult with subject matter experts when needed. Further, given the board's direct appointment to represent the public, the board should not be convening committees of external parties.

#### 24.201.524 CHEATING

AUTH: 37-50-204, MCA

IMP: 37-50-204, 37-50-302, 37-50-303, MCA

REASON: The board determined it is reasonably necessary to repeal this rule as it relates to an examination administered by a third party. The board has statutory authority to address applicants or licensees who may cheat, falsify, or mispresent, and this rule only provides for disqualification for a period, again, set by a third party and as such the rule is unnecessary.

#### 24.201.1101 INTRODUCTION

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: In reviewing the board's rules, the board concluded this rule is unnecessary as it simply provides the general authority for the peer review subchapter. The board notes that each specific rule already references both the authority behind the rule as well as the statutes implemented by the rule.

#### 24.201.2101 RENEWALS

AUTH: 37-1-131, 37-50-201, 37-50-203, MCA

IMP: 37-1-141, 37-50-203, 37-50-314, MCA

REASON: Following recommendation by department staff, the board determined it is reasonably necessary to repeal this unnecessary and outdated rule as renewal cycles and corresponding requirements are adequately set forth in department rule ARM 24.101.413 and the board's fee schedule. The board is relocating (2) to ARM 24.201.505 to house all firm registration requirements in a single rule.

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 Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdpac@mt.gov](mailto:dlibsdpac@mt.gov), and must be received no later than 5:00 p.m., October 22, 2021.

6. An electronic copy of this notice of public hearing is available at [publicaccountant.mt.gov](http://publicaccountant.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 Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to [dlibsdpac@mt.gov](mailto:dlibsdpac@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 24.201.101, 24.201.301, 24.201.505, and 24.201.532 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 24.201.401, 24.201.405, 24.201.524, 24.201.1101, and 24.201.2101 will not significantly and directly impact small businesses.

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

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

BOARD OF PUBLIC ACCOUNTANTS  
DAN VUCKOVICH, CPA  
PRESIDING OFFICER

/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 September 14, 2021.



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

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.219.301 definitions,	)	PROPOSED AMENDMENT AND
24.219.501, 24.219.505, 24.219.512,	)	REPEAL
24.219.601, 24.219.605, 24.219.612,	)	
24.219.712, 24.219.5006,	)	
24.219.5007, and 24.219.5013 license	)	
requirements for licensed clinical	)	
social workers (LCSW), licensed	)	
master's social workers (LMSW),	)	
licensed baccalaureate social workers	)	
(LBSW), licensed clinical professional	)	
counselors (LCPC), licensed marriage	)	
and family therapists (LMFT), and	)	
licensed addiction counselors (LAC),	)	
24.219.5020 examination – LAC, and	)	
the repeal of 24.219.606 professional	)	
counselor licensure candidate	)	
requirements and 24.219.2101	)	
continuing education requirements	)	

TO: All Concerned Persons

1. On October 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/87547808418>  
Meeting ID: 875 4780 8418, Passcode: 261255  
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656  
Meeting ID: 875 4780 8418, Passcode: 261255

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 Behavioral Health no later than 5:00 p.m., on October 13, 2021, to advise us of the nature of the accommodation that you need. Please contact Lucy Richards, Board of Behavioral Health, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394;

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

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

24.219.301 DEFINITIONS (1) through (13) remain the same.

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

(15) through (29) remain the same.

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

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

REASON: The 2021 Montana Legislature enacted Chapter 50, Laws of 2021 (Senate Bill 102), an act generally revising licensure requirements for social workers and professional counselor applicants. The bill was signed by the Governor on March 2, 2021, and became effective July 1, 2021.

Senate Bill 102 amended the definition of "licensed addiction counselor" in 37-35-102, MCA, to utilize the term "gambling disorder" as currently used in the DSM-V. Gambling dependence impulse control disorder is no longer a recognized clinical term. The board is amending this rule to implement the bill and align with the statutory change. This proposed amendment will not alter the scope of practice for LACs or LAC candidates.

24.219.501 LCSW, LMSW, AND LBSW LICENSE REQUIREMENTS – ORIGINAL APPLICANTS (1) remains the same.

(2) Applicants for LCSW licensure must meet the following requirements:

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

(i) a program accredited by the Council on Social Work Education (CSWE);

or

(ii) a program currently in CSWE candidacy status;

(b) and (c) remain the same.

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

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

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

(3) Applicants for LMSW licensure must meet the following requirements:

(a) through (c) remain the same.

(d) have completed a Federal Bureau of Investigation fingerprint background check per 37-22-308, MCA, within six months of the application date; and

- ~~(e) provide reference letters that meet the requirements in 37-22-308, MCA;~~  
and  
(f) remains the same but is renumbered (e).  
(4) Applicants for LBSW licensure must meet the following requirements:  
(a) through (c) remain the same.  
(d) have completed a Federal Bureau of Investigation fingerprint background check per 37-22-308, MCA, within six months of the application date; and  
~~(e) provide reference letters that meet the requirements in 37-22-308, MCA;~~  
and  
(f) remains the same but is renumbered (e).  
(5) remains the same.

AUTH: 37-1-131, 37-22-201, 37-22-307, 37-22-308, MCA

IMP: 37-1-131, 37-22-301, 37-22-307, 37-22-308, MCA

REASON: Based on public input in the last year regarding the ongoing emergence of new social work programs, staff and the board began researching the appropriateness of allowing education programs in CSWE candidacy status to meet licensing education requirements in addition to those that are already CSWE approved. The accreditation process takes three years. To achieve candidacy status, a program must be initially evaluated by CSWE to demonstrate the program satisfies the accreditation standards. CSWE monitors the program during the candidacy process for ongoing compliance determining whether or not to grant full accreditation. Based on this review process and the fact that over half the states currently accept education obtained from programs in candidacy status, the board determined it is reasonably necessary to amend (2)(a) to allow greater license portability and avoid unnecessarily restricting entry into the social work profession while still providing adequate public protection.

Additionally, Senate Bill 102 (effective July 1, 2021) removed the statutory requirement that LCSW, LCSW candidate, LMSW, LMSW candidate, LBSW, and LBSW candidate applicants submit reference letters. The board is amending this rule and ARM 24.219.505 and 24.219.512 to align with the statutory changes and further facilitate current standardized department application and renewal procedures.

24.219.505 LCSW, LMSW, AND LBSW CANDIDATE LICENSE REQUIREMENTS (1) and (2) remain the same.

(3) In addition to the appropriate education requirements in (2), applicants for LCSW, LMSW, and LBSW candidate licensure must:

- (a) remains the same.  
(b) have completed a Federal Bureau of Investigation fingerprint background check per 37-22-313, MCA, within six months of the application date; and  
~~(c) provide reference letters that meet the requirements in 37-22-301, 37-22-307, or 37-22-308, MCA; and~~  
(d) remains the same but is renumbered (c).  
(4) remains the same.

AUTH: 37-1-131, 37-22-201, 37-22-307, 37-22-308, MCA  
IMP: 37-1-131, 37-22-307, 37-22-308, 37-22-313, MCA

REASON: See REASON for ARM 24.219.501.

24.219.512 LCSW, LMSW, AND LBSW LICENSE REQUIREMENTS – OUT-OF-STATE APPLICANTS (1) remains the same.

(2) Applicants for LCSW and LMSW licensure must:

(a) hold a current, active license in good standing in another state or jurisdiction. At the time of application, the standards of that state or jurisdiction must be substantially equivalent to Montana standards. If the degree requirement from that state or jurisdiction is not substantially equivalent to Montana's requirement the applicant must have a master's degree in social work from an accredited institution with a minimum of 48 semester or 72 quarter credits and have completed five years of post-degree experience in social work in addition to the supervised work experience;

(b) remains the same.

(c) have completed a Federal Bureau of Investigation fingerprint background check per 37-22-301, ~~37-22-307~~, or 37-22-308, MCA, within six months of the application date; and

~~(d) provide reference letters that meet the requirements in 37-22-301, 37-22-307, or 37-22-308, MCA; and~~

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

(3) Applicants for LBSW licensure must:

(a) hold a current, active license in good standing in another state or jurisdiction. If the degree requirement from that state or jurisdiction is not substantially equivalent to Montana's requirement the applicant must have a baccalaureate degree in social work from an accredited institution and have completed three years of post-degree experience in social work in addition to the supervised work experience;

(b) have passed an examination as described in ARM 24.219.502 or a similar examination per 37-22-301, MCA;

(c) have completed a Federal Bureau of Investigation fingerprint background check per 37-22-307, MCA, within six months of the application date; and

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

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

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

IMP: 37-1-131, 37-1-304, 37-22-301, 37-22-307, 37-22-308, MCA

REASON: The 2021 Montana Legislature enacted Chapter 113, Laws of 2021 (House Bill 177), an act revising licensure requirements for several professions licensed by the board by providing alternate education paths. The bill was signed by the Governor on March 31, 2021, and becomes effective October 1, 2021.

House Bill 177 requires the board establish rules to allow for equitable experience as a professional to count toward education requirements. The board is

amending this rule and ARM 24.219.712 and 24.219.5007 to allow individuals who are licensed in other jurisdictions to qualify for Montana licensure when having degrees with fewer credit requirements or when the degree requirements of the current licensure state are not substantially equivalent to Montana's. These amendments will allow for license portability since professional experience in social work, marriage and family therapy, and addiction counseling for licensed and practicing professionals provides the credentials necessary to safely practice on the public. The proposed degree and experience requirements are consistent with standards in other jurisdictions with similar licensure paths.

See REASON for ARM 24.219.501 for changes to (2)(d).

24.219.601 LCPC LICENSE REQUIREMENTS – ORIGINAL APPLICANTS

(1) remains the same.

(2) Applicants must ~~meet the following requirements~~ have a degree that is primarily counseling in nature from:

(a) ~~have a degree from an~~ a Council for Accreditation of Counseling and Related Educational Programs (CACREP)-accredited program that is at least 60 semester credits ~~institution that meets the requirements in 37-23-202(1)(a) or (2), MCA. If the degree program is not CACREP-accredited, the program must include completion of Council for Accreditation of Counseling and Related Educational Programs (CACREP) core competencies; or~~

(b) an accredited institution and a program that is at least 60 semester credits or 90 quarter credits and includes the CACREP core competencies.

(3) In addition to the degree requirements in (2):

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

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

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

(b) through (e) remain the same but are renumbered (a) through (d).

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

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

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

REASON: Senate Bill 102 (2021) provided the board rulemaking authority to establish the degree requirements for LCPCs and LCPC candidates in administrative rule as opposed to statute. The board is implementing the bill by shifting the credit requirements from 37-23-202, MCA, to this rule and to ARM 24.219.605. The 60 semester or 90 quarter credit minimums are retained so there is no change to the education requirements for applicants not currently licensed in another jurisdiction.

24.219.605 LCPC CANDIDATE LICENSE REQUIREMENTS (1) remains the same.

(2) Applicants must ~~meet the following requirements~~ have a degree that is primarily counseling in nature from:

(a) ~~have a degree from an a CACREP-accredited program that is at least 60 semester credits institution that meets the requirements in 37-23-202(1)(a) or (2), MCA. If the degree program is not CACREP-accredited, the program must include completion of Council for Accreditation of Counseling and Related Educational Programs (CACREP) core competencies; or~~

(b) an accredited institution and a program that is at least 60 semester credits or 90 quarter credits and includes the CACREP core competencies.

(3) In addition to the degree requirements in (2):

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

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

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

(b) through (d) remain the same but are renumbered (a) through (c).

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

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

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

24.219.612 LCPC LICENSE REQUIREMENTS – OUT-OF-STATE APPLICANTS (1) remains the same.

(2) Applicants must:

(a) remains the same.

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

(c) through (f) remain the same but are renumbered (b) through (e).

(3) remains the same.

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

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

REASON: The board determined it is reasonably necessary to strike the degree language from (2)(b) regarding out-of-state LCPC applicants as none of the other board license types specify required degrees in their rules on out-of-state applicants. The degree requirement for LCPC licensure remains in statute at 37-23-202, MCA, with minimum credit requirements in ARM 24.219.601 to align with Senate Bill 102 changes. Licensure standards for out-of-state LCPC applicants will continue to be compared to Montana's for substantial equivalency.

24.219.712 LMFT LICENSES – OUT-OF-STATE APPLICANTS (1) remains the same.

(2) Applicants must:

- (a) hold a current, active license in good standing in another state or jurisdiction to practice marriage and family therapy under a scope of practice recognized in Montana. ~~At the time of application, the standards of that state or jurisdiction must be substantially equivalent to Montana standards~~ If the degree requirement from that state or jurisdiction is not substantially equivalent to Montana's requirement the applicant must have a master's degree in marriage and family counseling from an accredited institution with a minimum of 48 semester or 72 quarter credits and have completed five years of post-degree experience in marriage and family therapy in addition to the supervised work experience;
- (b) through (3) remain the same.

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

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

REASON: See REASON for ARM 24.219.512.

24.219.5006 LAC LICENSE REQUIREMENTS – ORIGINAL APPLICANTS

- (1) remains the same.
- (2) Applicants must meet the following education requirements:
- (a) have a degree or certificate that meets the requirements in ~~37-35-202(2)(a) or (b), MCA. A "comparable" degree is defined in 37-35-202(9)~~ 37-35-202, MCA; and
- (b) have completed 330 contact hours of training in addiction studies completed either in whole or in part of the degree or certificate in (a). If not all 330 required hours were completed as part of the degree, then the applicant can complete those outside of the degree or certificate ~~in (a)~~. The 330 hours must be in the following areas:
- (i) through (4) remain the same.

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

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

REASON: The 2021 Montana Legislature enacted Chapter 299, Laws of 2021 (Senate Bill 166), an act revising licensure and education requirements for addiction counselors and addiction counselor candidates. The bill was signed by the Governor on April 28, 2021, and becomes effective October 1, 2021.

Senate Bill 166 updates the education requirements for LACs and LAC candidates to remove barriers to initial licensure by allowing for additional types of degrees and methods to obtain relevant addiction counseling college-level education which are consistent with national standards. All degree requirements remain in statute, but it is reasonably necessary to amend this rule to conform with the statutory language and citations.

24.219.5007 LAC LICENSE REQUIREMENTS – OUT-OF-STATE

APPLICANTS (1) remains the same.

- (2) Applicants must:

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

(i) If the degree requirement from that state or jurisdiction is not substantially equivalent to Montana's requirement the applicant must have completed five years of additional post-degree work experience in a qualified treatment program as described in ARM 24.219.5010 in addition to the supervised work experience;

(ii) If the examination requirement from that state or jurisdiction is not substantially equivalent to Montana's requirement the applicant is not required to pass an examination as required in ARM 24.219.5020 if the applicant has five years of additional post-degree work experience in a qualified treatment program as described in ARM 24.219.5010;

(b) through (3) remain the same.

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

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

REASON: See REASON for ARM 24.219.512.

24.219.5013 LAC CANDIDATE LICENSE REQUIREMENTS (1) remains the same.

(2) Applicants for LAC candidate must meet the following education requirements:

(a) have a degree or certificate that meets the requirements in ~~37-35-202(2)(a) or (b), MCA. A "comparable" degree is defined in 37-35-202(9)~~ 37-35-202, MCA; and

(b) have completed 330 contact hours of training in addiction studies completed either in whole or in part of the degree or certificate in (a). If not all 330 required hours were completed as part of the degree, then the applicant can complete those hours outside of the degree or certificate ~~in (a)~~. The 330 hours must be in the following areas:

(i) through (4) remain the same.

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

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

REASON: See REASON for ARM 24.219.5006.

24.219.5020 EXAMINATION – LAC (1) remains the same.

(2) Individuals who have not already passed an approved examination or do not have experience that counts for the exam as described in ARM 24.219.5007(2)(a)(ii) can be approved by department staff to register for an examination upon:

(a) through (3) remain the same.

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

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



REASON: The board is amending this rule to align with changes being proposed in ARM 24.219.5007.

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

24.219.606 PROFESSIONAL COUNSELOR LICENSURE CANDIDATE REQUIREMENTS

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

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

REASON: The board is repealing this rule as unnecessary as all relevant provisions were moved into ARM 24.219.423 in 2019 to consolidate changes of supervision for all license types. The board inadvertently missed repealing the rule at that time.

24.219.2101 CONTINUING EDUCATION REQUIREMENTS

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

IMP: 37-1-131, 37-1-306, 37-1-319, 37-1-321, 37-22-201, MCA

REASON: The board is repealing this rule as unnecessary as all relevant provisions were moved into ARM 24.219.435 in 2020 to consolidate continuing education requirements for all license types. The board inadvertently missed repealing the rule at that time.

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 Behavioral Health, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdbbh@mt.gov](mailto:dlibsdbbh@mt.gov), and must be received no later than 5:00 p.m., October 22, 2021.

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

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 Behavioral Health, 301 South Park Avenue, P.O. Box

200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdbbh@mt.gov; or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. Regarding House Bill 177, the primary bill sponsor was contacted on July 21, 2021, by telephone. Regarding Senate Bill 102, the primary bill sponsor was contacted on July 23, 2021, by telephone. Regarding Senate Bill 166, the primary bill sponsor was contacted on July 23, 2021, by telephone.

9. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.219.301, 24.219.501, 24.219.505, 24.219.512, 24.219.601, 24.219.605, 24.219.612, 24.219.712, 24.219.5006, 24.219.5007, 24.219.5013, and 24.219.5020 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.219.606 and 24.219.2101 will not significantly and directly impact small businesses.

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

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

BOARD OF BEHAVIORAL HEALTH  
ELAINE MARONICK, LCPC, LMFT  
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 September 14, 2021.

BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PROPOSED  
ARM 32.2.404 department of ) AMENDMENT  
livestock brands enforcement division )  
fees and 32.18.109 freeze branding ) NO PUBLIC HEARING  
 ) CONTEMPLATED

TO: All Concerned Persons

1. The Department of Livestock proposes to amend the above-stated rules.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m. on October 15, 2021, to advise us of the nature of the accommodation that you need. Please contact the Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9321; TTD number: (800) 253-4091; fax: (406) 444-1929; e-mail: MDOLcomments@mt.gov.

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

32.2.404 DEPARTMENT OF LIVESTOCK BRANDS ENFORCEMENT  
DIVISION FEES (1) New brands and transfers:

- (a) Recording of a new brand or mark:
  - (i) Recording of a new brand or mark during a rerecord year will not incur an additional rerecord charge.
  - (ii) Livestock or ornamental \$200.00
  - (iii) Seasonal brand for going to grass 200.00
  - (iv) Seasonal brand for going to feed lot, market, or location 50.00
  - (v) Cattle freeze brand in addition to hot iron brand 10.00
- (b) through (5) remain the same.

REASON: The department proposes to amend ARM 32.2.404, which is necessary to establish a fee commensurate with costs. There is administrative processing time required to add a freeze brand to a hot iron brand certificate beyond what is included in the original brand application. The proposed fee is based on the administrative costs of a duplicate certificate fee. Out of approximately 56,000 recorded brands, the proposed amendment to ARM 32.2.404 will minimally affect the 200 freeze brands on record.

AUTH: 81-1-102, 81-3-202, MCA

IMP: 81-3-205, 81-3-211, 81-4-602, 81-4-605, 81-5-112, 81-7-504, 81-8-256, 81-8-264, 81-8-271, 81-8-276, 81-8-304, 81-9-113, 81-9-411, MCA

32.18.109 FREEZE BRANDING (1) Freeze branding of cattle ~~may be~~ is allowed under the following conditions:

- (a) all freeze brands must be ~~registered~~ recorded ~~with~~ by the department;
- (b) in order to ~~register~~ record a freeze brand, the owner must have a hot iron brand ~~registered~~ recorded ~~with~~ by the department;
- (c) the freeze brand must be identical in design and location to the owner's hot iron brand;
- (d) the freeze brand will be ~~issued~~ recorded on the same certificate ~~and except on a new recording will not be charged an additional recording fee~~; and
- (e) freeze brands can only be ~~sold or transferred along with the hot iron certificate brand~~.

AUTH: 81-1-102, MCA

IMP: 81-1-102, MCA

REASON: The department proposes to amend ARM 32.18.109. This rule change is necessary to establish language consistent with statute. Statute utilizes the terms "record" and "recorded." The language in the proposed rule change removes the terms "register" and "registered" and replaces them with "record" and "recorded" to be consistent with statute. The other proposed changes to the rule are necessary to create clear and concise language.

4. Concerned persons may submit their data, views, or arguments in writing concerning the proposed action to the Executive Officer, Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov to be received no later than 5:00 p.m., October 22, 2021.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m., October 22, 2021.

6. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the businesses who are directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a public hearing will be held at a later date. If the department receives 25 requests for a public hearing, notice of the public hearing will be published in the Montana Administrative Register. Those directly affected has been determined to be 55,576, based upon the number of recorded brands in the state.

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 4 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.

BY: /s/ Michael S. Honeycutt  
Michael S. Honeycutt  
Executive Officer  
Board of Livestock  
Department of Livestock

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

Certified to the Secretary of State September 14, 2021.

BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PROPOSED  
ARM 32.8.101 pertaining to fluid milk ) AMENDMENT  
and Grade A milk products )  
 ) NO PUBLIC HEARING  
 ) CONTEMPLATED

TO: All Concerned Persons

1. The Department of Livestock proposes to amend the above-stated rule.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Livestock no later than 5:00 p.m. on October 15, 2021, to advise us of the nature of the accommodation that you need. Please contact Executive Officer, Department of Livestock, 301 N. Roberts St., Room 304, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9525; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: MDOLcomments@mt.gov.

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

32.8.101 DEFINITIONS AND ADOPTION OF GRADE A PASTEURIZED MILK ORDINANCE AND ASSOCIATED DOCUMENTS (1) remains the same.

(2) The Department of Livestock adopts and incorporates by reference as rules of the department the following ~~as they are now described and as they may from time to time be amended:~~

(a) "Grade A Pasteurized Milk Ordinance, ~~2017~~ 2019 Recommendations of the United States Public Health Service/Food and Drug Administration" (PMO) together with attached recommended administrative procedures, appendices, and index, except sections 16 and 17.

(b) "Methods of Making Sanitation Ratings of Milk Supplies," ~~2017~~ 2019 edition issued by the U.S. Public Health Service/Food and Drug Administration (MMSR).

(c) "Evaluation of Milk Laboratories," ~~2017~~ 2019 edition (EML).

(d) "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers," ~~2017~~ 2019 edition.

(3) and (4) remain the same.

(5) The rules of this chapter do not apply to "small dairies" as defined in 81-21-101, MCA.

AUTH: 81-2-102, MCA  
IMP: 2-4-307, 81-2-102, MCA

REASON: The department is proposing to amend the above-stated rule for clarity purposes after the passage of SB199, also known as The Montana Local Food Choice Act, during the 2021 Legislative session. The bill amended 81-21-101 MCA, to add a definition of "small dairies" and exempts them from the department's regulations and rules. As such, the department felt it prudent to note that exemption in its rules.

In addition, the department is taking this opportunity to update the documents adopted and incorporated by reference to the most up-to-date versions dated 2019.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Department of Livestock, P.O. Box 202001, Helena, Montana, 59620-2001; telephone (406) 444-9761; fax (406) 444-1929; or e-mail MDOLcomments@mt.gov, and must be received no later than 5:00 p.m., October 22, 2021.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments the same address as above no later than 5:00 p.m., October 22, 2021.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 6 persons based on 7 operating Grade A licensed plants and 48 operating Grade A licensed producers.

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

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor, Senator Greg Hertz, was contacted by email on June 14, 2021.

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

/s/ Michael S. Honeycutt

Michael S. Honeycutt

Executive Officer

Board of Livestock

Department of Livestock

BY: /s/ Cinda Young-Eichenfels

Cinda Young-Eichenfels

Rule Reviewer

Certified to the Secretary of State September 14, 2021.



BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PROPOSED  
ARM 32.8.202 pertaining to time from ) AMENDMENT  
processing that fluid milk may be sold )  
for public consumption ) NO PUBLIC HEARING  
 ) CONTEMPLATED

TO: All Concerned Persons

1. The Department of Livestock proposes to amend the above-stated rule.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Livestock no later than 5:00 p.m. on October 15, 2021, to advise us of the nature of the accommodation that you need. Please contact Executive Officer, Department of Livestock, 301 N. Roberts St., Room 304, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9525; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: MDOLcomments@mt.gov.

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

32.8.202 TIME FROM PROCESSING THAT FLUID MILK MAY BE SOLD  
FOR PUBLIC CONSUMPTION (1) When 12 days or more have passed following  
pasteurization of a unit of grade A milk, there will be no quantities of that unit of milk  
sold as packaged ~~or otherwise offered for public consumption.~~

(2) No grade A pasteurized milk may be put in any container marked with a  
sell-by date which is more than 12 days after pasteurization of the milk for sale in  
Montana.

(3) Unless otherwise agreed upon, the person who offers the milk for sale to  
the public is responsible for removing the milk at or before the expiration of the 12  
days.

AUTH: 81-2-102, MCA

IMP: 81-2-102, MCA

REASON: The department proposes to amend this rule to allow businesses such as  
coffee kiosks and restaurants to use and serve milk to customers beyond 12 days  
after pasteurization, and to allow stores to donate unsold milk to food banks or other  
organizations beyond 12 days after pasteurization. The changes in this rule align  
with the distinction between the "sell-by date" and "use-by date" and permit  
businesses to use and serve milk to customers beyond the sell-by date on the  
package. The amendment will not change the department's intention that milk sold  
as packaged will not be sold to the public beyond 12 days after pasteurization.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Department of Livestock, P.O. Box 202001, Helena, Montana, 59620-2001; telephone (406) 444-9761; fax (406) 444-1929; or e-mail MDOLcomments@mt.gov, and must be received no later than 5:00 p.m., October 22, 2021.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the same address as above no later than 5:00 p.m., October 22, 2021.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 400 persons based on an estimate of 4,000 restaurants and coffee kiosk type businesses in the state.

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

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

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

BY: /s/ Michael S. Honeycutt  
Michael S. Honeycutt  
Executive Officer  
Board of Livestock  
Department of Livestock

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

Certified to the Secretary of State September 14, 2021.

BEFORE THE DEPARTMENT OF PUBLIC SERVICE REGULATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 38.2.304 pertaining to the ) PROPOSED AMENDMENT  
department's procedures for )  
collecting fees and other charges )

TO: All Concerned Persons

1. On October 27, 2021, at 10:00 a.m., the Department of Public Service Regulation will hold a public hearing in the Bollinger Room at 1701 Prospect Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule. The department will accommodate remote participation via video conference. Commenters seeking to participate in the hearing by video conference must contact the department at 1-800-646-6150 by 5 p.m., October 26, 2021, to receive the necessary call-in information for the hearing. The hearing will be livestreamed at <http://psc.mt.gov/stream>.

2. The Department of Public Service Regulation 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 Service Regulation no later than 5:00 p.m. on October 25, 2021, to advise us of the nature of the accommodation that you need. Please contact Loryn Johnson, Department of Public Service Regulation, 1701 Prospect Avenue, Helena, Montana, 59620-2601; telephone (406) 444-6170; TDD/Montana Relay Service (406) 444-4212; or e-mail [Loryn.Johnson@mt.gov](mailto:Loryn.Johnson@mt.gov).

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

38.2.304 FEES, COSTS, ACCOMPANYING FORMS, AND COLLECTIONS

(1) All application forms and fees or other charges required by law ~~shall be~~ paid are due and must be submitted to the ~~commission~~ department at the time the application is filed with the ~~commission~~ department. Tariff fees are due no later than the 15th day of the month following the month of the filing. Fees for the issuance of certificates and costs associated with publication of notice ~~shall be~~ are due upon notice from the ~~commission~~ department.

(2) Any entity that initiates a proceeding before the commission must either:

(a) file a certified IRS Form W-9, Request for Taxpayer Identification Number and Certification, with its initial filing; or

(b) keep a current, certified IRS Form W-9 on file with the department.

(3) IRS Form W-9 and its instructions can be obtained from [www.irs.gov/FormW9](http://www.irs.gov/FormW9). For the purposes of this rule, an IRS Form W-9 is considered "current" for a period of three years. Initial filings, including without limitation all applications, petitions, and formal complaints, will not be considered complete until

the requirements of this rule have been satisfied. Foreign entities may satisfy this requirement with IRS Form W-8.

(4) All copies of IRS Forms W-8 and W-9 must be filed by physical delivery, postal or parcel delivery services, or encrypted, electronic delivery. IRS Forms W-8 and W-9 may not be filed by unencrypted e-mail or by electronic filing in the department's public case management system.

(5) Costs associated with the publication of notice in a proceeding shall be charged to the party or parties that initiated the proceeding, except in proceedings initiated by the department, commission, or Montana Consumer Counsel, in which case costs may, in the commission's discretion, be charged to any regulated entity named in the proceeding.

(6) Any fees and other charges not paid within 60 days of the date payment is due will be considered overdue. Overdue fees and other charges will accrue penalties at a rate of \$50 per month.

(7) Any person or entity that believes a fee or other charge has been assessed in error may challenge the assessment by filing a motion for relief within 30 days of the date the fee or other charge is due. If the commission does not act on a motion for relief under this rule within 60 days of the date the fee or other charge is due, the motion shall be deemed denied.

(8) Any person or entity owing overdue fees or other charges will not be permitted to file or submit any application, petition, motion, or other request, however titled, with the commission. The commission, in its sole discretion, may waive this provision if a party has challenged an assessment through the process described in this rule.

AUTH: 17-4-110, 69-1-110(3), 69-2-101, 69-3-103, 69-12-201(2), MCA  
IMP: 17-4-110, 69-2-101, MCA

REASON: In the department's fiscal years 2019 and 2020 financial and compliance audit report, the Legislative Audit Division recommended that the department strengthen internal controls over collection of accounts receivable, including the recommendation to comply with a state policy requiring the transfer of unpaid receivables to a collections agency. To use the state of Montana's primary collection service—the Department of Revenue, Collections Bureau—the department must obtain a taxpayer identification number, which the IRS Forms W-8 and W-9 provide. IRS Forms W-8 and W-9 are the generally accepted forms to obtain taxpayer identification numbers. The new language in (1) and (2) of the proposed amended rule is reasonably necessary to ensure the department receives taxpayer identification numbers with each proceeding.

New (4) is reasonably necessary to protect sensitive information contained in Forms W-8 and W-9. Types of taxpayer identification numbers include social security numbers and employer identification numbers. Although an employer identification number is not confidential, it may be exploited for fraudulent purposes. Currently, the department's electronic case management system does not allow the department to prevent the broad dissemination of Forms W-8 and W-9 when they are filed electronically. Unencrypted e-mail filing is similarly insecure. The

department, therefore, finds it reasonably necessary to require the filing of taxpayer identification numbers through physical delivery or encrypted, electronic delivery. The department does not currently have an encrypted, electronic delivery service, but may implement one in the future. The department anticipates that some filers may have access to their own encrypted, electronic delivery services and intends to allow filing through those services.

New (5) is reasonably necessary to clarify which parties will be assessed the cost of publication of the notice. The department has determined that this language is reasonably necessary to provide advance notice of its longstanding practice.

New (6) is reasonably necessary to cover the costs associated with overdue accounts. The department estimates that processing costs, including staff time and mailing past-due reminders, are approximately \$50 per month. The department has included a 60-day grace period to accommodate the dispute resolution process provided in (7).

New (7) allows individuals and entities to challenge an assessment within a reasonable period. This process is reasonably necessary to allow objections before the department begins assessing late fees.

New (8) is an enforcement mechanism for the department's fee assessments. The department does not intend to halt all proceedings when a party has overdue fees. Parties may continue to participate in a proceeding. However, the department will not consider any application, petition, motion, or other request submitted by a party owing overdue fees. The commission may waive this provision to prevent unjust or inequitable results.

The department anticipates the amendments to the rule will encourage parties to promptly pay fees and other charges, and thereby avoid the \$50 late fee created in this rulemaking. The department anticipates that the late fee will affect approximately five parties each year, and the total fees collected will be approximately \$500 per year.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Loryn Johnson, Department of Public Service Regulation, 1701 Prospect Avenue, Helena, Montana, 59620-2601; telephone (406) 444-6170; TDD/Montana Relay Service (406) 444-4212; or e-mail [Loryn.Johnson@mt.gov](mailto:Loryn.Johnson@mt.gov), and must be received no later than 5:00 p.m., November 3, 2021.

5. The Montana Consumer Counsel, 111 North Last Chance Gulch, Suite 1B, Helena, MT 59620-1703, telephone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

6. The commission, a commissioner, or a duly appointed presiding officer may preside over and conduct the 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 2 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, do not apply.

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

/s/ Lucas Hamilton

Lucas Hamilton  
Rule Reviewer

/s/ James Brown

James Brown  
Public Service Commission Chair  
Department of Public Service Regulation

Certified to the Secretary of State September 14, 2021.

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 44.3.2711 pertaining to poll ) PROPOSED AMENDMENT  
watchers at places of deposit )

TO: All Concerned Persons

1. On October 14, 2021, at 9:00 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m., October 7, 2021, to advise us of the nature of the accommodation that you need. Please contact Ray Dagnall, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-9009; fax (406) 444-3976; TDD/Montana Relay Service (406) 444-9068; or email RDagnall@mt.gov.

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

44.3.2711 PLACES OF DEPOSIT – ELECTION OFFICIAL DUTIES

(1) Election officials, as designated in 13-19-307, MCA, shall:

(a) through (e) remain the same.

(f) permit one poll watcher from each political party to be stationed in a location at each place of deposit during the days and times that the place of deposit is open that is near enough to observe the depositing ballots but does not interfere with those deposits;

(g) under the conditions specified in (f), permit additional poll watchers at the request of a candidate, a group of candidates, or any group having an interest in the election so long as the number of poll watchers at the place of deposit does not interfere with the depositing of ballots;

(f) ~~(h)~~ personally insure ensure that all required procedures are adhered to; and

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

AUTH: 13-19-105, MCA

IMP: 13-13-120, 13-13-121, 13-19-307 MCA

REASONABLE NECESSITY: On April 30, 2021, the Governor of Montana signed into law Senate Bill (SB) 93. SB 93 revised provisions related to poll watchers. The Office of the Secretary of State is proposing changes to ARM 44.3.2711 to reflect the changes in statute.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Angela Nunn, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by emailing [angela.nunn@mt.gov](mailto:angela.nunn@mt.gov), and must be received no later than 5:00 p.m., October 22, 2021.

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

6. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code, or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to the office at [sosarm@mt.gov](mailto:sosarm@mt.gov).

7. With regard to the bill sponsor contact requirements of 2-4-302, MCA, the primary bill sponsor, Senator Vance, was contacted by mail, email, and phone on September 8, 2021.

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

/s/ AUSTIN JAMES  
Austin James  
Rule Reviewer

/s/ CHRISTI JACOBSEN  
Christi Jacobsen  
Secretary of State

Dated this 14th day of September, 2021.



BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 44.3.1713 pertaining to testing ) PROPOSED AMENDMENT  
of vote tabulation machines )

TO: All Concerned Persons

1. On October 14, 2021, at 9:30 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m., October 7, 2021, to advise us of the nature of the accommodation that you need. Please contact Ray Dagnall, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-9009; fax (406) 444-3976; TDD/Montana Relay Service (406) 444-9068; or email RDagnall@mt.gov.

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

44.3.1713 UNIFORM PROCEDURES FOR USING VOTING SYSTEMS

(1) For each voting system approved under 13-17-101, MCA, the system must comply, as applicable, with the following procedures specified in the instruction manuals, user guides, and technical manuals provided by the manufacturer and distributor of the system, as well as the election judge handbook provided by the Office of the Secretary of State (except in cases in which those materials conflict with state laws or rules, in which case the laws or rules shall apply):

(a) through (d) remain the same.

(e) the security measures necessary to secure the voting system before, during, and after an election, including security following a recount under 13-16-417, MCA; ~~and~~

(f) except as required under (g), testing and certification of voting systems pursuant to 13-17-212, MCA, including a random test conducted by a county election administrator or designee of 5 ~~10~~% of each type of voting systems, a minimum of one per county, on election day, to validate the accuracy of voted paper ballots with the voting system results- ; and

(g) if automatic tabulation begins the day before the election pursuant to 13-13-241(7)(a), MCA, an election administrator shall publicly test all central count vote tabulation machines no more than 30 days prior to the election.

AUTH: 13-17-211, 13-17-212, MCA

IMP: 13-17-211, 13-17-212, MCA

REASONABLE NECESSITY: On April 29, 2021, the Governor of Montana signed into law Senate Bill (SB) 351. SB 351 allows county election administrators to test vote tabulation machines before automatic tabulation begins. The Office of the Secretary of State is proposing changes to ARM 44.3.1713 to reflect the changes in statute. In addition, the office proposes a change from testing 5% of each type of voting system to 10%, consistent with 13-17-212, MCA.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Angela Nunn, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by emailing [angela.nunn@mt.gov](mailto:angela.nunn@mt.gov), and must be received no later than 5:00 p.m., October 22, 2021.

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

6. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code, or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to the office at [sosarm@mt.gov](mailto:sosarm@mt.gov).

7. With regard to the bill sponsor contact requirements of 2-4-302, MCA, the primary bill sponsor, Senator Bennett, was contacted by mail, email, and phone on September 8, 2021.

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

/s/ AUSTIN JAMES

Austin James  
Rule Reviewer

/s/ CHRISTI JACOBSEN

Christi Jacobsen  
Secretary of State

Dated this 14th day of September, 2021.

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 44.3.2010 pertaining to eligibility ) PROPOSED AMENDMENT  
of applicants to be issued and cast a )  
ballot )

TO: All Concerned Persons

1. On October 14, 2021, at 10:00 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m., October 7, 2021, to advise us of the nature of the accommodation that you need. Please contact Ray Dagnall, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-9009; fax (406) 444-3976; TDD/Montana Relay Service (406) 444-9068; or e-mail RDagnall@mt.gov.

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

44.3.2010 APPLICANTS INELIGIBLE DUE TO AGE OR RESIDENCE REQUIREMENTS (1) through (3) remain the same

(4) Upon satisfying the voter registration qualifications in 13-1-111, MCA, a registered elector may obtain and cast a ballot pursuant to 13-2-205, MCA. ~~The statewide voter registration database shall not include in the register the name of any individual who will not be at least 18 years of age or who will not have been a resident of Montana for at least 30 days on or before election day.~~

AUTH: 13-2-109, MCA  
IMP: 13-2-110, 13-2-205, MCA

REASONABLE NECESSITY: On May 14, 2021, the Governor of Montana signed into law House Bill (HB) 506. HB 506 revised procedures for prospective electors to register and to vote. The Office of the Secretary of State is proposing changes to ARM 44.3.2010 to reflect the changes in statute.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Angela Nunn, Secretary of State's Office, P.O. Box 202801, Helena,

Montana 59620-2801, or by e-mailing [angela.nunn@mt.gov](mailto:angela.nunn@mt.gov), and must be received no later than 5:00 p.m., October 22, 2021.

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

6. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code, or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to the office at [sosarm@mt.gov](mailto:sosarm@mt.gov).

7. With regard to the bill sponsor contact requirements of 2-4-302, MCA, the primary bill sponsor, Representative Fielder, was contacted by mail, email, and phone on September 8, 2021.

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

/s/ AUSTIN JAMES  
Austin James  
Rule Reviewer

/s/ CHRISTI JACOBSEN  
Christi Jacobsen  
Secretary of State

Dated this 14th day of September, 2021.

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 1.3.313 pertaining to notification ) PROPOSED AMENDMENT  
requirements for emergency rules )  
under the Montana Administrative )  
Procedure Act )

TO: All Concerned Persons

1. On October 14, 2021, at 10:30 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m., October 7, 2021, to advise us of the nature of the accommodation that you need. Please contact Ray Dagnall, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-9009; fax (406) 444-3976; TDD/Montana Relay Service (406) 444-9068; or e-mail RDagnall@mt.gov.

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

1.3.313 RULEMAKING, TEMPORARY EMERGENCY RULES AND TEMPORARY RULES (1) If an agency finds that circumstances exist that truly and clearly constitute an imminent peril to the public health, safety, or welfare, that the circumstances cannot be averted or remedied by any other administrative act, and that the circumstances require a rulemaking action upon fewer than 30 days' notice, it may adopt a temporary emergency rule without prior notice or hearing or, as illustrated by template 313a (<https://sosmt.gov/arm/templates>), upon any abbreviated notice and hearing that it finds practicable, per 2-4-303(1), MCA.

(a) To adopt an emergency rule the agency must:

(i) provide special notice of its intent to the members and staff of the appropriate administrative rule review committee prior to adoption of an emergency rule pursuant to 2-4-303, MCA;

(ii) file with the Secretary of State a copy of an adoption notice for the emergency rule containing a statement in writing of its reasons for finding that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon fewer than 30 days' notice, per 2-4-306(4), MCA, and details of the special notice provided in (i), per 2-4-303(1)(c)(ii), MCA; and

~~(ii) provide special notice of its intent to the appropriate administrative rule review committee, which is accomplished by the Secretary of State's office providing a copy of the notice to the Legislative Services Division;~~

(iii) through (2) remain the same.

AUTH: 2-4-202, MCA

IMP: 2-4-202, 2-4-303, 2-4-306, MCA

REASONABLE NECESSITY: On April 16, 2021, the Governor of Montana signed into law House Bill (HB) 47. HB 47 modified notification requirements for emergency rules under the Montana Administrative Procedure Act. The Office of the Secretary of State is proposing changes to ARM 1.3.313 to reflect the changes in statute.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Angela Nunn, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing [angela.nunn@mt.gov](mailto:angela.nunn@mt.gov), and must be received no later than 5:00 p.m., October 22, 2021.

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

6. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code, or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to the office at [sosarm@mt.gov](mailto:sosarm@mt.gov).

7. With regard to the bill sponsor contact requirements of 2-4-302, MCA, the primary bill sponsor, Representative McKamey, was contacted by mail, email, and phone on September 14, 2021.

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

/s/ AUSTIN JAMES

Austin James  
Rule Reviewer

/s/ CHRISTI JACOBSEN

Christi Jacobsen  
Secretary of State

Dated this 14th day of September, 2021.

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

In the matter of the adoption of New        ) NOTICE OF ADOPTION  
Rules I through V pertaining to the        )  
Suitability in Annuity Transactions Act    )

TO: All Concerned Persons

1. On August 6, 2021, the Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI) published MAR Notice No. 6-264 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 971 of the 2021 Montana Administrative Register, Issue Number 15.

2. The CSI has adopted the above-stated rules as proposed, effective October 1, 2021: New Rules I (6.6.810), II (6.6.811), III (6.6.812), IV (6.6.813), and V (6.6.814).

3. The CSI has thoroughly considered the written comments received; no persons appeared to testify at the public hearing. A summary of the comments received and the CSI's responses are as follows:

COMMENT 1: Commenter 1, stating first that the agency had "adopt[ed] the NAIC Model Rule in its entirety," went on to comment that it "applaud[ed] [the agency's] action to adopt the rule verbatim and [the agency's] recognition that it is important to make doing business in Montana as easy as possible."

RESPONSE 1: CSI has adopted by reference in New Rule II the model forms which accompany the National Association of Insurance Commissioners (NAIC) Model Regulation No. 275, Suitability In Annuity Transactions, published Spring 2020. CSI adopted the Model's forms with an aim to accomplish what this comment recognizes—making it easy to do business in Montana. While these forms are adopted verbatim, to the extent Commenter 1 references the adoption of "the NAIC Model Rule in its entirety," the comment may misunderstand the scope of CSI's rulemaking. The statutory law containing, in large part, the text of the NAIC Model was enacted by the Legislature which did make some substantive changes; CSI has merely adopted rules pursuant to the statutory law passed by the Legislature.

COMMENT 2: Commenter 2 represented a trade group that was "pleased to support the proposal to adopt New Rules I through V[,]" and noted the importance of "uniformity and consistency, ...[in] promulgat[ing] the NAIC model disclosure forms, along with providing guidance on the training requirements consistent with the NAIC model requirements."

RESPONSE 2: CSI accepts the support. Uniformity and ease of compliance for professionals operating in many jurisdictions was a goal of the proposed rules now being adopted.

/s/ Kirsten K. Madsen

Kirsten K. Madsen  
Rule Reviewer

/s/ Mary Belcher

Mary Belcher  
Deputy Auditor  
Commissioner of Securities and Insurance,  
Office of the Montana State Auditor

Certified to the Secretary of State September 14, 2021.



BEFORE THE DEPARTMENT OF COMMERCE  
OF THE STATE OF MONTANA

In the matter of the amendment of        ) NOTICE OF AMENDMENT  
ARM 8.94.3729 pertaining to the        )  
administration of the CDBG program     )

TO: All Concerned Persons

1. On August 6, 2021, the Department of Commerce published MAR Notice No. 8-94-190 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 976 of the 2021 Montana Administrative Register, Issue Number 15.

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 NO. 1: Thank you for providing notice of the proposed changes to the application and guidelines for both the CDBG Public Facilities grant programs.

To ensure that the Department of Commerce has time to review and consider comments received on the proposed changes, that the guidelines are finalized before the applications are due, and that our members have time to finalize their applications in accordance with the adopted guidelines, we respectfully request that the department immediately issue a notice that the application deadline for the 2021 CDBG Public Facilities grant programs is extended.

Thank you very much for considering this request

RESPONSE NO. 1: The Department of Commerce is considering extending the CDBG Public Facilities application deadline to October 28, 2021, to allow applicants more time to conduct required public outreach and finalize and submit applications. If granted, an extension will be announced upon the conclusion of the administrative rule process.

COMMENT NO. 2: Moving the deadline for the CDBG grants to October 7th from September 15th would be extremely beneficial to all who will be submitting grants. The extra time will allow the grant applications to be as complete as possible which is very important to allow the best decisions to be made concerning which grants to fund. Thank you for your consideration!

RESPONSE NO. 2: As indicated above, the Department of Commerce is considering extending the CDBG Public Facilities application deadline to October 28,

2021. This extension will provide applicants more time to complete their processes for considering appropriate projects.

/s/ Jessica Blumberg  
Jessica Blumberg  
Rule Reviewer

/s/ Adam Schafer  
Adam Schafer  
Deputy Director  
Department of Commerce

Certified to the Secretary of State September 14, 2021.

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

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 24.29.3114, 24.29.3117, and )  
24.29.3127 pertaining to workers' )  
compensation petitions for reopening )

TO: All Concerned Persons

1. On August 6, 2021, the Department of Labor and Industry (department) published MAR Notice No. 24-29-374 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 978 of the 2021 Montana Administrative Register, Issue Number 15.

2. The department held a public hearing in Helena on September 9, 2021, over the Zoom videoconference and telephonic platform at which no members of the public commented. The department received written comments 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: One commenter noted that the proposed amendments were effective implementation of House Bill 199 and supported the rule changes.

RESPONSE 1: The department appreciates the comment and it is noted.

COMMENT 2: One commenter noted that joint petitioners might agree that medicals could remain open for a period less than two years. They suggested the silence of the rule as to that fact could prove problematic.

RESPONSE 2: The department appreciates the comment and the concern. The statutory changes effectuated by House Bill 199 do not prohibit a joint petition from agreeing to a period of less than two years for reopening. Similarly, nothing in present or proposed rule bars such an agreement. This explanation was also shared with stakeholders during rule development. The department does not believe further clarification by rulemaking is necessary as to this issue.

4. The department has amended ARM 24.29.3114, 24.29.3117, and 24.29.3127 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 September 14, 2021.

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

In the matter of the adoption of	)	NOTICE OF ADOPTION OF
temporary emergency rule I	)	TEMPORARY EMERGENCY RULES
pertaining to waiving the pharmacist	)	
to pharmacy technician ratio for	)	
vaccine activities and COVID-19	)	
testing, and temporary emergency	)	
rule II pertaining to allowing any	)	
licensed health care provider	)	
authorized to administer vaccines	)	
within their scope of practice to assist	)	
pharmacists in administering	)	
vaccines	)	

TO: All Concerned Persons

1. The Montana Board of Pharmacy (board) is adopting temporary emergency rules I and II for the following reasons:

A. On June 30, 2021, Governor Greg Gianforte rescinded Executive Order 2-2021 that had declared that a state of emergency existed in Montana due to the global outbreak of COVID-19. This action also rescinded a corresponding directive issued on March 30, 2021, to help address pharmacy staffing issues for COVID-19 vaccinations that authorized the following: waiving the pharmacist to pharmacy technician ratio for purposes of vaccine activities and allowing any licensed health care provider with authority to administer vaccines in their scope of practice to assist pharmacists in administering COVID-19 vaccines.

B. In late August 2021, pharmacy stakeholders contacted the board requesting assistance in addressing pharmacy staffing shortages and to help accommodate the increasing number of patients seeking vaccines. With overlapping vaccine activities and demands, pharmacy stakeholders requested that the board consider implementing the same provisions that had been authorized in the March 30, 2021, directive. The board considered concerns raised by the stakeholders including FDA approval of certain COVID-19 vaccines, the potential for COVID-19 booster shots, the expanded age range authorized for COVID-19 vaccines, the upcoming timeframe for administration of the seasonal influenza vaccine, and increasing requests for pharmacists to travel to facilities and employers to administer vaccines on location for patients and/or employees in determining emergency rules were necessary to address staffing shortages.

C. The federal Public Readiness and Emergency Preparedness Act (PREP Act, Public Law 109-148) authorizes pharmacists to independently order and administer authorized COVID-19 vaccines, other vaccines, and COVID-19 tests.

Pursuant to 37-7-105, MCA, pharmacists have independent authority to order and administer certain vaccines, including influenza for ages 12 and older.

D. The PREP Act also authorizes qualified pharmacy technicians who meet certain training requirements and operate under the supervision of a pharmacist, to administer authorized COVID-19, influenza, and other vaccines, and to administer COVID-19 tests. Montana law does not authorize pharmacy technicians to administer vaccines, but the restriction is preempted by PREP Act authority. By waiving the restriction of the number of pharmacy technicians that a pharmacist may supervise, in ARM 24.174.711(1), the board will reduce potential barriers for qualified pharmacy technicians to assist pharmacists in providing greater patient access to vaccines.

E. To further expand patient access to vaccines and address pharmacy staffing issues, the board recognizes provisions of the PREP Act and corresponding declaration and amendments that include preemption of any state law that would prohibit qualified health care professionals from administering COVID-19 vaccines. These changes are necessary immediately to protect the public health, safety, and welfare. Pursuant to the board's authority in 37-7-201(1)(a)(iii) and (3)(b), MCA, to regulate personnel who work in a pharmacy and to establish standards of care for patients concerning health care services that patients may expect with regard to pharmaceutical care, the board deems it necessary to allow pharmacists to utilize any health care provider licensed by this state, and qualified to administer vaccines under their scope of practice, to assist in the administration of vaccines. Such authority will further expand patient access to available vaccines and contribute to improving patient safety and public health.

F. There is reasonable necessity to immediately adopt temporary emergency rules I and II, pursuant to 2-4-303, MCA, and authorities in the PREP Act, to address the acute public health and safety issues that arise from a lack of access to COVID-19, influenza, and other vaccines, and COVID-19 testing.

2. The temporary emergency rules are effective September 14, 2021, when this rule notice is filed with the Secretary of State.

3. The board intends to implement similar provisions through the standard rulemaking process, but recognizes the need to take emergency action to address the ongoing shortages that hinder the public's ability to receive vaccines.

4. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Pharmacy no later than 5:00 p.m., on October 8, 2021, to advise us of the nature of the accommodation that you need. Please contact Marcie Bough, Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2371; Montana

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

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

NEW RULE I TEMPORARY EMERGENCY SUSPENSION OF PHARMACIST TO PHARMACY TECHNICIAN RATIO FOR PURPOSES OF VACCINE ACTIVITIES AND COVID-19 TESTING

(1) The terms of this temporary emergency rule expire on January 11, 2022, unless additional rulemaking is needed to continue the response to COVID-19, influenza, and other vaccine administration activities, including COVID-19 testing, to meet patient safety and public health needs.

(2) The restricted number of licensed certified pharmacy technicians and technicians-in-training that a registered pharmacist may supervise is waived with the following limitations:

(a) A registered pharmacist and pharmacy technician must be authorized to administer an authorized COVID-19 vaccine and/or influenza vaccine, in compliance with federal requirements outlined in the Public Readiness and Emergency Preparedness Act (PREP Act, Public Law 109-148) for qualified pharmacy technicians to administer authorized vaccines and COVID-19 tests.

(b) The ratio is waived solely for the purpose of administering authorized vaccines in compliance with state and federal requirements, conducting associated administrative duties and procedures, and for administering COVID-19 tests.

AUTH: 37-7-201, MCA

IMP: 37-7-101, 37-7-201, 37-7-307, 37-7-308, 37-7-309, MCA

NEW RULE II TEMPORARY EMERGENCY EXPANSION OF PERSONNEL WHO MAY WORK IN A PHARMACY OR UNDER THE SUPERVISION OF A PHARMACIST

(1) The terms of this temporary emergency rule expire on January 11, 2022, unless additional rulemaking is needed to continue the response to COVID-19, influenza, and other vaccine administration activities to meet patient safety and public health needs.

(2) The board regulates personnel who may work in a pharmacy or under the supervision of a pharmacist.

(3) The board is taking emergency action to help address pharmacy staffing shortages as an increasing number of patients are utilizing pharmacies for administration of COVID-19 vaccines, including expanded youth age ranges, and for the emerging seasonal influenza vaccine. In addition, the board is aware that facilities and employers are also requesting pharmacists come directly to their place of business to administer vaccines to employees, patients, and the community.

(4) To further expand COVID-19 and influenza vaccine access, the board is authorizing pharmacists who are qualified to prescribe, administer, and dispense authorized COVID-19, influenza, and other vaccines to use any health care provider licensed by this state, and qualified to administer vaccines under their scope of practice, to assist pharmacists in the administration of vaccines.

(5) For the purposes of this emergency rule and expanding patient access to vaccines, the board recognizes the Public Readiness and Emergency Preparedness Act (PREP Act, Public Law 109-148) and corresponding declarations and amendments that include authority for preemption of any state law that would prohibit qualified health care professionals from administering COVID-19 vaccines.

AUTH: 37-7-201, MCA

IMP: 37-7-201, MCA

REASON: In addition to the rational stated in paragraph 1, and the information provided in the federal PREP Act authorities, the board deems it necessary to adopt New Rule I as an emergency rule to temporarily waive the pharmacist to pharmacy technician ratio for purposes of vaccine administration, associated administrative activities, and for the administration of COVID-19 tests. To further expand staffing options for pharmacists, the board deems it necessary to adopt New Rule II as an emergency rule to temporarily allow any licensed health care provider who is authorized in their scope of practice to administer vaccines, to assist pharmacists in administering vaccines and in providing increased access to COVID-19 and influenza vaccines.

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 Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to [dlibsdpha@mt.gov](mailto:dlibsdpha@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.

BOARD OF PHARMACY  
TONY KING, RPh  
PRESIDENT

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

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

Certified to the Secretary of State September 14, 2021.

BEFORE THE BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of                    ) NOTICE OF AMENDMENT  
ARM 24.183.303 definitions,                            )  
24.183.411 teaching of land surveying               )  
subjects, and 24.183.2105 continuing                )  
professional competency – continuing                )  
education    )

TO: All Concerned Persons

1. On April 16, 2021, the Board of Professional Engineers and Professional Land Surveyors (board) published MAR Notice No. 24-183-44 regarding the public hearing on the proposed amendment of the above-stated rules, at page 401 of the 2021 Montana Administrative Register, Issue No. 7.

2. On May 11, 2021, a public hearing was held on the proposed amendment of the above-stated rules in Helena. No comments were received by the May 14, 2021 deadline.

3. The board has amended ARM 24.183.303, 24.183.411, and 24.183.2105 exactly as proposed.

BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS  
RONALD DRAKE, PE  
PRESIDING OFFICER

/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 September 14, 2021.



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

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 24.301.146 pertaining to )  
modifications to the International )  
Building Code applicable to both the )  
department's and local government )  
code enforcement programs )

TO: All Concerned Persons

1. On May 28, 2021, the Department of Labor and Industry (department) published MAR Notice No. 24-301-353 regarding the public hearing on the proposed amendment of the above-stated rule, at page 596 of the 2021 Montana Administrative Register, Issue No. 10.

2. On June 22, 2021, a public hearing was held on the proposed amendment of the above-stated rule in Helena via the videoconference and telephonic platform. One comment was received by the June 25, 2021 deadline.

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

COMMENT 1: Numerous commenters expressed support for the proposed amendments.

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

4. The department has amended ARM 24.301.146 exactly as proposed.

/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 September 14, 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 37.97.102, 37.97.106, )  
37.97.126, 37.97.127, 37.97.132, )  
37.97.142, 37.97.148, 37.97.903, )  
37.97.905, 37.97.906, and 37.97.907 )  
pertaining to youth care facility )  
requirements )

TO: All Concerned Persons

1. On June 11, 2021, the Department of Public Health and Human Services published MAR Notice No. 37-946 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 700 of the 2021 Montana Administrative Register, Issue Number 11.

2. The department has amended the following rules as proposed: ARM 37.97.106, 37.97.126, 37.97.132, 37.97.142, and 37.97.905.

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

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

(1) through (3) remain as proposed.

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

(a) and (b) remain as proposed.

(c) substance use history;

(d) through (8) remain as proposed.

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

(10) through (17) remain as proposed.

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

education in human services for a nondegree program manager equals one year of experience.

(19) through (33) remain as proposed.

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

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

37.97.127 YOUTH CARE FACILITY (YCF): CASE RECORDS (1) A YCF shall maintain a written or electronic case record for each youth which shall include administrative, treatment, and educational data from the time of admission until the time the youth is discharged from the YCF. A youth's case record must include but is not limited to the following:

(a) remains as proposed.

(b) the name, address, and telephone number of the parent(s) or guardian of the youth;

(i) therapeutic group homes must maintain contact information on all known family ~~members~~ and document outreach efforts;

(c) through (q) remain as proposed.

(2) In addition to the requirements in (1), therapeutic group homes must maintain ~~an updated copy of the youth's clinical assessment;~~

(a) an updated copy of the youth's clinical assessment;

(b) a list and contact information of all known family, as provided by the entity placing the youth, and family known to the TGH through their work with the youth; and

(c) documentation of all outreach efforts to identified family, to build a positive network to support the wellbeing of the youth. Documentation must include:

(i) a minimum of two attempts to contact all identified family;

(ii) results of each contact; and

(iii) how the TGH will support and facilitate regular contact with identified family as outlined in the youth's treatment plan.

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

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

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

(2) through (5) remain as proposed.

(6) Therapeutic group homes must ~~also~~ meet the treatment plan requirements in ARM 37.97.907.

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

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

37.97.903 THERAPEUTIC GROUP HOMES (TGH): STAFFING (1) through (8) remain as proposed.

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

(9) and (10) remain as proposed but are renumbered (10) and (11).

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

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

37.97.906 THERAPEUTIC GROUP HOMES (TGH): THERAPEUTIC SERVICE REQUIREMENTS (1) ~~The therapeutic services provided by the mental health professionals are "therapy," and services provided by the program manager or direct care staff are "therapeutic intervention" services. The TGH must provide therapeutic services to all youth. Therapeutic services include therapy and therapeutic interventions.~~ The purpose of therapeutic services is to:

(a) through (d) remain as proposed.

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

(3) Therapy requirements must be provided by the mental health professional and include the following:

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

(b) Family therapy must be provided to the youth and family members as defined in ARM 37.97.102(9) and provided as outlined in the youth's treatment plan. ~~If family therapy is not appropriate based on the particular situation of the youth, the mental health professional must document specific reasons why family therapy cannot be provided.~~

(c) If no identified family members as defined in ARM 37.97.102(9) are able to participate in family therapy, specific reasons why family therapy cannot be provided must be documented in the youth's treatment plan.

(d) If the youth is on a home visit or the family is unable to participate in therapy on-site, the mental health professional may provide therapy electronically via video conferencing or telehealth.

~~(3) (4)~~ In the event the mental health professional is unavailable due to vacation, illness, ~~or if the youth is on a home visit, or other~~ similar circumstance for more than 150 minutes in a 24-week period per youth, ~~alternative~~ arrangements for therapy must be made based on the program's policy and procedures.

(a) The TGH must document in the youth's case record why the mental health professional could not provide therapy was not provided and what alternative arrangements for therapy were made.

(b) The 24-week time period will be based on the youth's admission date.

(5) Therapeutic interventions may be provided by the mental health professional, program manager, or direct care staff as outlined in the youth's

treatment plan.

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

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

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

37.97.907 THERAPEUTIC GROUP HOMES (TGH): TREATMENT PLAN

(1) remains as proposed.

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

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

(b) through (f) remain as proposed.

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

(h) through (4) remain as proposed.

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

(6) remains as proposed.

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

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

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

Comment #1: Numerous commenters stated the proposed rules do not incorporate all requirements of the Family First Prevention Services Act (FFPSA) and do not create a single overarching direction and oversight of all aspects of the FFPSA or of qualified residential treatment programs (QRTP).

Response #1: The department recognizes that many aspects of the FFPSA are not within the scope of this rulemaking. The purpose of these rule amendments is to incorporate QRTP requirements into the licensure requirements for therapeutic group homes in the implementation of portions of FFPSA. The proposed changes are designed to increase family involvement with a goal of reducing the amount of time a youth spends in the group setting and returning the youth to a family setting at the earliest possible time. The department will ensure FFPSA compliance through additional rule amendments proposed by other divisions and through contract provisions with vendors.

Comment #2: One commenter stated the term "mental health professional" (MHP) typically refers to a licensed individual and, in some instances, requires certification.

The commenter suggested the department continue using the term "lead clinical staff" rather than changing the title to MHP.

Response #2: The department agrees that the term MHP typically refers to a licensed individual. The existing rule required the lead clinical staff to be licensed and the proposed rule amendment continues to require the MHP to be licensed. The department has changed the term from lead clinical staff to MHP to remain consistent with standard terminology for licensed staff.

Comment #3: Two commenters requested amending ARM 37.97.132(3)(a) to permit providers to hire staff who are 18 years of age, rather than the current age requirement of 21 years of age.

Response #3: The purpose of the rule notice is to incorporate QRTP requirements into the licensure requirements for therapeutic group homes in compliance with FFPSA, and the proposed amendments do not address the age of facility staff. Therefore, this comment is outside the scope of this rulemaking.

Comment #4: A commenter stated the lack of room and board payments poses a financial hardship on providers and is a financial disincentive to providers to accept Montana children into services that are not placed and funded by foster care. The commenter asked if Montana intends to pay for room and board costs for all Montana kids.

Response #4: The purpose of the rule notice is to incorporate QRTP requirements into the licensure requirements for therapeutic group homes in compliance with FFSPA, and the proposed amendments do not address payment for room and board. Therefore, this comment is outside the scope of this rulemaking.

Comment #5: A commenter asked the department to explicitly allow the use of electronic record management systems.

Response #5: The department currently permits facilities to use electronic medical records. The department has amended the language in ARM 37.97.127 to make it consistent with the department's current practice of allowing electronic medical record systems.

Comment #6: Numerous commenters stated the proposed rules restrict the program manager and MHP from acting as direct care staff and prohibit them from being counted in the youth to staff ratio. The commenters stated that implementation of the rule would likely see a reduction in the number of youth that programs are able to serve and create undo financial hardship as on-call stipends and overtime would be added expenses.

Response #6: The proposed rules in fact increase the hours during which the program manager may provide direct care and be counted in the direct care ratio. The rulemaking proposed adding the timeframe of 6 a.m. to 8 a.m. or any other two-

hour timeframe prior to youth leaving for school during which the program manager may be counted in the direct care ratio. The current rule permitted counting the program manager for the direct care ratio only if up to two youths do not attend school and remain at the facility during school hours, and that provision remains unchanged. Therefore, the proposed amendments increase the time the program manager can act as direct care. The rulemaking did not propose any changes relating to counting the MHP as direct care staff.

Comment #7: A commenter requested clarification on a due date requirement on the discharge plan. The commenter stated that the proposed amendment states the discharge plan is to be completed at time of admission but is also part of the initial treatment plan and that the initial treatment plan is due 10 business days from admission in accordance with the treatment plan date.

Response #7: Discharge planning must begin at the time of admission for all youth, and providers must document discharge planning at that time. Additionally, the discharge plan must be included in the initial treatment plan and updated as appropriate. The commenter is correct that the initial treatment plan for therapeutic group homes is required to be completed within 10 business days from admission.

Comment #8: Numerous comments were received regarding the distinctions between the case plan and the treatment plan. Providers asked if TGHs are required to have a case plan as required in ARM 37.97.148 and a treatment plan as required in ARM 37.97.907. The commenters recommended amending the language and adding clear and concise language so that TGHs are not required to have both a case plan and a treatment plan.

Response #8: The department did not intend to require TGHs to have two plans. The department agrees that clarification is necessary and has amended ARM 37.97.148 to include an exception for TGHs from the requirements of the rule and to articulate that TGHs must meet the requirements in ARM 37.97.907.

Comment #9: A commenter recommends amending ARM 37.97.906 to allow MHP to provide therapeutic intervention services.

Response #9: The department agrees with this comment and has amended ARM 37.97.906(5) to permit the MHP to provide therapeutic interventions. The department's intent is to require the MHP to provide therapy and have more time to meet the clinical needs of the youth. The department understands that the licensure requirements for therapy are minimal. If additional clinical needs are not necessary, the MHP may have time to provide therapeutic interventions.

Comment #10: A commenter requested clarification on how providers document both alternative arrangements for therapy and missed therapy sessions.

Response #10: The department agrees with this comment and has amended ARM 37.97.906(5) to clarify documentation requirements and the limitation on the number

of missed therapy sessions permitted. The department intends for MHP to document in the youth's case record the reason for all missed therapy sessions. The department has clarified the circumstances under which a MHP may skip a scheduled therapy session and has established a limit on the number of times it can happen. If a MHP exceeds the limit, the provider must ensure the youth's clinical needs continue to be met and ensure the youth receives therapy as outlined in the program's policies and procedures.

Comment #11: A commenter requested amending language to allow individual therapy to be provided at least 75 minutes per week or in three weekly contacts as outlined in treatment plans for those struggling with duration-based therapy sessions. The commenter stated under current rule clinicians spend three plus hours per week providing therapy for each individual.

Response #11: The current and proposed rule, ARM 37.97.906, allows for the MHP to complete the required 75 minutes of therapy in three weekly sessions as requested by the commenter. The department has maintained the minimal requirements for therapy; however, the department has modified the language to allow flexibility to MHP by allowing the required minutes of individual therapy as clinically indicated.

Comment #12: Several comments were received requesting more flexibility in how therapy is provided and suggested not requiring a specific amount of minutes for individual therapy. A commenter asserted the language is overly restrictive and limits the ability of the MHP to determine appropriate treatment parameters. A commenter suggested some clients would benefit more from therapy in a group setting or a stronger focus on family therapy.

Response #12: See response #11.

Comment #13: Two commenters asked if telehealth is allowed for therapy services.

Response #13: Telehealth is allowed under certain circumstances. Based on this comment, the department has amended ARM 37.97.906(3)(d) to clarify the circumstances that warrant telehealth: if the youth is on a home visit or the family is unable to participate in therapy on-site. Telehealth is included in the all-inclusive daily rate paid by Medicaid and cannot be billed separately.

Comment #14: A commenter expressed concern about how the expanded definition of "family" will impact the clinical aspect of treatment. The commenter did not request changes to the proposed rule but rather asked the department, providers, and other affected parties to work together in implementing the definition.

Response #14: Each facility is responsible for ensuring they are appropriately implementing rules and regulations, including the definition of family. The facilities have policies and procedures in place that are reviewed and approved by the department to ensure compliance.



Comment #15: A commenter requested the department define "all known family members" and asked if a provider is required to contact all known family members that do not participate in treatment.

Response #15: In response to this comment, the department has amended ARM 37.97.127 to clarify the requirements for identifying and contacting all known family members. The rule articulates that the providers must maintain a list and contact information of family, which is defined in ARM 37.97.102 and has been amended to clarify the definition of family. The list of known family refers to information provided by the entity placing the youth at the TGH and family known to the TGH through its involvement with the youth.

Comment #16: Numerous commenters expressed concern about implementing the requirements of ARM 37.97.906(3) regarding "alternative arrangements for therapy" and asked if the rule permits therapy to be missed provided the reasons are documented. Also, the commenters asked if alternative therapy arrangements are made and delivered, why would this be considered therapy not being provided. A commenter asked for more precision and clarity in this language and provided examples.

Response #16: The department agrees with the commenters and has amended ARM 37.97.906(3) to clarify that of the required 75 minutes of therapy per week, the MHP must provide at least 50 minutes of individual therapy to the youth. Family therapy must be provided to the youth and family, and if there are no identified family available to participate in family therapy, the MHP must document the reasons for their unavailability in the treatment plan. Also, telehealth may be used for therapy if a youth is on a home visit or if family is unavailable to participate on-site.

Comment #17: A commenter stated that aftercare is only listed in rule for discharging and that it is unclear on the role the TGH plays in providing aftercare and what requirements apply to aftercare.

Response #17: This rulemaking does not address aftercare. See the response to Comment #1. The rulemaking also does not address what role, if any, the TGH plays in providing aftercare. The existing rules provide that discharge planning must begin at the time of admission for all youth, and providers must document discharge planning at that time. Additionally, the discharge plan must be included in the initial treatment plan and updated as appropriate.

Comment #18: A commenter expressed concern the amendments to the administrative rules are absent the regulatory structure needed to ensure that youth care facilities operate in a truly trauma-informed way. The commenter noted proposed rules do not specify what trauma-informed model for organizational change facilities should use. The commenter suggested a model should be adopted that can be trained upon and measured for fidelity, as is best practice.

Response #18: The department intends for providers to select the trauma-informed model that works best for their organization. Providers must submit the policies and procedures outlining the trauma-informed model selected and how the provider will implement the model. These policies will be reviewed and approved by the department prior to implementation to ensure programs are truly applying a trauma-informed model.

Comment #19: A commenter expressed concern that the proposed rule only requires trauma-informed training to be conducted once during employee orientation. The commenter suggested comprehensive training on trauma-informed care should be provided on at least an annual basis.

Response #19: The department agrees it would be beneficial for staff to receive annual trauma-informed training; however, this rulemaking does not mandate it. Staff are required to receive 20 hours of annual training to improve proficiency in their knowledge and skills. Providers have the discretion to include trauma-informed training in annual training.

Comment #20: A commenter stated youth care facilities should be required to demonstrate that they are implementing increasingly trauma-informed approaches with fidelity through continuous quality improvement efforts. The commenter suggested work could be done through administration or organization on trauma-readiness assessments.

Response #20: The department appreciates the comment and notes that youth care facilities are required to implement a quality assessment program for improving policies, procedures, and services. The department intends for the quality assessment program to ensure appropriate implementation of trauma-informed care. Please also see responses to comments #18 and #19.

Comment #21: A commenter stated FFPSA emphasizes the importance of assessing youth for appropriateness of care and asked if the department intended to reduce a facility's responsibility to provide clinical assessment prior to admission.

Response #21: This rulemaking does not impose a requirement on a facility to conduct a clinical assessment prior to admission to the facility. Providers will continue to be required to complete a clinical assessment within ten days of the youth's admission unless a clinical assessment has been completed within three months prior to placement and submitted to the provider. For youth who are Medicaid members, the facility must receive prior authorization for placement in a TGH.

Comment #22: A commenter asked if providers have a responsibility to be a member of the Child and Family Services Permanency Team.

Response #22: This rulemaking does not address the Child and Family Services Permanency Team. Please see response #1.

Comment #23: A commenter would like to know what a facility's responsibility is for meeting the FFPSA requirement for an independent qualified professional completing an assessment within 30 days of placement.

Response #23: Please see response #1. This provision of the FFPSA is not part of this rulemaking.

Comment #24: A commenter asked if the premise of the department is that aftercare can be appropriately or effectively separated from discharge planning. The commenter asked if so, does aftercare start after discharge and therefore is not part of the requirements to operate a therapeutic group home.

Response #24: The aftercare requirements of FFPSA are outside the scope of this rulemaking. Please see responses #1 and #17.

Comment #25: A commenter stated FFPSA has specific requirements for family engagement and involvement. The commenter asked for clarification about any standards the state requires in meeting those requirements.

Response #25: In response to this comment, the department has amended ARM 37.97.102 and 37.97.906 to clarify the definition of "family" and to require documentation of outreach efforts, as provided in FFPSA guidelines. The change also increases family involvement in treatment planning and discharge planning of the youth. In addition, the rule increases opportunity for family therapy via telehealth for the youth's home visits or when the family is unable to attend on-site.

Comment #26: A commenter applauded the expanded definition of "family."

Response #26: The department appreciates the comments and thanks the commenter.

Comment #27: A commenter asked if family members include fictive kin as required by FFPSA.

Response #27: In response to this comment, the department has amended the definition of "family" in ARM 37.97.102 to include the term "fictive kin," as used in the FFPSA. The definition now refers to fictive kin as someone who, though unrelated by birth or marriage, has such an emotional attachment to the youth that they are considered family.

Comment #28: A commenter stated the proposed rule incentivizes reduced staffing patterns, a significant reduction in clinical and management oversight, and supervision. The commenter is opposed to any rule that will diminish the quality of our care of the children in our homes, which would be the result of reduced oversight, supervision, and training.

Response #28: In response to this comment, the department has amended ARM 37.97.903 to include a provision that was originally proposed to be removed from the rule. Thus, the rule will continue to provide that the MHP shall be responsible for the supervision and overall provision of treatment services to youth in the TGH and that the MHP cannot be counted in the direct care staff to youth ratio.

Comment #29: A commenter asked if the department intentionally omitted the current roles and responsibilities of the MHP which currently include being involved in family outreach, supervision, training, treatment planning, and program oversight or any other capacity except signing off on treatment plans.

Response #29: See response #28.

Comment #30: A commenter requested specific rules and guidance outlining standards of a trauma-informed model. Without specific rules and guidance, providers will be left to their subjective discretion and cause unnecessary and undesired tension between licensing agency and providers.

Response #30: The department intends for providers to have the flexibility to implement the trauma-informed model that works for the populations they serve. We would recommend providers review the SAMHSA Guidance for Trauma Informed Approach: [https://ncsacw.samhsa.gov/userfiles/files/SAMHSA\\_Trauma.pdf](https://ncsacw.samhsa.gov/userfiles/files/SAMHSA_Trauma.pdf)

Comment #31: A commenter stated that the proposed rule focuses on the nursing component and simultaneously reduces the reliance on what will now be called the MHP.

Response #31: Please see response #28. The nursing requirement does not diminish the role of the MHP.

Comment #32: A commenter asked if a MHP can be a board-certified behavioral analyst, a licensed addiction counselor, or a psychiatrist.

Response #32: The term MHP is defined in ARM 37.97.102 and does not include those designations.

Comment #33: A commenter asked about the requirements in ARM 37.97.102 for the clinical assessment and questioned the terminology used to refer to substance use.

Response #33: The department modified the rule to use updated terminology from "chemical dependency" to "substance use history." The department has clarified the language and has amended ARM 37.97.102 accordingly.

Comment #34: A commenter requested the department define the outreach efforts expected of TGHs.

Response #34: As noted in response #25, the department has amended the rules relating to family. In response to this comment, the department has amended ARM 37.97.127 to clarify the requirements for conducting and documenting outreach efforts. TGHs must facilitate outreach to identify family to build a positive network of support for the youth. The TGH must document a minimum of two attempts to contact family, the result of such contacts, and support and facilitate regular contact with identified family.

Comment #35: A commenter asked if the department intends to reduce the requirements for training and supervision of direct care staff. If so, please describe which training and oversight requirements will be reduced or in the alternative make clear that this part of service delivery will be an unfunded mandate.

Response #35: The department does not intend to reduce the requirements for training or supervision of direct care staff.

Comment #36: Several comments were received asserting the proposed rule permits facilities to have outpatient therapy only. The allowance of an off-site, contracted MHP to simply provide direct therapy services provides the opportunity for fiscal savings at the expense of quality care.

Response #36: The department partially agrees with the commenter and has modified the language in ARM 37.97.903 to require the MHP to be on-site. See response #28.

Comment #37: Several comments were received for requests to define what nursing services are required and how group homes are expected to document how nursing services are available.

Response #37: TGHs must have registered or licensed nursing and other clinical staff who provide care within the scope of their practice as defined by state law, consistent with the TGH's trauma-informed treatment model. Nursing must be available 24 hours a day, seven days a week, but coverage does not have to be on-site. Each facility must develop their own policy on nursing services.

Comment #38: A commenter stated the FFPSA requires registered or licensed nursing services and other licensed clinical staff on-site, consistent with the treatment model and available 24 hours, seven days a week. The commenter asked if TGHs will be expected to separately meet this requirement.

Response #38: Nursing services and licensed clinical services are separate requirements. Licensed clinical services are not required on-site or available 24 hours a day, seven days a week. See response #37.

Comment #39: Two commenters asked if their treatment model allowed for nursing services to be available less than 24 hours a day, seven days a week, would they still meet the requirements of the rule.

Response #39: The requirements of the rule will not be satisfied if the treatment model does not include the availability of nursing services 24 hours a day, seven days a week. See response #37.

Comment #40: A commenter asked if nursing services have to be available on-site.

Response #40: Nursing services must be available 24 hours a day, seven days a week, but coverage does not have to be on-site. See response #37.

Comment #41: A commenter asked what a trauma-informed treatment model is.

Response #41: See response #30.

Comment #42: A commenter asked if it would be adequate if they write a policy that states "we will immediately begin planning and intend to implement a trauma-informed model effective 2056."

Response #42: No, the trauma-informed treatment model must be implemented at the time of adoption of this rulemaking.

Comment #43: A commenter asked if the MHP is not available for family engagement and involvement in meeting FFPSA standards in this area, who at a QRTP does the department envision being responsible for these extended duties.

Response #43: The MHP is responsible for providing family therapy and the overall treatment services to the youth. See responses #18 and #30. The responsibility for additional family engagement and involvement will be determined by the provider's policy, the trauma-informed treatment model, and the youth's treatment plan.

Comment #44: A commenter asked for clarification on ARM 37.97.901(5), requiring the MHP to sign off on treatment plans. The current rule states the MHP can sign off after the initial plan is developed or following updates. The commenter asked if the department intends for MHP sign off to happen in both instances.

Response #44: The department believes the commenter is referencing ARM 37.97.907(5). The department intends to have the MHP sign off on the treatment plan after its development and following any update. In response to this comment, the department has amended the rule to require sign off on the treatment plan within seven days of its update.

Comment #45: Numerous commenters requested clarification on ARM 37.97.906(3). They stated the rule simultaneously requires that therapy arrangements must be made by the program but also suggests that therapy does not need to be required as long as the reason (such as vacation or illness) is documented.

Response #45: The department agrees with this comment and has amended ARM 37.97.906 as explained in responses #9 through #11.

Comment #46: A commenter stated the Child and Family Services Division's new affidavit titled "Qualified Individual's Therapeutic Needs Assessment" is not identified within this proposed rule. The commenter asks for clarification on the expectations of the group home in working and soliciting this affidavit.

Response #46: The CFSD affidavit is outside the scope of this rulemaking. Please see response #1.

Comment #47: A commenter asked if the plan as we have heard is only to offer this service to some of the children at the QRTP, what will be the rational basis of our discriminating behavior and what liability protections will the state offer QRTP providers.

Response #47: The proposed rule changes apply to all children in the TGH. Any additional services required of other divisions are outside the scope of this rulemaking.

Comment #48: A commenter stated there is a significant difference in categories of youth care facilities. According to the commenter, the proposed changes are very difficult for shelter care facilities. Shelter care takes youth in crisis situations, and providers do not have a role in determining discharge criteria. The commenter stated the vast majority of parents are not involved.

Response #48: The department acknowledges there is a significant difference between shelter care facilities and TGHs. Proposed rule changes for shelter care are minimal and encourage participation of family members and case workers. Shelter care placements are intended to be short term which increases the necessity for discharge planning to begin at admission. Shelter care facilities may not have a role in determining the discharge criteria for certain youth; however, that does not negate the shelter care facilities' responsibility to assist placing agencies and parents in the discharge process.

Comment #49: A commenter would like clarification on when accreditation requirements will take place. Many providers are currently going through the process and accreditation will not be completed until the beginning of the year.

Response #49: The department expects providers to have accreditation at the time of implementation of this rule. If providers are in the process of accreditation the department will take that into consideration.

Comment #50: A commenter questioned whether requirements of 53-6-196, MCA apply to this rule.

Response #50: Section 53-6-196, MCA does not apply to this rulemaking because these rules implement federal law or regulations.

Comment #51: A commenter stated the proposed rule changes cause a significant fiscal impact on programs.

Response #51: The department administered a grant program offering \$10,000 to offset the cost of implementing the changes to providers who apply for the funding. Additional costs incurred will be determined on how the provider designs the program model.

5. These rule amendments are effective October 1, 2021.

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

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

Certified to the Secretary of State September 14, 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 37.86.4401 pertaining to        )  
licensed marriage and family        )  
therapist        )

TO: All Concerned Persons

1. On August 6, 2021, the Department of Public Health and Human Services published MAR Notice No. 37-952 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 981 of the 2021 Montana Administrative Register, Issue Number 15.
2. The department has amended the above-stated rule as proposed.
3. No comments or testimony were received.
4. The department intends to apply this rule amendment retroactively to April 1, 2021. A retroactive application of the rule amendment does not result in a negative impact to any affected party.

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

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

Certified to the Secretary of State September 14, 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 37.51.216 and 37.51.901        )  
pertaining to youth foster homes        )

TO: All Concerned Persons

1. On July 23, 2021, the Department of Public Health and Human Services published MAR Notice No. 37-953 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 893 of the 2021 Montana Administrative Register, Issue Number 14.

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

3. No comments or testimony were received.

4. The department intends to apply these rule amendments retroactively to May 1, 2021. A retroactive application of the rule amendments does not result in a negative impact to any affected party.

/s/ Caroline Warne  
Caroline Warne  
Rule Reviewer

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

Certified to the Secretary of State September 14, 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 June 30, 2021. This table includes notices in which those rules adopted during the period March 26, 2021, through September 10, 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 June 30, 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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2-59-610	Application for Organizing a New Credit Union - Annual Reports, p. 97, 275
2-59-613	Examination Fees - Revocation and Suspension of Mortgage Licenses - Consumer Complaints - Confidentiality Agreements - Sharing Arrangements - Reinstatement of Expired or Suspended Licenses - Mortgage Loan Origination Disclosure Form - Bona Fide Not-For-Profit Certification - Applications for Initial Licenses Near Year End, p. 381, 715
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- 12-549 Closing Cooney Reservoir in Carbon County, p. 873
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24-165-25 Definitions - Deep Modality Endorsement, p. 593

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(Board of Psychologists)

- 24-189-42 Fee Schedule - Required Supervised Experience - Continuing Education Requirements - Continuing Education Implementation - Representation of Self and Services - Psychologist Application Procedures - Licensure as a Psychologist by Experience (Senior), p. 740, 1058

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(Board of Realty Regulation)

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## EXECUTIVE BRANCH APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in August 2021 appear. Potential vacancies from October 1, 2021 through December 31, 2021, are also listed.

### IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of September 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 AUGUST 2021**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Architects and Landscape Architects</b>			
Mr. Dale E. Nelson Great Falls	Governor	Ward	8/30/2021 4/1/2023
Qualifications (if required): Licensed architect			
<b>Board of Massage Therapy</b>			
Dr. Jonathan Griffin Helena	Governor	Cavin	8/25/2021 4/30/2025
Qualifications (if required): Licensed health care provider			
Ms. Jennifer Roth Billings	Governor	Leach	8/25/2021 4/30/2025
Qualifications (if required): Licensed massage therapist			
<b>Board of Optometry</b>			
Mr. Ron Benner Laurel	Governor	Kelley	8/25/2021 3/31/2025
Qualifications (if required): Registered optometrist			
Dr. Kristi Schied-Starkey Billings	Governor	reappointed	8/25/2021 3/31/2025
Qualifications (if required): Registered optometrist			



**EXECUTIVE BRANCH APPOINTEES FOR AUGUST 2021**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Professional Engineers and Land Surveyors</b>			
Mr. Wallace J. Gladstone III Billings	Governor	reappointed	8/15/2021 6/30/2024
Qualifications (if required): Professional engineer			
Mr. Byron David Stahly Helena	Governor	reappointed	8/15/2021 6/30/2024
Qualifications (if required): Professional engineer			
<b>Board of Veteran Affairs</b>			
Mr. Klayton Carroll Sidney	Governor	Nelson	8/1/2021 8/1/2025
Qualifications (if required): None Stated			
Mr. Brett Cusker Bozeman	Governor	Godfrey	8/1/2021 8/1/2023
Qualifications (if required): None stated			
Mr. Ryan Luchau Helena	Governor	Little Light	8/1/2021 8/1/2023
Qualifications (if required): None stated			

**EXECUTIVE BRANCH APPOINTEES FOR AUGUST 2021**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Veteran Affairs Cont.</b>			
Mr. Dean Rehbein	Governor	York	8/1/2021
Missoula			8/1/2023
Qualifications (if required): None stated			
Ms. Barb Skelton	Governor	Swartz	8/1/2021
Billings			8/1/2023
Qualifications (if required): None stated			
Ms. Charlotte Snyder	Governor	Sivertsen	8/1/2021
Helena			8/1/2025
Qualifications (if required): Region 3 representative			
<b>Board of Veterinary Medicine</b>			
Dr. Jeanne Rankin	Governor	Mattix	8/25/2021
Raynesford			7/30/2026
Qualifications (if required): Licensed veterinarian			

**EXECUTIVE BRANCH APPOINTEES FOR AUGUST 2021**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Veterinary Medicine Cont.</b>			
Ms. Katie Rein Harlowton	Governor	Lindley	8/1/2021 8/1/2025
Qualifications (if required): Licensed veterinarian			
<b>Building Codes Council</b>			
Ms. Karen Courtney Laurel	Governor	Risk	8/25/2021 9/30/2023
Qualifications (if required): County, city, or town building inspector			
Mr. Calvin Frank Buffalo	Governor	Carmody	8/25/2021 9/30/2023
Qualifications (if required): Practicing professional engineer			
Mr. Joel Hecker Billings	Governor	Poston	8/25/2021 9/30/2023
Qualifications (if required): Elevator mechanic			
Mr. Matthew Lemert Bozeman	Governor	reappointed	8/25/2021 9/30/2023
Qualifications (if required): Licensed plumber selected by the Board of Plumbers			

**EXECUTIVE BRANCH APPOINTEES FOR AUGUST 2021**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Building Codes Council Cont.</b>			
Mr. Stephen L'Heureux Great Falls	Governor	Fitzgerald	8/25/2021 9/30/2023
Qualifications (if required): Practicing and licensed architect in Montana			
Mr. Kris Rivers Billings	Governor	Gordon	8/25/2021 9/30/2023
Qualifications (if required): Licensed electrician selected by the Electrical Board			
Mr. Joshua K. Wallery Helena	Governor	reappointed	8/25/2021 9/30/2023
Qualifications (if required): Representative of the manufactured housing industry			
<b>Health Care Task Force</b>			
Mr. Samuel Hunthausen Helena	Governor	New	8/25/2021 9/30/2022
Qualifications (if required): representative of the Board of Medical Examiners			
Ms. Jackie Jones Helena	Governor	New	8/25/2021 9/30/2022
Qualifications (if required): Representative of Commissioner of Securities and Insurance			

**EXECUTIVE BRANCH APPOINTEES FOR AUGUST 2021**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Health Care Task Force Cont.</b>			
Ms. Paula Stannard Helena	Governor	New	8/25/2021 9/30/2022
Qualifications (if required): Representative of DPHHS			
Ms. Lisa Stricker Billings	Governor	New	8/25/2021 9/30/2022
Qualifications (if required): Representative of the Board of Nursing			
Ms. Colleen White Helena	Governor	New	8/25/2021 9/30/2022
Qualifications (if required): Representative of DLI Business Standards Division			
<b>State Banking Board</b>			
Mr. Jim Powell Bozeman	Governor	Essmann	8/25/2021 6/30/2023
Qualifications (if required): Public member			
<b>State Library Commission</b>			
Ms. Peggy Taylor Shelby	Governor	Behe	8/1/2021 5/31/2023
Qualifications (if required): Public member			

**EXECUTIVE BRANCH VACANCIES – OCTOBER 1, 2021 THROUGH DECEMBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Athletic Trainers</b>		
Ms. Janet Trethewey, Havre	Governor	10/1/2021
Qualifications (if required): Member of public not engaged in or directly connected with practice of athletic training		
Ms. Kylie McKinney, Billings	Governor	10/1/2021
Qualifications (if required): Athletic trainer employed in or retired from a secondary school in Montana		
<b>Board of Barbers and Cosmetologists</b>		
Mrs. Paula Evans, Missoula	Governor	10/1/2021
Qualifications (if required): Cosmetologist		
Ms. Lynn Startin, Missoula	Governor	10/1/2021
Qualifications (if required): Cosmetologist		
<b>Board of Outfitters</b>		
Mr. Robert Arnaud, Bozeman	Governor	10/1/2021
Qualifications (if required): Outfitter licensed to provide fishing and hunting services		
Mr. Matthew Greenmore, Twin Bridges	Governor	10/1/2021
Qualifications (if required): Outfitter licensed to provide fishing services		
<b>Historical Records Advisory Council</b>		
Ms. Heather C. Hultman, Bozeman	Governor	10/1/2021
Qualifications (if required): Research Institution		

**EXECUTIVE BRANCH VACANCIES – OCTOBER 1, 2021 THROUGH DECEMBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Historical Records Advisory Council Cont.</b>		
Ms. Anne L. Foster, Gardiner Qualifications (if required): Public Archives	Governor	10/1/2021
Ms. Aubrey Japp, Butte Qualifications (if required): Public Archives	Governor	10/1/2021
Ms. Eileen A. Wright, Billings Qualifications (if required): Research Institution	Governor	10/1/2021
Ms. Jodie Foley, Helena Qualifications (if required): State Archivist	Governor	10/1/2021
Ms. Kathryn Marie Kramer, Great Falls Qualifications (if required): Private Archives	Governor	10/1/2021
Ms. Kathleen D. Mumme, Sheridan Qualifications (if required): Private Archives	Governor	10/1/2021
<b>Montana Alfalfa Seed Committee</b>		
Mr. Dallas Dale Steiger, Hysham Qualifications (if required): Actively engaged in the growing of alfalfa seed within the state	Governor	12/1/2021
Mr. Justin Lee Wiese, Malta Qualifications (if required): Actively engaged in the growing of alfalfa seed	Governor	12/1/2021

**EXECUTIVE BRANCH VACANCIES – OCTOBER 1, 2021 THROUGH DECEMBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>State Employee Group Benefits Advisory Council</b>		
Director Sheila Hogan, Helena Qualifications (if required): Executive Branch Representative	Governor	12/31/2021
Representative Jim Keane, Butte Qualifications (if required): Legislature Representative	Governor	12/31/2021
Ms. Penny Fassett, Helena Qualifications (if required): Executive Branch Representative	Governor	12/31/2021
Ms. Diane Fladmo, Helena Qualifications (if required): State Employees and labor organizations	Governor	12/31/2021
Ms. Susan Fox, Helena Qualifications (if required): Legislative Branch	Governor	12/31/2021
Ms. Cheryl Grey, Helena Qualifications (if required): Executive Branch Representative	Governor	12/31/2021
Mr. Jim Lewis, Helena Qualifications (if required): Retired State Employees' Representative	Governor	12/31/2021
Mr. Quint Nyman, Helena Qualifications (if required): State Employees and Labor Organizations	Governor	12/31/2021
Mr. Duane Preshinger, Helena Qualifications (if required): Ex-Officio member representing the Dept. of Administration	Governor	12/31/2021



**EXECUTIVE BRANCH VACANCIES – OCTOBER 1, 2021 THROUGH DECEMBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>State Employee Group Benefits Advisory Council Cont.</b>		
Ms. Amy Sassano, Helena Qualifications (if required): Executive Branch Representative	Governor	12/31/2021
Mr. Derek Shepherd, Helena Qualifications (if required): Judicial Branch	Governor	12/31/2021
Ms. Samantha Chase, Helena Qualifications (if required): Executive Branch Representative	Governor	12/31/2021
Ms. Peggy MacEwen, Helena Qualifications (if required): Executive Branch Representative	Governor	12/31/2021
Mr. George Mathieus, Helena Qualifications (if required): Executive Branch Representative	Governor	12/31/2021
Ms. Michelle Wheat, Helena Qualifications (if required): State Employees and Labor Organizations	Governor	12/31/2021
<b>State Historical Preservation Review Board</b>		
Ms. Carol Bronson, Great Falls Qualifications (if required): Member of the public who represents a broad spectrum of Montana society	Governor	10/1/2021
<b>State Rehabilitation Council</b>		
Ms. Monique Estelle Casbeer, Missoula Qualifications (if required): Representative of individuals with disabilities	Governor	10/1/2021

**EXECUTIVE BRANCH VACANCIES – OCTOBER 1, 2021 THROUGH DECEMBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>State Rehabilitation Council Cont.</b>		
Ms. Katherine Mary Meier, Great Falls Qualifications (if required): Representative of individuals with disabilities	Governor	10/1/2021
Mr. Thomas F. Sullivan, Missoula Qualifications (if required): Representative of individuals with disabilities	Governor	10/1/2021
<b>Statewide Independent Living Council</b>		
Ms. Barbara Louise Davis, Missoula Qualifications (if required): Person with a disability not employed by a state agency	Governor	12/1/2021
Mr. Thomas Henry Thompson, Missoula Qualifications (if required): Person with a disability	Governor	12/1/2021
Dr. Julie Melissa Lane Tudor, Three Forks Qualifications (if required): Person with a disability	Governor	12/1/2021
Ms. Beverly Ann Berg, Great Falls Qualifications (if required): Designated State Unit Representative	Governor	12/1/2021
Mr. Richard Scott Williamson, Ronan Qualifications (if required): Person with a disability employed by a State Agency	Governor	12/1/2021
Ms. Lisa L. Allensworth, St. Marie Qualifications (if required): Representing a person with a disability	Governor	12/1/2021

**EXECUTIVE BRANCH VACANCIES – OCTOBER 1, 2021 THROUGH DECEMBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Statewide Independent Living Council Cont.</b>		
Ms. June Guenzler Hermanson, Helena	Governor	12/1/2021
Qualifications (if required): Person with a disability		
Mr. Brent Allen Morris, Billings	Governor	12/1/2021
Qualifications (if required): Person with a disability		
<b>Water and Wastewater Operators' Advisory Council</b>		
Ms. Lorianne Burhop, Missoula	Governor	10/1/2021
Qualifications (if required): Wastewater Treatment Plant Operator		

MONTANA ADMINISTRATIVE  
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**CHRISTI JACOBSEN**  
SECRETARY OF STATE

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