

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 14

The Montana Administrative Register (MAR), a twice-monthly publication, has three sections. The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 section indicates that the proposed rule action is adopted and lists any changes made since the proposed stage. The interpretation section contains the attorney general's opinions and state declaratory rulings. Special notices and tables are found at the back 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 Administrative Rules Bureau at (406) 444-2055.

Page Number

TABLE OF CONTENTS

NOTICE SECTION

JUSTICE, Department of, Title 23

23-16-138 Notice of Public Hearing on Proposed Amendment - Forms Used by the Department in Regulating Gambling - Gambling Applications and Licenses - Loans - Letters of Withdrawal - Machine Specifications - Bill Acceptors - Promotional Games of Chance.

1947-1951

LABOR AND INDUSTRY, Department of, Title 24

8-32-56 (Board of Nursing) Notice of Public Hearing on Proposed Amendment, Adoption, and Repeal - Probationary Licenses - Standards of Practice for Advanced Practice Registered Nurses - Standards Related to the Advanced Practice of Registered Nurses - Standards Related to Nurses as Members of the Nursing Profession - Method of Referral.

1952-1967

24-183-26 (Board of Professional Engineers and Land Surveyors) Notice of Public Hearing on Proposed Adoption - Fire Protection System Shop Drawings.

1968-1971

PUBLIC SERVICE REGULATION, Department of, Title 38

38-2-168 Notice of Public Hearing on Proposed Amendment - Protective Orders - Protection of Confidential Information.

1972-1975

RULE SECTION

COMMERCE, Department of, Title 8

(Community Development Division) Corrected
Notice of Adoption - Administration of the
2002 Federal Community Development Block
Grant Program. 1976

FISH, WILDLIFE, AND PARKS, Department of, Title 12

NEW (Fish, Wildlife, and Parks Commission and
Department of Fish, Wildlife, and Parks)
Contractual Public Elk Hunting Access
Agreements. 1977-1980

ENVIRONMENTAL QUALITY, Department of, Title 17

Corrected Notice of Amendment -
Subdivisions - Subdivision Review Under the
Sanitation and Subdivisions Act -
Definitions. 1981-1982

JUSTICE, Department of, Title 23

AMD Definitions - Requirements for Collection
and Storage of DNA. 1983

LABOR AND INDUSTRY, Department of, Title 24

AMD (Board of Veterinary Medicine) Licensure
of Out-of-State Applicants (Endorsement). 1984

AMD Prevailing Wage Rates. 1985-1988

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

Corrected Notice of Adoption and Amendment
- Child Care Assistance - Hearing Appeal
Rights. 1989-1990

NEW Inpatient and Outpatient Hospitals.
AMD 1991-1994

PUBLIC SERVICE REGULATION, Department of, Title 38

AMD Accrual of Interest on Customer Deposits
with Utilities. 1995-1997

REVENUE, Department of, Title 42

AMD Partial Payments for Debts Collected by the
Department. 1998-1999

INTERPRETATION SECTION

Opinions of the Attorney General.

19	County Commissioners - County to Provide Facilities for Justice Court - Duty to Accept and Pay Actual and Necessary Clerical Expenses of Justice Court - County Officers and Employees - Dispute Between Board of County Commissioners and Justice of the Peace - Courts, Justice - Request for Clerical Expenses - Expenses - Actual and Necessary Expenses of Justice Court - Justices of the Peace - Determination of Actual and Necessary Clerical Expense.	2000-2004
----	---	-----------

SPECIAL NOTICE AND TABLE SECTION

	Function of Administrative Rule Review Committee.	2005-2006
	How to Use ARM and MAR.	2007
	Accumulative Table.	2008-2018
	Boards and Councils Appointees.	2019-2026
	Vacancies on Boards and Councils.	2027-2036

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the) NOTICE OF PUBLIC HEARING
amendment of ARM 23.16.102,) ON PROPOSED AMENDMENT
23.16.120, 23.16.402,)
23.16.1716, 23.16.1822,)
23.16.1901, 23.16.2001,)
and 23.16.3501 concerning forms)
used by the department in)
regulating gambling, gambling)
applications and licenses,)
loans, letters of withdrawal,)
machine specifications - bill)
acceptors, and promotional games))
of chance)

TO: All Concerned Persons

1. On August 20, 2002, at 9:30 a.m. a public hearing will be held in the auditorium of the Scott Hart Building, 1st Floor, 202 North Roberts, Helena, Montana, to consider the amendment of ARM 23.16.102, 23.16.120, 23.16.402, 23.16.1716, 23.16.1822, 23.16.1901, 23.16.2001, and 23.16.3501 concerning forms used by the department in regulating gambling, gambling applications and licenses, loans, letters of withdrawal, machine specifications - bill acceptors, and promotional games of chance.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on August 15, 2002, to advise us of the nature of the accommodation that you need. Please contact Rick Ask, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, MT 59620-1424; (406) 444-1971; FAX (406) 444-9157; or email rask@state.mt.us.

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

23.16.102 APPLICATION FOR GAMBLING LICENSE - LICENSE FEE

(1) through (4) remain the same.

(5) ~~An original and two copies of a~~All required documents must be submitted by the applicant(s) in all new and amended license applications.

AUTH: 23-5-115, MCA
IMP: 23-5-115, 23-5-177, MCA

23.16.120 LOANS AND OTHER FORMS OF FINANCING (1) Except as provided in (4), (5), ~~and (6), and (7)~~ of this rule, if a gambling licensee or license applicant proposes to acquire a

loan or other form of financing from a noninstitutional source for use in his licensed gambling operation or grant a security interest to a noninstitutional source, the department must approve the contract or security interest transfer before any funds from the loan or financing may be received or expended by the licensee or license applicant and before the security interest may be transferred.

(2) through (6) remain the same.

(7) Prior department approval is not required on loans to a licensed entity by an approved (licensed) owner of the entity (shareholder, member, partner) under the following conditions:

(a) the loan is used to meet an obligation of the licensed entity that cannot be met with its existing operating accounts and reserves;

(b) the funds loaned to the licensed entity must be those of the owner. The funds cannot have been borrowed by the owner from any other source;

(c) the loan must be memorialized by an agreement between the licensed entity and owner. The loan agreement must meet the department's evaluation standards;

(d) the borrower and lender's financial records must accurately reflect the transaction; and

(e) any balance due upon renewal not previously reported on license renewal forms must be reported on the license renewal application; and

(f) failure to maintain adequate records of the transaction or source of funds loaned will be considered a violation of this rule.

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

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

AUTH: 23-5-115, MCA
IMP: 23-5-115, 23-5-118, 23-5-176, MCA

23.16.402 DEALER LICENSE (1) through (1)(a)(iii) remain the same.

~~(b) on the back of the license:~~

~~(i) the home address, height, weight, eye color, hair color, date of birth, sex, and social security number of the person to whom the license was issued.~~

(2) remains the same.

AUTH: 23-5-115, MCA
IMP: 23-5-308, MCA

23.16.1716 SPORTS TAB GAME SELLER LICENSE (1) through (3) remain the same.

(4) A person licensed under this section rule must comply with all laws and rules of the state of Montana and the department of justice.

AUTH: 23-5-115, MCA
IMP: 23-5-115, 23-5-502, 23-5-503, MCA

23.16.1822 PERMIT NOT TRANSFERABLE (1) through (5) remain the same.

(6) A completed Letter of Withdrawal (LOW) must be submitted to the department when a permitted machine is removed from play prior to the renewal deadline of each year, June 30. The LOW must be submitted no later than 10 days from the date the machine is removed from play. A LOW form is available upon request from the department. The LOW is not complete unless it is dated and signed by the licensee, and contains all the information and attachments required by the department. The provisions of this rule do not apply to a machine temporarily removed from play for repair service.

(7) Completed LOWs must also be submitted to the department for machines removed from play for the following reasons:

(a) a licensed location is closed for remodeling and machines are out of play for 30 days or more;

(b) a licensed location is opened only seasonally and machines are out of play for 30 days or more; or

(c) the liquor license associated with a licensed location/operator is placed on non-use status and machines are taken out of play for 30 days or more.

(8) In each of the circumstances outlined under (7), the LOW is due within 10 days of machine removal from play. In addition, a new permit will be issued if the machines are placed back in play at the location prior to the end of the fiscal year and no additional permit fee will be charged.

AUTH: 23-5-115, 23-5-605, MCA
IMP: 23-5-603, 23-5-605, 23-5-611, 23-5-612, MCA

23.16.1901 GENERAL SPECIFICATIONS OF VIDEO GAMBLING MACHINES (1) through (1)(a)(v)(A) remain the same.

(B) the machine may have a machine manufacturer mechanism that accepts cash in the form of bills that do not exceed \$5 \$20;

(vi) through (3) remain the same.

AUTH: 23-5-605, 23-5-621, MCA
IMP: 23-5-115, 23-5-136, 23-5-602, 23-5-606, 23-5-609, 23-5-610, 23-5-621, 23-5-637, MCA

23.16.2001 MANUFACTURER OF ILLEGAL GAMBLING DEVICES - LICENSE - FEE - REPORTING REQUIREMENTS - INSPECTION OF RECORDS - REPORTS (1) remains the same.

(a) a manufacturer license application, form 17, as the form read on ~~November 3, 1997~~ April 1, 2002, is incorporated by reference and available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, Montana 59620-1424;

(b) through (8) remain the same.

AUTH: 23-5-115, 23-5-152, MCA
IMP: 23-5-115, 23-5-611, 23-5-614, 23-5-621, 23-5-625, 23-5-631, MCA

23.16.3501 DEPARTMENT APPROVAL OF PROMOTIONAL GAMES OF CHANCE, DEVICES OR ENTERPRISES (1) through (2)(a) remain the same.

(b) Payouts for bona fide promotional games of chance, offered by a gambling licensee and/or an on-premises consumption liquor licensee, are subject to the maximum payout limitation for any single element of the authorized gambling enterprise simulated. Payouts for bona fide promotional games of chance offered by any person or entity that are not a gambling or liquor licensee, are not limited by the payout limits for the authorized gambling enterprise simulated.

(3) through (12) remain the same.

AUTH: 23-5-115, MCA
IMP: 23-5-112, 23-5-115, 23-5-152, MCA

4. RATIONALE: (a) ARM 23.16.102(5) is being amended to remove the language "An original and two copies of" for the gambling application. The two copies are no longer needed with the combined application form.

(b) ARM 23.16.120(7) is being amended to provide an exception to the non-institutional loan rules requiring disclosure and approval for an owner of a licensed entity so that financial obligations can be met in a timely manner without creating a violation of the rules.

(c) ARM 23.16.402 is being amended to eliminate the requirement that all personal information be displayed on the front of the dealer license.

(d) ARM 23.16.1716 is being amended because this rule incorrectly uses the word "section" instead of rule.

(e) ARM 23.16.1822(6) is being amended because the current language only states that a completed LOW must be submitted to the department when a permitted machine is removed from play prior to the renewal deadline of each year (June 30). Licensees and route operators send in LOW's when they want as long as it is prior to June 30. For consistency a reasonable deadline needs to be required.

(f) ARM 23.16.1901 is being amended to implement the Gaming Advisory Council recommendation to allow bill acceptors to accept bills up to a \$20 denomination.

(g) ARM 23.16.2001 is being amended to update forms used by the department in regulating gambling that have been incorporated by reference in earlier adopted rules.

(h) ARM 23.16.3501 is being amended to have the prize limits on promotional games only apply to gambling and liquor licensees, and not other businesses such as radio stations or newspapers.

5. Concerned persons may submit their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Rick Ask, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, MT 59620-1424. Any comments must be received no

later than August 22, 2002.

6. Ali Sheppard, Assistant Attorney General, Department of Justice, Legal Services Division, has been designated to preside over and conduct the hearing.

7. The Department of Justice 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 of rules regarding the Crime Control Division, the Central Services Division, the Forensic Sciences Division, the Gambling Control Division, the Highway Patrol Division, the Law Enforcement Academy, the Division of Criminal Investigation, the Legal Services Division, the Motor Vehicle Division, the Justice Information Systems Division, or any combination thereof. Such written request may be mailed or delivered to Ali Sheppard, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401, faxed to the office at (406) 444-3549, ATTN: Ali Sheppard, e-mailed to asheppard@state.mt.us, or may be made by completing a request form at any rules hearing held by the Department of Justice.

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

By: /s/ Mike McGrath
MIKE MCGRATH, Attorney General
Department of Justice

/s/ Ali Sheppard
ALI SHEPPARD, Rule Reviewer

Certified to the Secretary of State July 15, 2002.

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

In the matter of the proposed)
amendment of ARM 8.32.301, 8.32.305,)
8.32.306, 8.32.402, 8.32.405,)
8.32.412, 8.32.413, 8.32.1501,)
8.32.1502, 8.32.1505, 8.32.1506,)
8.32.1509, 8.32.1510, the proposed)
adoption of NEW RULES I through IV,)
related to probationary licenses,)
standards of practice for advanced)
practice registered nurses,)
standards related to the advanced)
practice of registered nurses, and)
standards related to nurses as)
members of the nursing profession,)
and the proposed repeal of ARM)
8.32.1507, method of referral,)
all pertaining to nursing matters)

TO: All Concerned Persons

1. On Friday, August 23, 2002, at 10:00 a.m., a public hearing will be held in the fourth floor conference room of the old Federal Building, 301 South Park Avenue, Helena, Montana to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Nursing no later than 5:00 p.m., August 16, 2002, to advise us of the nature of the accommodation that you need. Please contact Jill Caldwell, Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2342, Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2343; e-mail dlibsdnur@state.mt.us.

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

8.32.301 NURSE PRACTITIONER PRACTICE (1) Nurse practitioner practice means the independent and/or interdependent management of primary and/or acute health care of individuals, families and communities including ~~the ability to~~:

(a) ~~assess~~ assessing the health status of individuals and families using methods appropriate to the client population and area of practice such as health history taking,

physical examination, and assessing developmental health problems;

(b) ~~institute~~ instituting and ~~provide~~ providing continuity of health care to clients, including:

(i) ordering durable medical equipment, treatments and modalities;

(ii) receiving and interpreting results of diagnostic procedures;

(iii) making medical and nursing diagnoses; and

(iv) working ~~work~~ with clients to insure their understanding of and compliance with therapeutic regimes;

(c) ~~promote~~ promoting wellness and disease prevention programs;

(d) ~~recognize~~ recognizing when to refer clients to a physician or other health care provider;

(e) ~~provide~~ providing instruction and counseling to individuals, families and groups in the areas of health promotion and maintenance, including involving such persons in planning for their health care; and

(f) ~~work~~ working in collaboration with other health care providers and agencies to provide and, where appropriate, coordinate services to individuals and families.

AUTH: 37-8-202, MCA

IMP: 37-8-202, MCA

REASON: The Board proposes there is reasonable necessity to amend this rule. The Board has been criticized for not clearly defining scopes of practice, and frequently, the Board needs a clearer definition of the nurse practitioner's practice in discipline cases involving practice issues. The Board is proposing this rule change to clarify the scope of the nurse practitioner. The rule also matches educational and clinical preparation required for licensure. The rule change will affect all nurse practitioners. Although ordering medical equipment, treatments and modalities, receiving and interpreting results of diagnostic procedures is inherent in nurse practitioner practice, this amendment will clarify that it is within the scope.

8.32.305 EDUCATIONAL REQUIREMENTS AND OTHER QUALIFICATIONS APPLICABLE TO ADVANCED PRACTICE REGISTERED NURSING (1) and (1)(a) remain the same.

(b) For original recognition after June 30, 1995, a master's degree from an accredited nursing education program, or a certificate from an accredited post master's program as defined in (1)(a), which prepares the nurse for the advanced practice registered nurse APRN recognition applied for sought; and individual certification from a board-approved certifying body. Advanced practice registered nurses APRNs who completed an accredited advanced practice registered nurse APRN program and obtained national certification prior to June 30, 1995, may be recognized in Montana.

(2) Applicants for recognition as a ~~clinical nurse specialist~~ CNS shall possess a master's degree in nursing from an accredited nursing education program which prepares the nurse for a ~~clinical nurse specialist~~ CNS practice, and individual certification from a board-approved certifying body.

(3) Applicants for recognition as a psychiatric CNS shall possess a master's degree in nursing from an accredited nursing education program which prepares the nurse for a psychiatric CNS practice. If the psychiatric CNS plans to diagnose and treat, proof of education related to diagnosing, treating and managing psychiatric clients shall be provided. This education must integrate pharmacology and clinical practice.

(a) After July 1, 2005, the board will not recognize newly certified psychiatric CNSs who provide medical diagnoses and treatments. Individuals intending to practice in this manner will be required to be certified as psychiatric nurse practitioners.

(4) For approval in a subspecialty practice setting, the licensee shall submit documentation of, or a plan for, achievement of competency in the subspecialty area.

~~(3)~~ (5) Applicants for recognition in any advanced practice registered nurse APRN area, shall be are subject to the provisions of 37-8-441, MCA.

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

REASON: The Board proposes there is reasonable necessity to amend this rule. Section 37-8-202(5)(a), MCA, gives the Board the authority to define the educational requirements and other qualifications applicable to recognition of advanced practice registered nurses. The amendment is necessary because an increasing number of generalist APRNs are choosing to practice in a subspecialty area and the Board needs to assure the public that this individual is a safe practitioner. Since an exam may not exist to test such competence, the individual is being required to document competency by showing preceptorship, collaborative practice, and continuing education in the area of specialty. Subsection (3) is necessary now to fill a gap that exists in proving psychiatric CNSs have the educational background necessary to diagnose and treat clients. After July 1, 2005, proof of this background will be shown through the requirement that all psychiatric CNSs take the nurse practitioner exam. Subsection (3)(a) is needed now as the advance practice of psychiatric nursing is changing and the necessary clinical training is also evolving. The Board needs to assure the public that these licensees are competent to diagnose and treat clients. This rule will affect all future clinical nurse specialists in Montana in some way.

8.32.306 APPLICATION FOR RECOGNITION (1) Upon application a person licensed under the provisions of 37-8-406, MCA, and meeting the requirements set forth under the educational requirements and other qualifications applicable to advanced practice registered nursing shall be granted recognition and shall have ~~his/her~~ the registered nurse renewal certificate also designate ~~his/her~~ the licensee's area of advanced practice.

(2) remains the same.

(a) completed application for recognition form provided by the board, The application will be kept on file for one year. If the applicant fails to complete the requirements for application within one year, a new application will be required;

(b) through (g) remain the same.

(3) remains the same.

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

IMP: 37-1-134, 37-8-202, 37-8-431, MCA

REASON: The Board proposes there is reasonable necessity to amend this rule. The Board of Nursing receives many applications from individuals who do not follow the application process to its end. Many decide they do not want to move to Montana, and some decide not to take the certifying exam or NCLEX. The result is an abundance of partially completed applications, which not only consume physical and electronic resources, but also slows the licensure system. By limiting the time an application can be active to one year, the system will be more efficient and space will be saved. The rule change will affect all new nursing licensees in Montana.

8.32.402 LICENSURE BY EXAMINATION (1) through (3) remain the same.

(4) The application for licensure by examination and the examination fee shall be submitted to the board office. The application will be kept on file for one year. If the applicant fails to complete the requirements for application within one year, a new application will be required.

(5) remains the same.

(6) A passing score on the appropriate NCLEX examination shall be required for licensure as a professional or practical nurse. ~~The passing score is set by the national council of state boards of nursing's panel of content experts~~ The national council of state boards of nursing's panel of content experts determines the passing score.

(7) through (12) remain the same.

(13) The candidate's examination results will be maintained in ~~his/her~~ the application file ~~in the bureau of professional and occupational licensing, with the department of commerce.~~

AUTH: 37-8-202, MCA

IMP: 37-8-406, 37-8-416, MCA

REASON: The Board proposes there is reasonable necessity to amend this rule. The Board of Nursing receives many applications from individuals who do not follow the application process to its end. Many decide they do not want to move to Montana, and some decide not to take the certifying exam or NCLEX. The result is an abundance of partially completed applications, which not only consume physical and electronic resources, but also slows the licensure system. By limiting the time an application can be active to one year, the system will be more efficient and space will be saved. The rule change will affect all new nursing licensees in Montana.

8.32.405 LICENSURE BY ENDORSEMENT (1) remains the same.

(a) a completed application including the following identifiers:

(i) a picture, social security number, birthdate, and documentation of name change;

(ii) The application will be kept on file for one year. If the applicant fails to complete the requirements for application within one year, a new application will be required;

(b) through (g) remain the same.

(h) Practical nurse applicants shall present evidence of having passed a licensure examination as follows:

(i) 350 on the state board test pool examination for practical nurses_{7i} or

(ii) a minimum scaled score of 350 on a NCLEX-PN (national council licensure examination for practical nurses) examination taken prior to September, 1988_{7i} or

(iii) a passing score on a NCLEX-PN examination taken after September, 1988; and

(i) remains the same.

(2) through (4) remain the same.

AUTH: 37-8-202, MCA

IMP: 37-1-304, MCA

REASON: The Board proposes there is reasonable necessity to amend this rule. The Board of Nursing receives many applications from individuals who do not follow the application process to its end. Many decide they do not want to move to Montana, and some decide not to take the certifying exam or NCLEX. The result is an abundance of partially completed applications, which not only consume physical and electronic resources, but also slows the licensure system. By limiting the time an application can be active to one year, the system will be more efficient and space will be saved. The rule change will affect all new nursing licensees in Montana.

8.32.412 INACTIVE STATUS (1) through (3) remain the same.

(4) An APRN must also hold a registered nurse license.

(5) An APRN may request inactive status if the APRN's RN license is either active or inactive.

(6) To reactivate an inactive APRN license, the APRN shall submit proof of 20 continuing education units obtained within the 12 month period preceding reactivation.

(a) If prescriptive authority is requested, an additional five continuing education units are required in pharmacology or pharmaceutical management.

AUTH: 37-8-202, MCA

IMP: 37-8-431, MCA

REASON: The Board proposes there is reasonable necessity to amend this rule. This change is necessary because currently, an APRN does not have the option of an inactive license. The APRN who leaves the state must either renew the license each year or allow the license to lapse. If the license lapses, and the APRN wishes to return to Montana, the reapplication process becomes quite similar to the initial application. Several APRNs have requested inactive status over the past few years, and the Board sees this as a way to encourage APRNs to return to Montana to practice. The continuing education requirements help the Board to assure the public that the licensees have maintained competency. The rule affects any APRN who wants to have an inactive license. The office receives 2 to 5 requests a year.

8.32.413 CONDUCT OF NURSES (1) and (1)(a) remain the same.

(b) All nurses shall notify the board office of any change in address within 10 days of the change. Failure to notify the board of an address change may result in a fine.

(2) Unprofessional conduct, for purposes of defining 37-1-307, MCA, in addition to unprofessional conduct listed at ~~37-1-136~~ 37-1-316, MCA, the following being unique, is determined by the board to mean behavior (acts, omissions, knowledge, and practices) which fails to conform to the accepted standards of the nursing profession and which could jeopardize the health and welfare of the people and shall include, but not be limited to, the following:

(a) through (t) remain the same.

AUTH: ~~37-1-136~~ 37-1-316, 37-1-319, 37-8-202, MCA

IMP: ~~37-1-136~~ 37-1-316, 37-1-319, 37-8-202, MCA

REASON: The Board proposes there is reasonable necessity to amend this rule. The new subsection (1)(b) is necessary because the failure of the licensee to notify the Board office of an address change is very costly and time consuming to the Board office. Board staff must reprocess, or at the very least, rehandle all returned mail. In the case of license

renewals, the licensee must notify the Board office of the change, in writing, and then the mail must be resent. This is costly for both the licensee and the office. The delay may also result in a licensee not being able to work, if the license was not renewed on time. This is a serious issue and may even result in further fines or loss of the ability to practice. This rule affects all nurses who change their address. Approximately 1500 nurses change their addresses annually.

The change in subsection (2) is a change to correct an incorrect citation. It originally should have been 37-1-316, MCA, but was mistyped as 37-1-136, MCA. It will not affect anyone.

8.32.1501 PRESCRIPTIVE AUTHORITY FOR ADVANCED PRACTICE REGISTERED NURSES NURSE PRACTITIONERS, CERTIFIED REGISTERED NURSE ANESTHETISTS AND CERTIFIED NURSE MIDWIVES (1) This subchapter will be known and may be cited as the advanced practice registered nurse APRN prescriptive authority rules.

(2) An advanced practice registered nurse APRN granted prescriptive authority by the board of nursing may prescribe and dispense drugs pursuant to applicable state and federal laws.

(a) Only NPs, CRNAs, and CNMs with unencumbered licenses may hold prescriptive authority.

(b) All CRNAs are required to have prescriptive authority.

(3) Prescriptive authority permits the advanced practice registered nurse APRN to receive pharmaceutical samples, prescribe, dispense and administer prescription drugs in the prevention of illness, the restoration of health and/or the maintenance of health in accordance with 37-2-104, MCA.

(4) (a) ~~The board of nursing will provide the boards of pharmacy and medical examiners with an annual list of advanced practice registered nurses with prescribing authority and their titles.~~

~~(b) The board of nursing will promptly forward to the boards of pharmacy and medical examiners the names and titles of advanced practice registered nurses added to or deleted from the annual list.~~

~~(c) The boards of pharmacy and medical examiners will be notified in a timely manner when the prescriptive authority of an advanced practice registered nurse APRN is terminated, suspended or reinstated.~~

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

REASON: The Board proposes to amend this rule to change the title to clarify who is governed by this rule.

8.32.1502 DEFINITIONS (1) remains the same.

(2) "Advanced practice registered nurse" or "APRN" is a registered nurse recognized by the board to practice as an advanced practice registered nurse pursuant to 37-8-202(5)(a), MCA, and ARM 8.32.305. ~~This term is interchangeable with the term "nurse specialist", as used in 37-8-202(5)(b), MCA, with the additional category of clinical nurse specialists.~~

(a) There are four types of APRNs:

(i) nurse practitioner (NP);

(ii) certified nurse midwife (CNM);

(iii) certified registered nurse anesthetist (CRNA); and

(iv) clinical nurse specialist (CNS).

(b) Only an APRN recognized by the board may use the initials indicating APRN licensure or the title nurse specialist.

(3) "Certifying body" is a national certifying organization which ~~examines and validates credentials of advanced practice registered nurses~~ uses psychometrically sound examinations to examine and validate competency of APRNs and which has been approved by the board of nursing as a certifying agency for advanced practice registered nurse APRN recognition. ~~A list of certifying agencies approved by the board of nursing is available from the board office.~~

(4) "Committee" refers to the ~~prescriptive authority~~ APRN committee, as defined established in ARM 8.32.1501 8.32.1503.

(5) "Continuing education" is that education either provided or approved by an academic institution of higher learning or a recognized certifying body. One continuing education unit equals fifty minutes of instruction.

(6) "Department" means the department of labor and industry as provided for in Title 2, chapter 15, part 17, MCA.

~~(5)~~ (7) "Drug" is a substance defined by 37-7-101(6), MCA.

~~(6)~~ (8) "Prescription" is an order for a drug, as defined by 37-7-101(13), MCA, or any medicine, devices or treatments, including controlled substances listed in schedule II-V, as defined by federal law in the Code of Federal Regulations, Title 21, section 1306.

(9) "Peer" means a licensed independent practitioner whose credentials and practice encompass the APRN's scope and setting of practice. If the APRN has prescriptive authority, the peer shall also have prescriptive authority.

(10) "Physician reviewer" means a licensed physician whose credentials and practice encompass the APRN's scope and setting of practice.

AUTH: 37-8-202, MCA

IMP: 37-8-202, MCA

REASON: The Board proposes there is reasonable necessity to amend this rule. The change to (2) is necessary to reduce confusion created when non-APRNs use the term "nurse specialist," which is not recognized by the Board, in contrast

with the Board-approved designation of "clinical nurse specialist." The public may not be aware of the difference between the two titles. Subsection (3) clarifies that the Board will only accept APRN certification by certifying bodies that use sound examination methods. Definitions for "peer" and "physician reviewer" are necessary to eliminate confusion as to who qualifies to review a licensee's quality assurance plan. Additional housekeeping amendments and the abbreviation "APRN" are implemented to streamline and simplify the rules.

8.32.1505 PRESCRIBING PRACTICES (1) through (2) remain the same.

(a) name, title, address and phone number of the advanced practice registered nurse who is prescribing~~TI~~

(b) name ~~and address~~ of client~~TI~~

(c) date of prescription~~TI~~

(d) the full name of the drug, dosage, route, amount to be dispensed, and directions for its use~~TI~~

(e) number of refills~~TI~~

~~(f) expiration date of prescriptive authority,~~

~~(g)(f)~~ signature of prescriber on written prescription~~TI~~
and

(h) remains the same, but is renumbered (g).

(3) through (5) remain the same.

~~(6) An advanced practice registered nurse with prescriptive authority may administer local anesthetics.~~

~~(7) (6) An advanced practice registered nurse APRN with prescriptive authority who also possesses inpatient care privileges will shall practice pursuant to a written agreement between the agency and the advanced practice registered nurse APRN which is consistent with the rules, regulations and guidelines set forth in 37-8-202(5) and 37-2-104, MCA, and ARM 8.32.301 through 8.32.303, and this subchapter. The advanced practice registered nurse will file the written agreement and revision thereof with the board of nursing.~~

~~(8) (7) An advanced practice registered nurse APRN with prescriptive authority from the board of nursing will comply with the requirements of 37-2-104, MCA.~~

AUTH: 37-8-202, MCA

IMP: 37-8-202, MCA

REASON: The Board proposes there is reasonable necessity to amend this rule. It is not necessary for the licensee to obtain the patient's address as this is done by the pharmacy. The change in (2)(d) is necessary to conform to standard acceptable prescribing practices. (2)(f) is seen as unnecessary since all prescriptive authority expires on the same day of the same year. (6) is not necessary as all nurses are authorized to administer local anesthetics. The abbreviation "APRN" is being implemented throughout in an effort to further streamline and simplify the rules.

8.32.1506 SPECIAL LIMITATIONS RELATED TO THE PRESCRIBING OF CONTROLLED SUBSTANCES (1) An ~~advanced practice registered nurse~~ APRN ~~will shall~~ not prescribe controlled substances for self or for members of the ~~advanced practice registered nurse's~~ APRN's immediate family.

(2) An ~~advanced practice registered nurse~~ APRN ~~will shall~~ not provide controlled substances or prescription drugs for other than therapeutic purposes.

(3) A prescription for schedule II drugs ~~will shall~~ not exceed the quantity necessary ~~for a three-month period allowable by federal drug enforcement administration regulations.~~ Prescriptions for schedule III-V drugs will not exceed the quantity necessary for a three-month period.

(4) An ~~advanced practice registered nurse~~ APRN ~~will shall~~ not prescribe refills of controlled substances unless the refill prescription is in writing.

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

REASON: The Board proposes there is reasonable necessity to amend this rule. The new language proposed in (3) is necessary to assure the Board that licensees meet all federal requirements for controlled substances. The language proposed for repeal in (3) is not a DEA requirement, and in many cases, it causes a delay for patients to get renewed prescriptions. The Board of Pharmacy supports this change. The change will affect all APRNs with prescriptive authority who write prescriptions for scheduled drugs. The abbreviation "APRN" is being implemented throughout in an effort to further streamline and simplify the rules.

8.32.1509 TERMINATION OF PRESCRIPTIVE AUTHORITY

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

(d) the ~~advanced practice registered nurse~~ APRN has:

~~(i) prescribed outside the advanced practice registered nurse's~~ APRN's scope of practice, ~~i~~

~~(ii) has prescribed for other than therapeutic purposes,~~
~~i~~ or

~~(iii) has otherwise violated the provisions of the prescriptive authority rules contained in this subchapter; or~~

(e) the ~~advanced practice registered nurse~~ APRN has violated any state or federal law or regulations applicable to prescriptions, ~~r~~

~~(f) the advanced practice registered nurse has violated the nurse practice act or rules.~~

(2) remains the same.

~~(3) The board of nursing will promptly notify the board of pharmacy of any termination of prescriptive authority.~~

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

REASON: The Board proposes there is reasonable necessity to amend this rule. Previous rules address violations of the nurse practice act or rules. (3) Notification of the Board of Pharmacy is in a previous rule. These changes will not affect any licensees. They are necessary to reduce redundancy in the current rules. The abbreviation "APRN" is being implemented throughout in an effort to further streamline and simplify the rules.

8.32.1510 RENEWAL OF PRESCRIPTIVE AUTHORITY (1) The ~~advanced practice registered nurse's~~ APRN's prescriptive authority will expire on December 31 of even numbered years.

(2) To renew prescriptive authority, the ~~advanced practice registered nurse~~ APRN will submit to the board of nursing:

(a) a completed renewal application and a non-refundable fee~~;~~i

(b) documentation of accredited pharmacological continuing education completed during the two-year period immediately preceding the renewal application. Continuing education will be from:

(i) study provided by advanced formal education~~;~~i or

(ii) continuing education seminars or programs approved by certifying bodies~~;~~ i and

(iii) the majority of the course work must concern the study of pharmaceutical medications and not herbal or complementary therapies; and

(c) A proof of a minimum of six 10 contact hours of continuing education in pharmacology or pharmacology management is required during the two-year period immediately preceding the effective date of the prescriptive authority renewal. ~~The continuing education will be by a professional accrediting organization approved by the board of nursing and a~~ A minimum of ~~two~~ four hours will must be face-to-face interaction. The majority of the course work must concern the study of pharmaceutical medications and not herbal or complementary therapies.

(3) These continuing education units are in addition to those required to renew the general APRN license.

~~(3) (4)~~ If an ~~advanced practice registered nurse~~ APRN fails to renew prescriptive authority prior to the expiration date of that authority, the ~~advanced practice registered nurse's~~ APRN's prescriptive authority will expire. The ~~advanced practice registered nurse~~ APRN may not prescribe until renewal is completed and the ~~advanced practice registered nurse~~ APRN has received written notice that the prescriptive authority has been reinstated.

~~(a) The board of nursing will promptly notify the board of pharmacy of any expiration or other termination of prescriptive authority.~~

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

REASON: The Board proposes there is reasonable necessity to amend this rule. These changes are necessary to clarify the required elements for the renewal of prescriptive authority. Because the Board will now require continuing education for all APRNs, the Board will clearly distinguish the two types of necessary continuing education. The Board feels that since the majority of prescriptions are written for pharmaceutical medicine, the majority of required continuing education coursework should also focus on pharmaceutical medicine. Notification of the Board of Pharmacy is in a previous rule. The rule will affect all 325 APRNs with prescriptive authority. The abbreviation "APRN" is being implemented throughout in an effort to further streamline and simplify the rules.

4. The proposed new rules provide as follows:

NEW RULE I PROBATIONARY LICENSES (1) Any nurse working pursuant to a probationary license must work under the direct supervision of another nurse or physician as follows:

(a) the supervisor for an LPN on probation must be an RN, APRN or physician with a current, unencumbered license;

(b) the supervisor for an RN on probation must be an RN, APRN or physician with a current, unencumbered license; and

(c) the supervisor for an APRN on probation must be an APRN or a physician with a current, unencumbered license.

AUTH: 37-1-136, 37-1-319, 37-8-202, MCA

IMP: 37-1-136, 37-1-319, 37-8-202, MCA

REASON: The Board proposes there is reasonable necessity to propose this rule. NEW RULE I is necessary to protect the public. Adequate supervision is required of licensees on probation since the reason they are on probation relates to their ability to render safe nursing care. For the same reason, an individual whose practice is not on probation must perform the supervision. The public must be assured that the probationary licensee is being adequately supervised from a person who does not have negative practice issues. This change will affect all licensees who are on probation. Currently 45 nurses are on probation.

NEW RULE II PURPOSE OF STANDARDS OF PRACTICE FOR THE ADVANCED PRACTICE REGISTERED NURSE (1) The purpose of the standards is to:

(a) establish minimal acceptable levels of safe effective practice for the APRN; and

(b) serve as a reference for the board to evaluate safe and effective advanced practice nursing care.

AUTH: 37-8-202, MCA

IMP: 37-8-202, MCA

REASON: The Board proposes there is reasonable necessity to propose this rule. The Board proposes NEW RULE II to explain the role and responsibilities of the APRN. Before this, the APRNs fell within the RN section of Subchapter 14. This new rule will define the individual criteria that apply only to APRNs. This is necessary now because the Board office is seeing an increase in the number of APRNs, and clear definitions of their roles and responsibilities will help the licensees and the public understand what can be expected of all APRNs.

NEW RULE III STANDARDS RELATED TO THE ADVANCED PRACTICE REGISTERED NURSE'S RESPONSIBILITY TO APPLY THE NURSING PROCESS

- (1) The APRN shall:
 - (a) perform and document thorough and comprehensive, or focused assessment of clients by:
 - (i) collecting, synthesizing and analyzing data, utilizing nursing principles and nursing process at an advanced level; and
 - (ii) utilizing evidence-based research data in nursing practice;
 - (b) establish and document an appropriate diagnosis, treatment plan and strategy of care based on the assessment, including:
 - (i) individual client needs;
 - (ii) priorities of care;
 - (iii) collaborations when appropriate;
 - (iv) method by which treatment will be evaluated;
 - (v) plan of action for appropriate follow-up;
 - (c) provide and document expert guidance and education when working with clients, families and other members of the health team;
 - (d) manage and document all aspects of the client's health status within the APRN's competencies, scope and practice; and
 - (e) document appropriate referrals when a client's health status and needs exceed the APRN's competencies and/or scope of practice.

AUTH: 37-1-301, 37-8-102, 37-8-202, MCA
IMP: 37-1-131, 37-8-202, MCA

REASON: The Board proposes there is reasonable necessity to propose this rule. The Board proposes NEW RULE III to explain the role and responsibilities of the APRN. Before this, the APRNs fell within the RN section of Subchapter 14. This new rule will define the individual criteria that apply only to APRNs. This is necessary now because the Board office is seeing an increase in the number of APRNs, and clear definitions of their roles and responsibilities will help the licensees and the public understand what can be expected of all APRNs.

NEW RULE IV STANDARDS RELATED TO THE ADVANCED PRACTICE REGISTERED NURSE'S RESPONSIBILITIES AS A MEMBER OF THE NURSING PROFESSION (1) The APRN shall:

- (a) adhere to the same standards as those required in ARM 8.32.1404 for the registered nurse;
- (b) possess the requisite knowledge, judgement and skill to safely and competently perform any function that the APRN undertakes;
- (c) have on file in the board office:
 - (i) a method of quality assurance used to evaluate the practice of the APRN; and
 - (ii) a referral process including licensed physicians and a method to document referral in the client records;
- (d) immediately file with the board of nursing any proposed change in the method for referral, client record documentation or quality assurance method. Any change will be subject to approval by the board of nursing;
- (e) in even-numbered years, submit a declaration made under penalty of perjury to the board office documenting the following:
 - (i) quality assurance plan and reviewer(s);
 - (ii) acknowledgement of scope of practice;
 - (iii) continuing education; and
 - (iv) practice site; and
- (f) submit proof of recertification within 30 days of its expiration.

AUTH: 37-1-301, 37-8-102, 37-8-202, MCA
IMP: 37-1-131, 37-8-202, MCA

REASON: The Board proposes there is reasonable necessity to propose this rule. The Board proposes NEW RULE IV to explain the role and responsibilities of the APRN. Before this, the APRNs fell within the RN section of Subchapter 14. This new rule will define the individual criteria that apply only to APRNs. This is necessary now because the Board office is seeing an increase in the number of APRNs, and clear definitions of their roles and responsibilities will help the licensees and the public understand what can be expected of all APRNs.

5. 8.32.1507 METHOD OF REFERRAL a rule proposed to be repealed, is found at ARM page 8-1021.4.

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

REASON: The Board proposes there is reasonable necessity to repeal this rule because the initial APRN license application and renewal affidavit will solicit this information, thus making this rule unnecessary. The Board feels this will streamline and simplify the process, and assure the licensees' compliance with notifying the Board office of any changes.

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 by mail to:

Jill Caldwell
Board of Nursing
Department of Labor and Industry
P.O. Box 200513
Helena, Montana 59620-0513

by facsimile to (406) 841-2343, or by e-mail to dlibsdnur@state.mt.us and must be received no later than 5:00 p.m., August 23, 2002.

7. An electronic copy of this Notice of Public Hearing is available through the Department and Board's site on the World Wide Web at <http://www.discoveringmontana.com/dli/nur>, in the Rules Notices section. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address does not excuse late submission of comments.

8. The Board of Nursing 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 which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Nursing administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdnur@state.mt.us or may be made by completing a request form at any rules hearing held by the agency.

9. Darcee Moe, attorney, has been designated to preside over and conduct this hearing.

10. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

11. The Board of Nursing will meet on October 10, 2002, in Helena to consider the comments made by the public, the

proposed responses to those comments, and take final action on the proposed amendments, new rules and repeal. The meeting will be held in conjunction with the Board's regular meeting. Members of the public are welcome to attend the meeting and listen to the Board's deliberations, but the Board cannot accept any comments concerning the proposed amendments, new rules or repeal beyond the August 23, 2002, deadline.

BOARD OF NURSING
JACK BURKE, RN, CHAIRMAN

By: /s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

By: /s/ KEVIN BRAUN
Kevin Braun
Rule Reviewer

Certified to the Secretary of State, July 15, 2002.

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

In the matter of the proposed) NOTICE OF PUBLIC HEARING
adoption of NEW RULE I,) ON PROPOSED ADOPTION
related to fire protection)
system shop drawings)

TO: All Concerned Persons

1. On August 16, 2002, at 10:00 a.m., a public hearing will be held in room 443, old Federal Building, 301 South Park Avenue, Helena, Montana to consider the proposed adoption of the above-stated rule.

2. The Department of Labor and Industry 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 Professional Engineers and Land Surveyors no later than 5:00 p.m., on August 12, 2002, to advise us of the nature of the accommodation that you need. Please contact Todd Boucher, Board of Professional Engineers and Land Surveyors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2368; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2309; e-mail dlibsdpels@state.mt.us.

3. The proposed new rule provides as follows:

NEW RULE I FIRE PROTECTION SHOP DRAWINGS (1) When fire protection shop drawings are used to finalize engineering concepts:

(a) The licensee (a licensed professional engineer) shall provide the design concept adequate for shop drawing preparation by others. The design concept for sprinkler systems must include as a minimum:

(i) the density and water flow pressure requirements for the sprinkler system design;

(ii) the classification of commodities to be protected; and

(iii) confirmation of adequate water supply.

(b) A properly qualified technician or licensee shall execute the design concept and prepare shop drawings. Shop drawings for sprinkler systems must include as a minimum:

(i) layout of risers;

(ii) cross-mains;

(iii) branch lines;

(iv) sprinkler heads;

(v) sizing of pipe;

(vi) hanger locations; and

(vii) hydraulic calculations, in accordance with the design concepts.

(2) The licensee should not seal the shop drawings. A letter of review must be prepared indicating the licensee's acceptance of the shop drawings as being in accordance with the design concept. Such review letter may be made available to appropriate jurisdictional authorities and interested parties.

(3) For the purposes of (1)(b), a "qualified technician" is a person who has at least one of the following qualifications:

(a) a national institute for certification in engineering technologies (NICET) level III technician certification;

(b) a NICET level IV technician certification; or

(c) 20 years experience in the field of automatic sprinkler layout in Montana, with the end of the 20-year experience term terminating February 1, 2002.

(4) A licensee shall not be required to provide design concepts or letter of review for:

(a) projects exempt from building code requirements for fire protection;

(b) remodeling involving less than 100 sprinklers to an existing fire protection system, provided there is no change in occupancy classification, storage configuration, or other change in occupancy use that would require design concept modifications; or

(c) routine maintenance, when accomplished in accordance with national fire protection association (NFPA) standard #25, "Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems."

(5) Information regarding the organizations referred to in this rule can be obtained from:

(a) NICET, 1420 King Street, Alexandria VA, 22314, or via the internet at <http://nicet.org>; and

(b) NFPA, PO Box 9101, Quincy, Massachusetts, 02269-9101, or via the internet at <http://www.nfpa.org/Home/index.asp>.

AUTH: 37-67-202, MCA

IMP: 37-67-101, MCA

REASON: There is reasonable necessity to adopt proposed NEW RULE I in response to numerous inquiries and confusion expressed by the public and members of the engineering profession. NEW RULE I clarifies the responsibility of the professional engineer and the layout technician, and their respective roles in the design of fire protection systems. This rule clarifies the difference between design concepts as established by licensed professional engineers and shop or layout drawings prepared by others. Creation of the design concept in fire protection system design falls within the definition of the "practice of engineering" provided by section 37-67-101, MCA. The Board notes that NEW RULE I is a result of a collaborative effort among the Board, professional engineers, layout technicians, and fire sprinkler installers.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written

data, views or arguments may also be submitted to the Board of Professional Engineers and Land Surveyors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdpels@state.mt.us, and must be received no later than 5:00 p.m., August 23, 2002.

5. An electronic copy of this Notice of Public Hearing is available through the Department's site on the World Wide Web at <http://discoveringmontana.com/dli/bsd> under the Board of Professional Engineers and Land Surveyors rule notice section. The Department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address does not excuse late submission of comments.

6. The Board of Professional Engineers and Land Surveyors 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 which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Professional Engineers and Land Surveyors administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Professional Engineers and Land Surveyors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2309, e-mailed to dlibsdpels@state.mt.us or may be made by completing a request form at any rules hearing held by the agency.

7. Lon Mitchell, attorney, has been designated to preside over and conduct this hearing.

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

BOARD OF PROFESSIONAL ENGINEERS
AND LAND SURVEYORS
STEVE WRIGHT, CHAIRMAN

/s/ KEVIN BRAUN
Kevin Braun
Rule Reviewer

By: /s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State, July 15, 2002.

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

In the Matter of the Proposed)
Amendment of ARM 38.2.5007)
and 38.2.5008 Pertaining)
to Protective Orders and)
Protection of Confidential)
Information)

NOTICE OF PUBLIC HEARING
ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On September 10, 2002, at 1:30 p.m., a public hearing will be held in the Bollinger Room, Public Service Commission (PSC) offices, 1701 Prospect Avenue, Helena, Montana, to consider the amendment of ARM 38.2.5007 and 38.2.5008.

2. The PSC 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 PSC no later than 5:00 p.m., September 3, 2002, to advise us of the nature of the accommodation that you need. Please contact Rhonda Simmons, PSC Secretary, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, telephone number (406) 444-6170, TTD number (406) 444-6199, fax number (406) 444-7618, e-mail rsimmons@state.mt.us.

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

38.2.5007 PROTECTIVE ORDER -- REQUESTS AND, TIMING OF REQUESTS, AND PROCEDURE (1) In general, information will be designated confidential information only upon request by a provider. It is the responsibility of the provider or other person asserting a right to protection of information to specifically advise the commission of the claim to confidentiality and to request, by motion prior to submitting the information, that the commission designate the information as confidential.

(2) Prior to requesting a protective order, the provider must ~~make a good faith effort to~~ thoroughly verify that all information claimed to be confidential is a bona fide trade secret, a matter of constitutionally-protected privacy, or otherwise legally protectible.

(3) The motion for protective order must comply with commission procedural rules on format of motions in general, but need not include a proposed protective order, ~~and must also include:~~

~~(a) an identification of the person to whom commission and party communications may be made in regard to the information in issue;~~

~~(b) an identification, item by item or by category of like~~

~~items, of the information for which protection is requested; and~~
~~(c) the rationale, including the pertinent facts and law applicable, demonstrating that protection is justified.~~

(4) The motion for protective order must be thorough but brief and must include:

(a) an identification of the person, including information allowing that person to be readily contacted (e.g., phone number), to whom communications from commission staff, parties, and interested persons may be made in regard to the information for which protection is requested and the bases for protection;

(b) a complete and specific identification, item by item or by category of items which are alike, of all information for which protection is requested;

(c) a complete and specific factual basis, including a thorough identification and explanation of the specific facts, supported by affidavit where necessary, supporting protection of the information for which protection is requested; and

(d) a complete and specific legal basis, including but not limited to a thorough identification and explanation of the specific elements of trade secret, constitutionally protected privacy, or other lawful basis for protection where applicable, explaining why the information for which protection is requested is lawfully entitled to protection.

(5) The commission may rule on a request for protective order or may notice a request for protective order for comment or hearing.

~~(4)(6)~~ In the interests of preventing delays in proceedings, the commission encourages providers to make requests for protection of confidential information at the earliest possible time in a proceeding, including in anticipation of a proceeding, if the provider has reason to believe that confidential information will be submitted or is likely to be requested in the proceeding.

AUTH: 69-3-103, MCA
IMP: 69-3-105, MCA

38.2.5008 PROTECTIVE ORDER -- ISSUANCE, RECONSIDERATION, CHALLENGE TO CONFIDENTIALITY, INTERIM PROTECTIVE ORDERS

(1) When justified the commission will issue a protective order, with liberal reference to these rules and with attachments as necessary, including to identify the protected information and any waivers and special terms and conditions which may apply.

(2) Reconsideration of issuance of a protective order is not allowed. Challenges to a commission determination that information is ~~or appears to be~~ protectible shall be in accordance with (3).

(3) Protective orders and these rules establish a procedure for the expeditious handling of information that a provider claims is confidential. ~~Generally, commission~~ Commission issuance of a protective order and designation of information as confidential information means ~~only that the information appears to be information~~ the provider has

established a prima facie case that the information for which protection is requested is entitled to protection or appears to be within a category of information entitled to protection. A party to the proceeding in which information has been designated confidential, or a person or entity with proper standing, or the commission on its own motion, may challenge the provider's claim of confidentiality at any time, in accordance with the following procedure-:

(a) A motion challenging protection of the information must be filed with the commission and served upon the providing party. The providing party must file a response to the motion within 14 days. Requests for hearing or oral argument may be granted for good cause.

(b) If the commission determines on the motion that information should be removed from protection, the information will remain protected under the governing protective order and these rules for a reasonable period, to be established in the commission ruling, to allow the provider time to appeal the commission decision.

(4) The burden of demonstrating that information, which the commission has determined ~~appears to be information entitled to protection or appears to be within a category of information entitled to protection and has therefore designated as confidential information, is entitled to protection~~ shall be on the provider.

(5) In any proceeding in which a protective order does not exist because there has been no known need, the commission, on its own motion or on motion of a provider, the consumer counsel, or other requesting party, may issue an interim protective order if a need for protectible information is identified and issuance of the order will expedite complete and immediate access to information necessary in the proceeding (e.g., during pre-discovery on-site audits by the commission and consumer counsel). The rights and obligations of providers, requesting parties, and the commission relating to protection of information under the interim protective order are the same as protection under a final protective order. Within five days of providing information protected under an interim protective order the provider must file a motion for protection of the information on a final basis in accordance with these rules.

AUTH: 69-3-103, MCA

IMP: 69-3-105, MCA

4. Amendment of these rules is necessary to accommodate certain concerns expressed in a March 1, 2002, district court denial of a PSC motion to dismiss litigation challenging a PSC protective order (Great Falls Tribune, et al., v. PSC, Montana First Judicial District Court, County of Lewis and Clark, Cause No. CDV-2001-708). The proposed, more detailed, protective-order filing requirements and the proposed PSC determination that a prima facie case for protection has been made in the filing, plus the option to notice the application for comment, should resolve the concerns. In addition, experience with the

existing rules, combined with the nature of the above proposed amendments, demonstrate that an interim protective order process is necessary in some instances for the smooth and timely flow of protected information in matters before the PSC.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments (original and 10 copies) may also be submitted to Legal Division, Public Service Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, and must be received no later than September 10, 2002, or may be submitted to the PSC through the PSC's web-based comment form at <http://psc.state.mt.us/PublicComment/PublicComment.htm> no later than September 10, 2002. (PLEASE NOTE: When filing comments pursuant to this notice please reference "Docket No. L-02.6.3-RUL.")

6. The PSC, a commissioner, or a duly appointed presiding officer may preside over and conduct the hearing.

7. The Montana Consumer Counsel, 616 Helena Avenue, P.O. Box 201703, Helena, Montana 59620-1703, phone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

8. The PSC maintains a list of persons who wish to receive notices of rulemaking actions proposed by the PSC. 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: electric utilities, providers, and suppliers; natural gas utilities, providers and suppliers; telecommunications utilities and carriers; water and sewer utilities; common carrier pipelines, motor carriers, rail carriers, and administrative procedures. Such written request may be mailed or delivered to Public Service Commission, Legal Division, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, faxed to Rhonda Simmons at (406) 444-7618, e-mailed to rsimmons@state.mt.us, or may be made by completing a request form at any rules hearing held by the PSC.

9. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

/s/ Gary Feland
Gary Feland, Chairman

/s/ Robin A. McHugh
Reviewed by Robin A. McHugh

CERTIFIED TO THE SECRETARY OF STATE JULY 15, 2002.

BEFORE THE COMMUNITY DEVELOPMENT DIVISION
DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the adoption)
of a new rule pertaining to)
the administration of the 2002)
Federal Community Development)
Block Grant Program)

CORRECTED NOTICE OF
ADOPTION

TO: All Concerned Persons

1. On December 20, 2001, the Department of Commerce published a notice of proposed adoption of the above-stated rule at page 2449, 2001 Montana Administrative Register, issue number 24. On June 13, 2002, the Department published the notice of adoption of the rule at page 1656, 2002 Montana Administrative Register, issue number 11.

2. This corrected notice of amendment is being published to correct the numbering of the new rule. It was numbered ARM 8.94.3717 in the adoption notice and should have been numbered ARM 8.94.3718.

3. The replacement pages for this rule were filed with the Secretary of State's office on June 30, 2002.

COMMUNITY DEVELOPMENT DIVISION
DEPARTMENT OF COMMERCE

By: /s/ Mark A. Simonich
MARK A. SIMONICH, Director

Reviewed by:

/s/ G. Martin Tuttle
G. MARTIN TUTTLE, Rule Reviewer

Certified to the Secretary of State, July 15, 2002.

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

In the matter of the)
adoption of new rules)
pertaining to contractual) NOTICE OF ADOPTION
public elk hunting access)
agreements)

TO: All Concerned Persons

1. On May 30, 2002, the Fish, Wildlife and Parks Commission (commission) and the Department of Fish, Wildlife and Parks (department) published notice of the proposed adoption of new rules I through V, pertaining to contractual public elk hunting access agreements at page 1536 of the 2002 Montana Administrative Register, Issue Number 10.

2. The commission and department adopted new rule I (ARM 12.9.901), new rule III (ARM 12.9.905), new rule IV (ARM 12.9.908), and new rule V (ARM 12.9.911) exactly as proposed.

3. The commission and department adopted new rule II (ARM 12.9.902), with the following changes, stricken matter interlined, new matter underlined:

NEW RULE II (ARM 12.9.902) ELIGIBILITY (1) In order to be eligible for a permit under 87-2-513, MCA, a landowner must own and enroll a minimum of 2500 acres experiencing sufficient elk use during the regular hunting season to provide hunting opportunity consistent with the terms of a contractual public elk hunting access agreement. The department may consider enrollment of less than 2500 acres, as long as all other eligibility criteria are met.

AUTH: 87-1-201, 87-1-301, 87-2-513, MCA
IMP: 87-2-513, MCA

4. The department and commission received 13 comments. The comments appear below with the commission's and department's responses:

Comment 1: New rule II (ARM 12.9.902) should include a provision that requires a landowner to allow hunting "for either-sex elk consistent with the regular hunting season in the hunting district containing the open private land."

Response: The type of access negotiated between the department and the landowner will depend upon the management needs of the specific hunting district. In some districts, there may be no need for additional public either-sex elk hunting; subsequently, the landowner might receive an

antlerless elk permit as a benefit for providing antlerless elk hunting on enrolled land. The terms of individual negotiated contract agreements will specify the type and terms of public access and will reflect the management needs of the specific area. This suggestion is acknowledged, but not incorporated in the final ARM rules.

Comment 2: There should be a provision in new rule II (ARM 12.9.902) that allows the department to consider enrollment of smaller acreages.

Response: The commission and department concur with this suggestion and have included language to that effect in new rule II (ARM 12.9.902.)

Comment 3: New rule III(1)(a) (ARM 12.9.905) should state "any land/area open to landowner-designated permittees is open to public permittees at the same time."

Response: Section 87-2-513, MCA, does not provide authority for ANY landowner-designated permittees.

Comment 4: New rule III(1)(a)(ii) (ARM 12.9.905) (times and dates area is open) should specify "for the entire time the season or special permits are in effect, and access is permitted to any individual with a valid permit."

Response: The actual terms of the contractual access agreements will vary according to the individual management needs of the area and the access opportunities available. The proposed ARM rules define the categories of information which must be addressed in contractual access agreements, while the content of each category will vary according to the individual agreement negotiations. Subsequently, this comment is acknowledged, but not incorporated into the final ARM rule.

Comment 5: If landowners are going to have the privilege of distributing permits, access in all respects should be equal and balanced at all times.

Response: Section 87-2-513, MCA, does not authorize a landowner to distribute permits.

Comment 6: There should be a more clear definition of the limitations, minimums and maximums, that pertain to the definition of public hunting. Maybe the rules should include the number of days required to qualify for acceptance into these kinds of agreements and perhaps also the sequence of use.

Response: The actual terms of the contractual access agreements will vary according to the individual management needs of the area and the access opportunities available. The proposed ARM rules define the categories of information which

must be addressed in contractual access agreements, including those categories suggested in this comment.

Comment 7: The number of hunting days is critical.

Response: Proposed new rule III(1)(b) (ARM 12.9.905) requires inclusion of number and distribution of hunting days.

Comment 8: Whatever you are able to do to reduce elk numbers would be appreciated.

Response: The commission and department acknowledge this comment.

Comment 9: Our organization opposes granting either-sex licenses to landowners because this is allocating a public resource and is the first step in privatizing the wildlife that belongs to all of us.

Response: The department and commission are required to implement rules that outline the specific details of HB 454, passed by the 2001 legislature, in order to administer the law. The department and commission recognize that individuals and members of organizations who do not agree with any law can exercise their rights as citizens of the state of Montana and utilize the legislative process to change the law.

Comment 10: This is just more sell out of public trust, and we don't trust this plan and will fight it to the end.

Response: The 2001 Montana Legislature passed HB 454 to allow issuance of either-sex or antlerless elk permits to the public and certain landowners who make their land available to the public for free public elk hunting throughout the hunting season. In order to implement HB 454, the department adopted these rules. Individuals whose fundamental beliefs are diametrically opposed to laws passed by the legislature have the right to employ the legislative system to change the laws with which they disagree.

Both the department and commission have found that the public's ideas, comments, observations, and general participation are valuable in the rulemaking and legislative processes and hope that individuals will offer these so that the department and commission can ensure that this program works effectively and can make changes when needed.

Comment 11: There ought to be a provision under these contracts which allows department employees access to enrolled property for enforcement and wildlife management monitoring purposes, similar to what is provided under block management contracts.

Response: The commission and department agree with this comment and will address this issue in development of contract language and policy.

Comment 12: This is a good tool for the department to use in negotiating public access agreements and helping landowners with elk management issues.

Response: The commission and department acknowledge this comment.

Comment 13: We question the contractual hunting agreement stipulation that the property shall be open to public hunting throughout the regular hunting season. The new rules, specifically new rule II(1)(b) (ARM 12.9.902), allows for negotiating the number and distribution of public hunting days that will be allowed. It is our understanding that the phrase "throughout the regular hunting season," (87-2-513 (2)(c), MCA) means that hunting days will conform to the original intention of the law to reward those who open their property for the entire season. This rule appears to be in conflict with that original intention. We ask that the rules for contractual hunting agreements be clarified to comply with the original intent of the law.

Response: New rule I(2) (ARM 12.9.901) further defines the statutory language set forth in 87-2-513(2)(c), MCA, that refers to eligibility criteria requiring public access "throughout the regular hunting season." New rule II(1)(b) (ARM 12.9.902) "number and distribution of public hunting days that will be allowed on property for the following categories..." further defines 87-2-513(7), MCA, which specifies, at a minimum, what terms will be defined in public elk hunting access agreements to include "the number of public elk hunting days that will be allowed on the property..." Both new rule I (ARM 12.9.901) and new rule II (ARM 12.9.902) are required to implement 87-2-513, MCA. The proposed rules are in strict compliance with the statute.

By: /s/ Dan Walker
Dan Walker, Chairman
Fish, Wildlife and Parks
Commission

By: /s/ M. Jeff Hagener
M. Jeff Hagener, Director
Department of Fish,
Wildlife and Parks

By: /s/ Rebecca Dockter Engstrom
Rebecca Dockter Engstrom
Rule Reviewer

Certified to the Secretary of State July 15, 2002

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment)	CORRECTED NOTICE OF
of ARM 17.36.101 through)	AMENDMENT
17.36.104, 17.36.106,)	
17.36.108, 17.36.110,)	
17.36.116, 17.36.309,)	(SUBDIVISIONS)
17.36.310, 17.36.320,)	
17.36.325, 17.36.327,)	
17.36.345, 17.36.601,)	
17.36.605, 17.36.801,)	
17.36.802, 17.36.804,)	
17.36.805, the repeal of)	
17.36.105, 17.36.111,)	
17.36.301, 17.36.302,)	
17.36.303, 17.36.305,)	
17.36.602 and 17.36.606, and)	
the adoption of new rules I)	
through IX pertaining to)	
subdivision review under the)	
Sanitation and Subdivisions)	
Act)	

TO: All Concerned Persons

1. On March 14, 2002, the Department of Environmental Quality published a notice of proposed amendment and adoption of the above-stated rules at page 568, 2002 Montana Administrative Register, issue number 5. On May 16, 2002, the Department published the notice of amendment and adoption of the rules at page 1465, 2002 Montana Administrative Register, issue number 9.

2. This corrected notice of amendment is being published to correct two clerical errors in the original notice. In the proposed amendment to ARM 17.36.101(46), the language "The total number of people served may not exceed 24." should have been underlined as new text. In the definition renumbered as (57), the former (45) should have been stricken. The amendments, as they should have been published in the original notice, are shown below.

17.36.101 DEFINITIONS (1) through (45) same as proposed.

~~(37)~~ (46) "Shared sewage wastewater system" means a sewage wastewater system that serves or is intended to serve two living units or commercial structures. The total number of people served may not exceed 24. In estimating the population served, the reviewing authority shall multiply the number of living units times the county average of persons per living unit based on the most recent census data.

~~(45)~~ (57) "Subsurface sewage wastewater treatment system" means the process of sewage wastewater treatment in

which the effluent is applied below the soil surface or into a mound by an approved distribution through horizontal perforated pipes system.

(58) through (64) same as proposed.

3. The replacement pages for these rules were filed with the Secretary of State's office on June 30, 2002.

DEPARTMENT OF ENVIRONMENTAL QUALITY

By: JAN P. SENSIBAUGH
JAN P. SENSIBAUGH, Director

Reviewed by:

JAMES M. MADDEN
JAMES M. MADDEN, Rule Reviewer

Certified to the Secretary of State, July 15, 2002.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the)	
amendment of ARM 23.4.501,)	
23.4.502, and 23.4.503 which)	
provide the relevant)	NOTICE OF AMENDMENT
definitions and set forth the)	
requirements for collection)	
and storage of DNA)	

TO: All Concerned Persons

1. On June 13, 2002, the Department of Justice published notice of the proposed amendment of the above stated rules at page 1617, 2002 Montana Administrative Register, Issue No. 11.

2. No public hearing was requested and no comments were received.

3. The Department of Justice has amended ARM 23.4.501, 23.4.502, and 23.4.503 exactly as proposed.

By: /s/ Mike McGrath
MIKE MCGRATH, Attorney General
Department of Justice

/s/ Ali Sheppard
ALI SHEPPARD, Rule Reviewer

Certified to the Secretary of State July 15, 2002.

BEFORE THE BOARD OF VETERINARY MEDICINE
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the) NOTICE OF AMENDMENT
amendment of ARM 8.64.509,)
pertaining to the licensure of)
out-of-state applicants)
(endorsement))

TO: All Concerned Persons

1. On April 11, 2002, the Board of Veterinary Medicine published a notice of proposed amendment of the above-stated rule at page 1041, 2002 Montana Administrative Register, Issue Number 7.

2. The Board has amended ARM 8.64.509 exactly as proposed.

3. Two written comments were received. The following is a summary of the comments and appears with the Board's responses.

COMMENT 1: One comment was received that supported the proposed amendment.

RESPONSE 1: The Board concurs.

COMMENT 2: One comment was received that opposed the amendment as being illogical because it was not unreasonable to expect five years of experience for licensure of out-of-state applicants.

RESPONSE 2: The Board overrules this comment because it does not address the problem that arises when vets do not immediately begin work after graduation. When this happens, there is a time period in which their examination scores have expired and they have been licensed just short of five years, rendering them ineligible for licensure by either method. It is the Board's belief that the public health and welfare is adequately protected by requiring four years of experience instead of five years. This also removes the barrier to licensing that currently exists.

BOARD OF VETERINARY MEDICINE
ROBERT LEE, DVM, PRESIDENT

/s/ KEVIN BRAUN
Kevin Braun,
Rule Reviewer

by: /s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State, July 15, 2002.

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

In the matter of the) NOTICE OF AMENDMENT
amendment of ARM 24.16.9003)
and ARM 24.16.9007, pertaining)
to prevailing wage rates)

TO: All Concerned Persons

1. On May 16, 2002, the Department published notice at page 1391 of the 2002 Montana Administrative Register, Issue No. 9, to consider the amendment of the above-captioned rules.

2. On June 7, 2002, at 10:00 a.m., a public hearing was held in Helena, Montana, to consider the proposed amendment to the above-captioned rules. Oral comments were made at the public hearing and prior to the closing date, additional written comments and data were received by the Department.

3. After consideration of the comments received on the proposed amendments, the Department has amended ARM 24.16.9003 exactly as proposed.

4. After consideration of the comments received on the proposed amendments, the Department has amended ARM 24.16.9007 exactly as proposed, but with the following rate changes to the 2002 version of "The State of Montana Prevailing Wage Rates - Building Construction Services", stricken matter interlined, new matter underlined:

Occupation	District	Wage rate	Benefit rate
Cement Mason	1	\$11.27 <u>\$12.76</u>	(no change)
Cement Mason	2	(no change)	\$1.27 <u>\$3.49</u>
Sprinkler Fitter	6	(no change)	\$5.77 <u>\$8.00</u>
Carpenter	3	\$15.62 <u>\$17.86</u>	\$4.90 <u>\$5.62</u>
Carpenter			
Foreperson	3	\$16.37 <u>\$18.75</u>	\$4.90 <u>\$5.62</u>
Cut Off			
Saw Operator	3	\$15.62 <u>\$18.03</u>	\$4.90 <u>\$5.62</u>
Drywall			
Applicator	3	\$14.40 <u>\$18.03</u>	\$1.30 <u>\$5.62</u>
Drywall			
Applicator	10	\$14.64 <u>\$19.15</u>	\$4.87 <u>\$4.90</u>
Drywall			
Applicator			
Foreperson	3	no rate <u>\$19.29</u>	no rate <u>\$5.62</u>
Drywall			
Applicator			
Foreperson	6	no rate <u>\$18.40</u>	no rate <u>\$4.90</u>
Drywall			
Applicator			
Foreperson	10	no rate <u>\$20.15</u>	no rate <u>\$4.90</u>

Millwright	3	\$16.62	<u>\$19.03</u>	\$4.90	<u>\$5.62</u>
Sider	3	\$15.62	<u>\$18.03</u>	\$4.90	<u>\$5.62</u>
Pile Driver	3	\$15.87	<u>\$18.53</u>	\$4.90	<u>\$5.62</u>

District 3, Carpenter, Carpenter Foreperson, Cut Off Saw Operator, Drywall Applicator, Drywall Applicator Foreperson, Millwright, Pile Driver, Sider:

~~Travel pay: 0-10 mi. free zone, over 10 mi. \$.20/mi~~

Travel pay: 0-15 mi. free zone, 15-25 mi. \$10.00, 25-50 mi. \$15.00, 50 mi. and over-\$20.00

5. The Department has thoroughly considered the comments received on the proposed amendments. The following is a summary of the comments received, along with the Department's response to those comments:

Comment 1: Lars Erickson, Field Representative for the PNWRC of Carpenters, suggested some language changes to sections (2)(e) and (3)(e) of ARM 24.16.9003 to make it more readable.

Response 1: The language in sections (2)(e) and (3)(e) of ARM 24.16.9003 was changed to reflect the recent statutory amendments. The Department believes the technical language in the rule appropriately matches the law.

Comment 2: Mr. Erickson had comments about Carpenter rates in Districts 2, 3 and 8 and stated there may be a problem in the calculations. Mr. Erickson said he would ask the Carpenters Union to submit a new collective bargaining agreement.

Response 2: Carpenter wage and fringe benefit rate calculations were analyzed and the Department has determined the correct methodology was used in the calculations. The Carpenters Union submitted a new collective bargaining agreement, which was used to supplement the data previously collected. As a result of that additional information, certain rates were modified.

Comment 3: Don Herzog, Business Agent for IBEW 532 opposed the rates for electricians in District 6.

Response 3: The electrician wage and fringe benefit rate calculations were analyzed and the Department has determined the correct methodology was used in the calculations.

Comment 4: Mr. Sonny Lockrem states the proposed rule change to ARM 24.16.9003 seems to be in direct conflict with the statute as it relates to the use of the weighted average.

Response 4: Section 18-2-401(13)(a)(ii), MCA states that a majority or weighted average is to be used. The section also states: "If the survey produces insufficient data, the rate may be established by the use of other information or methods that the commissioner determines fairly establish the standard

prevailing rate of wages." The Department has determined that for statistical validity it needs data for at least 5 employees in each occupation in each district to set a wage rate. ARM 24.16.9003 clarifies how the wage rates will be determined when there is not enough employee data in a district for a particular occupation to set a wage rate.

Comment 5: Mr. Cary Hegreberg of the Montana Contractors Association questioned how the Department uses the number of workers to establish a weighted average.

Response 5: The 2001 amendments to section 18-2-401(13), MCA, deleted the provisions weighting wage rates by the number of hours worked and inserted new wording weighting by the number of workers employed during the employer's peak month of employment. The Department has used this section of the statute to determine the survey methodology and the wage rate setting process. As per the statute, registered construction contractors (registered pursuant to Title 39, chapter 9, MCA) are asked only for the number of workers they employed in a particular occupation in a particular district for the employer's peak month of employment and not the number of hours an employee works during the year. The first determined is whether there are 5 or more workers in an occupation in a district. If there are, and a majority of the workers are paid one wage rate and it is not greater than the applicable rate of wage in the area for the particular work in question as negotiated under existing and current collective bargaining agreements, that rate prevails. If there are 5 or more workers reported for an occupation in a given district and a majority are not paid one rate, an average rate based upon the number of workers is calculated and if that rate is not greater than the applicable rate of wage in the area for the particular work in question as negotiated under existing and current collective bargaining agreements, that rate prevails. The Department believes this methodology for conducting the survey and setting the wage rate is consistent with the statute.

Comment 6: Mr. Hegreberg asked if one person worked 480 hours during the year and another person worked 2,000 hours if they would be given the same weight.

Response 6: Yes. Pursuant to statute, the number of hours worked by an individual is not given any weight.

Comment 7: Jeff Crisler and Tom Tanner representing two locals of the Ironworkers Union are concerned that some of their jobs are classified under the laborer classification.

Response 7: The occupational classifications in question are copied directly from the Federal Davis-Bacon program, which lists those occupations under the "Laborers" classification. They will be listed under the Laborers classification until

the Federal Davis-Bacon program classifies them differently. A check of collective bargaining agreements show these occupations are also listed in the Laborer collective bargaining agreements.

Comment 8: Additional data and information was submitted to the Department concerning the wages and benefits paid to various occupations.

Response 8: The Department has incorporated the additional data and information into its rate publication. The changes from the preliminary version of the rate publication to the final version are listed in paragraph 4, above.

6. The amendments and rates are effective August 1, 2002.

/s/ KEVIN BRAUN

Kevin Braun
Rule Reviewer

/s/ WENDY J. KEATING

Wendy J. Keating, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State: July 15, 2002.

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

In the matter of the)	CORRECTED NOTICE OF
adoption of new Rules I)	ADOPTION AND AMENDMENT
through VI and the amendment)	
of ARM 37.5.304, 37.5.307,)	
37.5.331, 37.80.101 through)	
37.80.103, 37.80.201 and)	
37.80.202, 37.80.205,)	
37.80.206, 37.80.301,)	
37.80.306, 37.80.315,)	
37.80.316, 37.80.501,)	
37.80.502 and 37.97.118)	
pertaining to child care)	
assistance and hearing appeal)	
rights)	

TO: All Interested Persons

1. On March 14, 2002, the Department of Public Health and Human Services published notice of the proposed adoption and amendment of the above-stated rules at page 727 of the 2002 Montana Administrative Register, issue number 5, and on May 30, 2002 published notice of the adoption and amendment on page 1553 of the 2002 Montana Administrative Register, issue number 10.

2. This corrected notice is being filed to correct errors in ARM 37.80.101, 37.80.102, 37.80.205, 37.80.502 and [RULE IV] 37.80.602.

3. The rules are corrected as follows:

37.80.101 PURPOSE AND GENERAL LIMITATIONS (1) through (10) remain as proposed.

AUTH: Sec. 52-2-704 and 53-4-212, MCA
IMP: Sec. 52-2-702, 52-2-704, 52-2-713, 52-2-731,
53-2-201, 53-4-211, 53-4-601, and 53-4-611 and 53-4-612, MCA

37.80.102 DEFINITIONS (1) through (19) remain as proposed.

AUTH: Sec. 52-2-704 and 53-4-212, MCA
IMP: Sec. 52-2-704, 52-2-713, 52-2-721, 52-2-722,
52-2-723, 52-2-731, 53-2-201, 53-4-211, 53-4-601, and 53-4-611
and 53-4-612, MCA

37.80.205 CHILD CARE RATES: PAYMENT REQUIREMENTS
(1) through (8) remain as proposed.

AUTH: Sec. 52-2-704 and 53-4-212, MCA
IMP: Sec. 52-2-704 and ~~53-2-713~~ 52-2-713, MCA

37.80.502 CHILD CARE UNDERPAYMENT AND OVERPAYMENT: CRIMINAL PROSECUTION (1) through (6)(a) remain as proposed.

AUTH: Sec. 52-2-704 and 53-4-212, MCA
IMP: Sec. 52-2-704 and ~~53-2-713~~ 52-2-713, MCA

[RULE IV] 37.80.602 BEST BEGINNINGS QUALITY CHILD CARE: MERIT PAY (1) through (11) remain as proposed.

AUTH: Sec. 52-2-704 and 52-2-111, MCA
IMP: Sec. 52-2-704, 52-2-111 and 52-2-112, MCA

4. In the proposal notice, the Department deleted 53-4-612, MCA in the implementation section of ARM 37.80.101 and 37.80.102. This was an error. It is this Department's policy to leave all cites in the authority and implementation section for historical purposes, therefore the Department is leaving the cites in the rule history.

In addition, the Department noticed that ARM 37.80.205 and 37.80.502 cited 53-2-713, MCA as an implementation section, which was a typographical error. The correct citation is 52-2-713, MCA.

Finally, the Department is removing the colon in the catchphrase of Rule IV (37.80.602) for consistency of appearance with other rules in the same subchapter.

5. All other rule changes adopted and amended remain as proposed.

6. Replacement pages for the corrected notice of adoption and amendment were submitted to the Secretary of State on June 30, 2002.

Dawn Sliva
Rule Reviewer

/s/ Gail Gray
Director, Public Health and
Human Services

Certified to the Secretary of State July 15, 2002.

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

In the matter of the adoption) NOTICE OF ADOPTION AND
of new Rule I and the) AMENDMENT
amendment of ARM 37.86.2801,)
37.86.2901, 37.86.2905,)
37.86.2910, 37.86.3001,)
37.86.3005, 38.86.3007,)
37.86.3016 and 37.86.3018)
pertaining to inpatient and)
outpatient hospitals)

TO: All Interested Persons

1. On April 25, 2002, the Department of Public Health and Human Services published notice of the proposed adoption and amendment of the above-stated rules at page 1289 of the 2002 Montana Administrative Register, issue number 8. On May 30, 2002, and June 27, 2002, the Department published notices of extension of comment period at pages 1543 and 1725 of the 2002 Montana Administrative Register, issue numbers 10 and 12, respectively, of the proposed adoption and amendment of the above-stated rules.

2. The Department has amended ARM 37.86.2801, 37.86.2901, 37.86.2905, 37.86.2910, 37.86.3001, 37.86.3005 and 37.86.3007 as proposed.

3. The Department has adopted Rule I (37.86.2810) as proposed.

4. The Department has amended the following rules as proposed with the following changes from the original proposal. These proposed changes were shown in the notice of extension of comment period (MAR Notice No. 37-239) published in MAR issue number 12. Matter to be added is underlined. Matter to be deleted is interlined.

37.86.3016 OUTPATIENT HOSPITAL SERVICES, PROSPECTIVE PAYMENT METHODOLOGY, IMAGING SERVICES (1) Imaging services will be reimbursed as follows:

(a) and (b) remain as proposed.

(c) For imaging services where no APC rate has been assigned, but a medicaid fee has been assigned, the fee ~~is the amount set~~ will be set in accordance with the RBRVS methodology in ARM 37.85.212(9).

AUTH: Sec. 53-2-201 and 53-6-113, MCA

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

37.86.3018 OUTPATIENT HOSPITAL SERVICES, PROSPECTIVE PAYMENT METHODOLOGY, OTHER DIAGNOSTIC SERVICES (1) Other

diagnostic services will be reimbursed as follows:

(a) and (b) remain as proposed.

(c) For other diagnostic services without an APC rate, but for which a medicaid fee has been assigned, the fee ~~is the amount set~~ will be set in accordance with the RBRVS methodology in ARM 37.85.212(9).

AUTH: Sec. 53-2-201 and 53-6-113, MCA

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

5. These rule changes are effective August 1, 2002.

6. The Department has thoroughly considered all commentary received. The comments received and the department's response to each follow:

COMMENT #1: The proposed weights and prices tables for inpatient hospital services were not available to interested persons until the hearing held on May 16, 2002. At that time the Department indicated that the data may have been inaccurate. The Department extended the comment period to June 7, 2002, but did not get the final draft of the table to hospitals and associations until June 4, 2002.

RESPONSE: The Department realizes that interested persons did not have adequate time to analyze the final draft tables dated June 4, 2002. Therefore, the Department extended the comment period a second time to July 10, 2002. The public notice of extension of the comment period was published in the Montana Administrative Register as MAR Notice No. 37-239 on June 27, 2002 on page 1725, issue number 12.

COMMENT #2: We oppose the amendment to ARM 37.86.2801 because it would limit the ability of the Department to authorize services retroactively.

RESPONSE: The Department proposed the amendments to ARM 37.86.2801 to clarify the language at the request of out-of-state hospitals. The Department's intent is that this clarification will allow an out-of-state facility to request and receive retroactive authorization of services when a recipient becomes retroactively approved for Montana Medicaid. The amendment is also intended to allow an out-of-state provider to seek retroactive review of a service when the provider becomes retroactively enrolled as a Montana Medicaid provider. The Department is amending the rule as proposed.

COMMENT #3: We oppose the elimination of special payments for 'catastrophic' cases. Hospitals previously agreed to reduce the base price and reserve funding for these expensive cases and believes that if catastrophic case payments are cut, then the Department should restore funding to the base price level.

RESPONSE: The Department has never had 'reserve funding' for

catastrophic cases. Prior to 1997, the Department had a separate cap on spending for catastrophic cases, but did not have a separate funding reserve for these cases. Considering Montana's current budget shortfall, the Department elected to eliminate special payments for catastrophic cases in order to avoid the elimination or reduction of Medicaid reimbursement for other services to all hospitals. The Department has observed that larger hospitals have historically been the providers of services for catastrophic cases. The Department has requested Mountain-Pacific Quality Health Foundation (MPQHF) to assist hospitals in difficult cases when discharge planning is a challenge. The Department will continue to pay cost outlier payments on these cases.

COMMENT #4: We recommend that the Department lower the dollar threshold at which hospitals may bill for care to a long term inpatient from \$144,000 to \$35,000. The Department would learn of high cost cases sooner and could apply case management techniques.

RESPONSE: The Department has implemented a procedure to address this issue. In the July 2001 hospital provider manual, in a mailing to all hospitals in August 2001 and at the Healthcare Financial Management Association (HFMA) conference in October 2001, the Department requested that hospital providers contact MPQHF when their charge masters on inpatient stays reach \$30,000. MPQHF will then apply case management techniques to assist the hospitals in case management and in finding long term, more cost effective placement for these patients. To date, only two facilities have contacted MPQHF and asked for assistance. In both instances, MPQHF was able to assist the facility in finding long term nursing home placement for these patients before the charges reached catastrophic proportions. The Department will continue to assist hospitals on difficult placements through MPQHF.

COMMENT #5: The Department incorrectly referred to the lab fee schedule instead of the imaging fee schedule in the proposed amendments to ARM 37.86.3016 and ARM 37.86.3018.

RESPONSE: The Department agrees and has corrected the error.

COMMENT #6: The proposed changes would reduce reimbursement to our facility by 8.75% annually. This is disproportionate to the 3.5% reduction in state spending directed by the Governor under 17-7-140, MCA. Medicaid only reimburses our facility 74 cents for each dollar of fully allocated costs incurred in caring for Medicaid patients. The proposed reductions would leave 1/3 of the cost of caring for Medicaid patients not recovered. We cannot further eliminate services such as ambulance or mental health due to the effect on the community nor can we reduce costs to recover lost reimbursement as we have already done so to recover high rates of increase in labor inputs, drugs and insurance rate hikes related to the events that occurred on

September 11, 2001. The shifting of this 'lost reimbursement' to non-Medicaid patients puts a 'hidden tax' on that segment of the population.

RESPONSE: The rule changes adopted in this notice are not in response to the Governor's 3.5% state spending reduction. The purpose of these rule changes is to reduce the weights on Diagnosis Related Group (DRG) payments by 2%, which will bring the case mix back to its designed value of 1.000. Currently, the case mix is 1.0187. In addition, these rules adjust outlier thresholds for inflation (10%) and eliminate catastrophic payments. The commenting facility had one catastrophic case payment in SFY 2002 that apparently skewed its computations, and based on this facility's year 2000 cost report, the facility is currently receiving 91.9% of costs.

Dawn Sliva
Rule Reviewer

/s/ Gail Gray
Director, Public Health and
Human Services

Certified to the Secretary of State July 15, 2001.

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

In the Matter of the Amendment) NOTICE OF AMENDMENT
of ARM 38.5.1107 Pertaining to)
Accrual of Interest on Customer)
Deposits with Utilities)

TO: All Concerned Persons

1. On March 28, 2002, the Department of Public Service Regulation, Public Service Commission (PSC) published a notice of public hearing on the proposed amendment of ARM 38.5.1107, concerning interest to be paid by public utilities on customer deposits for guaranteed payment, at page 893 of the 2002 Montana Administrative Register, issue number 6.

2. The PSC has amended ARM 38.5.1107 as proposed through amendment Alternative A, with the following changes (the remaining five amendment alternatives, B through F, are rejected), new matter underlined, stricken matter interlined:

38.5.1107 INTEREST ON DEPOSITS (1) Interest on deposits held shall be accrued at the rate of ~~three~~ six percent per year. Interest shall be computed from the time of the deposit to the time of refund or termination, to the nearest whole month, without compounding. This rule is effective October 1, 2002, applies to deposits received on and after October 1, 2002, and applies to the remaining period of deposits existing before October 1, 2002.

AUTH: 69-3-103, MCA
IMP: 69-3-103, MCA

3. The following comments were received and appear with the PSC's response:

COMMENT 1: Hot Springs Telephone Co. (HST) and Ronan Telephone Co. (RTC) comment that the present rule's 12 percent per year is out of step with the reality of present interest rates. Most other commenters generally agree. However, the Montana Consumer Counsel (MCC) comments that no change to the existing rule is necessary. The Montana Telephone Association (MTA) comments that deposits are favorable to most consumers because the deposits cover unpaid bills, a burden that paying customers would otherwise be required to bear. NorthWestern Energy (NWE) agrees, commenting the reason for deposits is that some potential customers present a risk to existing customers.

RESPONSE: The PSC agrees with HST and RTC and others that the 12 percent per year is not presently an appropriate interest rate for customer deposits and the PSC amends the rule to a lower interest rate. The PSC agrees with MTA and NWE that

deposits generally serve an important purpose.

COMMENT 2: HST, RTC, and WorldCom support Alternative A as proposed (fixed interest rate of 3 percent per year). MTA comments a fixed interest rate is arbitrary and Montana-Dakota Utilities Co. (MDU) comments a fixed rate is problematic, as the current situation (fixed rate has become outdated) demonstrates. MTA, NWE, and MDU favor a national standard interest rate adjusted annually. Other commenters support a national standard.

RESPONSE: The PSC determines that a fixed rate is most appropriate and adopts Alternative A with modifications. Flexible rates might have some good points, but, in addition to including unknowns for customer and utility planning purposes and requiring additional accounting and administrative monitoring and verification, could be unsuitable to proper promotion of fair customer deposit-policy goals, which might demand, in the customer or utility interest, an interest rate different than a national standard.

COMMENT 3: Montana Independent Telecommunications Systems (MITS) and NWE comment the interest rate should be at a level customers could earn on interest bearing accounts at financial institutions. Several other commenters allude to interest rates now prevailing in certain types of financial institutions through various savings or investment strategies. MCC comments that customer deposits are involuntary, may be used by utilities in any manner, and may require a consumer to incur additional debt at a higher interest rate (e.g., mortgage rate of approximately 8 percent annually or credit card rate up to 23 percent annually).

RESPONSE: Although a couple of commenters allude to rates outside this range, the PSC determines one credible range of rates to be considered, given the current status of interest rates in other fields, is 3 percent per year to 10 percent per year. At this time the PSC does not agree the customer deposit interest rate should be as low as 3 percent per year or as high as 10 percent per year. The lower extreme of this range could be unfair to consumers and the higher extreme could be unreasonably burdensome to utilities (and ratepayers). The PSC determines the correct balance between the consumer interest and the utility interest would result in: the consumer being compensated for deposits at an amount that recognizes a current and reasonable time value of money for consumers in general; recognition that the consumer is also benefiting by obtaining utility service; encouragement of customer deposits being required only when necessary; and the current interest earning capabilities of public utilities, both small and large, in general. The PSC determines that six percent per year results in a sound balance, taking into account the above factors.

/s/ Gary Feland
Gary Feland, Chairman

/s/ Robin A. McHugh
Reviewed by Robin A. McHugh

CERTIFIED TO THE SECRETARY OF STATE JULY 15, 2002.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the) NOTICE OF AMENDMENT
amendment of ARM 42.2.501)
relating to partial payments)
for debts collected by the)
department)

TO: All Concerned Persons

1. On May 30, 2002, the department published notice of proposed amendment of ARM 42.2.501 relating to partial payments for debts collected by the department at page 1545 of the 2002 Montana Administrative Register, issue no. 10.

2. A public hearing was held on June 24, 2002, to consider the proposed amendment. No oral or written comments were received.

3. The department presented additional amendments at the hearing to accurately describe how a payment is distributed when a collection service fee has been assessed on the account. The amendments also reflect the name by which this fee is commonly referred. This collection service fee applies only on accounts where the debt has been determined non-collectible or when the department performs an offset from the state warrant writing system pursuant to 14-4-105, MCA. The additional amendments are as follows (stricken matter interlined and new matter in all caps):

42.2.501 APPLICATION OF PARTIAL PAYMENTS (1) Partial payments that are received by the department for payment of an ~~administrative~~ COLLECTION SERVICE fee, AND tax, ~~penalty, and interest~~ LIABILITY must first be applied PROPORTIONATELY to the ~~amount of administrative~~ BETWEEN THE COLLECTION SERVICE fee AND THE TAX LIABILITY AT THE RATE SET BY THE DEBT COLLECTION INTERNAL SERVICE FUND due, until it is satisfied. ~~Any amounts remaining will then be applied to the amount of interest, then to the amount of penalty and then to the tax due.~~ PAYMENT OF THE TAX LIABILITY IS APPLIED IN THE ORDER OF TAX, PENALTY, AND THEN INTEREST.

(2) through (4) are amended as proposed.

(5) THE APPLICATION OF PARTIAL PAYMENTS RECEIVED BY THE DEPARTMENT, AS SHOWN IN (1), WILL APPLY TO PAYMENTS PROCESSED BEGINNING JULY 26, 2002.

AUTH: Sec. 2-4-201, 15-1-201, 15-30-305, 15-31-501, 15-35-122, and 15-53-155, MCA

IMP: Sec. 2-4-201, 15-1-206, 15-1-216, 15-30-304, 15-30-321, 15-30-323, 15-31-111, 15-31-502, 15-31-506, 15-31-510, 15-31-522, 15-31-543, 15-31-545, 15-35-105, 15-35-121, 15-37-108, 15-38-107, 15-38-110, 15-53-145, and 15-59-106, MCA

4. An electronic copy of this Adoption Notice is available

through the Department's site on the World Wide Web at http://www.state.mt.us/revenue/rules_home_page.htm, under the Notice of Rulemaking section. The Department strives to make the electronic copy of this Adoption Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Kurt G. Alme
KURT G. ALME
Director of Revenue

Certified to Secretary of State July 15, 2002

VOLUME NO. 49

OPINION NO. 19

COUNTY COMMISSIONERS - county to provide facilities for justice court;
COUNTY COMMISSIONERS - duty to accept and pay actual and necessary clerical expenses of justice court;
COUNTY OFFICERS AND EMPLOYEES - dispute between board of county commissioners and justice of the peace;
COURTS, JUSTICE - request for clerical expenses;
EXPENSES - actual and necessary expenses of justice court;
JUSTICES OF THE PEACE - determination of actual and necessary clerical expense;
MONTANA CODE ANNOTATED - Sections 2-18-501 to -503, 3-1-111(5), 3-10-103, (2), -209, 7-6-4005, -4006;
MONTANA CONSTITUTION - Article VII, section 2;
MONTANA LAWS OF 1979 - Chapter 528;
REVISED CODES OF MONTANA - Section 93-412.

HELD: Boards of County Commissioners have a duty to accept and pay claims for actual and necessary clerical expenses associated with the operation of justice court. The procedural rule adopted in State ex rel. Browman v. Wood, 168 Mont. 341, 543 P.2d 184 (1975) applies to disputes between Justices of the Peace and Boards of County Commissioners regarding payment of actual and necessary expenses.

July 16, 2002

Mr. David G. Rice
Hill County Attorney
315 Fourth Street
Havre, MT 59501-3923

Dear Mr. Rice:

You have requested my opinion regarding the budget authority of a Board of County Commissioners and a Justice of the Peace. I have rephrased the question you presented as follows:

When a Board of County Commissioners denies a Justice of the Peace's request for clerical support, which the Justice of the Peace considers to be an actual and necessary expense for conducting court business, what procedure may the Justice of the Peace follow in seeking to compel the Board of County Commissioners to honor the expense?

Mont. Code Ann. § 3-1-111(5), provides that every court has power to "control, in furtherance of justice, the conduct of its ministerial officers and of all other persons in any manner connected with a judicial proceeding before it in every other manner appertaining thereto." Additionally, Mont. Code

Ann. § 3-10-103 creates, in relevant part, the following requirements:

3-10-103. County to provide facilities. The board of county commissioners of the county in which the justice of the peace has been elected or appointed:

(1) shall provide for the justice's court:

(a) the office, courtroom, and clerical assistance necessary to enable the justice of the peace and the clerk of justice's court, if any, to conduct business in dignified surroundings;

. . . .

(2) may provide a clerk of justice's court.

As you noted in your opinion request Mont. Code Ann. § 3-10-103(2) gives a Board of County Commissioners the discretion to provide a clerk of justice court. In the dispute you describe in Pondera County, the Justice of the Peace sought to increase the clerk's hours. A Board of County Commissioners' denial of a request to provide a clerk or to increase a clerk's hours after a determination by a Justice of the Peace that either is a necessary expense, is subject to the review process established in State ex rel. Browman v. Wood, 168 Mont. 341, 543 P.2d 184 (1975).

In Browman, the Montana Supreme Court considered a dispute between a Justice of the Peace and a Board of County Commissioners. Due to an increase in the caseload, the Justice of the Peace submitted a request to hire temporary clerical assistance. Id. at 343, 543 P.2d at 186. Extra clerical assistance had not been provided in the Justice of the Peace's annual budget. Id. The Board of County Commissioners disapproved the request, in part, based on their position that the additional help was unnecessary. Id. The case came before the Supreme Court after a district court judge issued a peremptory writ of mandate requiring the Board of County Commissioners to allow and pay the claim. Id. at 344, 543 P.2d at 186.

On appeal the Board of County Commissioners argued that the law vested in them the discretion to approve or disapprove the claim for clerical expenses, rather than imposing a duty on them to act. Browman, 168 Mont. at 345, 543 P.2d at 187. The Court rejected the Board of County Commissioners' claim noting that it failed "to recognize the constitutional and statutory provisions that enable justice courts to incur the actual expenses necessary to function properly as a court of law." Id. The Court held that those constitutional and statutory provisions created a duty on the part of the commissioners to approve and pay the actual and necessary expenses of a justice court. Id.

The Court determined that the Board of County Commissioners' statutory duty to pay clerical expenses arose out of R.C.M. 93-412, which is now codified at Mont. Code Ann. §§ 3-10-103 and 3-10-209. Browman, 168 Mont. at 345-346, 543 P.2d at 188-189. Because the Court recognized that conflicts between Boards of County Commissioners and Justices of the Peace were bound to occur, it exercised its supervisory power under Mont. Const. article VII, § 2, and adopted a rule to govern such situations.

The Court's adopted rule governs in the case of conflict between a Board of County Commissioners and a Justice of the Peace concerning the funding of court expenses. According to the rule, the Justice of the Peace must submit a claim to the senior district judge of the judicial district in which the county is located in which the Justice of the Peace serves. Browman, 168 Mont. at 346, 543 P.2d at 189. The senior district judge is required to certify the necessity of the expense within ten (10) days of the submission of the claim and to transmit the certification to the Board of County Commissioners with copy to the county attorney. Id. If the senior district judge fails, refuses or neglects to certify the claim within the ten (10) day period, such nonaction is deemed to be a refusal to certify that such claim is an actual and necessary expense incurred or to be incurred by the Justice of the Peace in the performance of the Justice's official duties. Id. The Court held that the senior district judge's certification or refusal to certify such a claim was a condition precedent to any legal action on the claim in any court of this state. Id.

You state in your opinion request that some Boards of County Commissioners contend that the legislature disapproved the rule from Browman, citing the 1979 amendment to Mont. Code Ann. § 3-10-209 to support their contention. Senate Bill 481, enacted as chapter 528, Laws of 1979, amended § 3-10-209 by substituting the phrase "actual and necessary travel expenses" for what had previously simply read "expenses." I do not agree with the argument that the legislature's passage of Senate Bill 481 resulted in a disapproval of the Browman rule. First, review of Senate Bill 481 does not support the argument that the Legislature intended to disapprove Browman. The title of Senate Bill 481 reveals that its purpose was to standardize travel expenses and per diem for justices, judges, and court reporters as provided for in Mont. Code Ann. §§ 2-18-501 through 2-18-503. 1979 Mont. Laws, ch. 528. The Browman rule is not mentioned in the title or the text of the Bill. Id. Senate Bill 481 does not reflect any intent on the part of the legislature to disapprove the rule. Rules of procedure promulgated by the Montana Supreme Court pursuant to Mont. Const. article VII, § 2, are subject to disapproval by the legislature in either of the two sessions following promulgation. It is logical to conclude that any such

disapproval of a judicial rule of procedure must be done expressly. Passage of Senate Bill 481 does not support the contention that the legislature disapproved the Browman rule.

Second, in my opinion, the duty to pay for clerical assistance arises out of Mont. Code Ann. § 3-10-103, which allows a Board of County Commissioners to provide a clerk, rather than Mont. Code Ann. § 3-10-209, which addresses travel expenses. Thus, the 1979 amendment of Mont. Code Ann. § 3-10-209 is not directly applicable to a dispute over clerical expenses. Finally, subsequent to the 1979 amendment of Mont. Code Ann. § 3-10-209, the Montana Supreme Court continued to apply the Browman rule in cases involving financial disputes between a justice of the peace and a board of county commissioners. See, e.g., In the Matter of Certain Justice Court Expenses, 264 Mont. 510, 872 P.2d 795 (1994); Clark v. Dussault, 265 Mont. 479, 878 P.2d 239 (1994). This fact further supports my conclusion that the legislature did not disapprove the Browman rule with its adoption of Senate Bill 481.

It is therefore my opinion that Mont. Code Ann. § 3-10-103 creates a duty on the part of Boards of County Commissioners to accept and pay claims for actual and necessary clerical expenses associated with the operation of justice court. The procedural rule adopted in State ex rel. Browman v. Wood, 168 Mont. 341, 543 P.2d 184 (1975), applies to disputes between Justices of the Peace and Boards of County Commissioners regarding payment of actual and necessary expenses. In the dispute you described in Pondera County, the Justice of the Peace properly followed Browman, and her request was certified by the district court as a necessary expense.

The statutes governing county accounting, budgeting, and financial matters do not preclude continued application of the Browman rule. While boards of county commissioners may have some budgetary discretion when considering the payment of actual and necessary court expenses, the statutes governing the county budgeting process do not serve to disapprove application of the Browman rule when disputes arise. See Mont. Code Ann. §§ 7-6-4005 and 7-6-4006.

THEREFORE, IT IS MY OPINION:

Boards of County Commissioners have a duty to accept and pay claims for actual and necessary clerical expenses associated with the operation of justice court. The procedural rule adopted in State ex rel. Browman v. Wood, 168 Mont. 341, 543 P.2d 184 (1975), applies to disputes between Justices of the Peace and Boards of County Commissioners regarding payment of actual and necessary expenses.

Very truly yours,

/s/ Mike McGrath
MIKE McGRATH
Attorney General

mm/as/jym

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;
- ▶ Department of Public Service Regulation; and
- ▶ Office of the State Auditor and Insurance Commissioner.

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.

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.

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 PO 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) is a soft back, bound 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 the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute
Number and
Department | 2. Go to cross reference table at end of each title which lists MCA section numbers and corresponding ARM rule numbers. |

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through March 31, 2002. This table includes those rules adopted during the period April 1, 2002 through June 30, 2002 and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within 6 months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through March 31, 2002, this table and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule and the page number at which the action is published in the 2001 and 2002 Montana Administrative Registers.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

ADMINISTRATION, Department of, Title 2

- I Montana's Volume Cap Allocation, p. 2196, 2456
- 2.4.101 and other rules - Regulation of Travel Expenses, p. 2198, 2455

- (Public Employees' Retirement Board)
- I Purchase of Service Credit through Direct Trustee-to-Trustee Transfers, p. 1154, 1889
- I-III Qualified Domestic Relations Orders for the Deferred Compensation (457) Plan Administered by the Public Employees' Retirement Board, p. 1612
- I-III Deferred Compensation Plan Administered by the Public Employees' Retirement Board, p. 1150, 1893
- I-X Deferred Retirement Option Plan (DROP) for Members of the Municipal Police Officers' Retirement System, p. 1118, 1891
- 2.43.404 and other rules - Defined Contribution Retirement Plan for Members of the Public Employees' Retirement System, p. 1126, 1884
- 2.43.606 Retirement Systems Administered by the Public Employees' Retirement Board, p. 1114, 1890
- 2.43.615 and other rules - Family Law Orders for Retirement Systems and Plans Administered by the Public Employees' Retirement Board, p. 1603

(State Fund)

2.55.319 and other rules - Multiple Rating Tiers - Premium Modifiers - Individual Loss Sensitive Dividend Distribution Plan - Premium Rates, p. 2073, 164, 1065

(Banking and Financial Institutions)

2.59.107 Investments of Financial Institutions, p. 136, 901
2.59.112 and other rules - Approved Investments for Montana Banks - Investment Policies, p. 2066, 166

AGRICULTURE, Department of, Title 4

I-III Potato Research and Market Development Program, p. 1682
4.12.402 and other rules - Feed Penalties, p. 1, 778
4.12.3104 and other rules - Seeds - Labeling - Analysis Fees, p. 2278, 70
4.13.1001A State Grain Laboratory Fees, p. 1008, 1548
4.14.301 and other rule - Loan Qualifications, p. 1231, 1723, 71

STATE AUDITOR, Title 6

I-IV Insurance Information and Privacy Protection, p. 1686
I-XX Formation and Regulation of Captive Insurance Companies, p. 2351, 171
6.6.4202 and other rules - Continuing Education Program for Insurance Producers and Consultants, p. 1161, 1511, 1702, 2134, 2457
6.10.121 Registration and Examination of Securities Salespersons, Investment Adviser Representatives, Broker-Dealers, and Investment Advisers, p. 2283, 73

COMMERCE, Department of, Title 8

(Community Development Division)

I Administration of the 2002 Federal Community Development Block Grant Program, p. 2449, 1656
I Application to the Treasure State Endowment Program (TSEP), p. 2447, 524

(Board of Research and Commercialization Technology)

8.100.104 and other rule - Definitions - Application Procedures, p. 2203, 74

(Hard-Rock Mining Impact Board)

8.104.101 and other rules - Organizational Rule - Rules Governing Awarding of Grants, p. 425, 1660

(Board of Housing)

I-XV Affordable Housing Revolving Loan Fund - TANF Housing Assistance Funds, p. 1513, 75

8.111.513 Terms and Conditions of Loans Made from TANF Housing Assistance Funds, p. 1832

(Montana Promotion Division)

8.119.101 Tourism Advisory Council, p. 1013, 1661

EDUCATION, Title 10

(Office of Public Instruction)

10.7.106A and other rules - Students Placed in Private Education Programs - Tuition, p. 855, 1662

10.7.112 and other rules - Establishment of Investment Accounts - Spending Accounts - Agreement with the County Treasurer - Payments into an Investment Account - Controls and Accounting Records - Closure of a School District Fund - Cash and Budget Transfers Between School District Funds - School Flexibility Payment - Basic Equalization Levy Shortfall, p. 825, 1740

10.13.307 and other rules - Traffic Education, p. 6, 1067

10.41.101 and other rules - Vocational Education, p. 1784, 2206, 780, 1304

(Board of Public Education)

I Substantial and Material Non-performance of a Contract of Employment, p. 1016, 1549

10.55.601 Accreditation Standards and Procedures, p. 2359, 172

10.57.211 and other rules - Model Rules - Teacher Certification - Testing for Certification and Minimum Scores, p. 867, 1463

10.64.301 and other rules - Bus Standards, p. 1530

10.66.104 GED Fees, p. 1534

FISH, WILDLIFE, AND PARKS, Department of, Title 12

12.9.802 and other rules - Issuance of Supplemental Game Damage Licenses to Hunters in Lieu of Kill Permits, p. 20, 1306

(Fish, Wildlife, and Parks Commission)

I Creating a No Wake Zone on Hebgen Lake, p. 1156

I Regulating the Use of Snowmobiles on Open Public Water, p. 27, 1084

12.3.135 and other rule - Allowing Successful Moose, Sheep or Goat Applicants to Annul and Return the License if Military or Emergency Duty Does Not Allow Use of the License - Bonus Point Exemption for Military or Emergency Personnel in Combat or Emergency Situations, p. 1835

12.3.402 Refunding of the Two-day Resident Fishing License, p. 17, 1072

12.7.801 and other rules - Fishing Contest Regulations, p. 29, 1073, 1894

(Department of Fish, Wildlife, and Parks and the Fish, Wildlife, and Parks Commission)

- I-V Contractual Public Elk Hunting Access Agreements, p. 1536
- 12.2.501 Declaring Black-tailed and White-tailed Prairie Dogs to be Nongame Wildlife in Need of Management, p. 1806, 526

ENVIRONMENTAL QUALITY, Department of, Title 17

- I Air Quality - Air Quality Fee Credit for Use of Postconsumer Glass in Recycled Material, p. 1950, 529
- 17.36.101 and other rules - Subdivisions - Subdivision Review Under the Sanitation and Subdivisions Act, p. 568, 1465
- 17.40.201 and other rules - Wastewater Operators - Wastewater Treatment Operators, p. 1839
- 17.53.102 and other rules - Hazardous Wastes - Management of Hazardous Wastes, p. 35, 789, 1315
- 17.56.105 and other rule - Underground Storage Tanks - Variances - Issuance of Compliance Tags and Certificates, p. 51, 1477
- 17.56.121 and other rules - Underground Storage Tanks - Operating Permits - Operating Tags - Scope of Compliance Inspections - Compliance Plans, p. 2080, 2459
- 17.56.308 and other rule - Underground Storage Tanks - Operating Permits or Compliance Plans - Compliance Inspections, p. 2452, 139, 1091

(Board of Environmental Review)

- I Air Quality - Maintenance of Air Pollution Control Equipment for Existing Aluminum Plants, p. 1033
- 17.8.101 and other rules - Air Quality - Definitions - Incorporation by Reference of Current Federal Regulations - Additional Conditions of Air Quality Preconstruction Permit, p. 268, 1747
- 17.8.505 and other rules - Air Quality - Air Quality Operation Fees - Annual Review of Air Quality Permit Fees - Open Burning Fees, p. 1692
- 17.8.701 and other rules - Air Quality - Issuance of Montana Air Quality Permits, p. 276
- 17.8.1201 Air Quality - Definition of Major Source in the Air Quality Operating Permit Rules, p. 1030
- 17.30.201 Water Quality - Water Quality Permit and Authorization Fees, p. 2361, 382
- 17.30.502 and other rules - Water Quality - Surface Water Quality, p. 1920, 387, 1089, 1314
- 17.30.602 and other rules - Water Quality - Water Use Classifications and Numeric Nutrient Standards - Definitions - Incorporations by Reference, p. 1019
- 17.30.2003 Water Quality - Enforcement Actions for Administrative Penalties, p. 263, 1749

TRANSPORTATION, Department of, Title 18

(Transportation Commission)

18.6.211 Collection of Permit Fees for Outdoor Advertising Signs, p. 2208, 2465

CORRECTIONS, Department of, Title 20

20.9.101 and other rules - Youth Placement Committees, p. 618, 1039

JUSTICE, Department of, Title 23

23.3.127 and other rules - Driver Licensing and Identification Cards, p. 428, 1316, 1896

23.4.201 and other rules - Field Certification of Associated Equipment, p. 871, 1482

23.4.501 and other rules - Definitions - Requirements for Collection and Storage of DNA, p. 1617

23.15.101 and other rules - Creating the Office of Victims Services and Restorative Justice, p. 1382, 1753

23.16.102 and other rules - Forms Used by the Department in Regulating Gambling - Gambling Applications - Video Gambling Machine Testing Fees, p. 308, 902

23.17.311 Montana Law Enforcement Academy Student Academic Performance Requirements for the Basic Course, p. 1386, 1754

(Board of Crime Control)

I Authorizing Reimbursement to Counties for Detention of Indian Youth, p. 142, 305, 1484

23.14.401 and other rule - Membership on the Peace Officers Standards and Training Council - POST Training Hours Awarded for College Credits, p. 1697

LABOR AND INDUSTRY, Department of, Title 24

(Board of Architects)

8.6.101 and other rules - Transfer from the Department of Commerce - Board of Architects Rules, p. 173

8.6.405 and other rules - Licensure of Applicants Who are Registered in Another State - Examinations - Renewals - Fees, p. 1408, 175

(Board of Barbers)

8.10.101 and other rules - Transfer from the Department of Commerce - Board of Barbers Rules, p. 393

8.10.414 and other rule - Prohibition of Animals in Barbershops - Certain Records of Barber Schools, p. 1953, 176

- (Board of Clinical Laboratory Science Practitioners)
- 8.13.101 and other rules - Transfer from the Department of Commerce - Board of Clinical Laboratory Science Practitioners, p. 1485
- 8.13.301 and other rules - Application - Fees - Minimum Standards for Licensure - Continuing Education - Inactive Status - Reactivation of License - Notification of Denial or Disciplinary Action - Supervision, p. 636, 1486

- (Board of Cosmetologists)
- 8.14.402 and other rules - Elimination of the Required Practical Examination for Cosmetologists, p. 465, 1318

- (Board of Dentistry)
- 8.16.402 and other rules - Licensure of Dentists and Dental Hygienists - Application Requirements for Dentists and Dental Hygienists, p. 439, 1488

- (State Electrical Board)
- 8.18.101 and other rules - Transfer from the Department of Commerce - State Electrical Board Rules, p. 1755

- (Board of Hearing Aid Dispensers)
- 8.20.101 and other rules - Transfer from the Department of Commerce - Board of Hearing Aid Dispensers Rules, p. 349
- 8.20.402 and other rules - Fees - Examination - Pass/Fail Point - Minimum Testing and Recording Procedures, p. 819, 1412, 2422, 82

- (Board of Landscape Architects)
- 8.24.101 and other rules - Transfer from the Department of Commerce - Board of Landscape Architects Rules, p. 1498

- (Board of Funeral Service)
- 8.30.101 and other rules - Transfer from the Department of Commerce - Board of Funeral Service Rules, p. 790
- 8.30.406 and other rules - Examination - Continuing Education - Sponsors - Renewal, p. 1297, 84, 793

- (Board of Nursing)
- 8.32.303 and other rules - Nursing Licensure, p. 1621

- (Board of Optometry)
- 8.36.601 Continuing Education, p. 632, 1550
- 8.36.801 Therapeutic Pharmaceutical Agents, p. 884, 1551

- (Board of Pharmacy)
- 8.40.101 and other rules - Transfer from the Department of Commerce - Board of Pharmacy Rules, p. 904

- 8.40.401 and other rules - Substantive Pharmacy Rules - Automated Data Processing - Certified Pharmacies - Internship Regulations - Continuing Education for Pharmacists - Dangerous Drug Act - Collaborative Practice Agreement Requirements - Security of Certified Pharmacy - Administration of Vaccines by Pharmacists - Explosive Chemicals - Prescription Copies for Legend Drugs, p. 1422, 178, 794
- 8.40.1301 and other rules - Pharmacy Technicians - Registration of Pharmacy Technicians - Renewal, p. 1447, 86, 796
- 24.174.301 and other rules - Definitions - Foreign Graduates - Preceptor Requirements - Technician Ratio - Pharmacy Security Requirements - Licensing - Personnel - Absence of Pharmacist - Use of Emergency Drug Kits - Drug Distribution - Pharmacist Responsibility - Sterile Products - Return of Medication from Long Term Care Facilities - Pharmacist Meal/Rest Breaks - Health Care Facility Definition - Class I Facility - Class II Facility - Class II Facility, p. 1868

(Board of Professional Engineers and Land Surveyors)

- 8.48.101 and other rules - Transfer from the Department of Commerce - Board of Professional Engineers and Land Surveyors Rules, p. 1756
- 8.48.401 and other rules - Board Organization - Board Meetings - Screening Panel - Applications - Reclassification of Engineers and Land Surveyors - Classification of Experience of Land Surveying Applicants, p. 450, 1326

(Board of Real Estate Appraisers)

- 24.207.401 and other rules - Fees - Adoption of USPAP by Reference - Qualifying Experience - Inactive License/Certification, p. 144, 911

(Board of Sanitarians)

- 8.60.101 and other rules - Transfer from the Department of Commerce - Board of Sanitarians Rules, p. 1499

(Board of Social Work Examiners and Professional Counselors)

- 8.61.1201 Licensure Requirements, p. 1388

(Board of Veterinary Medicine)

- 8.64.509 Licensure of Out-of-State Applicants (Endorsement), p. 1041

- I Unemployment Insurance Matters - Voluntary Layoff, p. 2090, 2466
- I-VIII Building Codes, p. 1631
- I-XVIII Investigating Complaints on Discrimination, p. 1158
- 24.11.204 and other rules - Unemployment Insurance Benefits Matters, p. 1044, 1665
- 24.11.442 Initial Monetary Determination Matters, p. 1863

- 24.16.9001 and other rules - Prevailing Wage Matters, p. 1172
 - 24.16.9001 and other rules - Prevailing Wage Matters, p. 313
 - 24.16.9003 and other rule - Prevailing Wage Rates, p. 1391
 - 24.21.411 and other rules - Apprenticeship, p. 1701
 - 24.21.414 Adoption of Wage Rates for Certain Apprenticeship Programs, p. 1400
 - 24.29.1504 and other rules - Chiropractic, Occupational Therapy and Physical Therapy Services and Fees in Workers' Compensation Matters, p. 1403, 1758
 - 24.29.2803 and other rules - Uninsured Employers' Fund, p. 1420, 1766
 - 24.29.2814 Emergency Amendment - Uninsured Employers' Fund Administrative Costs Balance, p. 907
 - 24.30.102 Occupational Safety and Health Standards for Public Sector Employment, p. 887, 1552
 - 24.301.107 and other rules - Building Codes - Modifications to the Uniform Building Code Applicable Only to the Department's Code Enforcement Program - Adoption of the Uniform Housing Code or the Uniform Code for the Abatement of Dangerous Buildings, p. 345
- (Workers' Compensation Judge)
- 24.5.303 and other rules - Procedural Rules of the Court, p. 2211, 93

LIVESTOCK, Department of, Title 32

- (Board of Horse Racing)
- 8.22.301 and other rules - Transfer from the Department of Commerce - Board of Horse Racing Rules, p. 642, 1500, 1897
- (Board of Livestock)
- 32.2.401 Various Fees Charged by the Department of Livestock for Inspecting Livestock, p. 724, 1510

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

- 36.24.101 and other rules - Water Pollution Control State Revolving Fund Act - Purpose - Definitions and Construction of Rules - Direct Loans - Types of Bonds; Financial and Other Requirements - Other Types of Bonds - Covenants Regarding Facilities Financed by the Loan - Fees - Evaluation of Financial Matters and Commitment Agreements - Requirements for Disbursing of Loan - Terms of Loan and Bond - Financial and Other Requirements for Loans to Private Persons, p. 1708
- (Board of Land Commissioners and Department of Natural Resources and Conservation)
- 36.2.1005 Minimum Easement Charge under the Jurisdiction of the State Board of Land Commissioners, p. 1540

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

- I Licensure of Minimum Standards for Critical Access Hospital (CAH), p. 1956, 205
- 16.28.101 and other rules - Transfer from the Department of Health and Environmental Sciences - Communicable Disease Control, p. 913
- 16.32.101 and other rules - Transfer from the Department of Health and Environmental Sciences - Licensure of Health Care Facilities, p. 185
- 16.32.302 Health Care Licensure, p. 1959, 192
- 16.32.601 and other rules - Minimum Standards for Mental Health Centers, p. 1962, 916
- 37.5.304 and other rules - Child Care Assistance and Hearing Appeal Rights, p. 727, 1553
- 37.8.101 and other rules - Vital Statistics, p. 2373, 397
- 37.40.301 and other rules - Nursing Facilities, p. 1262, 1767
- 37.50.315 Foster Care Classification Model, p. 774, 1557
- 37.76.101 and other rules - Temporary Assistance for Needy Families (TANF), p. 149, 952
- 37.78.102 and other rules - Families Achieving Independence in Montana (FAIM) and Temporary Assistance for Needy Families (TANF), p. 1207, 1771
- 37.82.701 and other rules - Medically Needy Family Medicaid Coverage, p. 1279, 1773
- 37.85.204 and other rules - Independent Diagnostic Testing Facilities - Medicaid Reimbursement, p. 56, 797
- 37.85.212 and other rules - Emergency Amendment - Extension of the 2.6% Provider Reimbursement Reductions - Withholding Provider Rate Increase for Resource Based Relative Value Scale (RBRVS) Providers for Fiscal Year 2003, p. 1899
- 37.85.212 and other rule - Resource Based Relative Value Scale (RBRVS), p. 1247, 1775
- 37.85.212 and other rules - Emergency Amendment - Medicaid Reimbursement, p. 94
- 37.86.805 and other rules - Medicaid Reimbursement for Primary Care Services, p. 1251, 1779
- 37.86.1004 and other rule - Reimbursement Methodology for Source Based Relative Value on Dental Services, p. 1243, 1780
- 37.86.1101 and other rule - Medicaid Outpatient Drug Reimbursement, p. 1257, 1788
- 37.86.2207 and other rules - Mental Health Services, p. 503, 1328
- 37.86.2207 and other rules - Emergency Adoption and Amendment - Mental Health Services, p. 193
- 37.86.2801 and other rules - Inpatient and Outpatient Hospitals, p. 1289, 1543, 1725
- 37.88.901 and other rules - Mental Health Center Services, p. 1424
- 37.95.102 and other rules - Licensure of Day Care Facilities, p. 483

- 37.108.507 Components of Managed Care Plan Quality Assessment Activities, p. 349, 954
- 37.114.799 Communicable Disease Control, p. 891, 1511

PUBLIC SERVICE REGULATION, Department of, Title 38

- I Electronic Filings, p. 1582, 398
- 38.5.1107 Accrual of Interest on Customer Deposits with Utilities, p. 893
- 38.5.2202 and other rule - Pipeline Safety, p. 2093, 2467
- 38.5.8001 General Requirement to Obtain License to Supply Electricity, p. 521, 1512

REVENUE, Department of, Title 42

- I Production Threshold for Beer Taxes, p. 379, 955
- I-III Exemptions, Reduced Tax Rates, and Credits for Energy Facilities, p. 1060
- 42.2.501 Partial Payments for Debts Collected by the Department, p. 1545
- 42.2.613 and other rules - Taxpayer Appeals, p. 1430
- 42.5.213 Filing and Remittance Requirements for Electronic Fund Transfers, p. 1438, 1906
- 42.13.101 and other rules - Liquor Licensing, p. 1727
- 42.15.315 and other rules - Penalties and Interest Charges for Late Filed and Late Paid Taxes, p. 352, 1094
- 42.18.106 and other rules - Montana Appraisal Plan Rules, p. 356, 1097
- 42.19.1102 and other rule - Treatment of Gasohol Production Facilities, p. 65, 811
- 42.22.104 Motor Vehicles and Special Mobile Equipment, p. 2403, 99
- 42.22.1311 and other rules - Exemptions - Reduced Tax Rates - Credits for Energy Facilities, p. 369, 1092
- 42.23.413 Carryovers of Net Operating Losses for Corporation License Taxes, p. 2127, 2468, 207
- 42.26.101 and other rules - Corporation Taxes, p. 2096, 2469, 403
- 42.29.101 and other rules - Universal System Benefits Credits, p. 2216, 209
- 42.31.501 and other rules - Retail Communications Excise Tax, p. 2399, 68, 956

(Board of Review)

- I-V One-Stop Licensing Program Administered by the Department of Revenue on Behalf of the Board of Review, p. 1056, 1559

SECRETARY OF STATE, Title 44

- 44.3.1101 Schedule of Fees for the Centralized Voter File, p. 896, 1667
- 44.5.101 and other rules - Filing and Copy Fees for Corporations, p. 2000, 2472, 960

44.6.201 and other rule - Uniform Commercial Code Filings
(UCC), p. 898, 1668

(Commissioner of Political Practices)

44.12.101 and other rules - Lobbying - Regulation of Lobbying,
p. 1440

BOARD 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 appointees and upcoming or current vacancies on those boards and councils.

In this issue, appointments effective in June 2002, appear. Vacancies scheduled to appear from August 1, 2002, through October 31, 2002, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

Each month, the previous month's appointees are printed, and current and upcoming vacancies for the next three months are published.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of July 2, 2002.

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.

BOARD AND COUNCIL APPOINTEES FROM JUNE 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Barbers (Labor and Industry) Mr. Edward Dutton Kalispell Qualifications (if required): licensed barber	Governor	reappointed	6/11/2002 7/1/2005
Ms. Delores Lund Reserve Qualifications (if required): public member	Governor	reappointed	6/11/2002 7/1/2005
Board of Crime Control (Justice) Reverend Steven Rice Miles City Qualifications (if required): representative of the Youth Justice Council	Governor	McCall	6/11/2002 1/1/2003
Eastern Montana State Veterans Cemetery Advisory Council (Military Affairs) Mr. Bob Beals Forsyth Qualifications (if required): American Legion	Director	not listed	6/1/2002 6/1/2004
Ms. Sylvia Beals Forsyth Qualifications (if required): American Legion	Director	not listed	6/1/2002 6/1/2004
Mr. Jim Bertrand Miles City Qualifications (if required): Veterans of Foreign Wars	Director	not listed	6/1/2002 6/1/2004
Mr. Bill Dolatta Terry Qualifications (if required): Vietnam Veterans of America	Director	not listed	6/1/2002 6/1/2004

BOARD AND COUNCIL APPOINTEES FROM JUNE 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Eastern Montana State Veterans Cemetery Advisory Council (Military Affairs) cont. Ms. Linda Dolatta Terry	Director	not listed	6/1/2002 6/1/2004
Qualifications (if required):	American Legion Auxiliary		
Ms. Donna Dukart Miles City	Director	not listed	6/1/2002 6/1/2004
Qualifications (if required):	American Legion Auxiliary		
Mr. Tom Frank Miles City	Director	not listed	6/1/2002 6/1/2004
Qualifications (if required):	alternate		
Mr. Tom Handl Miles City	Director	not listed	6/1/2002 6/1/2004
Qualifications (if required):	Veterans of Foreign Wars		
Mr. Tony Harbaugh Miles City	Director	not listed	6/1/2002 6/1/2004
Qualifications (if required):	Custer County Sheriff		
Ms. Betty Hopkins Ismay	Director	not listed	6/1/2002 6/1/2004
Qualifications (if required):	Disabled American Veterans Auxiliary		
Mr. Henry "Bill" Hopkins Ismay	Director	not listed	6/1/2002 6/1/2004
Qualifications (if required):	Disabled American Veterans		
Mr. James F. Jacobsen Helena	Director	not listed	6/1/2002 6/1/2004
Qualifications (if required):	none specified		

BOARD AND COUNCIL APPOINTEES FROM JUNE 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Eastern Montana State Veterans Cemetery Advisory Council (Military Affairs) cont. Mr. Victor Leikam Billings Qualifications (if required): 40 & 8	Director	not listed	6/1/2002 6/1/2004
Ms. Myrtle Meissner Circle Qualifications (if required): Veterans of Foreign Wars Auxiliary	Director	not listed	6/1/2002 6/1/2004
Ms. Edith Pawlowski Circle Qualifications (if required): Veterans of Foreign Wars Auxiliary	Director	not listed	6/1/2002 6/1/2004
Mr. David Peterson Billings Qualifications (if required): Disabled American Veterans	Director	not listed	6/1/2002 6/1/2004
Mr. Frederick S. Rambur Miles City Qualifications (if required): Department of Military Affairs	Director	not listed	6/1/2002 6/1/2004
Mr. Alexander Russell Melstone Qualifications (if required): Military Order of the Purple Heart	Director	not listed	6/1/2002 6/1/2004
Mr. John S. Salazar Miles City Qualifications (if required): Department of Military Affairs	Director	not listed	6/1/2002 6/1/2004
Mr. Joe Stevenson Miles City Qualifications (if required): Custer County Commissioner	Director	not listed	6/1/2002 6/1/2004

BOARD AND COUNCIL APPOINTEES FROM JUNE 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Eastern Montana State Veterans Cemetery Advisory Council (Military Affairs) cont. Mr. Frank Stoltz Miles City Qualifications (if required): Prisoners of War	Director	not listed	6/1/2002 6/1/2004
Mr. Stanley Watson Forsyth Qualifications (if required): Marine Corps League	Director	not listed	6/1/2002 6/1/2004
Family Education Savings Program Oversight Committee (Commissioner of Higher Education) Mr. Scott Darkenwald Helena Qualifications (if required): state treasurer	Governor	Ranf	6/5/2002 7/1/2004
Governor's Local Option Tourist Tax Advisory Council (Revenue) Mr. Kurt Alme Helena Qualifications (if required): representative of the Governor's Office	Governor	Snezek	6/24/2002 12/31/2002
Montana Vocational Rehabilitation Council (Public Health and Human Services) Ms. Myrle Tompkins Helena Qualifications (if required): none specified	Director	Longie	6/17/2002 6/17/2004
Public Safety Communications Council (Administration) Mr. John Blacker Helena Qualifications (if required): representative of state government	Governor	not listed	6/18/2002 6/18/2004
Mr. Tim Burton Helena Qualifications (if required): representative of local government	Governor	not listed	6/18/2002 6/18/2004

BOARD AND COUNCIL APPOINTEES FROM JUNE 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Public Safety Communications Council (Administration) cont. Dr. Drew Dawson Helena	Governor	not listed	6/18/2002 6/18/2004
Qualifications (if required):	representative of the emergency medical services community		
Ms. Jane Ellis Missoula	Governor	not listed	6/18/2002 6/18/2004
Qualifications (if required):	representative of the 9-1-1 community		
Mr. Larry Fasbender Helena	Governor	Fasbender	6/18/2002 6/18/2004
Qualifications (if required):	designee of the Attorney General		
Commissioner Gary Fjelstad Forsyth	Governor	not listed	6/18/2002 6/18/2004
Qualifications (if required):	representative of county government		
Mr. William Jameson Bozeman	Governor	not listed	6/18/2002 6/18/2004
Qualifications (if required):	representative of citizens at large		
Mr. Doug King Billings	Governor	not listed	6/18/2002 6/18/2004
Qualifications (if required):	representative of federal government		
Mr. Chuck Maxwell Billings	Governor	not listed	6/18/2002 6/18/2004
Qualifications (if required):	representative of law enforcement and the Sheriffs and Peace Officers Association		

BOARD AND COUNCIL APPOINTEES FROM JUNE 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Public Safety Communications Council (Administration) cont. Mr. Ken Mergenthaler East Helena	Governor	not listed	6/18/2002 6/18/2004
Qualifications (if required):	representative of	volunteer fire protection services	
Mr. Kevin Olson Havre	Governor	not listed	6/18/2002 6/18/2004
Qualifications (if required):	representative of	law enforcement and Montana Association of Chiefs of Police	
Colonel Stan Putnam Helena	Governor	not listed	6/18/2002 6/18/2004
Qualifications (if required):	representative of	state government	
Ms. Elisabeth S. Rice Butte	Governor	not listed	6/18/2002 6/18/2004
Qualifications (if required):	representative of	Northwestern Energy and other private utilities	
Mr. Derek Siegle Billings	Governor	not listed	6/18/2002 6/18/2004
Qualifications (if required):	representative of	federal government	
Mr. Larry Wetsit Scobey	Governor	not listed	6/18/2002 6/18/2004
Qualifications (if required):	representative of	the Tribes	
Mr. Chuck Winn Bozeman	Governor	not listed	6/18/2002 6/18/2004
Qualifications (if required):	representative of	fire protection services	

BOARD AND COUNCIL APPOINTEES FROM JUNE 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Public Safety Communications Council (Administration) cont.			
Mr. Brian Wolf	Governor	Wolf	6/18/2002
Helena			6/18/2004
Qualifications (if required): designee of the director of the Department of Administration			
State Library Commission (State Library)			
Mr. Alvin Randall	Governor	reappointed	6/17/2002
Troy			5/22/2005
Qualifications (if required): public member			
Ms. Gail Staffanson	Governor	Laird	6/17/2002
Sidney			5/22/2005
Qualifications (if required): public member			
State-Tribal Economic Development Commission (Indian Affairs)			
Mr. Lloyd Irvine	Governor	not listed	6/30/2002
Pablo			6/30/2005
Qualifications (if required): representative of the Confederated Salish and Kootenai Tribe			
Mr. Jake Parker	Governor	not listed	6/30/2002
Box Elder			6/30/2005
Qualifications (if required): representative of the Rocky Boy Tribe			
Mr. John Woodenlegs	Governor	not listed	6/30/2002
Lame Deer			6/30/2005
Qualifications (if required): representative of the Northern Cheyenne Tribe			

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2002 through OCTOBER 31, 2002

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Alternative Health Care Board (Commerce) Ms. Ann H. Pasha, Highwood Qualifications (if required): public member	Governor	9/1/2002
Ms. Kathee Dunham, Arlee Qualifications (if required): direct midwife	Governor	9/1/2002
Board of Medical Examiners (Commerce) Mr. David B. Huebner, Great Falls Qualifications (if required): licensed podiatrist	Governor	9/1/2002
Dr. Donald Grewell, Billings Qualifications (if required): doctor of osteopathy	Governor	9/1/2002
Dr. Anne M. Williams, Glasgow Qualifications (if required): doctor of medicine	Governor	9/1/2002
Board of Outfitters (Commerce) Ms. Jennifer J. Cote, Missoula Qualifications (if required): sportsperson	Governor	10/1/2002
Mr. Wayne L. Underwood, Billings Qualifications (if required): sportsperson	Governor	10/1/2002
Mr. Mel Montgomery, Lima Qualifications (if required): big game outfitter	Governor	10/1/2002
Mr. Leslie K. Dolezal, Billings Qualifications (if required): public member	Governor	10/1/2002

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2002 through OCTOBER 31, 2002

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Private Security Patrol Officers and Investigators (Commerce) Ms. Francine Britton, Billings Qualifications (if required): representative of the Peace Officers Standards and Training Advisory Council	Governor	8/1/2002
Mr. Donald R. Houghton, Bozeman Qualifications (if required): representative of the Peace Officers Standards and Training Advisory Council	Governor	8/1/2002
Board of Private Security Patrol Officers and Investigators (Labor and Industry) Dr. Raymond C. Murray, Missoula Qualifications (if required): representing the Peace Officers Standards and Training Advisory Council	Governor	8/1/2002
Board of Psychologists (Commerce) Mr. Mike Mallowney, Absarokee Qualifications (if required): public member	Governor	9/1/2002
Board of Veterans' Affairs (Military Affairs) Mr. George G. Hageman, Jordan Qualifications (if required): veteran	Governor	8/1/2002
Building Codes Council (Commerce) Mr. Fred Flanders, Helena Qualifications (if required): representative of the public	Governor	10/1/2002
Mr. Daniel Prill, Great Falls Qualifications (if required): practicing professional engineer	Governor	10/1/2002
Mr. Robert J. Karhu, Helena Qualifications (if required): practicing architect	Governor	10/1/2002

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2002 through OCTOBER 31, 2002

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Building Codes Council (Commerce) cont. Mr. Mike Skinner, Helena Qualifications (if required): representative of the manufactured housing industry	Governor	10/1/2002
Mr. Joe Wolfe, Helena Qualifications (if required): representative of the State Electrical Board	Governor	10/1/2002
Mr. Terry Phillips, Helena Qualifications (if required): State Fire Marshal	Governor	10/1/2002
Mr. Derek J. Brown, Helena Qualifications (if required): representative of the home building industry	Governor	10/1/2002
Mr. Dick Grover, Missoula Qualifications (if required): representative of the State Plumbing Board	Governor	10/1/2002
Mr. Jeffrey Jenkins, Great Falls Qualifications (if required): municipal building inspector	Governor	10/1/2002
Mr. Joe Hansen, Bozeman Qualifications (if required): representative of the building contractor industry	Governor	10/1/2002
Mr. Howard Reid, Helena Qualifications (if required): representative of the Department of Public Health and Human Services	Governor	10/1/2002
Burial Preservation Board (Governor) Mr. Mickey Nelson, Helena Qualifications (if required): representative of the Montana Coroner's Association	Governor	8/22/2002
Mr. Duncan Standing Rock, Sr., Box Elder Qualifications (if required): representative of the Chippewa-Cree Tribe	Governor	8/22/2002

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2002 through OCTOBER 31, 2002

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Burial Preservation Board (Governor) cont. Mrs. Germaine White, St. Ignatius Qualifications (if required): representative of the Little Shell Tribe	Governor	8/22/2002
Mr. George Reed, Sr., Crow Agency Qualifications (if required): representative of the Crow Tribe	Governor	8/22/2002
Ms. Sherri Deaver, Billings Qualifications (if required): representative of the Archeological Society	Governor	8/22/2002
Mr. Ben Speak Thunder, Harlem Qualifications (if required): representative of the Fort Belknap Tribe	Governor	8/22/2002
Family Support Services Advisory Council (Public Health and Human Services) Mr. Mike Cooney, Helena Qualifications (if required): representing Healthy Mothers/Healthy Babies	Governor	9/27/2002
Ms. Sylvia Danforth, Miles City Qualifications (if required): representative of provider/Part C Agency	Governor	9/27/2002
Mr. Ted Maloney, Missoula Qualifications (if required): representative at large	Governor	9/27/2002
Mr. Dan McCarthy, Helena Qualifications (if required): agency representative/preschool specialist/SEA	Governor	9/27/2002
Ms. Sandi Marisdotter, Helena Qualifications (if required): representing provider/Part C Agency	Governor	9/27/2002
Ms. Sue Forest, Missoula Qualifications (if required): representative of personnel preparation	Governor	9/27/2002

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2002 through OCTOBER 31, 2002

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Family Support Services Advisory Council (Public Health and Human Services) cont. Ms. Cris Volinkaty, Missoula Qualifications (if required): representing provider/Part C Agency	Governor	9/27/2002
Ms. Barbara Stefanic, Laurel Qualifications (if required): LEA representative for special education co-operatives	Governor	9/27/2002
Mr. John Holbrook, Helena Qualifications (if required): agency representative/State Insurance Commissioner	Governor	9/27/2002
Ms. Jackie Jandt, Helena Qualifications (if required): agency representative/mental health	Governor	9/27/2002
Ms. Sharon Wagner, Helena Qualifications (if required): representative/Special Health Services	Governor	9/27/2002
Ms. Millie Kindle, Malta Qualifications (if required): representative of Parent Region I	Governor	9/27/2002
Sen. Gerald Pease, Lodge Grass Qualifications (if required): legislator and representative of Parent Region II	Governor	9/27/2002
Ms. Lynda Korth, Helena Qualifications (if required): representative/Child and Family Services	Governor	9/27/2002
Rep. Mary Anne Guggenheim, Helena Qualifications (if required): representative of medical/health care services	Governor	9/27/2002
Ms. Patti Russ, Helena Qualifications (if required): agency representative/child care	Governor	9/27/2002
Ms. Liz Harter, Helena Qualifications (if required): agency representative/State Insurance Commissioner	Governor	9/27/2002

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2002 through OCTOBER 31, 2002

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Family Support Services Advisory Council (Public Health and Human Services) cont. Ms. Kelly Johnson, Kalispell Qualifications (if required): representative of parents at large	Governor	9/27/2002
Ms. Ann Marie Johnson, Missoula Qualifications (if required): representative of Head Start	Governor	9/27/2002
Ms. Lucy Hart-Paulson, Missoula Qualifications (if required): therapist representative	Governor	9/27/2002
Ms. Sandy McGennis, Great Falls Qualifications (if required): representative of providers	Governor	9/27/2002
Ms. Denise King, Helena Qualifications (if required): agency representative/EPST	Governor	9/27/2002
Ms. Gwen Beyer, Missoula Qualifications (if required): representative of Parent Region V	Governor	9/27/2002
Ms. Phyllis Astheimer, Bozeman Qualifications (if required): family support specialist	Governor	9/27/2002
Mr. Brian Lenhardt, Havre Qualifications (if required): parent representative from Region II	Governor	9/27/2002
Ms. Rene Lenhardt, Havre Qualifications (if required): parent representative from Region II	Governor	9/27/2002
Ms. Shelley Korth, Helena Qualifications (if required): parent representative from Region IV	Governor	9/27/2002
Mr. Jay Korth, Helena Qualifications (if required): parent representative from Region IV	Governor	9/27/2002

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2002 through OCTOBER 31, 2002

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Family Support Services Advisory Council (Public Health and Human Services) cont. Ms. Novelene Martin, Miles City Qualifications (if required): DDP Field Services Specialist representative	Governor	9/27/2002
Historical Records Advisory Council (Historical Society) Ms. Molly Miller, Helena Qualifications (if required): acting state archivist	Governor	10/18/2002
Ms. Anne L. Foster, Huntley Qualifications (if required): public member	Governor	10/18/2002
Historical Society Preservation Review Board (Historical Society) Ms. Theo Hugs, Fort Smith Qualifications (if required): historian	Governor	10/1/2002
Mr. Douglas Johnson, Hamilton Qualifications (if required): administrator of historic property	Governor	10/1/2002
Independent Living Council (Public Health and Human Services) Mr. Robert D. Liston, Missoula Qualifications (if required): representing advocates and consumers	Director	8/7/2002
Ms. Carol LaRocque, Great Falls Qualifications (if required): representative from state agencies who provide service to the disabled	Director	8/7/2002
Lewis and Clark Bicentennial Commission (Historical Society) Mr. Darrell Kipp, Browning Qualifications (if required): member of a Montana Indian tribe	Governor	10/1/2002
Ms. Betty Stone, Glasgow Qualifications (if required): public member	Governor	10/1/2002

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2002 through OCTOBER 31, 2002

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Lewis and Clark Bicentennial Commission (Historical Society) cont. Mr. Homer Staves, Billings Qualifications (if required): public member	Governor	10/1/2002
Montana Historical Records Advisory Council (Historical Society) Ms. Ellen Crain, Butte Qualifications (if required): public member	Governor	10/18/2002
Ms. Jodi L. Allison-Bunnell, Missoula Qualifications (if required): public member	Governor	10/18/2002
Ms. Kathy Mosdal O'Brien, Billings Qualifications (if required): public member	Governor	10/18/2002
Mr. Kim Allen Scott, Bozeman Qualifications (if required): public member	Governor	10/18/2002
Ms. Judy Ellinghausen, Great Falls Qualifications (if required): public member	Governor	10/18/2002
Ms. Lory Morrow, Helena Qualifications (if required): public member	Governor	10/18/2002
Montana Wheat and Barley Committee (Agriculture) Mr. Leonard Schock, Vida Qualifications (if required): representative of District VII and a Republican	Governor	8/20/2002
Mr. Daniel Kidd, Big Sandy Qualifications (if required): representative of District IV and a Republican	Governor	8/20/2002
Noxious Weed Seed Free Forage Advisory Council (Agriculture) Mr. W. Ralph Peck, Helena Qualifications (if required): Director	Director	10/11/2002

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2002 through OCTOBER 31, 2002

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Noxious Weed Seed Free Forage Advisory Council (Agriculture) cont. Mr. Harry Woll, Kalispell Qualifications (if required): forage producer	Director	10/11/2002
Mr. LaMonte Schnur, Townsend Qualifications (if required): forage producer	Director	10/11/2002
Mr. Don Walker, Glendive Qualifications (if required): forage producer	Director	10/11/2002
Mr. Dennis Perry, Choteau Qualifications (if required): feed pellets/cubes products	Director	10/11/2002
Mr. Bob McNeill, Dillon Qualifications (if required): outfitters and guides	Director	10/11/2002
Mr. Dennis Cash, Bozeman Qualifications (if required): ex-officio	Director	10/11/2002
Mr. Ray Ditterline, Bozeman Qualifications (if required): ex-officio	Director	10/11/2002
Mr. Clay Williams, Livingston Qualifications (if required): weed districts	Director	10/11/2002
Mr. Wayne Maughn, Fort Benton Qualifications (if required): livestock/agriculture	Director	10/11/2002
Ms. Marcy Mack, Pablo Qualifications (if required): weed districts	Director	10/11/2002

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2002 through OCTOBER 31, 2002

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Small Business Compliance Assistance Advisory Council (Environmental Quality) Ms. Sandy Newton, Helena Qualifications (if required): public member	Governor	10/1/2002
Ms. Karen Williams, Helena Qualifications (if required): public member	Governor	10/1/2002
Vocational Rehabilitation Center (Public Health and Human Services) Ms. Bonnie Rollins, Glendive Qualifications (if required): none specified	Director	8/7/2002
Mr. Jim Daily, Butte Qualifications (if required): none specified	Director	8/7/2002
Water and Waste Water Operators' Advisory Council (Environmental Quality) Mr. Roger Thomas, Billings Qualifications (if required): wastewater treatment plant operator	Governor	10/16/2002