

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 10

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
amendment of ARM 8.12.607, ) ON PROPOSED AMENDMENT,  
unprofessional conduct and ARM ) ADOPTION AND REPEAL  
8.12.615, fee schedule, the )  
proposed adoption of NEW RULE I,) advertising, and the proposed )  
repeal of ARM 8.12.403, purpose )  
of the board )

TO: All Interested Persons

1. On June 30, 2003, at 10:00 a.m., a public hearing will be held in room B-07, of the Park Avenue 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 Chiropractors no later than 5:00 p.m., on June 20, 2003, to advise us of the nature of the accommodation that you need. Please contact Cheryl Smith, Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2393, Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdcchi@state.mt.us.

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

8.12.607 UNPROFESSIONAL CONDUCT (1) For the purpose of implementing the provisions of 37-1-316, MCA, the board further defines unprofessional conduct as follows:

(1) remains the same, but is renumbered (a).

(a) and (b) remain the same, but are renumbered (i) and (ii).

~~(c)~~ (iii) personal advertising claiming particular abilities, features or accomplishments regarding the licensee or areas of specialty practice unless documentation of such abilities, features, accomplishments or specialties are documented with the board prior to placing the advertisement;

(2) through (4) remain the same, but are renumbered (b) through (d).

~~(5)~~ (e) ~~Soliciting~~ soliciting or accepting, for services rendered, assigned payments from any third-party payer as payment in full, if the effect is to eliminate the need of payment by the patient of any required deductible or co-payment applicable on the patient's health benefit plan, ~~except as hereinafter provided.~~

~~(f) Collecting collecting fees or charges for services or treatment different from the fee or charge the licensee submits to a third-party payer for that service or treatment, except as hereinafter provided. These rules are intended to prohibit offering the above listed practices to the public as well as the actual practices, except that, in instances where the intent is not to collect an excessive remuneration from the third-party payer, but rather to provide services at a reduced rate to a patient unable to afford the deductible or co-payment, the services may be performed for a lesser charge or fee. The burden of proof for establishing that this is the case shall be on the licensee.;~~

(6) through (8) remain the same, but are renumbered (g) through (i).

~~(9) (j) Performing performing an adjustment of the coccyx through the vagina inter-vaginally or inter-rectally unless the following conditions are met:~~

~~(i) a written consent form is signed by the patient for each adjustment. The consent form must clearly offer external adjustment options;~~

~~(ii) the inter-vaginal or inter-rectal adjustment is diagnosis related;~~

~~(c) (iii) a female an attendant is required to be present at all times the patient is examined and treated the coccyx adjustment is being performed by a male chiropractor. inter-vaginally or inter-rectally;~~

~~(a) (iv) the coccyx cannot be adjusted rectally or the patient is offered and declines the option of the rectal technique; and~~

~~(b) (v) the coccyx adjustment is performed with the use of a disposable finger cot or rubber glove; and~~

(10) through (14) remain the same, but are renumbered (k) through (o).

~~(15) (p) failing to cooperate with a board inspection or investigation in any material respect-; or~~

~~(16) (q) failing to keep adequate patient records in compliance with the following requirements: that are~~

~~(a) all records must be legible and contain at a minimum-;~~

(i) through (viii) remain the same.

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

IMP: 37-1-131 ~~37-1-307, 37-1-308, 37-1-309, 37-1-311, 37-1-312, 37-1-316, 37-12-201~~, MCA

**REASON:** There is reasonable necessity to amend ARM 8.12.607 in order to clarify those acts which constitute unprofessional conduct and to make technical corrections to the form of the rule in order to conform with the style requirements of the Secretary of State's Administrative Rule Bureau.

The Board proposes to amend (5) by dividing the subsection and eliminating extraneous verbiage for the purpose

of clarity. The Board, in response to the number of inquiries to Board staff, believes that both licensees and the public are confused by the present language.

The Board proposes to amend (9) to address professional boundary issues that have recently been questioned by both patients and licensees. The Board proposes to require written consent from the patient prior to the licensee performing an adjustment inter-vaginally or inter-rectally. The Board believes the consent form will better inform the patient that the adjustment is an internal adjustment and not an external adjustment. The Board has encountered situations in complaints wherein the patient has indicated that an external adjustment has not been offered as an option. The Board further proposes to clarify for the practitioner that only after diagnosis and written consent by the patient can the practitioner perform an inter-vaginal or inter-rectal adjustment. In addition, the Board proposes to remove the requirement that a "female" attendant be present at all times when the patient is being examined and/or treated inter-vaginally or inter-rectally. The Board believes the "female" attendant requirement is unduly restrictive. The Board wants an attendant (third party) present for protection to the patient as well as the practitioner, but it does not necessarily have to be a female attendant.

There is reasonable necessity to make the numbering format of the rule consistent with the current requirements of the Administrative Rules Bureau of the Secretary of State's office. In addition, there is reasonable necessity to update and correct the statutory citations in the authorizing and implementing citations to Montana statutes.

8.12.615 FEE SCHEDULE

(1) Application fee	\$125
(2) Re-examination fee per section (written/practical)	50
(3) Renewal fee	
(a) Active license	<del>100</del> 150
(b) Inactive license	50
(4) through (12) remain the same.	

AUTH: 37-1-134, 37-12-201, MCA

IMP: 37-1-134, 37-12-201, 37-12-302, ~~37-12-303~~, 37-12-304, 37-12-307, MCA

REASON: There is reasonable necessity to amend ARM 8.12.615 because 37-1-134, MCA, requires that the Board set fees commensurate with costs. Cash projections for the Board indicate that it is reasonably necessary to make the proposed change in the renewal fee.

The Board estimates that approximately 299 persons, all active status licensees, will be affected by the proposed fee

change. The estimated annual increase in revenue is approximately \$14,950.00. Under the proposed fee schedule the Board's projected annual revenue is for FY'03 \$66,360.32, FY'04 \$65,875.48, and FY'05 \$65,505.64. The Board's budget for the fiscal year '03 is \$47,891.00, '04 \$57,355.00, and '05 \$58,650.00.

A recent legislative audit of the Business Standards Division required that all boards pay their portion of the conversion to the Oracle database system. The Oracle reallocation for the Board for FY'03 is \$8,904.00, and is additional to the appropriation for the Board. The reallocation is required to be paid in fiscal year '03. The Board's recharge will be increased by \$10,297.00 in FY'04 and \$11,392.00 in '05. The recharge calculation was based upon Board allocated FTEs. The percentage of total board allocated FTE was based on the daily time distribution sheet; personal services charges for the HCLB personal allocation without investigator (4 FTE) HCLB Bureau budget; Business Standards Division recharge; and BSD Legal allocation. The BSD has implemented the alternative pay plan with those increases reflected in the Board's recharge. The Board last raised fees in 1990.

4. The proposed new rule provides as follows:

NEW RULE I ADVERTISING (1) Any advertisement, in any media, must contain the name of the chiropractic facility and the name and title of the chiropractor placing the ad.

AUTH: 37-1-319, 37-12-201, MCA  
IMP: 37-1-316, 37-12-201, MCA

REASON: There is reasonable necessity to adopt NEW RULE I in order that the public health, safety and welfare be protected from false, misleading, deceptive or anonymous advertisements. The Board has recently become aware of chiropractic advertising materials being published which have not identified the chiropractor or facility placing the ad. The Board believes it is important for the consumer to be made aware of who is placing an advertisement, as well as for the Board's ability to take appropriate disciplinary measures against a licensee if an advertisement is false, misleading or deceptive.

5. The Board of Chiropractors proposes to repeal the following rule:

8.12.403 PURPOSE OF THE BOARD which can be found on page 8-351 of the Administrative Rules of Montana.

AUTH: 37-12-201, MCA  
IMP: 37-12-104, MCA

REASON: The Board believes there is reasonable necessity to repeal this entire rule because the rule does not accurately state the purpose of the Board. The Board does not wish to amend the language of the rule because the Board believes that existing statutes adequately identify the purpose of the Board as protecting the public health, safety and welfare as it relates to the practice of chiropractic medicine.

6. Concerned persons may present their date, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibschi@state.mt.us](mailto:dlibschi@state.mt.us), and must be received no later than 5:00 p.m., June 30, 2003.

7. An electronic copy of this Notice of Public Hearing is available through the Department's and Board's site on the World Wide Web at <http://discoveringmontana.com/dli/chi>. 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 Chiropractors 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 Chiropractors administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibschi@state.mt.us](mailto:dlibschi@state.mt.us), or may be made by completing a request form at any rules hearing held by the agency.

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

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

11. The Board of Chiropractors will meet on September 25, 2003, at 9:00 a.m. at its offices, 301 South Park Avenue (fourth floor), Helena, Montana, to consider the comments made by the public, the proposed responses to those comments, and take final action on the proposed rule changes. Members of the public are welcome to attend and listen to the Board's deliberations.

BOARD OF CHIROPRACTORS  
GREGORY P. HOELL, CHAIRMAN

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

By: /s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

Certified to the Secretary of State May 12, 2003



BEFORE THE BOARD OF PHYSICAL THERAPY EXAMINERS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF  
amendment of ARM 8.42.404, ) PROPOSED AMENDMENT  
8.42.405, 8.42.406, 8.42.409, )  
8.42.410, and 8.42.416 )  
pertaining to temporary, out- )  
of-state and renewal licenses,) NO PUBLIC HEARING  
foreign-trained applicants ) CONTEMPLATED  
and continuing education )

TO: All Concerned Persons

1. On September 9, 2003, the Board of Physical Therapy Examiners (Board) proposes to amend the above-stated rules.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative, accessible format of this notice. If you require an accommodation, contact the Board of Physical Therapy Examiners no later than 5:00 p.m., June 20, 2003, to advise us of the nature of the accommodation that you need. Please contact Mary Hainlin, Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2369; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdp@state.mt.us.

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

8.42.404 RENEWAL OF LICENSE (1) As provided by 37-11-308, MCA, all licenses must be renewed on or before the renewal date set by ARM 8.2.208. ~~A grace period of six months after the renewal deadline will automatically be extended and late renewals will be accepted upon payment of the renewal fee and the late renewal fee. Any requests for renewal made after the six months grace period will be determined on a case by case basis after review by the board.~~

(2) and (3) remain the same.

AUTH: 37-1-131, 37-11-201, 37-11-308, MCA  
IMP: 37-11-308, MCA

**REASON:** There is reasonable necessity to eliminate the grace period following the mandatory renewal date because the grace period contradicts the intent of the rule, which is to set a date certain for renewal. The Board identified the inconsistency during its biennial review of its rules.

8.42.405 TEMPORARY LICENSES (1) remains the same.

(2) Physical therapist or physical therapist assistant applicants for licensure by examination may be issued a temporary license. The temporary license shall identify the licensed physical therapist who shall be responsible for providing direct supervision. After issuance of the temporary license, the applicant must ~~schedule~~ take his/her examination within 120 days of the issuance date. The temporary license shall be valid until the board makes its final determination on licensure, but may be extended at the board's discretion. Only one temporary license will be issued per applicant.

(3) remains the same.

AUTH: 37-1-305, 37-11-201, MCA  
IMP: 37-11-309, MCA

REASON: There is reasonable necessity that the Board clarify that the examination must be taken within 120 days of issuance of a temporary license. The Board identified the ambiguity during its biennial review of its rules.

8.24.406 LICENSURE OF OUT-OF-STATE APPLICANTS (1) Each applicant applying for licensure who holds a current license in another state must have taken the NPTE or NPTAE or the national registry exam in another state to be considered for licensure. All NPTE or NPTAE scores must be reported directly to the board office through the interstate reporting service. ~~All national registry exam scores must be substantiated by the records of the American Congress of Physical Medicine, 80 North Michigan Avenue, Chicago, Illinois 60602. If the applicant supplies the board with results from the NPTE or NPTAE, such results shall be equal to or higher than a scaled score of 600 in order for the individual to be licensed. The overall score of those applicants that have taken only the national registry exam, must be in accordance with the pass or fail grades as mandated by the registry.~~

(2) through (4) remain the same.

AUTH: 37-1-304, 37-11-201, MCA  
IMP: 37-1-304, 37-11-307, MCA

REASON: There is reasonable necessity for the Board to amend this rule to eliminate obsolete and now invalid standards and requirements. The Board identified the issue during its biennial review of its rules.

8.42.409 EXEMPTIONS (1) remains the same.

(2) The board, therefore, finds it necessary to define periodic checks, supervision and direct supervision to mean on-site guidance by a licensed physical therapist who is responsible for and participates in a patient's care. Supervision of an assistant that requires on-site visits means that the physical therapist shall meet with the client personally at least once every six visits or once every two weeks, whichever occurs first.

(3) Components of tests and measurements of bodily functions and structures administered by a licensed physical therapist may be delegated to a licensed physical therapist assistant.

AUTH: ~~37-11-101~~ 37-1-131 and 37-11-201, MCA  
IMP: 37-11-105, MCA

**REASON:** The Board finds there is reasonable necessity to amend the rule to clarify the definition of supervision and to clarify it is permissible to delegate certain tests and measurements to licensed physical therapist assistants. The Board identified the issues during its biennial review of its rules.

8.42.410 FOREIGN-TRAINED PHYSICAL THERAPIST APPLICANTS

(1) Foreign-trained physical therapist applicants shall be subject to the following requirements:

(a) compliance with educational standards equivalent to the national standards of the commission on accreditation of physical therapy education of the American physical therapy association by using an evaluation of educational background performed by the any of the following evaluation services:

~~International Education Research Foundation, Inc.  
Credentials Evaluation Services  
P.O. Box 24679  
Los Angeles, CA 90024~~

~~Foreign Credentialing Commission of Physical Therapy, Inc.  
(FCCPT),  
P.O. Box 258227,  
Alexandria, VA 22313-9998.~~

~~Educational Credential Evaluators (ECE)  
P.O. Box 514070  
Milwaukee, WI 53203-3470~~

~~University of Texas  
Graduate & International Admission Center  
2608 Whites  
Austin, TX 78713~~

(b) through (g) remain the same.  
(i) remains the same, but is renumbered (h).  
(2) remains the same.

AUTH: 37-1-131, 37-11-201, MCA  
IMP: 37-11-310, MCA

**REASON:** The Board finds there is reasonable necessity to amend the rule to eliminate the names of evaluation services that are no longer providing the service required by the rule. The Board identified the issue during its biennial review of its rules.

8.42.416 CONTINUING EDUCATION (1) and (2) remain the same.

(3) The continuing education program must meet the following criteria:

(a) the activity must have significant intellectual or practical content. The activity must deal primarily with substantive physical therapy issues as contained in the physical therapy definition in Montana. In addition, the board may accept continuing education activities from other professional groups or academic disciplines if the licensee demonstrates that the activity is substantially related to his or her role as a physical therapist or physical therapist assistant. A continuing education program is defined as a class, institute, lecture, conference, workshop, cassette or videotape, correspondence course or peer-reviewed publication of a journal article(s), textbook(s), or online course;

(b) and (c) remain the same.

(d) excluded are programs that promote a company, individual or product (~~hosted programs are not approved~~), and programs whose subject is practice economics, except those programs specifically dealing with workers' compensation or public health, medicare and insurance coverage issues;

(e) remains the same.

(4) Implementation for continuing education shall be as follows:

(a) one continuing education credit shall be granted for each hour of participation in lab or lecture of the continuing education activity, excluding breaks and meals. ~~Continuing education activities and courses taken after October 1, 1995, will be accepted by the board for the initial reporting period.~~ A maximum of two credits by cassette or videotape and a maximum of four credits from online or correspondence courses continuing education will be allowed. A maximum of 10 credits is allowed per reporting period for peer-reviewed publication of a journal article(s), textbook(s) and publication(s).

(i) and (ii) remain the same.

(b) through (e) remain the same.

(f) from the continuing education reports submitted each biennium, the board will randomly audit 5% of the reports ~~and request certificates of completion for continuing education credits reported.~~

AUTH: 37-1-306, MCA  
IMP: 37-11-201, MCA

**REASON:** The Board finds there is reasonable necessity to clarify the variety of continuing education formats, the subject matter of continuing education and the number of hours that may be allocated to publishing endeavors. The Board identified the issues during its biennial review of its rules.

4. Concerned persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406)

841-2305, or by e-mail to [dlibsdptp@state.mt.us](mailto:dlibsdptp@state.mt.us), and must be received no later than 5:00 p.m., June 30, 2003.

5. If persons who are directly affected by the proposed amendments wish to express their data, views and arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Mary Hainlin, Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdptp@state.mt.us](mailto:dlibsdptp@state.mt.us). A written request for hearing must be received no later than 5:00 p.m., June 30, 2003.

6. If the board receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendments; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 92 persons based on approximately 922 licensees.

7. The Board of Physical Therapy Examiners 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 Physical Therapy Examiners administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsdptp@state.mt.us](mailto:dlibsdptp@state.mt.us), or may be made by completing a request form at any rules hearing held by the agency.

8. The Board of Physical Therapy Examiners will meet in its offices on the fourth floor, 301 South Park Avenue, Helena, Montana on September 9, 2003, to consider the comments made by the public, the proposed responses to those comments, and take final action on the proposed amendments. Members of the public are welcome to attend the meeting and listen to the Board's deliberations.

9. 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/ptp>, 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.

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

BOARD OF PHYSICAL THERAPY  
EXAMINERS  
Jeffery A. Swift, PT, PRESIDENT

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

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

Certified to the Secretary of State May 12, 2003.

BEFORE THE BOARD OF RADIOLOGIC TECHNOLOGISTS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
amendment of ARM 8.56.409, ) ON PROPOSED AMENDMENT AND  
8.56.413, 8.56.602A, 8.56.602B, ) ADOPTION  
8.56.602C and 8.56.607 pertaining )  
to fee schedule, temporary )  
permits, permits - practice )  
limitations, course requirements )  
for limited permit applicants, )  
permit examinations, and permit )  
fees, and the adoption of NEW )  
RULE I, related to fee abatements )

TO: All Concerned Persons

1. On June 27, 2003, at 10:00 a.m., a public hearing will be held in room 438, of the Park Avenue Building, 301 South Park Avenue, Helena, Montana to consider the proposed amendment and adoption 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 Radiologic Technologists no later than 5:00 p.m., on June 20, 2003, to advise us of the nature of the accommodation that you need. Please contact Helena Lee, Board of Radiologic Technologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2385; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdrts@state.mt.us.

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

8.56.409 FEE SCHEDULE (1) remains the same.  
~~(a) Examination fee~~ \$30  
(b) through (g) remain the same, but are renumbered (a) through (f).

AUTH: ~~37-1-101~~, 37-1-134, 37-14-202, ~~37-14-310~~, MCA  
IMP: 37-1-134, ~~37-14-303~~ 37-14-309, 37-14-310, MCA

REASON: The Board finds there is reasonable necessity to amend this rule and eliminate the examination fee because the board has not administered a state-wide examination for radiologic technologists for a number of years. Examinations are administered by specified national organizations. Approximately 40 individuals annually apply for initial licensure as a radiologic technologist. If the Board was collecting the \$30 examination fee from those persons, there would be a \$1,200

impact to those individuals.

8.56.413 INSPECTIONS (1) through (3) remain the same.

(4) It is up to the employer of a licensee or permit holder to determine whether licenses and permits must be posted at the facility.

(5) Licenses or permits not posted must be immediately available to the inspector upon request.

AUTH: 37-14-202, MCA

IMP: 37-14-307, 37-14-322, MCA

**REASON:** The Board finds there is reasonable necessity to amend this rule due to safety concerns. At some facilities, licensees do not want to post their licenses because the license includes the licensee's home address, which the licensee may, for reasons of personal safety, not wish to be readily accessible to the public. However, the proposed amendments make it clear that the decision whether or not to post licenses at a facility rests with the employer. If not posted, the license needs to be made available to Board inspectors upon request.

8.56.602A PERMITS - PRACTICE LIMITATIONS (1) Upon successful completion of the required formal training and the required examination, the board may issue a limited permit to the applicant which specifies the x-ray procedures the limited permit ~~technician~~ holder is authorized to perform. ~~The limitations of the permit are~~ limited permit holder may only take x-rays as follows:

(a) ~~Chest~~— in the chest area, consisting of the thoracic region including the lungs, AP (anterior posterior) or PA (posterior anterior) views, lateral and apical lordotic routine chest exposures and other views as needed by the ordering physician or interpreting radiologist, but in no case involving mammography procedures;

(b) ~~Extremities~~— of the extremities, AP or PA, lateral and oblique routine exposures of the extremities;

(c) ~~Spine~~— of the spine, AP, lateral and oblique routine exposures of the cervical, thoracic and lumbar spine areas;

(d) ~~Skull~~— All all routine views of the skull and sinuses, with the exception of internal auditory meatus canal series and mastoid series;

(e) ~~Abdomen~~— of the abdomen, consisting of the region from the diaphragm to the pubis, routine supine and upright AP abdomen projection, and IVP (intravenous pyelogram) scout and follow-up films as specified by the supervising radiologist or physician; and

(f) for G-I- (gastro-intestinal) tract fluoroscopy and associated overhead films, - the limited permit technician holder may assist the physician in fluoroscopic examination of the G-I- tract and may produce films of all associated overhead views as ordered by the physician.

(2) A limited practice permit holder may perform bone densitometry examinations upon successful completion of the bone



densitometry equipment operators examination administered by the American registry of radiologic technologists (ARRT) or the international society of clinical densitometry (ISCD).

(3) Forty-hour limited permit holders are not authorized or permitted to perform fluoroscopy procedures due to the difficulty in monitoring, limiting, and controlling the accumulative doses of ionizing radiation.

(4) A student of an ARRT approved radiologic technologist program is allowed to perform procedures with portable fluoroscopy equipment (also known as c-arm), provided the student has submitted documentation to the board that:

(a) identifies the student as being enrolled in an ARRT approved radiology program;

(b) the student will be performing portable fluoroscopy procedures as a student with routine supervision;

(c) identifies the names of the student's clinical supervisors; and

(d) identifies the facility which will allow the student to receive clinical experience, including the performance of duties outside the scope of a limited permit holder.

(5) If a student of an ARRT approved radiologic technologist program has completed the first two semesters of the program or its equivalent, as determined by the board, and has become a limited permit holder, that person may perform procedures while operating portable fluoroscopy equipment and may be compensated.

AUTH: 37-14-202 ~~37-14-306~~, MCA

IMP: 37-14-301, 37-14-306, MCA

**REASON:** The Board finds there is reasonable necessity to amend ARM 8.56.602A to clarify that a physician who is not a radiologist may order certain procedures.

The Board finds there is reasonable necessity to allow limited permit holders who have demonstrated their competence to perform bone densitometry. The board finds there is a need for additional persons to perform bone densitometry in Montana. The ARRT and the ISCD perform the examination for bone densitometry and the board recognizes those credentials.

The Board finds there is reasonable necessity to amend the rule to clarify that a 40-hour limited permit holder has not received adequate training in the use of fluoroscopy to adequately protect the public from the risk factors associated with the use of ionizing radiation that is used during fluoroscopy.

The Board finds there is reasonable necessity to amend this rule in order to make sure that students enrolled in an ARRT approved radiologic technologist program obtain clinical experience in the use of portable fluoroscopy equipment. Limited permit holders are not otherwise allowed to perform fluoroscopy.

8.56.602B COURSE REQUIREMENTS FOR LIMITED PERMIT APPLICANTS (1) through (3)(e) remain the same.

(f) ~~G-I- tract fluoroscopy~~ and associated overhead films - eight hours,

(g) remains the same.

(4) and (5) remain the same.

AUTH: ~~37-1-131,~~ 37-14-202 ~~37-14-301,~~ ~~37-14-306,~~ MCA

IMP: ~~37-14-301,~~ 37-14-306, MCA

**REASON:** The board finds there is reasonable necessity to amend the rule to clarify that eight hours of limited training is insufficient to allow limited permit holders to perform fluoroscopy.

8.56.602C PERMIT EXAMINATIONS (1) through (3) remain the same.

(4) Applicants may review their examination papers with administrative staff for the board at the ~~Division of Professional and Occupational Licensing, 111 North Jackson, Helena, Montana 59620~~ board office or at an approved site designated by the board.

(5) remains the same.

(6) Applicants for a limited permit (40-hour course) who fail an examination twice must retake that portion of the formal x-ray training before being allowed admission to a third examination. Upon completion of the additional course work in the failed area, the applicant must file a new application accompanied by the appropriate fees, with the board office.

(a) On a case-by-case hardship basis, the board may allow an unsuccessful applicant to receive tutoring in lieu of the additional course work. A tutor must have at least five years experience as a licensed radiologic technologist and possess a current ARRT card. The tutor must submit for board approval the tutor's qualifications and an outline of the materials and topics to be studied by the applicant under the instruction of the tutor. The applicant is responsible for paying all costs associated with the tutorial.

(7) Student permit applications (two semesters or its equivalent in an ARRT approved radiologic technologist program) who have failed the general examination twice must re-take the general examination plus all six category exams.

(8) Temporary permit applicants (ARRT approved program graduates) who have failed the ARRT exam three times must take the general exam plus all six category exams.

(7) and (8) remain the same, but are renumbered (9) and (10).

AUTH: ~~37-1-131,~~ 37-14-202, ~~37-14-306,~~ MCA

IMP: ~~37-14-306,~~ MCA

**REASON:** The Board finds there is reasonable necessity to amend this rule to clarify the requirement for additional study in the failed area(s) and re-taking of the exam requirement for the

three levels of permit holders for purposes of public safety. The Board has recently heard from unsuccessful applicants who, for reasons of hardship, have sought a speedier alternative to waiting until the next regular class is offered. The Board finds that requiring additional study in the areas failed is the best way to ensure only qualified applicants are becoming licensed to practice.

8.56.607 PERMIT FEES

(1) through (7) remain the same.

(8) A temporary permittee who applies for a full radiological technologist license shall pay only an additional \$20 for the full radiologic technologist license.

AUTH: ~~37-1-134,~~ 37-14-202, 37-14-306, 37-14-310, MCA  
IMP: ~~37-1-134, 37-14-303, 37-14-305,~~ 37-14-306, 37-14-309, 37-14-310, MCA

**REASON:** The Board finds that there is reasonable necessity to charge a person with a temporary permit only an additional \$20 fee to equal the full \$90 fee radiological technologists must pay to become licensed. A person who has already obtained a temporary permit has already had their application processed by the board, and thus the incremental cost of issuing a full license is much smaller than it would be to an applicant who did not already possess a temporary practice permit. The Board is required to establish fees commensurate with its costs. The proposed amendment will establish in rule the policy the Board has exercised for some time. Approximately 20 persons a year are estimated to be affected by the proposed amendment, but there will be no change in Board revenue or expense.

4. The proposed new rule provides as follows:

NEW RULE I ABATEMENT OF RENEWAL FEES (1) Pursuant to 17-2-302, MCA, state programs that charge a fee for services are generally not permitted to let their cash balance exceed twice the program's annual appropriation. However, despite the best projections of the board, there may be times when cash balances exceed the amount authorized by statute. This rule is intended to provide a process for when the board needs to reduce its cash balance with a standard methodology to do so, in fair and equitable manner. This rule provides for an abatement of certain fees when the board's cash balance is excessive.

(2) Except as provided by (3), when the board has an excessive cash balance, the department may abate the renewal fees for the board's licensees or registrants for one or more renewal cycles until the board's cash balance does not exceed the allowable maximum.

(a) The abatement of renewal fees may be the total amount of the renewal fee, or only a specified portion of the renewal fee.

(b) If the board has more than one category of renewals, the abatement must be made on a roughly proportional basis to

fairly, equitably, reasonably and economically distribute the abatement among the program's licensees or registrants. The department may, for good cause, completely abate the renewal fee for certain classes of licensees or registrants and not for other classes, if the administrative cost of processing a reduced renewal fee for all classes is disproportionately high. In such a case, the department must attempt in any future abatements to equitably treat those classes of renewals which have borne a relatively higher proportion of renewal fees.

(c) The fact that the renewal fee is abated for any given renewal cycle does not excuse the licensee or registrant from otherwise fulfilling the renewal requirements, including submission of a renewal application and/or continuing education documentation. The board, to the extent it so provides by rule, may impose a late fee on untimely submissions of renewal applications or other required documentation.

(3) This rule does not apply when an exception to 17-2-302, MCA, exists and is applicable to the board's cash balance. As an example, if the board adopts a three-year renewal cycle, the board will have an apparent excess cash balance during the first year of the renewal cycle, based on a collection of three year's worth of fees for operations expenses.

(4) This rule does not relieve the board from the duty to establish fees at a level commensurate with costs.

AUTH: 37-1-101 and 37-14-202, MCA

IMP: 17-2-302, 17-2-303, 37-1-101, 37-1-134 and 37-14-310, MCA

REASON: There is reasonable necessity to adopt NEW RULE I to ensure that the Board of Radiologic Technologists and the Department have a methodology in place to promptly eliminate excess cash accumulations in the Board's licensing programs. Excess cash accumulations are generally prohibited by 17-2-302, MCA, and a reduction in fees is required pursuant to 17-2-303, MCA. As the result of a \$35,274 refund by the Department to the Board as the result of a misallocation of Oracle expenses, the Board's cash balance now exceeds twice its existing annual appropriation authority. The Board proposes that the Department abate renewal fees to bring the Board's cash balance to an appropriate level. The Board and the Department believe that abatement of renewal fees is the best way to target the licensees and limited permit holders who have paid fees into the program for the temporary relief provided by an abatement.

Total annual fee revenue for the Board is approximately \$55,850, which is close to the Board's annual appropriation authority. A one-year abatement of renewal fees will affect approximately 730 licensees (\$50 annual renewal fee) and approximately 300 limited permit holders (\$40 annual renewal fee). The total renewal fees abated in a year is estimated to be \$48,500, an amount which should reduce the Board's cash balance to an appropriate level. The Board has concluded that a temporary abatement, rather than a permanent fee reduction, is the most appropriate solution to address the Board's excess cash

balance.

5. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Radiologic Technologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdrts@state.mt.us](mailto:dlibsdrts@state.mt.us) and must be received no later than 5:00 p.m., June 27, 2003.

6. 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/rts>, 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.

7. The Board of Radiologic Technologists 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 Radiologic Technologists administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Radiologic Technologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsdrts@state.mt.us](mailto:dlibsdrts@state.mt.us) or may be made by completing a request form at any rules hearing held by the agency.

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

9. The Board of Radiologic Technologists anticipates meeting in July at 301 South Park Avenue, Helena, to consider the comments made by the public, the responses to those comments, and take final action on the proposed amendments. 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.

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

BOARD OF RADIOLOGIC TECHNOLOGISTS  
JANE CHRISTMAN, CHAIRMAN

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

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

Certified to the Secretary of State May 12, 2003

BEFORE THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
OF THE STATE OF MONTANA

In the matter of the proposed )  
amendment of ARM 36.12.102, )  
36.12.103 and 36.12.105 and )  
proposed adoption of NEW )  
RULES I and II relating to )  
water rights forms and fees )

NOTICE OF PUBLIC HEARING  
ON PROPOSED AMENDMENT  
AND ADOPTION

To: All Interested Persons

1. On June 17, 2003, at 1:00 p.m., a public hearing would be held at the Department of Public Health and Human Services Auditorium, 111 Sanders, Helena, Montana, to consider the proposed amendment of ARM 36.12.102, 36.12.103, and 36.12.105, and the adoption of NEW RULES I and II relating to water rights forms and fees.

2. The Department of Natural Resources and Conservation 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 agency no later than 5:00 p.m. on June 6, 2003, to advise us of the nature of the accommodation that you need. Please contact Kimberly Overcast, New Appropriations Program Manager, Department of Natural Resources and Conservation, P.O. Box 201601, Helena, MT 59620-1601; telephone (406) 444-6614; FAX (406) 444-0533; e-mail to kovercast@state.mt.us.

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

36.12.102 FORMS (1) The following necessary forms for implementation of the act and these rules are available from the Department of Natural Resources and Conservation, ~~48 N. Last Chance Gulch,~~ PO Box 201601, Helena, Montana, 59620-1601 and its the water resource regional offices, or the county clerk and recorders offices or on the world wide web at <http://www.dnrc.state.mt.us/wrd/home.htm>. The department may revise as necessary, the following forms to improve the administration of these rules and the applicable water laws:

(a) Form No. 600 "Application for Beneficial Water Use Permit" (for groundwater developments in excess of 35 gpm or 10 acre-feet per year and surface water appropriations).

(i) Submission of this application must include a criteria addendum. See Form Nos. 600A or 600B;

(b) and (c) remain the same.

~~(d) Form No. 600ACF "Supplement to Application for Beneficial Water Use Permit - Upper Clark Fork River Basin Groundwater Appropriations" (for appropriations of less than 4,000 acre-feet and 5.5 cfs);~~

~~(e) Form No. 600BCF "Supplement to Application for Beneficial Water Use Permit - Upper Clark Fork River Basin Groundwater Appropriations" (for appropriations of 4,000 acre-feet or more and 5.5 cfs or more);~~

~~(f) Form No. 601 "Permit to Appropriate Water";~~

~~(g) and (h) remain the same, but are renumbered (d) and (e).~~

~~(i) Form No. 604 "Certificate of Water Right" (for groundwater of 35 gpm or less not to exceed 10 acre-feet per year);~~

~~(j) remains the same, but is renumbered (f).~~

~~(k)(g) Form No. 606 "Application to Change a Water Right".~~

(i) Submission of this application must include a criteria addendum. See Form Nos. 606A, 606B, 606ASW, or 606T;

~~(l) through (u) remain the same, but are renumbered (h) through (q).~~

~~(v) Form No. 614 "Notice of Temporary Emergency Appropriation";~~

~~(w) remains the same, but is renumbered (r).~~

~~(x) Form No. 616 "Notice of Action on Application for Extension of Time";~~

~~(y) and (z) remain the same, but are renumbered (s) and (t).~~

~~(aa) Form No. 619 "Cancellation Notice of Certificate of Water Right";~~

~~(ab) Form No. 620 "Authorization to Change a Water Right";~~

~~(ac) Form No. 621 "Termination Notice of Authorization to Change a Water Right";~~

~~(ad) Form No. 621A "Termination Notice of Permit to Appropriate Water";~~

~~(ae) Form No. 622 "Revocation Notice of Authorization to Change a Water Right";~~

~~(af) Form No. 624 "Revocation Notice of Permit to Appropriate Water";~~

~~(ag) and (ah) remain the same, but are renumbered (u) and (v).~~

~~(ai)(w) Form No. 627 "Notice of Exempt Water Right" (exempt from the adjudication filing requirements);~~

~~(aj)(x) Form No. 630 "Petition for Controlled Groundwater Area Petition to the Department of Natural Resources and Conservation";~~

~~(ak) remains the same, but is renumbered (y).~~

~~(al) Form No. 632 "Certificate of Water Right" (for perfected permits);~~

~~(am) Form No. 633 "Certificate of Water Right" (for decreed water rights)."~~

(z) Form No. 634 "Replacement Well Notice" (for municipal wells that do not exceed 450 gpm or for all other wells that do not exceed 35 gpm and 10 acre-feet per year); and

(aa) Form No. 635 "Redundant Well Construction Notice" (for redundant wells in a public water supply system as defined by 75-6-102, MCA).



AUTH: 85-2-113, MCA  
IMP: 85-2-113, MCA

36.12.103 APPLICATION FORM AND SPECIAL FEES (1) A filing fee, if required, shall be paid at the time the permit, change, notice of completion, extension of time request, temporary change renewal, ownership update, exempt water right, or petition application (hereafter singularly or collectively referred to as application) is filed with the department. The department will not process any application without the proper filing fee. Failure to submit the proper filing fee within 30 days after notice shall result in a determination that the application is not in good faith, does not show a bona fide intent, and it shall be terminated. An application fee is a one-time filing and processing fee paid at the time of application, ~~and the fee will not be refunded once the application has been filed with the department, except as noted below. If an applicant withdraws an application, he shall be entitled to a refund, or, if an applicant inadvertently files the wrong form, the applicant may apply the fee paid to the correct form for his purpose and pay the difference due or be entitled to a refund, if overpayment was made. However, no refund will be made in any case even if otherwise justified once the newspaper publication of the application has been initiated, or substantial direct processing costs have been accrued in making the application correct and complete prior to publication or department waiver of publication. When an application needs to be republished due to an applicant's error or request for republication, the applicant shall pay the direct cost of the new publication. The fees cover direct costs for newspaper publication, individual notices, issuance of certificates of water rights on perfected permits, hearing costs, computer processing, and other miscellaneous direct costs connected with the permit process.~~

(a) For an Application for Beneficial Water Use Permit, Form No. 600, there shall be a fee of \$200 400, except for a groundwater well application with an appropriation of 35 gallons per minute gpm or less, not to exceed 10 acre-feet, filed pursuant to the United States National Park Service-Montana Compact, Article II, section B.2.ii(3)(b) or Article IV, section G.2.b.i.(1) or located within the boundaries of a temporary controlled groundwater area, the fee shall be \$100 200.

(b) For an Interim Permit, there shall be a fee of \$25 50 in addition to (1)(a) above.

(c) For a Notice of Completion of Groundwater Development (for groundwater developments with a maximum use of 35 gpm or less not to exceed 10 acre-feet per year, Form No. 602, there shall be a fee of \$25 50.

(d) For an Application for Provisional Permit for Completed Stockwater Pit or Reservoir (maximum capacity of the

pit or reservoir must be less than 15 acre-feet), Form No. 605, there shall be a fee of \$25 50.

(e) For an Application to Change a Water Right, Form No. 606, there shall be a fee of \$200 400, except when:

(i) the change application concerns a replacement well or reservoir in the same source, ~~or~~

(ii) the change application concerns only moving or adding stock tanks to an existing system, ~~or.~~

~~(iii) the change application is the result of a recommendation made during verification, there shall be a fee of \$50 in addition to the direct cost of giving notice, if the department determines it must be advertised.~~

(f) For an Application for Extension of Time, Form No. 607, there shall be a fee of \$50 100.

(g) For a Water Right Ownership Update, Form No. 608, there shall be a fee of \$25 50 plus, \$5 10 for each water right transferred after the first water right, not to exceed a maximum of \$50 300.

~~(h) For each Addendum to Water Right ownership Update Form for Apportioned Water Right, Form No. 608A, there shall be an additional fee of \$50, up to a maximum of \$200.~~

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

~~(j)~~(i) For an Application to Renew a Temporary Water Right Change, Form No. 626, there shall be a fee of \$50 100.

~~(k)~~(j) For a Notice of Exempt Water Right, Form No. 627, there shall be a fee of \$25 50.

~~(l)~~(k) For a Petition for Controlled Groundwater Area Petition to the Department of Natural Resources and Conservation, Form No. 630, there shall be a fee of \$200 500 for filing this petition form, plus the petitioner shall also pay reasonable costs of giving notice including the newspaper and individual notice costs, printing and mailing costs, holding the hearing, conducting investigations, and making records pursuant to 85-2-506 and 85-2-507, MCA, except the cost of salaries of the department personnel.

~~(m)~~(l) For a Petition for Closure of a Highly Appropriated Basin, Form No. 631, there shall be a fee of \$200 500 for filing this petition form, plus the petitioner shall also pay reasonable costs of giving notice, holding the hearing, conducting investigations, and making records pursuant to 85-2-319, MCA, except the cost of salaries of the department personnel.

(n) remains the same, but is renumbered (m).

~~(o) For a Correction to Water Right, Form No. 625 where the error in an issued permit, authorization, certificate or exempt water right filing caused by an applicant and a new document is issued, there shall be a fee of \$10. No fee shall be charged for correcting errors caused by the department.~~

(n) For a Replacement Well Notice, Form No. 634, there shall be a fee of \$50.

(o) For a Redundant Well Construction Notice, Form No. 635, there shall be a fee of \$50.

(2) There shall be no fees charged for filing the following forms:

- ~~(a) Form No. 603, Well Log Report.~~
- ~~(b) Form No. 614, Notice of Temporary Emergency Appropriation.~~
- (a) Form No. 608A, Addendum to Water Right Ownership Update Form for Apportioned Water Right.
- ~~(e)(b) Form No. 617, Project Completion Notice of Permitted Water Development.~~
- ~~(d)(c) Form No. 618, Project Completion Notice for Change of a Water Right.~~
- (e) Form No. 625, Correction to a Water Right.
- (3) through (3)(d) remain the same.
- (e) Hearings transcripts Costs associated with contracting for professional hearings officer services.
- (f) Duplicating hearing tapes Audio copy of hearing.

AUTH: 85-2-113, MCA  
IMP: 85-2-113, 85-2-312, MCA

36.12.105 TEMPORARY EMERGENCY APPROPRIATIONS (1) and (2) remain the same.

~~(3) The appropriator shall within 10 days of the day he begins a temporary emergency appropriation file with the department notification on Form 614 of the use to which the water was put, the dates of use, the amount of water used, and such other information as the department may require.~~

AUTH: 85-2-113, MCA  
IMP: 85-2-113, MCA

NEW RULE I FILING FEE REFUNDS (1) An applicant may be entitled to a refund if the applicant withdraws an application prior to public notice or a deadline set by the department for the applicant to make an application correct and complete.

(2) No refund will be authorized if substantial direct processing costs have been accrued in making the application correct and complete prior to publication or department waiver of publication.

(3) No refund will be authorized upon termination of an application due to an applicant's failure to provide additional information necessary to make an application correct and complete within the deadlines provided by the department.

(4) No refund will be authorized once the public notice of the application has been initiated.

(5) If an applicant inadvertently files the wrong form, the applicant may apply the fee paid to the fee required for the correct form, pay the difference due or be entitled to a refund, if overpayment is made.

AUTH: 85-2-113, MCA  
IMP: 85-2-113, MCA

NEW RULE II PUBLIC NOTICE COSTS (1) The department will require a permit or change applicant or a petitioner in

the case of basin closure or controlled groundwater petition to provide public and individual notice as required by law.

(2) The department shall provide the applicant or petitioner with:

(a) instructions and deadlines for providing such notice;

(b) a copy of the public notice; and

(c) a list of newspapers, government agencies, and individuals to whom the notice must be sent.

(3) Failure to properly notice the application as required by the department will result in termination of an application or petition.

(4) The costs of completing the public notice as directed by the department shall be the responsibility of the applicants or petitioners.

AUTH: 85-2-113, MCA

IMP: 85-2-113, 85-2-307, MCA

REASON: These rules are being amended to reflect legislative changes and to correct form information. The proposed new fees are a direct result of House Bill 2, 2003 Legislative Session, in which the fee increases were considered as part of the Department's budget package. The rules are also being updated to remove obsolete forms. New rules number I and II are being proposed to clarify when filing fee refunds will be made and to identify public notice requirements for water right applicants. The form filing fee increases are expected to increase revenues by \$224,000 per year. This will involve a total of about 9000 forms per year, involving approximately 14,000 people.

4. Concerned persons may submit their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Kimberly Overcast, New Appropriations Program Manager, Department of Natural Resources and Conservation, P.O. Box 201601, Helena, MT 59620-1601; telephone (406) 444-6614; FAX (406) 444-0533; or e-mailed to kovercast@state.mt.us, and must be received no later than 5:00 p.m. on June 20, 2003.

5. R. Curtis Martin, Department of Natural Resources and Conservation, P.O. Box 201601, Helena, MT 59620-1601 has been designated to preside over and conduct the hearing.

6. An electronic copy of this Notice of Proposed Amendment and Adoption is available through the department's site on the World Wide Web at <http://www.dnrc.state.mt.us>. The department strives to make the electronic copy of this Notice of Proposed Amendment and Adoption 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.

7. The agency 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 specify that the person wishes to receive notices regarding conservation districts and resource development, forestry, oil and gas conservation, trust land management, water resources or combination thereof. Such written request may be mailed or delivered to Legal Unit, Department of Natural Resources and Conservation, P.O. Box 201601, 1625 11th Avenue, Helena, MT 59620-1601, faxed to the office at (406) 444-2684, or may be made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

By: /s/ Bud Clinch  
BUD CLINCH  
Director

By: /s/ Donald D. MacIntyre  
DONALD D. MACINTYRE  
Rule Reviewer

Certified to the Secretary of State May 12, 2003.

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

In the matter of the )  
amendment of ARM 37.78.420 )  
pertaining to Temporary )  
Assistance for Needy Families )  
(TANF) )

NOTICE OF PUBLIC HEARING  
ON PROPOSED AMENDMENT

TO: All Interested Persons

1. On June 13, 2003, at 10:00 a.m., a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed amendment of the above-stated rule.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the department no later than 5:00 p.m. on June 4, 2003, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; Email dphhslegal@state.mt.us.

2. The rule as proposed to be amended provides as follows. Matter to be added is underlined. Matter to be deleted is interlined.

37.78.420 TANF: ASSISTANCE STANDARDS; TABLES; METHODS OF COMPUTING AMOUNT OF MONTHLY BENEFIT PAYMENT (1) through (2) remain the same.

(3) The assistance unit's GMI as defined in ARM 37.78.103 is compared to the applicable GMI standard, and after specified disregards, to the ~~NMI~~ benefit standard. If the assistance unit's GMI exceeds the GMI standard or their countable monthly income as defined in ARM 37.78.103 exceeds the benefit standard, the assistance unit is ineligible for assistance. Monthly income is compared to the full standard even if the eligibility is being determined for only part of the month.

(a) and (b) remain the same.

(4) The GMI standards, NMI standards and benefits standards are as follows:

(a) Gross monthly income standards are compared with the assistance unit's gross monthly income as defined in ARM 37.78.103.

GROSS MONTHLY INCOME STANDARDS (GMI)

Number of Persons in Household	Gross Monthly Income (GMI)	
1	\$ 705	<u>522</u>
2	949	<u>703</u>
3	1,195	<u>884</u>
4	1,439	<u>1,066</u>
5	1,685	<u>1,249</u>
6	1,930	<u>1,430</u>
7	2,174	<u>1,611</u>
8	2,420	<u>1,793</u>
9	2,664	<u>1,974</u>
10	2,910	<u>2,155</u>
11	3,154	<u>2,337</u>
12	3,400	<u>2,518</u>
13	3,645	<u>2,699</u>
14	3,889	<u>2,880</u>
15	4,135	<u>3,062</u>
16	4,379	<u>3,245</u>
17	4,625	<u>3,426</u>
18	4,869	<u>3,608</u>
19	5,113	<u>3,789</u>
20	5,359	<u>3,970</u>

(b) Net monthly income standards are used to compute gross monthly income standards (GMI).

NET MONTHLY INCOME STANDARDS (NMI)

1	\$ 381	<u>282</u>
2	513	<u>380</u>
3	646	<u>478</u>

4	778	<u>576</u>
5	911	<u>675</u>
6	<del>1,043</del>	<u>773</u>
7	<del>1,175</del>	<u>871</u>
8	<del>1,308</del>	<u>969</u>
9	<del>1,440</del>	<u>1,067</u>
10	<del>1,573</del>	<u>1,165</u>
11	<del>1,705</del>	<u>1,263</u>
12	<del>1,838</del>	<u>1,361</u>
13	<del>1,970</del>	<u>1,459</u>
14	<del>2,102</del>	<u>1,557</u>
15	<del>2,235</del>	<u>1,655</u>
16	<del>2,367</del>	<u>1,754</u>
17	<del>2,500</del>	<u>1,852</u>
18	<del>2,632</del>	<u>1,950</u>
19	<del>2,764</del>	<u>2,048</u>
20	<del>2,897</del>	<u>2,146</u>

(c) Benefit ~~income~~ standards are compared with the assistance unit's countable income as defined in ARM 37.78.103.

BENEFITS STANDARDS

1	\$ 299	<u>221</u>
2	403	<u>298</u>
3	507	<u>375</u>
4	611	<u>452</u>
5	715	<u>530</u>
6	819	<u>607</u>
7	922	<u>684</u>
8	<del>1,027</del>	<u>761</u>
9	<del>1,130</del>	<u>838</u>



10	<u>1,235</u>	<u>915</u>
11	<u>1,338</u>	<u>991</u>
12	<u>1,443</u>	<u>1,068</u>
13	<u>1,546</u>	<u>1,145</u>
14	<u>1,650</u>	<u>1,222</u>
15	<u>1,754</u>	<u>1,299</u>
16	<u>1,858</u>	<u>1,377</u>
17	<u>1,963</u>	<u>1,454</u>
18	<u>2,066</u>	<u>1,531</u>
19	<u>2,170</u>	<u>1,608</u>
20	<u>2,274</u>	<u>1,685</u>

(5) through (6)(b) remain the same.

AUTH: Sec. 53-4-212, MCA

IMP: Sec. 53-4-211, 53-4-241 and 53-4-601, MCA

3. ARM 37.78.420 explains the budgeting methodology for determining TANF cash assistance and nonfinancial assistance, as well as explaining the method for determining the Gross Monthly Income, Net Monthly Income and Benefit Standards. Currently the benefit standards are set at 40.5% of the 2002 Federal Poverty Levels published by the U.S. Department of Health and Human Services. The proposed rule change lowers the benefit standards to 30% of the 2002 Federal Poverty Levels. For example, the benefit standard for a household of three will decrease from \$507 to \$375 per month. This change also decreases the Gross Monthly Income Standards and the Net Monthly Income Standards, since they are based on the benefit standards.

The proposed reduction in benefit amounts is necessary as an attempt to maintain the solvency of the TANF cash assistance program for state fiscal years 2004 and 2005. TANF cash assistance is funded with a block grant from the federal government. This block grant does not increase when caseloads and expenditures increase. Additionally, the 58th Montana Legislature mandated that \$3 million of TANF block grant funds be transferred to the Child Care Program, which further increases the likelihood of a budget deficit if the Department continues to pay benefits at the current levels.

The budgeted amount for benefits for state fiscal years 2004 and 2005 is \$31,600,000. If the benefit standards remain set at 40.5% of the 2002 Federal Poverty Level, the projected benefit expenditure for state fiscal year 2004 is \$40,726,632 and for

2005 is \$44,856,780. These projected calculations are based on the 9% caseload growth that has occurred for the last two years. The combination of these projected expenditures exceeds the budgeted block grant benefit amount by \$22,383,412 over the two years.

There are other alternatives to decreasing the benefit standards to 30% of the 2002 Federal Poverty Level. The first was to reduce benefits by a lesser amount. All percentages between 30 and 40.5% of the 2002 federal poverty level left the state in a negative balance at the end of state fiscal year 2005. The Department chose the reduction to 30% of poverty because the negative balance was the smallest at \$118,820, based on a growth rate of 9% per year. The Department did not choose the alternative of leaving benefit levels at 40.5% of poverty or reducing them to an amount between 30 and 40.5% of poverty because this would likely require decreasing benefits even further in subsequent years to remain solvent if caseload growth continues at the current rate.

Another suggested alternative was to reduce every individual benefit by a flat \$25.00 per month. This option was rejected for two reasons. The first reason was that with a 9% caseload growth, this reduction was not enough to keep the budget solvent; the second was because the reduction is not equitable. In effect, a household that currently receives a \$100 grant would experience a 25% reduction in benefits while a household that receives a \$500 grant would only experience a 5% reduction in benefits.

A third option was to leave benefits at the current level and stop paying benefits when the money runs out. This idea was rejected because this would leave families with children without benefits for potentially several months. The smaller reduction over many months is the preferable option.

When the benefit standards are decreased, the monthly costs of the TANF cash assistance program will decrease, which is necessary to keep the TANF program solvent. If grant amounts were kept at the present level, it is projected that the Department would run out of funds to pay TANF grants before the end of fiscal year 2004. By decreasing the benefit standards as proposed in this rule amendment, the Department estimates it will reduce the costs of the TANF cash assistance program by approximately \$10,595,568 for fiscal year 2004. As a result, the Department will not only have sufficient funds to pay TANF grants for fiscal year 2004, but will also be left with approximately \$1,468,936 to carry over as an attempt to keep the budget solvent in fiscal year 2005.

The Department estimates that approximately 6400 cases (17,000 people) will be impacted by the proposed reduction in benefit standards.

In addition to changing the tables of benefit and income standards, the Department also proposes to make several minor corrections to the wording of ARM 37.78.420 which do not affect benefit amounts or how eligibility is determined. Section (3) currently states that the household's gross monthly income after specified disregards have been applied is compared to the NMI (i.e., net monthly income) benefit standard. This is incorrect because net monthly income standards and benefit standards are two different things. Gross monthly income after application of the disregards is actually compared to the benefit standard. Therefore, "NMI" is being deleted so that it is clear that the income is compared to the benefit standards, rather than to the NMI standards.

Similarly, subsection (4)(c) currently states that the household's countable income is compared to the benefit income standards. This is incorrect because income standards and benefit standards are two different things. Countable income is actually compared to the benefit standard. Therefore, the word "income" is being deleted so that it is clear that countable income is compared to the benefit standards, rather than to the income standards.

4. The Department intends that this amendment will be effective August 1, 2003.

5. Interested 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 Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than 5:00 p.m. on June 19, 2003. Data, views or arguments may also be submitted by facsimile (406)444-1970 or by electronic mail via the Internet to dphhslegal@state.mt.us. The Department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

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

Dawn Sliva  
Rule Reviewer

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

Certified to the Secretary of State May 12, 2003.

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

In the matter of the adoption	)	NOTICE OF PUBLIC HEARING
of Rule I and the amendment	)	ON PROPOSED ADOPTION,
of ARM 37.85.406, 37.86.2605,	)	AMENDMENT AND REPEAL
37.86.2801, 37.86.2901,	)	
37.86.2905, 37.86.3001,	)	
37.86.3005, 37.86.3007,	)	
37.86.3009, 37.86.3014,	)	
37.86.3016, 37.86.3018 and	)	
37.86.3020 and repeal of	)	
37.86.3011 pertaining to	)	
medicaid hospital	)	
reimbursement	)	

TO: All Interested Persons

1. On June 16, 2003, at 2:00 p.m. a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed adoption, amendment and repeal of the above-stated rules.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the department no later than 5:00 p.m. on June 9, 2003, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; Email dphhslegal@state.mt.us.

2. The rule as proposed to be adopted provides as follows:

RULE I OUTPATIENT HOSPITAL SERVICES, REIMBURSEMENT FOR SERVICES NOT PAID UNDER THE AMBULATORY PAYMENT CLASSIFICATION SYSTEM (1) Therapy services will be paid 90% of the reimbursement provided in accordance with the RBRVS methodologies in ARM 37.85.212. Therapy services include physical therapy, occupational therapy and speech-language pathology.

(2) Screening mammography will be paid the same reimbursement provided in accordance with the RBRVS methodologies in ARM 37.85.212 for HCPCS 76092-TC.

(3) Dental services not grouping to an ambulatory payment classification (APC) will be reimbursed as specified in the department's outpatient fee schedule.

(4) Immunizations not grouping to an APC will be paid the same reimbursement provided in accordance with the RBRVS

methodologies in ARM 37.85.212.

(a) If the recipient is under 19 years old and vaccine is available to providers for free under the vaccines for children program, then the payment to the hospital is zero.

(b) Immunization administration is considered an incidental service and will be bundled with other APCs on the claim and paid at zero.

(5) Professional services, except as in (6), must bill separately on a professional billing form according to applicable rules governing billing for professional services.

(a) Medicaid covered services provided at a site where professional services of the kind ordinarily provided in physician offices or urgent cares, regardless of hospital ownership or CMS provider-based designations, shall bill as in (5).

(b) Billing for a facility component of a visit for medicaid covered services provided at sites in (5)(a) is not reimbursable.

(6) Interim payment for certified registered nurse anesthetists (CRNAs) will be reimbursed at hospital specific outpatient cost to charge ratio and settled as a pass through in the cost settlement, as provided in ARM 37.86.2905.

(7) The department hereby adopts the outpatient hospital fee schedule dated August 1, 2003. A copy may be obtained through the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

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

3. The rules as proposed to be amended provide as follows. Matter to be added is underlined. Matter to be deleted is interlined.

37.85.406 BILLING, REIMBURSEMENT, CLAIMS PROCESSING, AND PAYMENT (1) through (17) remain the same.

(18) Except as otherwise provided in the rules of the department which pertain to the method of determining payment rates for claims of recipients who have medicare and medicaid coverage (cross-over claims), the medicaid allowed amount for medicare covered services is:

(a) for facility based providers of inpatient services who generally bill on the UB-92 billing form, for covered medical services the full medicare co-insurance and deductible as defined by the medicare carrier;

(i) remains the same.

(b) for medical providers who generally bill on the HCFA-1500 billing form and for facility based providers of outpatient services, for covered medical services the lower of:

(i) through (23) remain the same.

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

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

131 and 53-6-141, MCA

37.86.2605 AMBULANCE SERVICES, REIMBURSEMENT (1) through (4) remain the same.

~~(5) Air transport ambulance services to the nearest appropriate facility for neonates (age zero to 28 days) identified as meeting any one of the diagnosis related group (DRG) codes 385 through 389 and for pregnant women identified as meeting any one of the DRG codes 370, 372, 375 or 383 may be billed by an outpatient hospital service provider and reimbursed by medicaid as outpatient hospital services, according to the provisions of ARM 37.86.2801, 37.86.3001, 37.86.3002 and 37.86.3005.~~

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

IMP: Sec. 53-6-101, 53-6-113 and 53-6-141, MCA

37.86.2801 ALL HOSPITAL REIMBURSEMENT, GENERAL

(1) Reimbursement for inpatient hospital services is set forth in ARM 37.86.2905. Reimbursement for outpatient hospital services is set forth in ARM 37.86.3005. The reimbursement period will be the provider's fiscal year. Cost of hospital services will be determined for inpatient and outpatient care separately. Administratively necessary days are not a benefit of the Montana medicaid program.

(a) The department may require providers of inpatient or outpatient hospital services to obtain authorization from the department or its designated review organization either prior to provision of services or prior to payment.

(i) Medicaid reimbursement shall not be made unless the provider has obtained authorization from the department or its designated review organization prior to providing any of the following services:

(A) inpatient psychiatric services provided in an acute care general hospital or a distinct part psychiatric unit of an acute care general hospital, as required by ARM 37.88.101-; i

(B) through (E) remain the same.

(ii) Upon the request of an inpatient or outpatient hospital located more than 100 miles outside the borders of the state of Montana-; i

(A) The the department may grant retrospective authorization if the person to whom services were provided was determined by the department to be retroactively eligible for Montana medicaid benefits including hospital benefits-; or

(B) The the department may grant retrospective authorization if the hospital is retroactively enrolled as a Montana medicaid provider, and the enrollment includes the dates of service for which authorization is requested-; but

(C) The the department may not grant retrospective authorization to a hospital under any other circumstances.

(b) through (g) remain the same.

(2) Allowable costs will be determined in accordance with generally accepted accounting principles as defined by the American institute of certified public accountants. Such

definition of allowable costs is further defined in accordance with the Medicare Provider Reimbursement Manual, HCFA Pub. CMS Publication 15 last updated August 27, 2002 (referred to as "Pub. 15"), subject to the exceptions and limitations provided in the department's administrative rules. The department hereby adopts and incorporates herein by reference Pub. 15, which is a manual published by the United States department of health and human services, health care financing administration centers for medicare and medicaid services (CMS), which provides guidelines and policies to implement medicare regulations which set forth principles for determining the reasonable cost of provider services furnished under the Health Insurance for Aged Act of 1965, as amended. A copy of Pub. 15 may be obtained through the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(a) Hospitals located in the state of Montana providing inpatient and outpatient hospital services reimbursement under the retrospective cost-based methodology for a hospital that is identified by the department as a distinct part rehabilitation unit ~~or an isolated hospital~~ are subject to the provisions regarding cost reimbursement and coverage limits and rate of increase ceilings specified in 42 CFR 413.30 through 413.40 (1992), except as otherwise provided in these rules. This provision applies to distinct part rehabilitation units only through January 31, 2003. The department hereby adopts and incorporates herein by reference 42 CFR 413.30 through 413.40 (1992). A copy of 42 CFR 413.30 through 413.40 (1992) may be obtained through the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(b) For cost report periods ending on or after July 1, 2003, for each hospital which is not a sole community hospital, critical access hospital or exempt hospital as defined in ARM 37.86.2901, reimbursement for reasonable costs of outpatient hospital services, other than the capital-related costs of such services, shall be limited to allowable costs, as determined in accordance with (2), ~~less 7.0%~~ 5.8% of such costs.

(c) For cost report periods ending on or after July 1, 2003, for each hospital which is a sole community hospital, as defined in ARM 37.86.2901, reimbursement for reasonable costs of outpatient hospital services, other than the capital-related costs of such services, shall be limited to allowable costs, as determined in accordance with (2), ~~less 1.2%~~ of such costs.

(d) For cost report periods ending on or after July 1, 2003, for each hospital which is a critical access or exempt hospital, as defined in ARM 37.86.2901, reimbursement for reasonable costs of outpatient hospital services shall be limited to allowable costs, as determined in accordance with (2).

(3) and (4) remain the same.

~~(5) For inpatient hospital services provided on or after July 1, 1993, facilities reimbursed on a retrospective cost basis must submit a cost report in accordance with the~~

~~applicable subsection below to determine a base year for purposes of applying rate of increase ceilings and settling costs.~~

~~(a) For facilities located outside the state of Montana and more than 100 miles from the Montana border, the base year is the facility's cost report for the first cost reporting period ending during or after calendar year 1991 that both covers 12 months and includes Montana medicaid inpatient hospital costs. Exceptions will be granted only as permitted by the applicable provisions of 42 CFR 413.30 or 413.40 (1992).~~

~~(i) Effective March 1, 2001, all out-of-state inpatient and outpatient services for facilities defined in (5)(a) are paid at 61% of billed charges for medically necessary services.~~

~~(b) (5) For distinct part rehabilitation units identified in ARM 37.86.2901(5)(7), the base year is the facility's cost report for the first cost reporting period ending after June 30, 1985 that both covers 12 months and includes Montana medicaid inpatient hospital costs. Exceptions will be granted only as permitted by the applicable provisions of 42 CFR 413.30 or 413.40 (1992).~~

~~(c) For isolated hospitals as identified in ARM 37.86.2901(16), the base year is the facility's cost report for the first cost reporting period ending after June 30, 1993 that both covers 12 months and includes Montana medicaid inpatient hospital costs. Exceptions will be granted only as permitted by the applicable provisions of 42 CFR 413.30 or 413.40 (1998).~~

~~(6) through (8) remain the same.~~

AUTH: Sec. 2-4-201, 53-2-201 and 53-6-113, MCA

IMP: Sec. 2-4-201, 53-2-201, 53-6-101, 53-6-111, 53-6-113 and 53-6-141, MCA

#### 37.86.2901 INPATIENT HOSPITAL SERVICES, DEFINITIONS

(1) remains the same.

(2) "Border hospital" means a hospital located outside Montana, but no more than 100 miles from the border.

(2) and (3) remain the same but are renumbered (3) and (4).

~~(4) (5) "Discharging hospital" is a hospital, other than a transferring hospital, that formally discharges an inpatient. Release of a patient to another hospital, as described in (6) (17) or a leave of absence from the hospital will not be recognized as a discharge. A patient who dies in the hospital is considered a discharge.~~

~~(5) (6) "Disproportionate share hospital" means a hospital which meets the following criteria:~~

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

~~(d) subsection (5)(e) (6)(c) does not apply to hospitals which:~~

~~(i) and (ii) remain the same.~~

~~(6) remains the same but is renumbered (7).~~

~~(7) "Hospital policy adjuster" means a payment to a Montana hospital paid under the DRG payment system. Data sources for the department to determine who meets policy adjuster criteria include but are not limited to information~~



~~from the Montana hospital association database; Montana medicaid paid claims database; department's database for vital statistics; and licensing bureau. Evaluations will be made annually to determine which hospital will qualify for the policy adjuster. All of the following criteria must be met for a hospital to qualify:~~

- ~~(a) has 50 or fewer beds;~~
- ~~(b) routinely delivers babies;~~
- ~~(c) delivered less than 200 babies (all payers) for state fiscal year 2001 (July 1, 2000 through June 30, 2001); and~~
- ~~(d) of the total babies delivered in state fiscal year 2001, 53% covered were either medicaid primary or medicaid secondary.~~

(8) "Exempt hospital" means, for purposes of determining whether a hospital is exempt from the prospective payment system under ARM 37.86.2905(1)(a), an acute care hospital that is located in a Montana county designated on or before July 1, 1991 as continuum code 8 or continuum code 9 by the United States department of agriculture under its rural-urban continuum codes for metro and nonmetro counties.

(8) through (9)(c) remain the same but are renumbered (9) through (10)(c).

~~(10) "Isolated hospital" means for purposes of determining whether a hospital is exempt from the prospective payment system under ARM 37.86.2905(1)(a), an acute care hospital that is located in a Montana county designated as of July 1, 1991, as continuum code 8 or continuum code 9 by the United States department of agriculture under its rural-urban continuum codes for metro and nonmetro counties.~~

(11) through (15) remain the same.

(16) "Sole community hospital" is a DRG reimbursed hospital classified as such by federal health care financing administration (HCFA) the centers for medicare and medicaid services (CMS) in accordance with 42 CFR 412.92(a) through (d) (1986) and/or hospitals with less than 51 beds.

(17) and (18) remain the same.

AUTH: Sec. 53-6-113, MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-111, 53-6-113 and 53-6-141, MCA

#### 37.86.2905 INPATIENT HOSPITAL SERVICES, REIMBURSEMENT

(1) For inpatient hospital services, the Montana medicaid program will reimburse providers as follows:

(a) For inpatient hospital services, including inpatient rehabilitation services and services provided in a setting that is identified by the department as a distinct part rehabilitation unit, provided within the state of Montana, providers will be reimbursed under the diagnosis related groups (DRG) prospective payment system described in (2) except as otherwise specified in these rules. For medicare Medicare certified rehabilitation units (through January 31, 2003 only), isolated exempt hospitals and critical access hospitals interim reimbursement is based on hospital specific medicaid inpatient

cost to charge ratio, not to exceed 100%. Exempt hospitals and critical access hospitals will be reimbursed their actual allowable costs determined on a retrospective basis, with allowable costs determined according to ARM 37.86.2801(2). Except as otherwise specified in these rules, facilities reimbursed under the DRG prospective payment system will be reimbursed, in addition to the prospective DRG rate, for the following:

- (i) through (iii) remain the same.
- (iv) certified registered nurse anesthetist costs as provided in (15); and
- (v) disproportionate share hospital payments as provided in (13) and (14); ~~and~~
- ~~(vi) hospital policy adjustor payments as provided in (16).~~

(b) remains the same.

(c) Inpatient hospital services provided in hospitals located more than 100 miles outside the borders of the state of Montana will be reimbursed 50% of usual and customary billed charges for medically necessary services.

(i) Medicaid reimbursement shall not be made to hospitals located more than 100 miles outside the borders of Montana unless the provider has obtained authorization from the department or its designated review organization prior to providing services. All planned services provided in an emergent situation must be authorized within 48 hours.

(2) The department's DRG prospective payment rate for inpatient hospital services is based on the classification of inpatient hospital discharges to ~~diagnosis related groups (DRGs)~~. The procedure for determining the DRG prospective payment rate is as follows:

(a) through (b) remain the same.

(c) The department computes a Montana average base price per case. This average base price per case is ~~\$2070~~ \$2125 excluding capital expenses, effective for services provided on or after July 1, 2002 2003. ~~For services provided on or after February 1, 2003 through June 30, 2003, the base price per case is \$1967 excluding capital expenses.~~

(d) through (3) remain the same.

(4) The department will reimburse inpatient hospital service providers located in the state of Montana for capital-related costs that are allowable under medicare cost reimbursement principles as set forth at 42 CFR 412.113(a), as amended through October 1, ~~1986~~ 1992. The department ~~hereby~~ adopts and incorporates by reference 42 CFR 412.113, ~~subsections~~ (a) and (b), as amended through October 1, ~~1986~~ 1992, which set forth medicare cost reimbursement principles. Copies of the cited regulation may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(a) Prior to settlement based on audited costs, the department will make interim payments for each facility's capital-related costs as follows:

(i) remains the same.

(ii) ~~All out-of-state border~~ hospitals that are reimbursed under the DRG prospective payment system will be paid the statewide average capital cost per case as an interim capital-related cost payment. The statewide average capital cost per case is \$229. Such rate shall be the final capital-related cost with respect to which the department waives retrospective cost settlement in accordance with these rules.

(iii) remains the same.

(5) The department shall reimburse inpatient hospital service providers for medical education related costs that are allowable under medicare cost reimbursement principles as set forth at 42 CFR 412.113(b), as amended through October 1, 1992. ~~42 CFR 412.113(b), as amended through October 1, 1992, is hereby adopted and incorporated herein by reference. A copy of this regulation may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

(a) through (a)(ii) remain the same.

(6) In addition to the DRG payment, providers reimbursed under the DRG prospective payment system may receive payment as provided in this ~~subsection~~ section for cost outliers for DRGs other than neonatal DRGs 385 through 389 provided by neonatal intensive care units described in (3).

(a) through (15) remain the same.

~~(16) Subject to funding, providers identified as eligible for the "hospital policy adjuster" defined in ARM 37.86.2901 will receive, in addition to the DRG payment, a payment amount of 5% of the hospital's prospective base rate.~~

~~(17) (16) Subject to the availability of state, county and federal funding, restrictions imposed by federal law and approval of the state plan by the United States department of health and human services, health care financing administration (HCFA) CMS, a county owned, county operated or partially county funded rural hospital is eligible for the qualified rate adjustment payment once each fiscal year as provided in ARM 37.86.2910.~~

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

IMP: Sec. 53-2-201, ~~53-6-101~~, ~~53-6-111~~, 53-6-113 and 53-6-141, MCA

#### 37.86.3001 OUTPATIENT HOSPITAL SERVICES, DEFINITIONS

(1) "Ambulatory payment classification (APC)" means medicare's ambulatory payment classification assignment groups of HCPCS codes.

(2) "Conversion factor" means an adjustment equal to medicare's highest urban rate for Montana as published at 67 Code of Federal Regulations (CFR) 43616 (June 28, 2002).

(1) through (3) remain the same but are renumbered (3) through (5).

(6) "Healthcare common procedures coding system (HCPCS)" means the national uniform coding method maintained by the centers for medicare and medicaid services (CMS) that incorporates the American Medical Association (AMA) Physicians

Current Procedural Terminology (CPT) and the three HCPCS unique coding levels, I, II and III.

(7) "ICD-9-CM" means the International Classification of Diseases, Ninth Revision based on the official version of the United Nations World Health Organization's Ninth Revision.

(4) through (6)(b) remain the same but are renumbered (8) through (10)(b).

(11) "Outpatient prospective payment system" (OPPS) means medicare's outpatient prospective payment system mandated by the Balanced Budget Refinement Act of 1999 (BBRA) and the Medicare, Medicaid, SCHIP Benefits Improvement and Protection Act (BIPA) of 2000.

~~(7)~~ (12) "Partial hospitalization services" means an active treatment program that offers therapeutically intensive, coordinated, structured clinical services provided only to individuals who are determined to have a serious emotional disturbance or severe disabling mental illness. Partial hospitalization services are time-limited and provided within either an acute level program or a sub-acute level program. Partial hospitalization services include day, evening, night and weekend treatment programs that employ an integrated, comprehensive and complementary schedule of recognized treatment or therapeutic activities.

(a) through (b) remain the same.

(c) Sub-acute level partial (SAP) hospitalization is provided by programs which:

(i) through (v)(D) remain the same.

(vi) ~~provides~~ provide education services through one of the following:

(A) through (vii) remain the same.

(viii) ~~provides~~ provide psychiatric evaluation, consultation, and medication management on a regular basis. Psychiatric consultation to the program treatment staff is provided at least twice each month and includes at least one face-to-face evaluation with each youth each month;

(ix) ~~serves~~ serve children or youth with a serious emotional disturbance being discharged from inpatient psychiatric treatment or residential treatment or who would be admitted to such treatment in the absence of partial hospitalization; and

(x) and (d) remain the same.

(8) remains the same but is renumbered (13).

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

IMP: Sec. 53-2-201, 53-6-101, 53-6-111, 53-6-113 and 53-6-141, MCA

37.86.3002 OUTPATIENT HOSPITAL SERVICES, SCOPE AND REQUIREMENTS (1) The requirements of ARM 37.86.2801, 37.86.3001, ~~37.86.3002~~, 37.86.3005 and this rule 46.12.509 are in addition to those contained in rule provisions generally applicable to medicaid providers.

(2) Outpatient hospital services do not include:

(a) through (b)(ii) remain the same.

(iii) independent exercise programs, such as pool therapy, swim programs, or health club memberships; or

(iv) pulmonary therapy; or

(c) remains the same.

(3) Outpatient hospital services are services that would also be covered by medicaid if provided in a non-hospital setting and are limited to the following diagnostic and therapeutic services furnished by hospitals to outpatients:

(a) through (b)(iii) remain the same.

~~(c) air transport ambulance services for neonates (age 0 to 28 days, DRGs 385 through 389) and women with high risk pregnancies (DRGs 370, 372, 375 or 383), as provided in ARM 37.86.2605;~~

~~(d) (c) chemical dependency treatment services; and~~

~~(e) (d) services provided outside the hospital, as follows:~~

~~(i) diagnostic services provided by hospital personnel outside the hospital premises with or without direct personal supervision of a physician;~~

~~(ii) therapeutic services that are incident to physician services and provided under the direct personal supervision of a physician. Outpatient physical therapy, occupational therapy and speech therapy are not subject to the direct physician supervision requirement. Therapy services are limited as in ARM 37.86.606;~~

~~(f) (e) diabetic education services provided by a hospital whose diabetic education protocol has been approved by the Medicare Part A Program, P.O. Box 5017, Great Falls, MT 59403. Coverage of diabetic education services is limited to those services meeting the requirements of the Health Care Financing Administration Hospital Manual, HCFA Pub. 6 (HIM 6), CMS Publication 10, Coverage Issues, Appendix Section 80-2, as amended through March 27, 2003. A copy of this section is adopted and incorporated by reference and is available through the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

(4) remains the same.

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

IMP: Sec. 53-2-201, 53-6-101, 53-6-111, 53-6-113 and 53-6-141, MCA

37.86.3005 OUTPATIENT HOSPITAL SERVICES, REIMBURSEMENT AND QUALIFIED RATE ADJUSTMENT PAYMENT (1) remains the same.

~~(2) Out-of-state Outpatient hospital services that are not provided by exempt hospitals or critical access hospitals as defined in ARM 37.86.2901(4) and (8) facilities more than 100 miles from the nearest Montana border will be paid at 50% of usual and customary billed charges reimbursed under ARM 37.86.3007, 37.86.3009, 37.86.3016, 37.86.3018, 37.86.3020 and [Rule I] for medically necessary services.~~

~~(3) Except for the services reimbursed as provided in ARM 37.86.3007, 37.86.3009, 37.86.3011, 37.86.3014, 37.86.3016,~~

~~37.86.3018, 37.86.3020 and 37.86.3022, all facilities will be reimbursed on a retrospective basis. Allowable costs will be determined in accordance with ARM 37.85.2801(2) and subject to the limitations specified in ARM 37.85.2801(2)(a), (b) and (c). The department may waive retrospective cost settlement for such facilities which have received interim payments totaling less than \$100,000 for inpatient and outpatient hospital services provided to Montana medicaid recipients in the cost reporting period, unless the provider requests in writing retrospective cost settlement. Where the department waives retrospective cost settlement, the provider's interim payments for the cost report period shall be the provider's final payment for the period.~~

~~(a) All facilities will be reimbursed for services subject to (3) on an interim basis during the facility's fiscal year. The interim rate will be a percentage of usual and customary charges (billed charges). The percentage shall be the provider's cost to charge ratio determined by the facility's medicare intermediary or by the department under medicare reimbursement principles, based upon the provider's most recent medicare cost report. If a provider fails or refuses to submit the financial information, including the medicare cost report, necessary to determine the cost to charge ratio, the provider's interim rate will be 50% of its usual and customary charges (billed charges).~~

~~(4) The medicaid outpatient hospital statewide average cost to charge ratio equals .56.~~

~~(3) For critical access hospitals and exempt hospitals, interim reimbursement for outpatient hospital services is based on hospital specific medicaid outpatient cost to charge ratio, not to exceed 100%, except as in ARM 37.86.3009. Critical access hospitals and exempt hospitals will be reimbursed their actual allowable costs determined according to ARM 37.86.2801(2) If a provider fails or refuses to submit the financial information, including the medicare cost report, necessary to determine the cost to charge ratio, the provider's interim rate will be 50% of its usual and customary charges (billed charges).~~

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

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

IMP: Sec. 53-2-201, 53-6-101, 53-6-111, 53-6-113 and 53-6-141, MCA

37.86.3007 OUTPATIENT HOSPITAL SERVICES, PROSPECTIVE PAYMENT METHODOLOGY, CLINICAL DIAGNOSTIC LABORATORY SERVICES

(1) Clinical diagnostic laboratory services will be reimbursed on a fee basis as follows with the exception of hospitals reimbursed under ARM 37.86.3005 and specific lab codes which are paid under ARM 37.86.3020:

(a) through (b)(ii) remain the same.

(c) For purposes of this rule, clinical diagnostic laboratory services include the laboratory tests listed in codes defined in the healthcare common procedure coding system (HCPCS). Certain tests are exempt from the fee schedule. These tests are listed in the HCFA Pub-45 CMS Publication 45 (Pub. 45)

last modified August 28, 2002, State Medicaid Manual, Payment For Services, Section 6300. These exempt clinical diagnostic laboratory services will be reimbursed under the retrospective payment methodology specified in ARM 37.86.3005(2).

(d) Specimen collection will be reimbursed separately for drawing a blood sample through venipuncture or for collecting a urine sample by catheterization. The fee for specimen Specimen collection is the lower of the provider's usual and customary charges (billed charges) or \$3 per patient visit will be reimbursed as specified in the department's outpatient fee schedule as adopted in [Rule I], whether or not the specimens are referred to physicians or other laboratories for testing. No more than one collection fee may be allowed for each patient visit, regardless of the number of specimens drawn.

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

37.86.3009 OUTPATIENT HOSPITAL SERVICES, PROSPECTIVE PAYMENT METHODOLOGY, EMERGENCY ROOM AND CLINICAL VISIT SERVICES

(1) Emergency room and clinic services provided by hospitals that are not isolated hospitals or critical access hospitals as defined in ARM 37.86.2902(17) and (18) will be reimbursed on a fee basis for each visit as follows:

(a) Emergency room and clinic services will be classified into one of three service groups for reimbursement purposes. Each service group will have two fees, one for sole community hospitals as defined in ARM 37.86.2901, and one for non-sole community hospitals. The three service groups are defined as follows:

(i) Critical emergency room visits are emergency room visits in which the recipient receives critical care procedures, dies while in the emergency room or is discharged or transferred to another short term general hospital for inpatient care.

(A) Critical care procedures are those procedures designated by the department as such and identified in the department's emergency room critical care procedures list. The department hereby adopts and incorporates by reference the outpatient hospital emergency room critical care procedures list (January 2001). A copy of the emergency room critical care procedures list may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(ii) Emergency visits are emergency room visits for which the ICD-9-CM diagnosis code chiefly responsible for the services provided is a diagnosis designated as an emergency diagnosis in the medicaid passport program emergency diagnosis list. For purposes of this rule, the department hereby adopts and incorporates by reference the passport emergency diagnosis list (January 2001). The passport program emergency diagnosis list is available upon request from the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(iii) Other emergency room and clinic visits are emergency

~~room and clinic visits that do not meet the criteria for the critical or emergency visit groups specified in (1)(a)(i) or (ii) of this rule.~~

~~(b) Fees for emergency room and clinic service groups described in (1)(a)(i) through (iii) above for sole community hospitals and non-sole community hospitals are specified in the department's outpatient hospital emergency room fee schedule. The department hereby adopts and incorporates herein by reference the outpatient hospital emergency room fee schedule (June 2002). A copy of the emergency room fee schedule may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

~~(c) Except as provided in (1)(c)(i) and (ii), the fee specified in (1)(b) or (d) is an all inclusive bundled payment per visit which covers all outpatient services provided to the patient, including but not limited to nursing, pharmacy, supplies, equipment and other outpatient hospital services.~~

~~(i) Physician services are separately billable according to the applicable rules governing billing for physician services.~~

~~(ii) In addition to the fee specified for each emergency room and clinic service group, medicaid will reimburse providers separately as specified in ARM 37.86.3007, 37.86.3016 and 37.86.3018 for laboratory, imaging and other diagnostic services provided during emergency and clinic visits.~~

~~(d) For hospital emergency room and clinic visits where the provider's net usual and customary (billed charges) emergency room or clinic charges are more than 500% or less than 75% of the fee specified in (1)(b), the visit will be considered unstable and the net charges will be paid at the statewide cost to charge ratio specified in ARM 37.86.3005(4). For purposes of the stop-loss provision, the provider's net emergency room or clinic charges are defined as total usual and customary claim charges (billed charges) less charges for laboratory, imaging, other diagnostic and any noncovered services.~~

~~(e) Emergency visits as defined in (1)(a)(ii) and other emergency room and clinic visits as defined in (1)(a)(iii) with ICD-9-CM surgical or major diagnostic procedure codes will be grouped into one of the ambulatory surgery day procedure groups described in ARM 37.86.3020.~~

(1) Emergency visits are emergency room services for which the ICD-9-CM presenting diagnosis code (admitting diagnosis code) or the diagnosis code (primary diagnosis code) chiefly responsible for the services provided is a diagnosis designated by the department as an emergency diagnosis in the medicaid emergency diagnosis list. PASSPORT provider authorization is not required for these visits. For purposes of this rule, the department adopts and incorporates by reference the emergency diagnosis list effective July 1, 2003. The emergency diagnosis list is available upon request from the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(2) Emergency visit services provided by hospitals will be



reimbursed as follows:

(a) for emergency visits meeting ARM 37.86.3009(1), critical access hospitals and exempt hospitals interim reimbursement will be based on hospital specific medicaid outpatient cost to charge ratio, not to exceed 100%. Critical access hospitals and exempt hospitals will be reimbursed their actual allowable costs determined according to ARM 37.86.2801(2); or

(b) for emergency visits that are not provided by exempt hospitals or critical access hospitals as defined in ARM 37.86.2901(4) and (8) and meet ARM 37.86.3009(1), reimbursement will be based on the APC methodology in ARM 37.86.3020; and

(i) for emergency visits not meeting ARM 37.86.3009(1), reimbursement will be a prospective fee for evaluation and stabilization as specified in the department's outpatient fee schedule plus ancillary reimbursement for laboratory, imaging and other diagnostic services not included in the APR reimbursement. The evaluation and stabilization fee is considered payment in full; or

(c) an evaluation and stabilization fee is an all inclusive bundled payment per visit which covers all outpatient services provided to the patient, including but not limited to nursing, pharmacy, supplies, equipment and other outpatient hospital services; and

(i) physician services are separately billable according to the applicable rules governing billing for physician services; or

(d) for emergency visits which the medical professional rendering the screening and evaluation determine are emergent but not on the department's emergency list, a hospital may send the claim and emergency room documentation for review to the department for payment of a fee other than the evaluation and stabilization fee.

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

37.86.3014 OUTPATIENT HOSPITAL SERVICES, PROSPECTIVE PAYMENT METHODOLOGY, DIALYSIS SERVICES (1) Dialysis visits will be reimbursed at the provider's medicare composite rate for dialysis services determined by medicare under 42 CFR subpart H. The facility's composite rate is a comprehensive prospective payment for all modes of facility and home dialysis and constitutes payment for the complete dialysis treatment, except for a physician's professional services, separately billable laboratory services and separately billable drugs. The provider must furnish all of the necessary dialysis services, equipment and supplies. Reimbursement for dialysis services and supplies is further defined in the Medicare Provider Reimbursement Manual, HCFA Pub. CMS Publication 15 last updated August 27, 2002 (referred to as "Pub. 15"). For purposes of specifying the services covered by the composite rate and the services that are separately billable, the department hereby adopts and incorporates by reference Pub. 15. A copy of Pub. 15 may be

obtained through the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

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

37.86.3016 OUTPATIENT HOSPITAL SERVICES, PROSPECTIVE PAYMENT METHODOLOGY, IMAGING SERVICES (1) Imaging services will be reimbursed as in ARM 37.86.3020 with the exception of hospitals reimbursed under ARM 37.86.3005 and except as follows:

(a) For each imaging service or procedure, the fee will be the lesser of the provider's usual and customary charges (billed charges) or 100% of the medicare ambulatory payment classification (APC) rate. The imaging services reimbursed under this subsection are the individual imaging service codes defined in the ~~healthcare common procedure coding system (HCPCS).~~

(b) remains the same.

(c) For imaging services where no APC rate has been assigned, ~~but a medicaid fee has been assigned, the fee will be set in accordance with the RBRVS methodology in ARM 37.85.212~~ outpatient hospital specific percent of charges will be paid.

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 with the exception of hospitals reimbursed under ARM 37.86.3005:

(a) ~~The~~ the lesser of the provider's usual and customary charges (billed charges) or 100% of the medicare APC rate. The individual diagnostic services reimbursed under this subsection are those defined in the ~~healthcare common procedure coding system (HCPCS).~~

(b) and (c) remain the same.

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

37.86.3020 OUTPATIENT HOSPITAL SERVICES, OUTPATIENT PROSPECTIVE PAYMENT SYSTEM (OPPS) METHODOLOGY, AMBULATORY PAYMENT CLASSIFICATION SURGERY SERVICES (1) ~~Ambulatory surgery services provided by hospitals that are not isolated hospitals or critical access hospitals as defined in ARM 37.86.2902(17) and (18) will be reimbursed on a fee basis. A separate fee will be paid within each day procedure group depending on whether or not the hospital is a sole community hospital as defined in ARM 37.86.2901. Payment for ambulatory surgery services is a fee for each visit determined as follows:~~

~~(a) The department assigns a day procedure group (DPG) to each medicaid visit as specified in the DPG ambulatory surgery classification system developed by the Canadian institute for~~

health information (CIHI). The DPG system is an ambulatory surgery classification system that assigns patients to one of 66 groups according to the principal ICD-9-CM procedure code recorded on the UB-92 claim form.

(b) The department determines a fee for each day procedure group which reflects the estimated cost of hospital resources used to treat cases in that group relative to the statewide average cost of all medicaid cases. Fees for day procedure groups for sole community hospitals and non-sole community hospitals are specified in the department's outpatient hospital fee schedule. The department hereby adopts and incorporates by reference the outpatient hospital ambulatory surgery fee schedule (June 2002). A copy of the fee schedule may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(c) Except as provided in (1)(c)(i) and (ii), the payment specified in (1)(b) or (d) is an all inclusive bundled payment per visit which covers all outpatient services provided to the patient, including but not limited to nursing, pharmacy, laboratory, imaging services, other diagnostic services, supplies and equipment and other outpatient hospital services. For purposes of outpatient hospital ambulatory surgery services, a visit includes all outpatient hospital services related or incident to the ambulatory surgery visit that are provided the day before or the day of the ambulatory surgery event.

(i) Physician services are separately billable according to the applicable rules governing billing for physician services.

(ii) Payment for certified registered nurse anesthetists (CRNAs) will be based on cost as a pass through in the cost settlement, as provided in ARM 37.86.2905.

(d) For hospital ambulatory surgery services, day procedure groups where the provider's net usual and customary charges (billed charges) are more than 500% or less than 75% of the fee specified in (1)(b), the day procedure group is considered unstable and the net charges will be paid at the statewide cost to charge ratio specified in ARM 37.86.3005(4). For purposes of the stop-loss provision, the provider's net ambulatory surgery charges are defined as total usual and customary claim charges (billed charges) less charges for any noncovered services.

(e) If the department's outpatient hospital ambulatory surgery fee schedule described in (1)(b) does not assign a fee for a particular DPG, the DPG will be reimbursed at the statewide average outpatient cost to charge ratio specified in ARM 37.86.3005(4).

(f) Ambulatory surgery services for which the primary ICD-9-CM procedure code is not included in the day procedure grouper described in (1)(a) will be reimbursed under the retrospective cost basis as specified in ARM 37.86.3005(3).

(1) Outpatient hospital services that are not provided by exempt hospitals or critical access hospitals as defined in ARM 37.86.2901(4) and (8) will be reimbursed on a rate-per-service

basis using the outpatient prospective payment system (OPPS). Under this system, medicaid payment for hospital outpatient services included in the OPSS is made at a predetermined, specific rate. These outpatient services are classified according to a list of APCs published annually in the Code of Federal Regulations (CFR). The rates for OPSS are determined as follows:

(a) The department uses a conversion factor for each APC group based on Montana's highest medicare urban rate, as published annually in the CFR. The APC based fee equals the medicare specific relative weight for the APC times the conversion factor that is the same for all APCs with the exceptions of services in [Rule I]. APCs are based on classification assignment of HCPCS codes.

(b) At the claim level, payment will be the lower of the provider's charge and the payment as calculated using OPSS. There will be no charge cap at the line level.

(c) APCs are an all inclusive bundled payment per visit which covers all outpatient services provided to the patient, including but not limited to nursing, pharmacy, laboratory, imaging services, other diagnostic services, supplies and equipment and other outpatient services. For purposes of OPSS, a visit includes all outpatient hospital services related or incident to the outpatient visit that are provided the day before or the day of the outpatient visit.

(d) If two or more surgical procedures are performed at the same hospital on the same patient on the same day, payment for the most expensive procedure will be made at 100% of the APC for that service and payment for all other procedures will be made at 50% of the APC for those services.

(e) If the OPSS does not assign a fee for a particular APC, the service will be reimbursed at hospital specific outpatient cost to charge ratio.

(f) The department will make separate payment for observation care procedure codes only if the patient has a primary diagnosis code of asthma, chest pain, congestive heart failure or obstetric complications. If an observation service does not meet medicare's criteria for these services, payment for observation care will be considered bundled into the APC for other services.

(i) The diagnosis used to define a potential obstetric qualification will be taken from diagnosis related groups 382 (false labor) and 383 (other antepartum diagnosis with medical complications).

(g) The department follows medicare guidelines for procedures defined as "inpatient only". When these procedures are performed in the outpatient hospital setting, the claim will be denied.

(h) Procedures started on patients but discontinued before completion will be reimbursed at 50% of the APC for those services.

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

4. ARM 37.86.3011 as proposed to be repealed is on page 37-20505 of the Administrative Rules of Montana.

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. The Department of Public Health and Human Services (the Department) is proposing the adoption of Rule I and the amendment of ARM 37.85.406, 37.86.2605, 37.86.2801, 37.86.2901, 37.86.2905, 37.86.3001, 37.86.3002, 37.86.3005, 37.86.3007, 37.86.3009, 37.86.3014, 37.86.3016 and 37.86.3020 pertaining to Medicaid reimbursement for hospital cost settlements, outpatient hospital services and out-of-state inpatient hospital services.

ARM 37.86.3011 would be repealed.

New Rule I and the amendments to the other rules are necessary to meet requirements of the Health Insurance Portability and Accountability Act (HIPAA):

- by changing the outpatient payment methodology for Diagnosis-Related Group (DRG), border and out-of-state facilities to Medicare's Outpatient Prospective Payment System (OPPS) with some modifications specific to Montana, including a "lower of" pricing methodology for Medicaid crossover claims;
- to remove the requirement that hospitals need to have PASSPORT authorization for emergency room services and update the emergency room critical care list;
- to move reimbursement for neonate air transportation ambulance services from the hospital program to the transportation program;
- to require physician clinics owned by hospitals to bill as a physician clinic to treat exempt facilities (isolated rural facilities) as Critical Access Hospitals (CAH) for reimbursement purposes;
- to clarify and update outdated rule language; and
- to satisfy a reduction in hospital program funding in each year of the next biennium, as in House Bill 2 budget legislation.

The Department intends to update the fees under OPPS whenever it updates the resource based relative value scale (RVRBS). Medicare publishes APC updates in January of each year. The Department intends to update OPPS in April of each year. The department intends to update assignments of new CPT-4 and HCPCS Level II codes each January.

The Department is proposing the elimination of the Hospital

Policy Adjustor payment. The Department is taking this opportunity to correct a missed detail to the reimbursement methodology for out-of-state hospital facilities that should have been included in the January 17, 2002 proposal notice (MAR Notice No. 218). In addition, the Department proposes clarifying and updating some of the language in the cost report sections of the rule. The proposed clarifications and updates are not intended to change the methodology of cost settlement, just to clarify the current settlement procedures.

ARM 37.86.2801 and 37.86.3005:

Currently, exempt facilities are reimbursed at a hospital-specific percent of charges for inpatient services and fee schedules for outpatient services on an interim basis and later cost-settled to actual costs subject to "lesser of" ceilings. There are only two exempt facilities left in the state. In addition to being isolated rural facilities, they are also sole community facilities. The Department proposes to treat these facilities the same as CAH facilities for reimbursement purposes. This would eliminate any ceilings on settlement, would reimburse these facilities at 100% of costs and would allow them to receive the same level of interim reimbursement as CAH facilities.

On March 15, 2002, the Department changed the out-of-state facility reimbursement from 61% of charges to 50% of charges. ARM 37.86.2801(5)(a)(i) should have been included in that rulemaking action to reflect the reduction. The Department proposes making the correction now.

The Department is taking this opportunity to clarify language related to cost report settlements. The wording in these sections currently casts confusion as to the methodology the department uses to settle certain cost reports. The Department proposes changing the language to conform to the cost settlement methodology used. In addition, the percentages used in ARM 37.86.2801(2)(b) and (c) are based on outdated figures from Medicare. The updated figures are favorable to the facilities involved and could increase their cost settlements.

ARM 37.86.2905:

Changes to ARM 37.86.2905 would remove the Hospital Policy Adjustor payment. Only one hospital in Montana now qualifies for this payment and is not likely to in the future. With the payment methodologies currently in place, there is no longer a need for this additional payment.

For clarity, the Department is amending the average base price per case in this rule to its July 1, 2002, level.

ARM 37.86.3002:

The Department is clarifying existing policy on coverage of pulmonary therapy. This service has always been considered an exercise program that is primarily educational in nature and therefore a non-covered service. Policy manuals have listed pulmonary therapy as a non-covered service and the Department has always denied coverage of this service. This clarification continues existing policy.

The Department is proposing that neonate air ambulance transportation services no longer be reimbursed under the Medicaid hospital program. Reimbursement for these services would be under the Medicaid Transportation program and reimbursement would be set according to those rules. The Department is currently reviewing the ambulance rate structure to ensure that access would not be affected by the conversion from hospital program to the transportation program.

ARM 37.85.406:

In a change from current practice for hospital providers, the Department would reimburse Medicare crossover claims the lower of:

- what the Department would have paid if the patient had not been eligible for Medicare (taking into account the Medicare payment), or
- the Medicare coinsurance and deductible amount.

This "lower of" pricing would apply to all hospitals. It is currently applied to all other providers of Medicare and Medicaid services with the exception of FQHCs and RHCs. This change provides for equal treatment by the Department of providers of Medicare and Medicaid services.

ARM 37.86.3009 and 37.86.3011:

The requirement for PASSPORT authorization for emergency room services is being removed. A new emergency room critical care list has been developed and would be encoded into the system. The new list would have two parts:

- diagnoses that are always an emergency
- claims that are coded a Level 5 emergency code

When a claim is received, the Department's fiscal intermediary will look at both the presenting (admitting) diagnosis and the primary diagnosis to determine if they appear on one of the emergency lists. Claims with diagnoses not appearing on either of these lists would pay a screening fee only and would be subject to cost sharing. Claims with diagnoses that do not appear on the list but are an emergency for other reasons (for

example, a 35 year old presenting with influenza that also has AIDS) may be sent to the Department's utilization review contractor for review and payment at a higher level. A copy of the list can be viewed at the Department's website, [www.dphhs.state.mt.us/legal](http://www.dphhs.state.mt.us/legal) or by writing the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951. By removing the PASSPORT authorization requirement and looking at the presenting diagnosis in addition to the primary diagnosis, the Department's methodology would satisfy the federal requirements of the Emergency Medical Treatment and Active Labor Act (EMTALA), 42 United States Code 1395. Review of claims that facilities feel should be an exception to the emergency room critical care list would allow the providers an appeal process not available to them now. Paying a screening fee for non-emergent services in an Emergency Department (ED) and subjecting this fee to cost share would put some responsibility on the Medicaid recipient to properly utilize medical services and not burden the ED with non-critical services.

ARM 37.86.3011 would no longer be necessary and the Department is proposing its repeal.

ARM 37.86.2605, 37.86.2901, 37.86.3001, 37.86.3007, 37.86.3014, 37.86.3016 and 37.86.3020:

Since 1994, the Department has paid for outpatient hospital services using Day Procedure Groups (DPG), which is a system developed by the Canadian Institute for Health Information (CIHI). The DPG system is an ambulatory surgery classification system that assigns payment groups according to the principal International Classification of Diseases (9th revision) Clinical Modification (ICD-9-CM) procedure code on the claim.

Effective July 1, 2003, outpatient hospital services would be reimbursed under an outpatient prospective payment system (OPPS) for in-state DRG hospitals, border hospitals and out-of-state facilities using the Medicare Ambulatory Payment Classification (APC) system. The Department is moving to the new payment method for 4 reasons:

- ICD-9-CM procedure codes are no longer available. Under the Health Insurance Portability and Accountability Act (HIPAA), payers cannot require hospitals to use ICD-9-CM procedure codes (see 45 CFR Parts 160, 162 and 164).
- The developers of DPGs would no longer maintain the mapping of ICD-9-CM procedure codes to DPGs.
- Facilities find it easier to submit claims, verify and estimate payments when the Department uses payment



methods similar to those used by Medicare. With few exceptions (for example, the Department would allow observation bed services in 4 situations, instead of the 3 allowed by Medicare), the Department is following Medicare's system.

- The exception as in Medicare's APC system would be for services that pay outside of APCs. Under the new payment method, services such as therapies and DME supplies would be paid the same amounts that providers outside of the hospital setting receive. This would allow Medicaid to make payments consistent to all providers of similar services. Other cost-based services would be paid at a hospital specific percent of charges versus the old methodology of reimbursing all facilities an average statewide cost-to-charge ratio. This would better reflect the actual costs of services provided by individual hospitals.

The Department proposes the use of Medicare's OPSS as a reimbursement method due to the fact that the Medicare program has invested millions of dollars in the development of this system and the Department is free to take advantage of this. Medicare's OPSS is compatible with the requirements of the Health Insurance Portability and Accountability Act (HIPAA). In addition, facilities already use this system to bill Medicare and do not have to make costly changes to their billing departments to convert to a new system. The design, development and implementation of any other system would have been too high a cost to the Medicaid budget and to our providers.

In addition to bringing the hospital reimbursement methodology in line with reimbursement of other Medicaid providers, the change to "lower of" pricing would save the Department money as it faces imminent and substantial budget deficits. This would allow Medicaid some consistency in payments to providers and would follow standard insurance industry practice.

The legislative appropriation for state fiscal years 2004 and 2005 requires the Department to reduce hospital service expenditures by 2% each year of the biennium. The Department proposes to implement an equivalent reduction through the above changes in reimbursement methodology.

New Rule I, ARM 37.86.3007, 37.86.3016, and 37.86.3018

Effective July 1, 2003, outpatient hospital services would be reimbursed under an outpatient prospective payment system (OPSS) for in-state DRG hospitals, border hospitals and out-of-state facilities using the Medicare Ambulatory Payment Classification (APC) system; however, some services provided in the outpatient setting are not reimbursed by Medicare under APC pricing. The Department is proposing payment of lab, imaging, other

diagnostic, therapies and DME services by fee schedule. Other services would pay hospital specific outpatient cost to charge ratio.

The Department is proposing that all services performed at sites that provide services ordinarily provided in physician offices or urgent cares bill on professional claim forms following those applicable rules. The Department will not pay an additional facility fee based on hospital ownership of these sites. This does not affect Medicaid reimbursement of services in a hospital outpatient Department.

Cumulative effect of rate changes

The proposed change in reimbursement of neonate air ambulance services from the hospital program to the transportation program is expected to have no budget impact. The money allocated for neonate air ambulance services in the hospital budget would be allocated to the transportation budget. The transportation fee schedule dated 7/1/03 will reflect rates adjustments for air transportation.

Budget legislation (House Bill 2) requires a decrease to hospital services by \$2,870,889 in SFY04 and \$3,029,665 in SFY05. The savings generated by bringing outpatient payments to Medicare levels or below and applying "lower-of" methodology to facility payments would cover this requirement.

Total general fund savings for SFY04 need to be \$840,412 and \$896,724 for SFY05 with total General Fund savings for the biennium of \$1,737,136.

Persons affected:

There are approximately 68,000 persons in Montana eligible to receive hospital services. The estimated number of Medicaid-enrolled hospitals in the state of Montana is 58. The estimated number of enrolled hospitals within 100 miles of the border of Montana is 38. The estimated number of hospitals more than 100 miles from the nearest Montana border enrolled as providers to the Montana Medicaid program is 267. Therefore, the total number of hospitals that may be affected is 363.

6. Interested 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 Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than 5:00 p.m. on June 19, 2003. Data, views or arguments may also be submitted by facsimile (406)444-1970 or by electronic mail via the Internet to dphhslegal@state.mt.us. The Department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the

mailing list, please write the person at the address above.

7. The Department intends that these proposed amendments will be effective August 1, 2003, except the average base price per case in ARM 37.86.2905(2)(c) that will be applied retroactively to June 13, 2003, and the reporting requirements in ARM 37.86.2801 which will be applied retroactively to July 1, 2003.

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

Dawn Sliva  
Rule Reviewer

Mike Billings for  
Director, Public Health and  
Human Services

Certified to the Secretary of State May 12, 2003.

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

In the matter of the amendment ) NOTICE OF AMENDMENT  
of ARM 6.10.126 pertaining to )  
unethical practices by )  
broker-dealers and salesmen )  
defined )

TO: All Concerned Persons

1. On February 27, 2003, the state auditor and commissioner of securities published MAR Notice No. 6-139 regarding the proposed amendment of the above-stated rule relating to unethical practices by broker-dealers and salesmen defined, at page 273 of the 2003 Montana Administrative Register, Issue No. 4.

2. The State Auditor has amended ARM 6.10.126 exactly as proposed.

3. No comments or testimony were received.

JOHN MORRISON, State Auditor  
and Commissioner of Securities

By: /s/ Angela Huschka  
Angela Huschka  
Deputy Insurance Commissioner

By: /s/ Elizabeth L. Griffing  
Elizabeth L. Griffing  
Rules Reviewer

Certified to the Secretary of State on May 12, 2003.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF AMENDMENT AND
of ARM 17.56.101, 17.56.102,	)	REPEAL
17.56.201, 17.56.202, 17.56.221,	)	
17.56.301, 17.56.302, 17.56.304,	)	(UNDERGROUND STORAGE TANKS)
17.56.305, 17.56.308, 17.56.309,	)	
17.56.401, 17.56.402, 17.56.407,	)	
17.56.408, 17.56.409, 17.56.502,	)	
17.56.504, 17.56.602, 17.56.604,	)	
17.56.902, 17.56.1301,	)	
17.56.1304, 17.56.1305 and	)	
17.56.1402 and the repeal of	)	
17.56.103 pertaining to	)	
underground storage tanks, and	)	
the repeal of 17.56.1101 through	)	
17.56.1104 pertaining to	)	
Petroleum Storage Tank Release	)	
Compensation	)	

TO: All Concerned Persons

1. On March 27, 2003, the Department of Environmental Quality published MAR Notice No. 17-189 regarding a notice of public hearing on the proposed amendment and repeal of the above-stated rules at page 513, 2003 Montana Administrative Register, issue number 6.

2. The Department has amended and repealed the rules exactly as proposed.

3. No public comments or testimony were received.

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, May 12, 2003.

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

In the matter of the amendment of ) NOTICE OF AMENDMENT,  
ARM 8.32.801, 8.32.802, 8.32.804, ) ADOPTION AND REPEAL  
8.32.806, 8.32.807, 8.32.1102, )  
8.32.1103, 8.32.1108, 8.32.1109, )  
8.32.1110, 8.32.1111, 8.32.1112, )  
8.32.1113, 8.32.1114, 8.32.1116, )  
the adoption of NEW RULES I )  
(8.32.808), II (8.32.1118) and III )  
(8.32.1119), and the repeal of )  
8.32.803, 8.32.1115 and 8.32.1117, )  
relating to nursing education )  
programs - approval requirements )

TO: All Concerned Persons

1. On November 27, 2002, the Department of Labor and Industry published MAR Notice No. 8-32-58 regarding the public hearing on the proposed amendment, adoption and repeal of the above-stated rules relating to nursing education programs and approval requirements at page 3207 of the 2002 Montana Administrative Register, Issue Number 22.

2. On December 19, 2002, a public hearing on the proposed amendment, adoption and repeal of the above-stated rules was conducted in Helena. Public comments were made at the hearing. Written comments were also received.

3. After considering the comments, the Board has amended ARM 8.32.801, 8.32.804, 8.32.806, 8.32.1102, 8.32.1103, 8.32.1108, 8.32.1109, 8.32.1111, 8.32.1112, 8.32.1113, 8.32.1114 and 8.32.1116 exactly as proposed.

4. The Board adopted NEW RULES II (8.32.1118) and III (8.32.1119), and repealed ARM 8.32.803, 8.32.1115, and 8.32.1117 exactly as proposed.

5. After considering the comments, the Board has amended ARM 8.32.802, 8.32.807, 8.32.1110, and adopted NEW RULE I (8.32.808) with the following changes (deleted matter stricken, new matter underlined):

8.32.802 CONTINUED APPROVAL OF SCHOOLS (1) remains as proposed.

(2) Before a site visit, a school that is not nationally accredited must submit a self-study report to the board office providing evidence of compliance with the appropriate nursing education requirements. The school must forward four copies of the self-study report and four copies of the school catalog to the board office at least 60 days before a scheduled site visit. If a program holds national nursing accreditation, ~~the~~ any self-

study report used for the accrediting body must also be submitted to the board office at least 60 days before the scheduled site visit.

(3) through (7) remain as proposed.

(8) through (8)(c) remain as proposed.

(d) Board decisions regarding compliance with this requirement for RN programs having less than 21 students per year and/or PN programs having less than 15 students per year will be based upon two consecutive years of NCLEX pass rates for first-time test takers.

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

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

8.32.807 SPECIAL REPORTS (1) through (6) remain as proposed.

(7) Program expansion means offering additional degrees, adding geographic sites and locations, or otherwise expanding the program.

(7) remains as proposed but is renumbered (8).

(8) remains as proposed but is renumbered (9).

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

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

8.32.1110 PROGRAM DIRECTOR (1) remains as proposed.

(2) The director of the baccalaureate program shall possess a doctorate in nursing or a related field, from a nationally recognized accredited program, with preparation in education and administration. If a master's degree is not held, one of the graduate degrees must be in nursing.

(a) remains as proposed.

(3) The director of the associate of science degree RN program shall possess a master's degree in nursing or public health with a major in nursing, from a nationally recognized accredited program, with preparation in education and administration.

(4) and (5) remain as proposed.

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

IMP: 37-8-301, MCA

NEW RULE I (8.32.808) CHANGE IN APPROVAL STATUS

(1) through (6) remain as proposed.

~~(7) The following programs may~~ A program on conditional approval cannot ~~not~~ be considered for any type of program expansion: .

~~(a) a program on conditional approval; and/or~~

~~(b) a program whose NCLEX pass rate, based on first time testers for a calendar year, is less than the national average.~~

~~(8) Program expansion means offering additional degrees, adding geographic sites and locations, or otherwise expanding the program.~~

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

6. The Board of Nursing (Board) has thoroughly considered all of the comments received. A summary of the comments and the Board's responses are as follows:

**GENERAL COMMENTS:**

Comment 1: Sandra McGovern, Human Resources Director, Glendive Medical Center, supported the proposed rule changes.

Response 1: The Board appreciates the comments.

**8.32.801 APPLICATION FOR INITIAL APPROVAL:**

Comment 2: Jay Pottenger, MSA, CHE, Administrator of Missouri River Medical Center (MRMC), supported reducing the lead-time necessary to create a new program. Randall G. Holom, Chief Executive Officer of the Frances Mahon Deaconess Hospital, stated that an undue and unnecessary burden is created for entities by requiring both an intent statement 2 years prior to an expected opening date and a feasibility study 1 year prior to opening. Mr. Holom suggested that new program approval should be based on the likelihood of the entity being able to offer a quality program and meet the program requirements.

Response 2: The Board has determined that submission of both documents and the 2-year lead time in advance of initial approval is necessary to ensure the development of quality programs and to enable the programs to fully meet all other requirements.

Comment 3: Jacque Dolberry, RN, MS, Director, Nursing Dept. at Salish Kootenai College suggested adding "any exceptions must be approved by the full board" at the end of section (1) to allow for instances where a college could design and implement a quality nursing program in under 2 years.

Response 3: See response to Comment 2 above.

**8.32.802 CONTINUED APPROVAL OF SCHOOLS:**

Comment 4: Jacque Dolberry, RN, MS, Director, Nursing Dept. at Salish Kootenai College supported having a 10-year site visit concurrent with national nursing accreditation bodies, and stated the provisions for NCLEX pass rates and for improvement should allow schools time to remedy problems leading to low pass rates. Cynthia Gustafson, PhD, RN, Chair, Dept. of Nursing at Carroll College, commented in support of combining Board visits with the national accreditation visits. Trish Goudie, Dean of MSU-Northern, commented in support of this rule amendment, but asked if the Board would consider accepting the national accrediting body's report in lieu of submitting two reports to



the Board.

Response 4: The Board will accept the national accrediting body's report for the nationally accredited programs. Programs that are not nationally accredited will need to submit a self-study report to the Board.

Comment 5: Jay Pottenger, MSA, CHE, Administrator of MRMC, expressed concern about the statistical significance of small groups in calculating the NCLEX pass rates.

Response 5: The Board considers data on NCLEX pass rates as collected and standardized by National Council of State Boards of Nursing. These data are considered the psychometrically sound, legally defensible test of entry-level competency and is accepted as the national standard. The data are based on pass rates from schools and programs throughout the nation.

Comment 6: The Miles Community College Nursing Program suggested that two consecutive years of NCLEX pass rates be used for approval of RN programs with less than 20 graduates.

Response 6: The Board agrees and has amended the rule accordingly.

#### 8.32.806 ANNUAL REPORT:

Comment 7: Jacque Dolberry, RN, MS, Director, Nursing Dept. at Salish Kootenai College asked how submission of student handbooks would be used in relation to other criteria. She also asked if the Board intends for schools to complete program self-evaluations on an annual basis, or if schools could continue to focus on evaluations as they are currently done.

Response 7: Handbooks are considered as one source of information available to students. Annual reports would include updates on evaluation data but the more extensive self-evaluations would be done at the time of the regular site visits in conjunction with the national accreditation visits.

#### 8.32.807 SPECIAL REPORTS:

Comment 8: Randall G. Holom, Frances Mahon Deaconess Hospital, opposed the use of NCLEX pass rates in considering program expansion and stated that using pass rates as the sole criterion is not statistically sound and more comprehensive measures need to be developed. Audrey ConnerRosberg, RN, PhD, Director, MSU, Billings College of Technology, PN program, opposed the use of NCLEX pass rates to consider program expansion as being prejudicial to smaller nursing programs, and not allowing for some program fluctuations. She stated that the Board should consider how programs are currently doing, and consider students that subsequently pass the NCLEX, not the first time takers.

Response 8: NCLEX pass rates are only one of several criteria used to determine program expansion. Programs are welcome to submit additional outcome data that are collected. The National Council of State Boards of Nursing collects and standardizes NCLEX pass rates for first time test takers. It is not feasible for the Board to alter the collection and use of the pass rates for individual programs.

Comment 9: Jacque Dolberry, RN, MS, Director, Nursing Dept. at Salish Kootenai College requested clarification on the meaning of "any expansion defined by the board." In (6)(k), Ms. Dolberry also asked if it is the Board's intent that if a school has a pass rate of 85% when the national average is 86%, the school would not be eligible to expand. She also stated that NCLEX pass rates should not be the only measure of a quality program, nor the only criterion the Board should consider.

Response 9: The Board has amended the rule to define program expansion. The intent of the Board is to make certain that schools have quality programs as evidenced by their NCLEX scores as compared with the national pass rates. NCLEX pass rates are only one of several criteria evaluated. Program Evaluation Plans are defined by the individual programs and the Board looks to see how well the programs meet their own criteria.

Comment 10: The Miles Community College Nursing Program opposes the requirement of NCLEX pass rates to exceed the national average for three of the past five years and suggested using the rates for the past two years.

Response 10: The Board has concluded that it is necessary for a program intending to expand to maintain NCLEX pass rates at or above the national average for three of the last five years to ensure the stability and quality of the current program.

8.32.1110 PROGRAM DIRECTOR:

Comment 11: Lea Acord, PhD, RN, Dean of College of Nursing, MSU Bozeman, and Susan Raph, Campus Director, MSU Great Falls, suggested adding "from a nationally recognized accredited program" to sections (2) and (3) to ensure program directors are at least qualified from the perspective of their education.

Response 11: The Board agrees and has amended the rule accordingly.

8.32.1112 FACULTY FOR REGISTERED NURSING:

Comment 12: Lea Acord, PhD, RN, Dean of College of Nursing, MSU Bozeman, and Susan Raph, Campus Director, MSU Great Falls suggested adding language in (3) to require a master's or doctorate in nursing, because the current language "not holding any master's" may cause confusion and misinterpretation.

Response 12: The Board determined that the language proposed in (3) is clear and understandable when read in conjunction with the entire rule.

8.32.1114 PRECEPTORS:

Comment 13: Jacque Dolberry, RN, MS, Director, Nursing Dept. at Salish Kootenai College, and the Miles Community College Nursing Program support the use of preceptors to expand the opportunity for clinical education, the recruitment of graduates in rural settings, and preceptors in associate degree programs.

Response 13: The Board appreciates the comments.

8.32.1116 EDUCATIONAL FACILITIES:

Comment 14: Cynthia Gustafson, PhD, RN, Chair, Dept. of Nursing at Carroll College, stated that this rule might need adjustment depending on how the Board would enforce rules relating to out-of-state nursing programs currently offered in Montana via electronic methods, such as on-line courses.

Response 14: The Board has jurisdiction to promulgate and enforce rules with regard to nursing programs and schools within the state of Montana. The Board does not regulate schools in other states.

New Rule I (8.32.808) CHANGE IN APPROVAL STATUS:

Comment 15: Miles Community College Nursing Program suggested changing the proposed language from "shall" to "may" in "the board shall make a change in approval status when a school does not meet all of the requirements of the statutes and rules."

Response 15: The Board has decided to require a change in approval status of schools that are out of compliance in an effort to better address deficiencies and to clarify the methods of correction.

New Rule II (8.32.1118) RECOGNIZED ACCREDITATION BODIES:

Comment 16: Cynthia Gustafson, PhD, RN, Chair, Dept. of Nursing at Carroll College, supported this new rule.

Response 16: The Board appreciates the comments.

New Rule III (8.32.1119) CLINICAL RESOURCE REGISTERED NURSES:

Comment 17: Jay Pottenger, MSA, CHE, Administrator of MRMC, Randall G. Holom, Chief Executive Officer of the Frances Mahon Deaconess Hospital, supported this new rule.

Jacque Dolberry, RN, MS, Director, Nursing Dept. at Salish Kootenai College, Trish Goudie, Dean of MSU-Northern, and the

Miles Community College Nursing Program support the CRRN rule as proposed, but would not support any amendment limiting the number of CRRNs used by the schools.

Lea Acord, PhD, RN, Dean of College of Nursing, MSU Bozeman, and Susan Raph, Campus Director, MSU Great Falls, suggested that the Board determine the number of CRRNs that a nursing program can employ based on the program's size or number of FTE faculty employed. They suggested CRRNs not exceeding 10% of the number of FTE faculty or a total of 3 FTE CRRNs, whichever is greater.

Response 17: At this time, the Board is not implementing any limitation on the number of CRRNs a nursing program can employ.

BOARD OF NURSING  
KIM POWELL, RN, CHAIRMAN

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

By: /s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

Certified to the Secretary of State May 12, 2003.

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 Rule I and the amendment	)	AMENDMENT
of ARM 37.86.2221,	)	
37.86.3506, 37.86.3507,	)	
37.86.3515, 37.86.3705,	)	
37.86.3706, 37.86.3707,	)	
37.86.3715, 37.88.101,	)	
37.88.1106 and 37.88.1110	)	
pertaining to medicaid mental	)	
health services and the	)	
mental health services plan	)	

TO: All Interested Persons

1. On March 27, 2003, the Department of Public Health and Human Services published MAR Notice No. 37-275 regarding the public hearing on the proposed adoption and amendment of the above-stated rules relating to medicaid mental health services and the mental health services plan at page 540 of the 2003 Montana Administrative Register, issue number 6.

2. The Department has amended ARM 37.86.2221, 37.86.3506, 37.86.3507, 37.86.3515, 37.86.3705, 37.86.3706, 37.86.3707, 37.86.3715, 37.88.101, 37.88.1106 and 37.88.1110 as proposed.

3. The Department has adopted rule I [37.86.2224] as proposed.

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

COMMENT #1: There are ways to save money in correctional programs that could be used to avoid cuts in mental health and other human services programs.

RESPONSE: Correctional programs are administered in a separate department and it is not possible under state law for the Department of Public Health and Human Services to use funds appropriated to other departments. The special session of the Montana legislature in August of 2002 had an opportunity to review and revise all agencies' budgets but decided not to move funds from corrections to mental health.

COMMENT #2: Some individuals with frequent hospitalizations and in danger of self-harm require flexibility in terms of the frequency of individual outpatient sessions. The Department should adopt intensive outpatient clinical management guidelines that were developed by a group representing providers of services for adults with Severe Disabling Mental Illness.

RESPONSE: The Department agrees. In fiscal year 2004, that begins July 1, 2003, the Department intends to introduce an intensive outpatient therapy service that will be targeted to serve these high-risk individuals.

COMMENT #3: There is evidence that providing adequate mental health services reduces the amount of money spent on physical health concerns. The most recent figures indicate that spending \$1.00 on mental health services reduces other medical costs by approximately \$7.00. The recent cutback in available services may also result in growing costs to the state due to increased hospitalizations, lost wages, and other impacts of untreated emotional problems of our citizens.

RESPONSE: The Department agrees that adequate mental health care at the lower end of the cost spectrum helps to reduce costs of more expensive services, such as hospitalization. In fiscal year 2004, that begins July 1, 2003, the Department intends to introduce criteria for intensive outpatient therapy that will be targeted to serve high risk individuals with Serious Disabling Mental Illness (SDMI).

COMMENT #4: Several writers expressed their concern about the continued lack of adequate funding for necessary services.

RESPONSE: The Department shares this concern and is working to provide the most efficient service delivery system within the constraints of its budget.

5. The Department intends to apply these rule changes retroactively to May 15, 2003.

Dawn Sliva  
Rule Reviewer

Mike Billings for  
Director, Public Health and  
Human Services

Certified to the Secretary of State May 12, 2003.

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<br>Subject                    | 1. Consult ARM topical index.<br>Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute<br>Number and<br>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, 2003. This table includes those rules adopted during the period April 1, 2003 through June 30, 2003 and any proposed rule action that was pending during the past six-month period. (A notice of adoption must be published within six 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, 2003, 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 2002 and 2003 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.

GENERAL PROVISIONS, Title 1

1.2.419 and other rule - Scheduled Dates for the Montana Administrative Register - Official Version of the Administrative Rules of Montana, p. 3041, 3429

ADMINISTRATION, Department of, Title 2

2.21.3704 and other rules - Recruitment and Selection - Reduction in Work Force, p. 859

(Public Employees' Retirement Board)

2.43.201 and other rules - Procedural Rules - Appeal of Administrative Decisions - Contested Case Procedures for the Public Employees' Retirement Board, p. 266, 972

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## 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 April 2003, appear. Vacancies scheduled to appear from June 1, 2003, through August 31, 2003, 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 May 8, 2003.

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 APRIL 2003

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Hail Insurance (Agriculture)			
Mr. Larry Barbie	Governor	reappointed	4/18/2003
Inverness			4/18/2006
Qualifications (if required):	public member		
Family Support Services Advisory Council (Public Health and Human Services)			
Ms. Diana Colgrove	Governor	Beyer	4/9/2003
Eureka			10/1/2004
Qualifications (if required):	parent representative in Region V		
Ms. Micha Mitchell	Governor	Korth	4/9/2003
Helena			10/1/2004
Qualifications (if required):	parent representative in Region IV		
Mr. Matthew Rotar	Governor	Korth	4/9/2003
Helena			10/1/2004
Qualifications (if required):	parent representative in Region IV		
Ms. Barbara Smith	Governor	Scott	4/9/2003
Helena			10/1/2004
Qualifications (if required):	agency representative from Children's Special Health Services		
Governor's Council on Families (Public Health and Human Services)			
Mr. Tom Burnett	Governor	not listed	4/29/2003
Belgrade			4/29/2005
Qualifications (if required):	public member		
Mr. Travis Christy	Governor	not listed	4/29/2003
Helena			4/29/2005
Qualifications (if required):	public member		

BOARD AND COUNCIL APPOINTEES FROM APRIL 2003

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Governor's Council on Families (Public Health and Human Services) cont.			
Ms. Arlene Diehl East Helena	Governor	not listed	4/29/2003 4/29/2005
Qualifications (if required):	public member		
Ms. Annette Friesen Billings	Governor	not listed	4/29/2003 4/29/2005
Qualifications (if required):	public member		
Mr. Steven Fred Geisser Townsend	Governor	not listed	4/29/2003 4/29/2005
Qualifications (if required):	public member		
Ms. Floral Goodman Laurel	Governor	not listed	4/29/2003 4/29/2005
Qualifications (if required):	public member		
Mr. Jeff Greer Missoula	Governor	not listed	4/29/2003 4/29/2005
Qualifications (if required):	public member		
Ms. Amber Gundlach Baker	Governor	not listed	4/29/2003 4/29/2005
Qualifications (if required):	public member		
Ms. Maria Jimenez Helena	Governor	not listed	4/29/2003 4/29/2005
Qualifications (if required):	public member		
Ms. Laurie Koutnik Helena	Governor	not listed	4/29/2003 4/29/2005
Qualifications (if required):	public member		

BOARD AND COUNCIL APPOINTEES FROM APRIL 2003

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Governor's Council on Families (Public Health and Human Services) cont.			
Mr. Ed Matter Havre	Governor	not listed	4/29/2003 4/29/2005
Qualifications (if required):	public member		
Dr. Paul Olson Kalispell	Governor	not listed	4/29/2003 4/29/2005
Qualifications (if required):	public member		
Ms. Annette Osen Bozeman	Governor	not listed	4/29/2003 4/29/2005
Qualifications (if required):	public member		
Mr. Stanley Rathman Choteau	Governor	not listed	4/29/2003 4/29/2005
Qualifications (if required):	public member		
Mr. Rick Robinson Lame Deer	Governor	not listed	4/29/2003 4/29/2005
Qualifications (if required):	public member		
Rep. John Sinrud Belgrade	Governor	not listed	4/29/2003 4/29/2005
Qualifications (if required):	public member		
Ms. Melissa Sundberg Victor	Governor	not listed	4/29/2003 4/29/2005
Qualifications (if required):	public member		

BOARD AND COUNCIL APPOINTEES FROM APRIL 2003

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Governor's Council on Organ and Tissue Donor Awareness (Public Health and Human Services)			
Ms. Maggie Bullock	Governor	Dawson	4/15/2003
Helena			3/25/2004
Qualifications (if required): Department of Public Health and Human Services representative			
Hard-Rock Mining Impact Board (Commerce)			
Mr. Donald B. Kinsey	Governor	reappointed	4/22/2003
Big Timber			1/1/2007
Qualifications (if required): public member residing in District 4, an impact area			
Ms. Sandra S. Muster	Governor	Taylor	4/22/2003
Thompson Falls			1/1/2007
Qualifications (if required): school district trustee residing in District 1, an impact area			
Public Employees' Retirement Board (Administration)			
Col. Robert Griffith	Governor	reappointed	4/11/2003
Helena			4/1/2008
Qualifications (if required): public member			
Mr. Troy W. McGee	Governor	reappointed	4/11/2003
Helena			4/1/2008
Qualifications (if required): retired public employee			
Mr. James Pierce	Governor	Thompson	4/11/2003
Livingston			4/1/2008
Qualifications (if required): public employee who is a member of the defined contribution plan			



BOARD AND COUNCIL APPOINTEES FROM APRIL 2003

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Workforce Investment Board (Labor and Industry)			
Sen. Kelly Gebhardt	Governor	Crismore	4/9/2003
Roundup			0/0/0
Qualifications (if required):	legislator		

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Aging Advisory Council (Public Health and Human Services) Ms. Roberta Feller, Stockett Qualifications (if required): public member	Governor	7/18/2003
Ms. Eloise England, Heart Butte Qualifications (if required): public member	Governor	7/18/2003
Ms. Wesleta Branstetter, Billings Qualifications (if required): public member	Governor	7/18/2003
Board of Banking (Administration) Mr. Robert J. Gersack, Billings Qualifications (if required): state bank officer for a large sized bank	Governor	7/1/2003
Board of Barbers (Commerce) Mr. Terrance Luff, Billings Qualifications (if required): practicing barber	Governor	7/1/2003
Board of Cosmetology (Commerce) Mr. John Reichelt, Billings Qualifications (if required): licensed cosmetologist	Governor	7/1/2003
Board of Funeral Services (Commerce) Mr. Douglas D. Lowry, Big Timber Qualifications (if required): licensed mortician	Governor	7/1/2003
Board of Hearing Aid Dispensers (Commerce) Ms. Marlene Tash, Dillon Qualifications (if required): public member	Governor	7/1/2003
Ms. Cindy Burk, Helena Qualifications (if required): hearing aid dispenser without a master's degree	Governor	7/1/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Hearing Aid Dispensers (Commerce) cont. Dr. Paul J. Byorth, Billings Qualifications (if required): otolaryngologist	Governor	7/1/2003
Ms. Beckie Hoffmann, Butte Qualifications (if required): hearing aid dispenser without a master's degree	Governor	7/1/2003
Board of Nursing (Commerce) Ms. Sharon L. Dschaak, Wolf Point Qualifications (if required): licensed practical nurse	Governor	7/1/2003
Board of Nursing (Labor and Industry) Ms. Connie K. Schultz, Glasgow Qualifications (if required): registered nurse	Governor	7/1/2003
Board of Pharmacy (Commerce) Ms. Colette Bernica, Great Falls Qualifications (if required): public member	Governor	7/1/2003
Board of Physical Therapy Examiners (Commerce) Dr. B. John Heetderks, Belgrade Qualifications (if required): physician	Governor	7/1/2003
Ms. Brenda T. Mahlum, Missoula Qualifications (if required): physical therapist	Governor	7/1/2003
Ms. Judy Cole, Hysham Qualifications (if required): public member	Governor	7/1/2003
Board of Private Security Patrol Officers and Investigators (Commerce) Mr. Jeffrey Patterson, Missoula Qualifications (if required): private investigator	Governor	8/1/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Private Security Patrol Officers and Investigators (Commerce) cont. Mr. Gary Dent, Conrad Qualifications (if required): representative of a city police department	Governor	8/1/2003
Sheriff Ronald Rowton, Lewistown Qualifications (if required): representative of a county sheriff's department	Governor	8/1/2003
Board of Professional Engineers and Land Surveyors (Commerce) Mr. Haley Beaudry, Butte Qualifications (if required): professional engineer	Governor	7/1/2003
Mr. Warren P. Scarrah, Bozeman Qualifications (if required): professional engineer and instructor	Governor	7/1/2003
Ms. Paulette Ferguson, Missoula Qualifications (if required): public member	Governor	7/1/2003
Mr. Ronald W. Allen, Bozeman Qualifications (if required): professional and practicing land surveyor	Governor	7/1/2003
Board of Public Accountants (Commerce) Ms. Beryl Argall Stover, Missoula Qualifications (if required): certified public accountant	Governor	7/1/2003
Board of Radiologic Technologists (Commerce) Ms. Jane Christman, Dutton Qualifications (if required): radiologic technologist	Governor	7/1/2003
Board of Research and Commercialization (Commerce) Mr. Terry Spalinger, Helena Qualifications (if required): public member	Governor	7/1/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Sanitarians (Commerce) Ms. Denise Moldroski, Livingston Qualifications (if required): registered sanitarian	Governor	7/1/2003
Board of Veterans' Affairs (Military Affairs) Ms. Karen Furu, Bozeman Qualifications (if required): veteran	Governor	8/1/2003
Board of Veterinary Medicine (Commerce) Dr. Jean Lindley, Miles City Qualifications (if required): licensed veterinarian	Governor	7/31/2003
Board of Water Well Contractors (Natural Resources and Conservation) Mr. Kevin Haggerty, Bozeman Qualifications (if required): licensed water well contractor	Governor	7/1/2003
Burial Preservation Board (Indian Affairs) Mr. Carl Fourstar, Poplar Qualifications (if required): representative of the Assiniboine Tribe	Governor	8/22/2003
Dr. Randall Skelton, Missoula Qualifications (if required): physical anthropologist	Governor	8/22/2003
Ms. Jennie Parker, Ashland Qualifications (if required): representative of the Northern Cheyenne Tribe	Governor	8/22/2003
Mr. Melbert Eaglefeathers, Butte Qualifications (if required): public member	Governor	8/22/2003
Mr. Tony Incashola, Pablo Qualifications (if required): representative of the Salish and Kootenai Tribes	Governor	8/22/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Burial Preservation Board (Indian Affairs) cont. Mr. Stephen S.K. Platt, Helena Qualifications (if required): representative of the State Historic Preservation Office	Governor	8/22/2003
Mr. Ken Talksabout, Browning Qualifications (if required): representative of the Blackfeet Tribe	Governor	8/22/2003
Commission on Community Service (Governor) Ms. Nancy Coopersmith, Helena Qualifications (if required): representing K-12 education	Governor	7/1/2003
Mr. George Dennison, Missoula Qualifications (if required): representing higher education	Governor	7/1/2003
Major John Walsh, Helena Qualifications (if required): representing the Department of Military Affairs	Governor	7/1/2003
Mr. Donald Kettner, Glendive Qualifications (if required): representing private citizens	Governor	7/1/2003
Committee on Telecommunications Access Services for Persons with Disabilities (Public Health and Human Services) Mr. Eric Eck, Helena Qualifications (if required): representative of the Public Service Commission	Governor	7/1/2003
Mr. Thomas P. McGree, Helena Qualifications (if required): representing the InterLATA interchange carriers	Governor	7/1/2003
Mr. Norman Eck, Helena Qualifications (if required): non-disabled senior citizen	Governor	7/1/2003
Ms. Lynn Harris, Missoula Qualifications (if required): representing licensed audiologists	Governor	7/1/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Committee on Telecommunications Access Services for Persons with Disabilities (Public Health and Human Services) cont. Mr. Gary Duncan, Helena Qualifications (if required): representative of the largest local exchange company in Montana	Governor	7/1/2003
District Court Council (Supreme Court) Judge Edward P. McLean, Missoula Qualifications (if required): none specified	elected	6/30/2003
Ms. Lori Maloney, Butte Qualifications (if required): nonvoting member	Supreme Court	6/30/2003
Electronic Government Advisory Council (Administration) Mr. David A. Galt, Helena Qualifications (if required): state agency representative	Governor	6/18/2003
Sen. Duane Grimes, Clancy Qualifications (if required): representing the Senate	Senate President	6/18/2003
Rep. Karl A. Waitschies, Peerless Qualifications (if required): not listed	House Speaker	6/18/2003
Mr. M. Jeff Hagener, Helena Qualifications (if required): state agency representative	Governor	6/18/2003
Mr. James E. Reno, Billings Qualifications (if required): local government official	Governor	6/18/2003
Mr. Greg Gianforte, Bozeman Qualifications (if required): public member	Governor	6/18/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Electronic Government Advisory Council (Administration) cont. Mr. Gene Vuckovich, Anaconda Qualifications (if required): public member	Governor	6/18/2003
Family Education Savings Program Oversight Committee (Commissioner of Higher Education) Mr. Ed Jasmin, Bigfork Qualifications (if required): representative of the Board of Regents	Governor	7/1/2003
Ms. Sarah Kelly, Helena Qualifications (if required): public member	Governor	7/1/2003
Flathead Basin Commission (Governor) Ms. Marilyn Wood, Bigfork Qualifications (if required): public member	Governor	6/30/2003
Mr. Paul Smiley, Kalispell Qualifications (if required): public member	Governor	6/30/2003
Mr. Gary Wicks, Polson Qualifications (if required): public member	Governor	6/30/2003
Independent Living Council (Public Health and Human Services) Ms. Donna M. Scott, Billings Qualifications (if required): represents business and consumers	Director	7/23/2003
Information Technology Board (Administration) Ms. Gail Gray, Helena Qualifications (if required): representing a state agency	Governor	7/1/2003
Mr. Mike McGrath, Helena Qualifications (if required): representing a state agency	Governor	7/1/2003



VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Information Technology Board (Administration) cont. Ms. Lois A. Menzies, Helena Qualifications (if required): representing the Legislative Branch	Director	7/1/2003
Mr. Jay Stovall, Billings Qualifications (if required): none specified	PSC	7/1/2003
Mr. Bill Slaughter, Helena Qualifications (if required): representing a state agency	Governor	7/1/2003
Justice Jim Nelson, Helena Qualifications (if required): none specified	Chief Justice	7/1/2003
Ms. Linda McCulloch, Helena Qualifications (if required): none specified	Public Instruction	7/1/2003
Mr. Richard A. Crofts, Helena Qualifications (if required): none specified	Board of Regents	7/1/2003
Sen. William E. (Bill) Glaser, Huntley Qualifications (if required): none specified	Senate President	7/1/2003
Mr. Mike Gustafson, Billings Qualifications (if required): representing the private sector	Governor	7/1/2003
Rep. Linda L. Holden, Valier Qualifications (if required): none specified	House Speaker	7/1/2003
Ms. Jan Sensibaugh, Helena Qualifications (if required): representing a state agency	Governor	7/1/2003
Mr. Kurt Alme, Helena Qualifications (if required): representing a state agency	Governor	7/1/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Information Technology Board (Administration) cont. Ms. Mary Sexton, Choteau Qualifications (if required): representing local government	Governor	7/1/2003
Mr. William Kennedy, Billings Qualifications (if required): representing local government	Governor	7/1/2003
Ms. Wendy Keating, Helena Qualifications (if required): representing a state agency	Governor	7/1/2003
Information Technology Managers Council (Administration) Mr. Tony Herbert, Helena Qualifications (if required): deputy CIO for operations	Director	7/1/2003
Mr. Barney Benkelman, Helena Qualifications (if required): representing Fish, Wildlife, and Parks	Director	7/1/2003
Mr. Hank Voderberg, Helena Qualifications (if required): representing Department of Administration	Director	7/1/2003
Mr. Gary Wulf, Helena Qualifications (if required): representing Department of Commerce	Director	7/1/2003
Ms. Dana Corson, Helena Qualifications (if required): representing Judicial Branch	Director	7/1/2003
Mr. Art Pembroke, Helena Qualifications (if required): representing Lewis and Clark County	Director	7/1/2003
Mr. David Nagel, Helena Qualifications (if required): representing Department of Labor and Industry	Director	7/1/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Information Technology Managers Council (Administration) cont. Ms. Tori Hunthausen, Helena Qualifications (if required): representing Legislative Audit Division	Director	7/1/2003
Mr. Hank Trenk, Helena Qualifications (if required): representing Legislative Services Branch	Director	7/1/2003
Ms. Kathy James, Helena Qualifications (if required): representing Department of Livestock	Director	7/1/2003
Mr. Homer Young, Helena Qualifications (if required): representing Department of Military Affairs	Director	7/1/2003
Ms. Carleen Layne, Helena Qualifications (if required): representing Montana Arts Council	Director	7/1/2003
Mr. Bob Auer, Helena Qualifications (if required): representing Department of Natural Resources and Conservation	Director	7/1/2003
Ms. Dulcy Hubbert, Helena Qualifications (if required): representing Office of Political Practices	Director	7/1/2003
Mr. Bob Morris, Helena Qualifications (if required): representing Office of Public Instruction	Director	7/1/2003
Mr. Joel Oelfke, Helena Qualifications (if required): representing Public Service Commission	Director	7/1/2003
Mr. Michael Randall, Helena Qualifications (if required): representing Department of Transportation	Director	7/1/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Information Technology Managers Council (Administration) cont. Mr. Dan Ellison, Helena Qualifications (if required): representing Department of Revenue	Director	7/1/2003
Mr. Jeff Brandt Qualifications (if required): deputy CIO for policy and planning	Director	7/1/2003
Mr. Mike Jacobson, Helena Qualifications (if required): representing Department of Agriculture	Director	7/1/2003
Mr. Ken Kops, Helena Qualifications (if required): representing State Auditor's Office	Director	7/1/2003
Mr. Dan Chelini, Helena Qualifications (if required): representing Department of Corrections	Director	7/1/2003
Ms. Amy Sassano, Helena Qualifications (if required): representing Governor's Office	Director	7/1/2003
Ms. Edwina Dale, Helena Qualifications (if required): representing Higher Education	Director	7/1/2003
Ms. Doreen Boyer, Helena Qualifications (if required): representing Historical Society	Director	7/1/2003
Mr. Steve Tesinsky, Helena Qualifications (if required): representing Department of Justice	Director	7/1/2003
Mr. Mike Allen, Helena Qualifications (if required): representing Legislative Fiscal Division	Director	7/1/2003
Mr. Mike Carroll, Helena Qualifications (if required): representing State Library	Director	7/1/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Information Technology Managers Council (Administration) cont. Mr. Paul Gilbert, Helena Qualifications (if required): representing State Lottery	Director	7/1/2003
Mr. Mark Sheehan Qualifications (if required): representing Montana State University	Director	7/1/2003
Mr. Dan Forbes, Helena Qualifications (if required): representing Department of Public Health and Human Services	Director	7/1/2003
Ms. Lynn Keller, Helena Qualifications (if required): representing Secretary of State	Director	7/1/2003
Mr. Rocky Brown, Helena Qualifications (if required): representing State Fund	Director	7/1/2003
Mr. Dave Marshall Qualifications (if required): representing University of Montana	Director	7/1/2003
Interagency Coordinating Council for State Prevention Programs (Public Health and Human Services)		
Mr. William Snell, Billings Qualifications (if required): representing prevention programs and services	Governor	7/1/2003
Ms. Alison Counts, Belgrade Qualifications (if required): representing prevention programs. and services	Governor	7/1/2003
Judicial Standards Commission (Justice) Judge Edward P. McLean, Missoula Qualifications (if required): none specified	Chief Justice	6/30/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Judicial Standards Commission (Justice) cont. Ms. Patty Jo Henthorn, Big Timber Qualifications (if required): public member	Governor	7/1/2003
Mental Disabilities Board of Visitors (Governor) Ms. Kathleen Driscoll Donovan, Hamilton Qualifications (if required): consumer with experience with the Montana public mental health system	Governor	7/1/2003
Ms. Cindy Dolan, Great Falls Qualifications (if required): consumer of mental health services and experience with Montana public mental health system	Governor	7/1/2003
Ms. Gay Moddrell, Kalispell Qualifications (if required): consumer of developmental disabilities services	Governor	7/1/2003
Mental Health Managed Care Ombudsman (Legislature) Ms. Bonnie Adee, Helena Qualifications (if required): none specified	Governor	8/2/2003
Microbusiness Advisory Council (Commerce) Mr. Richard C. King, Havre Qualifications (if required): representing experts in revolving loan funds administration	Governor	6/30/2003
Mr. Duane Kurokawa, Wolf Point Qualifications (if required): representing the banking industry and Congressional District 2	Governor	6/30/2003
Mr. Stephen Mehring, Great Falls Qualifications (if required): representing revolving loan funds and Congressional District 2	Governor	6/30/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Microbusiness Advisory Council (Commerce) cont. Ms. Billie Lee, Ronan Qualifications (if required): representing small cities and Congressional District 1	Governor	6/30/2003
Ms. Candace Eide, Glendive Qualifications (if required): representing low income populations and Congressional District 2	Governor	6/30/2003
Ms. Karyn Brown, Plevna Qualifications (if required): representing microbusiness owners and cities under 15,000	Governor	6/30/2003
Mr. Dan Manning, Somers Qualifications (if required): representative for Congressional District 1	Governor	6/30/2003
Montana Agricultural Heritage Commission (Agriculture) Mr. Dennis L. DeVries, Polson Qualifications (if required): member of a conservation district board of supervisors	Governor	6/30/2003
Mr. Jack Dietrich, Billings Qualifications (if required): representative of a regional or statewide land trust	Governor	6/30/2003
Mr. Chris King, Winnett Qualifications (if required): rancher active in a regional or local agricultural organization	Governor	6/30/2003
Mr. Ken Maki, Great Falls Qualifications (if required): rancher active in a state agricultural organization	Governor	6/30/2003
Mr. Randy Smith, Glen Qualifications (if required): rancher active in a regional or local agricultural organization	Governor	6/30/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Agricultural Heritage Commission (Agriculture) cont. Mr. Thornton A. Liechty, Evaro Qualifications (if required): forest landowner	Governor	6/30/2003
Mr. Steve Luebeck, Butte Qualifications (if required): representative of a regional or statewide conservation organization	Governor	6/30/2003
Mr. Art Neill, Whitehall Qualifications (if required): representative of a regional or statewide conservation organization	Governor	6/30/2003
Montana Consensus Council (Governor) Ms. Jane Jelinski, Bozeman Qualifications (if required): public member	Governor	6/30/2003
Sen. Bob Keenan, Bigfork Qualifications (if required): public member	Governor	6/30/2003
Lt. Governor Karl Ohs, Harrison Qualifications (if required): ex-officio member	Governor	6/30/2003
Ms. Peggy Trenk, Helena Qualifications (if required): public member	Governor	6/30/2003
Ms. Anne Hedges, Helena Qualifications (if required): public member	Governor	6/30/2003
Mr. Jon Sesso, Butte Qualifications (if required): public member	Governor	6/30/2003
Rep. Monica J. Lindeen, Huntley Qualifications (if required): public member	Governor	6/30/2003



VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Consensus Council (Governor) cont. Mr. Alan Rollo, Great Falls Qualifications (if required): public member	Governor	6/30/2003
Dr. Nelson Wert, Townsend Qualifications (if required): public member	Governor	6/30/2003
Ms. Sarah Van de Wetering, Missoula Qualifications (if required): public member	Governor	6/30/2003
Ms. Mary Whittinghill, Helena Qualifications (if required): public member	Governor	6/30/2003
Mr. LeRoy Not Afraid, Crow Agency Qualifications (if required): public member and a Native American	Governor	6/30/2003
Mr. Brad Powell, Missoula Qualifications (if required): public member	Governor	6/30/2003
Montana Economic Development Action Group (Governor) Ms. Diane Brandt, Glasgow Qualifications (if required): none specified	Governor	7/1/2003
Mr. Jon Marchi, Polson Qualifications (if required): none specified	Governor	7/1/2003
Mr. Tom Scott, Billings Qualifications (if required): none specified	Governor	7/1/2003
Mr. Don Peoples, Butte Qualifications (if required): none specified	Governor	7/1/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Economic Development Action Group (Governor) cont. Mr. John Olson, Sidney Qualifications (if required): none specified	Governor	7/1/2003
Mr. Mark A. Simonich, Helena Qualifications (if required): none specified	Governor	7/1/2003
Mr. Steve Roth, Big Sandy Qualifications (if required): none specified	Governor	7/1/2003
Rep. Carol C. Juneau, Browning Qualifications (if required): none specified	Governor	7/1/2003
Ms. Susan Humble, Great Falls Qualifications (if required): none specified	Governor	7/1/2003
Mr. Dave Gibson, Helena Qualifications (if required): none specified	Governor	7/1/2003
Mr. Dave Bayless, Bozeman Qualifications (if required): none specified	Governor	7/1/2003
Ms. Rosalie Sheehy Cates, Missoula Qualifications (if required): none specified	Governor	7/1/2003
Mr. Ian Davidson, Great Falls Qualifications (if required): none specified	Governor	7/1/2003
Mr. Gene Fenderson, Helena Qualifications (if required): none specified	Governor	7/1/2003
Mr. Charlie Grenier, Columbia Falls Qualifications (if required): none specified	Governor	7/1/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Economic Development Action Group (Governor) cont. Mr. Roger Peterson, Billings Qualifications (if required): none specified	Governor	7/1/2003
Ms. Dee Russell, Bozeman Qualifications (if required): none specified	Governor	7/1/2003
Ms. Virginia Sloan, Kalispell Qualifications (if required): none specified	Governor	7/1/2003
Mr. Bruce Whittenberg, Billings Qualifications (if required): none specified	Governor	7/1/2003
Mr. Turner Askew, Whitefish Qualifications (if required): none specified	Governor	7/1/2003
Montana Fetal Alcohol Syndrome Advisory Council (Public Health and Human Services) Mr. Thomas Price, Eureka Qualifications (if required): parent of two FAS affected children and is an outgoing member of DDPAC	Governor	6/13/2003
Ms. Carole Lankford, Pablo Qualifications (if required): Confederated Salish and Kootenai Tribal Council representative	Governor	6/13/2003
Ms. Mary Behrendt, Columbia Falls Qualifications (if required): high school instructor in Family and Consumer Science	Governor	6/13/2003
Ms. Kathy Boutilier, Helena Qualifications (if required): school nurse	Governor	6/13/2003
Ms. Rebecca Burt, Great Falls Qualifications (if required): therapeutic foster parent	Governor	6/13/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Fetal Alcohol Syndrome Advisory Council (Public Health and Human Services) cont. Ms. Leita Cook, Helena Qualifications (if required): specialist for FAS diagnosis	Governor	6/13/2003
Mr. Billford Curley, Sr., Lame Deer Qualifications (if required): Northern Cheyenne Tribal representative	Governor	6/13/2003
Dr. Suzanne Dixon, Great Falls Qualifications (if required): behavioral developmental pediatrician	Governor	6/13/2003
Ms. Allison Failing, Poplar Qualifications (if required): Fort Peck Tribal Council representative	Governor	6/13/2003
Ms. Jacalyn Ironmaker, Box Elder Qualifications (if required): specialist in human services with concentration in chemical dependency	Governor	6/13/2003
Ms. Diane Jeanotte, Billings Qualifications (if required): participant in the Four State FAS Consortium	Governor	6/13/2003
Dr. John Johnson, Helena Qualifications (if required): director of medical genetics at Shodair Hospital	Governor	6/13/2003
Dr. Ted Laine, Missoula Qualifications (if required): pediatrician with a special interest in neonatology	Governor	6/13/2003
Ms. Irene Lake, St. Ignatius Qualifications (if required): site manager for the University of New Mexico Fetal Alcohol Prevention program on the Flathead Reservation	Governor	6/13/2003
Mr. Mike Lande, Billings Qualifications (if required): officer of the Indian Health Board of Billings	Governor	6/13/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Fetal Alcohol Syndrome Advisory Council (Public Health and Human Services) cont. Ms. Crystal LaPlante, Browning Qualifications (if required): Blackfeet Nation Tribal Council representative	Governor	6/13/2003
Ms. Terry McAnally, Poplar Qualifications (if required): Fort Peck Tribal Council representative	Governor	6/13/2003
Ms. Myrna Medicine Horse, Crow Agency Qualifications (if required): Crow Tribal Council representative	Governor	6/13/2003
Ms. Jill Plummage, Harlem Qualifications (if required): Fort Belknap Agency Tribal Council representative	Governor	6/13/2003
Ms. Cindy Schamberg, Libby Qualifications (if required): executive director of Families in Partnership	Governor	6/13/2003
Ms. Sandy Sorrell, Pablo Qualifications (if required): Confederated Salish and Kootenai Tribal Council representative	Governor	6/13/2003
Ms. Linda Tarinelli, Bozeman Qualifications (if required): coordinator/director of the Young Parents Program in Bozeman	Governor	6/13/2003
Mr. Richard Williams, Bozeman Qualifications (if required): parent of an alcohol affected child	Governor	6/13/2003
Ms. Margaret Ann Yellow Kidney, Browning Qualifications (if required): representative of the Blackfeet Nation	Governor	6/13/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Historical Society Board of Trustees (Historical Society) Dr. Thomas A. Foor, Missoula Qualifications (if required): archeologist	Governor	7/1/2003
Mr. William M. Holt, Lolo Qualifications (if required): public member	Governor	7/1/2003
Ms. Vicki A. McCarthy, Billings Qualifications (if required): public member	Governor	7/1/2003
Montana Mint Committee (Agriculture) Mr. Bill Kleinhans, Somers Qualifications (if required): mint grower	Governor	7/1/2003
Mr. Ken Smith, Kalispell Qualifications (if required): mint grower	Governor	7/1/2003
Montana Organic Commodity Advisory Council (Agriculture) Mr. David Oien, Conrad Qualifications (if required): handler	Director	7/29/2003
Ms. Judy Owsowitz, Whitefish Qualifications (if required): producer	Director	7/29/2003
Mr. Robert Boettcher, Big Sandy Qualifications (if required): producer	Director	7/29/2003
Mr. Robert Quinn, Big Sandy Qualifications (if required): producer	Director	7/29/2003
Montana Power Authority (Natural Resources and Conservation) Sen. Gary C. Aklestad, Shelby Qualifications (if required): public member	Governor	7/2/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Power Authority (Natural Resources and Conservation) cont. Chief Justice Jean A. Turnage, Polson Qualifications (if required): public member	Governor	7/2/2003
Montana Wheat and Barley Committee (Agriculture) Mr. Dan DeBuff, Shawmut Qualifications (if required): representing District V and being a Republican	Governor	8/20/2003
Mr. Franklin Mosdal, Broadview Qualifications (if required): representing District VI and being a Democrat	Governor	8/20/2003
Mr. Brian Kaae, Dagmar Qualifications (if required): representing District I and being a Democrat	Governor	8/20/2003
Motorcycle Safety Advisory Committee (Office of Public Instruction) Mr. Dal Smilie, Helena Qualifications (if required): representative of a motorcycle riding group	Governor	7/1/2003
Mr. Ladd Paulson, Billings Qualifications (if required): peace officer	Governor	7/1/2003
Petroleum Tank Release Compensation Board (Environmental Quality) Ms. Mary Ann Sharon, Dillon Qualifications (if required): public member	Governor	6/30/2003
Mr. Tim Hornbacher, Helena Qualifications (if required): service station dealer	Governor	6/30/2003
Reserved Water Rights Compact Commission (Natural Resources and Conservation) Mr. Gene Etchart, Glasgow Qualifications (if required): Governor's appointee	Governor	6/1/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Reserved Water Rights Compact Commission (Natural Resources and Conservation) cont. Mr. Jack Salmond, Choteau Qualifications (if required): Governor's appointee	Governor	6/1/2003
Rep. Robert Thoft, Stevensville Qualifications (if required): Governor's appointee	Governor	6/1/2003
Ms. Tara DePuy, Livingston Qualifications (if required): Governor's appointee	Governor	6/1/2003
River Recreation Advisory Council (Fish, Wildlife, and Parks) Sen. Bill Tash, Dillon Qualifications (if required): none specified	Director	7/1/2003
Mr. Robin Cunningham, Gallatin Gateway Qualifications (if required): none specified	Director	7/1/2003
Mr. Tim Mulligan, Whitehall Qualifications (if required): none specified	Director	7/1/2003
Rep. Gail Gutsche, Missoula Qualifications (if required): none specified	Director	7/1/2003
Rep. Diane Rice, Harrison Qualifications (if required): none specified	Director	7/1/2003
Mr. Mike Penfold, Billings Qualifications (if required): none specified	Director	7/1/2003
Mr. Marty Baker, Missoula Qualifications (if required): none specified	Director	7/1/2003



VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
River Recreation Advisory Council (Fish, Wildlife, and Parks) cont. Mr. Larry Clark, Philipsburg Qualifications (if required): none specified	Director	7/1/2003
Mr. Larry Copenhaver, Helena Qualifications (if required): none specified	Director	7/1/2003
Mr. David Decker, Wise River Qualifications (if required): none specified	Director	7/1/2003
Mr. Mike Ewing, Bozeman Qualifications (if required): none specified	Director	7/1/2003
Mr. John Gangemi, Bigfork Qualifications (if required): none specified	Director	7/1/2003
Mr. Dudley Improta, Missoula Qualifications (if required): none specified	Director	7/1/2003
Mr. Russ Kipp, Dillon Qualifications (if required): none specified	Director	7/1/2003
Ms. Cindy Kittredge, Cascade Qualifications (if required): none specified	Director	7/1/2003
Mr. Steve Leubeck, Butte Qualifications (if required): none specified	Director	7/1/2003
Mr. Jerry Nichols, Superior Qualifications (if required): none specified	Director	7/1/2003
Mr. Steve Ortez, Great Falls Qualifications (if required): none specified	Director	7/1/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
River Recreation Advisory Council (Fish, Wildlife, and Parks) cont. Ms. Julia Page, Gardiner Qualifications (if required): none specified	Director	7/1/2003
Mr. Jim Rainey, Bozeman Qualifications (if required): none specified	Director	7/1/2003
Ms. Amy Sullivan, Helena Qualifications (if required): none specified	Director	7/1/2003
Mr. Mike Whittington, Billings Qualifications (if required): none specified	Director	7/1/2003
State Banking Board (Commerce) Ms. Barbara Skelton, Billings Qualifications (if required): public member	Governor	7/1/2003
State Electrical Board (Commerce) Mr. Todd Stoddard, Dillon Qualifications (if required): licensed electrician	Governor	7/1/2003
State-Tribal Economic Development Commission (Governor) Mr. Tim Zimmerman, Billings Qualifications (if required): representing the Little Shell Tribe	Governor	6/30/2003
Mr. John Healy, Harlem Qualifications (if required): representing the Fort Belknap Tribe	Governor	6/30/2003
State-Tribal Economic Development Commission (Indian Affairs) Mr. Lawrence Big Hair, Jr., Crow Agency Qualifications (if required): representative of the Crow Tribe	Governor	6/30/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
SummitNet Executive Council (Administration) Ms. Lois A. Menzies, Helena Qualifications (if required): state agency representative	Governor	6/30/2003
Mr. Scott Buswell, Helena Qualifications (if required): representative of the Office of Public Instruction	Governor	6/30/2003
Commissioner Janet Kelly, Miles City Qualifications (if required): local government representative	Governor	6/30/2003
Mr. Richard A. Crofts, Helena Qualifications (if required): Commissioner of Higher Education	Governor	6/30/2003
Ms. Karen Strege, Helena Qualifications (if required): state agency representative	Governor	6/30/2003
Mr. Dan Ellison, Helena Qualifications (if required): state agency representative	Governor	6/30/2003
Mr. Scott Darkenwald, Helena Qualifications (if required): representative of the Department of Administration	Governor	6/30/2003
Teachers' Retirement Board (Administration) Mr. Scott A. Dubbs, Lewistown Qualifications (if required): teacher/member	Governor	7/1/2003
Tourism Advisory Council (Commerce) Ms. Donna Madson, West Yellowstone Qualifications (if required): representing Yellowstone Country	Governor	7/1/2003
Mr. Ed Heinrich, Fairmont Qualifications (if required): representing Goldwest Country	Governor	7/1/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Tourism Advisory Council (Commerce) cont. Mr. Clark Whitehead, Lewistown Qualifications (if required): representing a federal agency and Russell Country	Governor	7/1/2003
Mr. Richard J. Young, Poplar Qualifications (if required): representing Missouri River Country and tribal government	Governor	7/1/2003
Mr. Kim Champney, Billings Qualifications (if required): representative from Custer Country	Governor	7/1/2003
Yellowstone River Task Force (Fish, Wildlife, and Parks) Mr. John Bailey, Livingston Qualifications (if required): representing local business	Governor	8/21/2003
Mr. Joel Marshik, Helena Qualifications (if required): representing the Department of Transportation and being an ex-officio member	Governor	8/21/2003
Mr. Bob Wiltshire, Livingston Qualifications (if required): representing the angling community	Governor	8/21/2003
Ms. Michelle Goodwine, Livingston Qualifications (if required): representing local business	Governor	8/21/2003
Mr. Jerry O'Haire, Livingston Qualifications (if required): representing ranchers living by the river	Governor	8/21/2003
Mr. Roy Aserlind, Livingston Qualifications (if required): representing property owners	Governor	8/21/2003
Mr. Rod Siring, Livingston Qualifications (if required): representing property owners	Governor	8/21/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Yellowstone River Task Force (Fish, Wildlife, and Parks) cont. Mr. Brant Oswald, Livingston Qualifications (if required): representing conservation groups	Governor	8/21/2003
Ms. Ellen Woodbury, Livingston Qualifications (if required): representing Park County	Governor	8/21/2003
Mr. Doug McDonald, Helena Qualifications (if required): representing the Corp of Engineers and being an ex-officio member	Governor	8/21/2003
Mr. Laurence Siroky, Helena Qualifications (if required): representing the Department of Natural Resources and Conservation and being an ex-officio member	Governor	8/21/2003
Mr. Stuart Lehman, Helena Qualifications (if required): representing the Department of Environmental Quality and being an ex-officio member	Governor	8/21/2003
Mr. Joel Tohtz, Helena Qualifications (if required): representing the Department of Fish, Wildlife, and Parks and being an ex-officio member	Governor	8/21/2003
Mr. Jim Woodhull, Livingston Qualifications (if required): representing the city of Livingston	Governor	8/21/2003
Mr. David Haug, Livingston Qualifications (if required): representing Park County Conservation District	Governor	8/21/2003
Mr. G. Douglas Ensign, Livingston Qualifications (if required): representing ranchers living by the river	Governor	8/21/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Yellowstone River Task Force (Fish, Wildlife, and Parks) cont. Mr. Andy Dana, Bozeman Qualifications (if required): representing property owners	Governor	8/21/2003
Youth Justice Council (Justice) Mr. Dan Anderson, Helena Qualifications (if required): representing a public agency dealing with high risk youth	Governor	6/15/2003
Mr. Marko Lucich, Butte Qualifications (if required): representing the Juvenile Probation Association	Governor	6/15/2003
Rev. Steven Rice, Miles City Qualifications (if required): public member	Governor	6/15/2003
Mr. Spencer Sartorius, Helena Qualifications (if required): representing educational services	Governor	6/15/2003
Ms. Peggy Beltrone, Great Falls Qualifications (if required): representing local government officials	Governor	6/15/2003
Sen. Jeff Mangan, Great Falls Qualifications (if required): representing the legislature	Governor	6/15/2003
Mr. Steve Nelson, Bozeman Qualifications (if required): represents nonprofit organization dealing with delinquency prevention	Governor	6/15/2003
Mr. Ron Whitmoyer, East Helena Qualifications (if required): representing local school administration	Governor	6/15/2003
Ms. Misti Robertson, Billings Qualifications (if required): representing law enforcement	Governor	6/15/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Youth Justice Council (Justice) cont. Ms. Winnie Ore, Helena Qualifications (if required): representing Department of Corrections	Governor	6/15/2003
Ms. Shanna Bulik-Chism, Great Falls Qualifications (if required): representing a public agency dealing with detention services	Governor	6/15/2003
Ms. Katie Yother, Miles City Qualifications (if required): representing youth and those involved in juvenile justice system	Governor	6/15/2003
Mr. Brock Albin, Bozeman Qualifications (if required): representing defense of youth in the court system	Governor	6/15/2003
Ms. Sally Stansberry, Missoula Qualifications (if required): represents nonprofit organization dealing with delinquency prevention	Governor	6/15/2003
Ms. Carmen Hotvedt, Helena Qualifications (if required): representing youth and volunteers	Governor	6/15/2003
Mr. Marc Aune, Missoula Qualifications (if required): representing youth and those involved in the juvenile justice system	Governor	6/15/2003
Mr. Tracy King, Harlem Qualifications (if required): representing Native American programs	Governor	6/15/2003
Mr. Tony Wagner, Browning Qualifications (if required): representative of a nonprofit organization concerned with prevention	Governor	6/15/2003

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2003 through AUGUST 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Youth Justice Council (Justice) cont. Mr. Joe Johnson, Butte Qualifications (if required): youth representative	Governor	6/15/2003
Mr. Don Munro, Browning Qualifications (if required): youth representative	Governor	6/15/2003
Ms. Beverley Boyd, Helena Qualifications (if required): representative of the Youth Court System	Governor	6/15/2003
Ms. Shirley Brown, Helena Qualifications (if required): representative of a public agency dealing with delinquency prevention	Governor	6/15/2003