

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 3

The Montana Administrative Register (MAR or Register), 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 The Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 444-2055.

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BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 2.21.6606, 2.21.6608,	)	AMENDMENT
2.21.6610, and 2.21.6611 pertaining	)	
to Employee Record Keeping policy	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. On April 13, 2007, the Department of Administration proposes to amend the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on March 7, 2007, to advise us of the nature of the accommodation that you need. Please contact State Personnel Division, Department of Administration, P.O. Box 200127, Helena, MT 59620-0127; telephone (406) 444-3749; Montana Relay Service 711; FAX (406) 444-0703; or e-mail [cstapley2@mt.gov](mailto:cstapley2@mt.gov).

3. The department proposes to amend the rules as follows, new matter underlined, stricken matter interlined:

2.21.6606 POLICY AND OBJECTIVES (1) It is the policy of the state of Montana to:

(a) collect and maintain employee personnel records while protecting an employee's right of privacy pursuant to Article II, section 10 of the Constitution of the State of Montana; ~~and~~

~~(a)~~ (b) to ~~insure~~ ensure employee awareness of records held; provide employees access to their personnel records, and to allow employees to correct their personnel correction of records; and

~~(b)~~ (c) restrict access to confidential employee personnel records to: ~~only those with a job-related purpose for viewing or using the records. Others may have access to confidential records only with the informed and voluntary consent of the employee or with a valid legal order.~~

(i) the employee;

(ii) those persons with a job-related purpose for viewing or using the records;

(iii) persons whom the employee has granted written permission to view or use; or

(iv) pursuant to a valid court order.

(2) remains the same.

AUTH: 2-18-102, MCA

IMP: 2-18-102, MCA

2.21.6608 DEFINITIONS As used in this subchapter the following definitions apply:

(1) "Access" means ~~permission to view and use records~~ viewing or using records.

(2) "Confidential records" means records concerning an employee to which ~~there is restricted access~~ which, by law, are not public records.

(3) remains the same.

(4) "Employee personnel record" means information relating to an employee's employment with the state of Montana, ~~or a department of the state and is appropriate for preservation as evidence of employment policies, practices and decisions.~~ An employee personnel record may be a paper document or it may be information maintained in an information system such as the ~~payroll/personnel/position control system (P/P/P system)~~ Statewide Accounting Budgeting and Human Resource (SABHRS) system. Other programs including, but not limited to, ~~Public Employees Retirement System (PERS)~~ Montana Public Employee Retirement Administration (MPERA), worker's' compensation, or unemployment insurance, develop records relating to an employee which are not an employee personnel record as defined in this policy.

(5) ~~"Payroll/Personnel/Position control system (P/P/P)~~ "Statewide Accounting Budgeting and Human Resource (SABHRS) system" means the automated system established by the state of Montana to maintain some types of personnel records for state employees.

(6) remains the same.

AUTH: 2-18-102, MCA

IMP: 2-18-102, MCA

2.21.6610 ADOPTION OF DEPARTMENT POLICY (1) ~~A department~~ All departments must adopt a procedure which is consistent with this subchapter and which contains, at a minimum, the following provisions:

(a) a list of the types of records which are maintained, pursuant to records management procedures found in ~~Chapter 800, Montana Operations Manual, Volume I;~~ the general records retention schedules published by the Montana Secretary of State's office, Records Management Bureau;

(b) and (c) remain the same.

(d) the acceptable location of records in the department; and,

(e) remains the same.

~~(2) The policy must be adopted and approved by the department of administration, as provided in ARM 2.21.1203, no later than 90 days after the effective date of this policy.~~

AUTH: 2-18-102, MCA

IMP: 2-18-102, MCA

2.21.6611 ACCESS TO EMPLOYEE PERSONNEL RECORDS (1) All employee personnel records are confidential and access is restricted, except an employee's position title, dates and duration of employment ~~and,~~ salary, and claims

for vacation, holiday, or sick leave pay, which are public information and must be released on request. A department may not require justification for the request. A department may require that the request be in writing. A department may not require justification for the request.

(2) remains the same.

(3) In addition to access provided in this chapter and a department procedure, the following provisions will apply to employee personnel records:

(a) The employee has access to all of his or her employee personnel records. An employee may file a written response to information contained in employee personnel records which becomes a permanent part of the record. The response must be filed within 40 ten working days of the date on which an employee is made aware of the information by the department.

(b) Information collected regarding medical examinations or inquiries must be treated as confidential medical records in compliance with the Americans with Disabilities Act (ADA) and collected and maintained on separate forms in separate files from employee personnel records. As provided in the ADA, access is restricted to:

(i) supervisors and managers when identifying restrictions on the employee's work or duties or identifying necessary accommodations;

(ii) first aid and safety personnel, when appropriate, if the disability might require emergency treatment; and

(iii) on request from government officials investigating compliance with the ADA.

(c) through (g) remain the same.

~~(h) Some governmental entities have authority under federal or state laws to access information in employee records. Others may obtain access to employee personnel records only with the employee's informed and written permission or with a valid legal order. The department will inform the employee when a valid legal order has been received requiring access to an employee's personnel records.~~  
Some governmental entities have authority pursuant to state or federal law to access an employee's personnel record. Others may access an employee's personnel record only with the employee's written permission or with a valid court order. A department will inform an employee when a valid court order has been received directing access be provided to an employee's personnel record.

(i) remains the same.

AUTH: 2-18-102, MCA

IMP: 2-18-102, MCA

4. REASON: In part, the department is amending the rules to incorporate the Attorney General Opinion No. 32, dated 5/1/1992, that states county time records which show an employee's name, the department for which the employee works, and the hours worked, including claims for vacation, holiday, or sick leave pay, are subject to public disclosure. The department is also reviewing and revising rules to conform to 2-2-314(1), MCA, which directs departments to conduct a biennial review of their rules and modify or amend them if necessary. The department is proposing

to make some amendments for clarity, organization, and writing style. In other amendments, the department proposes to delete unnecessary language.

5. Concerned persons may submit their data, views, or arguments in writing to Christy Stapley, State Personnel Division, Department of Administration, P.O. Box 200127, Helena, MT 59620-0127; or e-mail [cstapley2@mt.gov](mailto:cstapley2@mt.gov). Comments must be received no later than 5:00 p.m., March 12, 2007.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Christy Stapley, State Personnel Division, Department of Administration, P.O. Box 200127, Helena, MT 59620-0127; or e-mail [cstapley2@mt.gov](mailto:cstapley2@mt.gov) to be received no later than 5:00 p.m., March 12, 2007.

7. If the Department of Administration receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected is greater than 25 based on the number of state employees.

8. The Department of Administration maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding personnel rules. Such written request may be mailed or delivered to Christy Stapley, Department of Administration, State Personnel Division, P.O. Box 200127, Helena, MT 59620-0127; e-mailed to [cstapley2@mt.gov](mailto:cstapley2@mt.gov) or made by completing a request form at any rules hearing held by the Department of Administration.

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

BY: /s/ Janet Kelly  
Janet R. Kelly, Director  
Department of Administration

BY: /s/ Dal Smilie  
Dal Smilie, Rule Reviewer  
Department of Administration

Certified to the Secretary of State January 29, 2007

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the proposed )  
amendment of ARM 10.55.602, )  
10.55.701, 10.55.705, and 10.55.907 )  
relating to accreditation standards )

NOTICE OF PUBLIC HEARING  
ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On March 5, 2007 at 8:00 a.m., a public hearing will be held in the conference room at the Office of the Commissioner of Higher Education, 46 North Last Chance Gulch, Helena, Montana, to consider the amendment of the above-stated rules.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Education no later than 5:00 p.m. on February 20, 2007, to advise us of the nature of the accommodation that you need. Please contact Steve Meloy, P.O. Box 200601, Helena, MT 59620-0601, telephone: (406) 444-6576, FAX: (406) 444-0847, e-mail: smeloy@bpe.montana.edu.

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

10.55.602 DEFINITIONS For the purposes of this chapter, the following terms apply:

(1) remains the same.

(2) "Asynchronous" means not occurring at the same time. "Asynchronous" refers to content, instruction, and communication between participants (e.g., students and teachers) that occurs at different times, the period of which may vary by circumstance, (e.g., e-mail, threaded discussions, homework, message boards).

(2) through (6) remain the same but are renumbered (3) through (7).

(8) "Distance learning" means instruction in which students and teachers are separated by time and/or location with synchronous or asynchronous content, instruction, and communication between student and teacher (e.g., correspondence courses, online learning, videoconferencing, streaming video).

(7) through (12) remain the same but are renumbered (9) through (14).

(15) "Online learning" means education activity in which instruction and content are delivered primarily via the internet. Online learning is a form of distance learning.

(13) remains the same but is renumbered (16).

(17) "Synchronous" means occurring at the same time. "Synchronous" refers to content, instruction, and communication between participants (e.g., students and teachers) that occurs at the same time even though they may be in different physical locations. For example, instruction in which students and teachers are online at the

same time so that a question can be immediately answered (e.g., telephone calls, face-to-face meetings, physical classrooms, chat rooms, and videoconferencing).

(18) "Technology delivered learning" means instruction and content delivered via digital technologies (e.g., online, CD-ROM, DVD-ROM, or learning experiences that involve primarily the use of computers).

ARM: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

10.55.701 BOARD OF TRUSTEES (1) through (3)(n)(v) remain the same.

(vi) community resources be used to strengthen schools, families, and student learning; ~~and~~

(o) a policy that incorporates the distinct and unique cultural heritage of American Indians and that is aligned with district educational goals; and

(p) a policy addressing distance, online, and technology delivered learning as defined in ARM 10.55.602.

(4) through (7) remain the same.

(a) establish a system to keep parents/guardians up to date on students' progress; and

(b) and (8) remain the same.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

10.55.705 ADMINISTRATIVE PERSONNEL: ASSIGNMENT OF SCHOOL ADMINISTRATORS/PRINCIPALS (1) remains the same.

(a) for schools in third class elementary districts without a licensed administrator under contract, a part-time district superintendent or supervising teacher and county superintendent for schools with fewer than nine will be accepted in satisfaction of administrator requirements for up to eight full-time equivalent (FTE) licensed staff;

(b) for schools in districts with an assigned licensed administrator under contract, the following staffing requirements shall apply:

(i) .5 FTE principal for schools with 9-47 more than eight and less than 18 FTE licensed staff. A district may satisfy the FTE requirements of this subsection for a school under this circumstance by prorating the assignment of building administrators in other buildings of the district, so long as the number of licensed FTE staff for whom each administrator is responsible is not more than 29 and so long as the number of students for whom each administrator is responsible is not more than 550;

(c) through (g) remain the same but are renumbered (ii) through (vi).

(2) and (3) remain the same.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

10.55.907 DISTANCE, ONLINE, AND TECHNOLOGY DELIVERED

LEARNING (1) through (2)(a) remain the same.

(b) Distance, online, and technology delivered learning programs and/or courses shall meet the learner expectations adopted by the school district ~~or~~ and be aligned with state content and performance standards.

(c) A school district shall provide a report to the Superintendent of Public Instruction documenting how it is meeting the needs of students under the accreditation standards who are taking a majority of courses during each grading period via distance, online, and/or technology-delivered programs.

(3) Except as provided in (3)(a), teachers of distance, online, and technology delivered learning programs shall be licensed and endorsed in Montana in the area of instruction ~~taught with such license granted as a result of the completion of a professional educator preparation program accredited by NCATE and/or a state board of education.~~ School districts receiving distance, online, and technology delivered learning programs described in this rule shall have a distance learning facilitator ~~as provided in this rule assigned~~ for each course and available to the students.

(a) When a teacher of distance, online, and technology delivered learning programs and/or courses ~~is not licensed and endorsed as provided in this rule,~~ does not possess the qualifications specified in (3), the facilitator must ~~hold a Montana educator license~~ be licensed and endorsed in Montana in the area of instruction facilitated.

(b) When a teacher of distance, online, and technology delivered learning programs ~~is licensed and endorsed in the area of instruction,~~ qualified as provided in ~~this rule (3),~~ the receiving school district's facilitator shall be a licensed teacher or a para-educator.

(c) School districts receiving distance, online, and technology delivered learning programs and/or courses must provide qualified facilitators for synchronous delivery to students in schools accredited by the Montana Board of Public Education, requiring physical presence of a facilitator, and for asynchronous delivery, requiring facilitators be available to students.

~~(e)~~ (d) The school district must ensure that the distance, online, and technology delivered learning facilitators, ~~whether licensed or not,~~ receives in-service training on technology delivered instruction pertaining to:

(i) through (4) remain the same.

(5) All Providers or coordinating entities of distance, online, and technology delivered learning programs, ~~other than Montana school districts,~~ shall annually, no later than October 1:

(a) and (b) remain the same.

(c) ~~verify~~ document the professional qualifications, including Montana teacher licensure and endorsement ~~if possessed,~~ of their teachers of distance, online, and technology delivered programs and/or courses;

(d) and (e) remain the same.

AUTH: 20-2-114, MCA

IMP: 20-2-121, 20-3-106, 20-7-101, MCA

4. The Board of Public Education has determined that it is reasonable and

necessary to amend the above rules to align the standard with current research and best practices on distance, online, and technology delivered learning.

5. Pursuant to the agreement between the Board of Public Education and the Legislature, the board does not anticipate any implementation costs, but shall request and report in its adoption notice any cost estimates received from districts during the hearing.

6. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted by mail to the Board of Public Education, P.O. Box 200601, Helena, Montana 59620-0601, or by e-mail to [smeloy@bpe.montana.edu](mailto:smeloy@bpe.montana.edu) and must be received no later than 5:00 p.m. on March 8, 2007.

7. Steve Meloy has been designated to preside over and conduct the hearing.

8. The Board of Public Education maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding accreditation standards or other school related rulemaking actions. Such written request may be mailed or delivered to Steve Meloy, P.O. Box 200601, Helena, Montana 59620-0601, faxed to the office at (406) 444-0847, by e-mail to [smeloy@bpe.montana.edu](mailto:smeloy@bpe.montana.edu), or may be made by completing a request form at any rules hearing held by the Board of Public Education.

9. The bill sponsor notice requirements of 2-4-302, MCA, do not apply. The requirements of 20-1-501, MCA, have been fulfilled. Copies of these rules have been sent to all tribal governments in Montana.

/s/ Patty Myers  
Patty Myers, Chairperson  
Board of Public Education

/s/ Steve Meloy  
Steve Meloy, Rule Reviewer  
Board of Public Education

Certified to the Secretary of State January 29, 2007.

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the proposed )  
amendment of ARM 10.55.716 ) NOTICE OF PUBLIC HEARING  
relating to substitute teachers ) ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On March 1, 2007 at 9:00 a.m. a public hearing will be held in the conference room at the Office of the Commissioner of Higher Education, 46 North Last Chance Gulch, Helena, Montana, to consider the amendment of the above-stated rule.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Education no later than 5:00 p.m. on February 12, 2007, to advise us of the nature of the accommodation that you need. Please contact Steve Meloy, P.O. Box 200601, Helena, MT 59620-0601, telephone: (406) 444-6576, FAX: (406) 444-0847, e-mail: smeloy@bpe.montana.edu.

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

10.55.716 SUBSTITUTE TEACHERS (1) through (4) remain the same.

(5) ~~The requirements Sections (2), (3), and (4) of this rule~~ may be waived by the trustees in whole or in part, if the non-licensed substitute has previous teaching or substitute teaching experience in an accredited public school in Montana prior to November 28, 2002.

AUTH: 20-4-102, MCA  
IMP: 20-4-102, MCA

4. The Board of Public Education has determined that it is reasonable and necessary to amend this rule to clarify that (5) applies only to (2) through (4) and does not apply to (1). This was the original intention of the CSPAC Chapter 57 rule revision committee when this rule was initially adopted.

5. Pursuant to the agreement between the Board of Public Education and the Legislature, the board does not anticipate any implementation costs, but shall request and report in its adoption notice any cost estimates received from districts during the hearing.

6. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted by mail to the Board of Public Education, P.O. Box 200601, Helena,

Montana 59620-0601, or by e-mail to smeloy@bpe.montana.edu and must be received no later than 5:00 p.m. March 8, 2007.

7. Steve Meloy has been designated to preside over and conduct the hearing.

8. The Board of Public Education maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding substitute teachers or other school related rulemaking actions. Such written request may be mailed or delivered to Steve Meloy, P.O. Box 200601, Helena, Montana 59620-0601, faxed to the office at (406) 444-0847, by e-mail to smeloy@bpe.montana.edu, or may be made by completing a request form at any rules hearing held by the Board of Public Education.

9. The bill sponsor notice requirements of 2-4-302, MCA, do not apply. The requirements of 20-1-501, MCA, have been fulfilled. Copies of these rules have been sent to all tribal governments in Montana.

/s/ Diane Fladmo  
Diane Fladmo, Chairperson  
Board of Public Education

/s/ Steve Meloy  
Steve Meloy, Rule Reviewer  
Board of Public Education

Certified to the Secretary of State January 29, 2007.

BEFORE THE BOARD OF HEARING AID DISPENSERS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed amendment of ) NOTICE OF PUBLIC HEARING  
ARM 24.150.401 fees, 24.150.501 ) ON PROPOSED AMENDMENT  
examination pass/fail point, 24.150.503 ) AND ADOPTION  
traineeship requirements and standards, )  
24.150.510 transactional document )  
requirements - form and content, and )  
24.150.2202 exceptions, and the adoption of )  
NEW RULE I fee abatement )

TO: All Concerned Persons

1. On March 5, 2007, at 9:00 a.m., a public hearing will be held in room 489, Helena, Montana to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Hearing Aid Dispensers (board) no later than 5:00 p.m., on February 26, 2007, to advise us of the nature of the accommodation that you need. Please contact Helena Lee, Board of Hearing Aid Dispensers, 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 dlibsddhad@mt.gov.

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

<u>24.150.401 FEES</u> (1) The fees shall be as follows:	
(a) Application fee (includes initial written and practical examination)	\$ <del>225</del> <u>500</u>
(b) Application fee for licensees from other states	<del>75</del> <u>500</u>
(c) Reexamination -- written	<del>170</del> <u>200</u>
(d) Reexamination -- practical (includes renewal of trainee license)	<del>130</del> <u>550</u>
(e) Original license	<del>150</del> <u>300</u>
(f) Renewal active license	<del>275</del> <u>350</u>
(g) Renewal inactive license	<del>400</del> <u>150</u>
(h) through (3) remain the same.	

AUTH: 37-1-131, 37-1-134, 37-1-141, 37-16-202, MCA  
IMP: 37-1-131, 37-1-134, 37-1-141, 37-16-202, 37-16-402, 37-16-405, 37-16-406, MCA

REASON: The board has determined that there is reasonable necessity to make the proposed fee changes to comply with the provisions of 37-1-134, MCA, and to keep the board's fees commensurate with program costs. The department, in providing administrative services to the board, has determined that unless the licensure fees are increased as proposed, the board will have a shortage of operating funds by the 2007 licensure renewal period. The board is proposing to increase the application fee for licensees from other states to be consistent with the fee for licensure by examination. Applications from other states are processed in exactly the same manner and require the same amount of staff and board time as applications for licensure by examination. The board estimates that the fee changes will affect approximately 112 persons (94 licensees and 18 new applicants) and will result in an estimated \$11,165 increase in annual revenue.

24.150.501 EXAMINATION - PASS/FAIL POINT (1) remains the same.

(2) The passing score on the written examination shall be ~~70~~ 75 percent. The written examination shall include a Montana jurisprudence section.

(3) Each section of the oral and practical examination must be passed by a minimum grade of ~~70~~ 75 percent. An applicant who fails any section only has to retake section(s) failed.

(4) remains the same.

AUTH: 37-1-131, 37-16-202, MCA

IMP: ~~37-16-403~~, 37-16-405, 37-16-406, MCA

REASON: The board has determined that reasonable necessity exists to amend the passing scores required for board licensure by examination. The board has historically used the International Institute for Hearing Instruments Studies written and practical examinations which require a passing score of 75 percent. The board is updating the rule to achieve consistency with these exam requirements and to clarify that the Montana jurisprudence written exam also demands a 75 percent passing score. Authority and implementation cites are being amended to provide the complete sources of the board's rulemaking authority and to remove reference to a repealed statute.

24.150.503 TRAINEESHIP REQUIREMENTS AND STANDARDS (1) and (1)(a) remain the same.

(b) have not had a final order of disciplinary action entered against ~~his or her~~ the hearing aid dispenser's license, in this or any state, in the two years preceding the request to sponsor a trainee.

(2) remains the same.

(3) A trainee who loses ~~his or her supervisor~~ supervision for any reason shall immediately cease practice and shall not continue in a trainee status with a new supervisor until the trainee receives written approval from the board.

(4) remains the same.

(5) A daily log, provided by the ~~board office~~ department, must be kept by the trainee, showing the date, description of job tasks, and duties. Both the trainee and

the supervisor must sign the log. The log must be submitted to the board office at the end of 90 days and again at the end of 180 days and must be approved by the board prior to the trainee being allowed to take the practical examination.

(6) All written materials distributed by the trainee shall include the trainee's name and title, "trainee" and the supervisor's name, business phone number, and title "supervisor."

AUTH: 37-1-131, 37-1-319, 37-16-202, MCA

IMP: 37-1-101, 37-1-131, 37-1-305, 37-16-301, 37-16-405, MCA

**REASON:** The 2005 Montana Legislature enacted Chapter 467, Laws of 2005 (House Bill 182), an act generally revising and consolidating professional and occupational licensing laws and distinguishing between department and board or program duties regarding licensure, examination and fees that became effective July 1, 2005. The board has determined it is reasonably necessary to amend this rule to implement the legislation and further differentiate between department and board duties. The rule is further amended to make references gender neutral and to comply with ARM punctuation requirements. Authority and implementation cites are being amended to accurately reflect all statutes implemented through the rule and provide the complete and accurate sources of the board's rulemaking authority.

**24.150.510 TRANSACTIONAL DOCUMENT REQUIREMENTS - FORM AND CONTENT** (1) through (3) remain the same.

(4) Any trainee, who provides service to a patient, must legibly print or type ~~his or her~~ the trainee's name, the designation "trainee," and license number on the document along with the name and license number of the trainee's supervisor.

(5) remains the same.

AUTH: 37-16-202, MCA

IMP: 37-16-303, 37-16-304, MCA

**REASON:** It is reasonably necessary to amend this rule to make references gender neutral, to comply with ARM punctuation requirements, and to amend the implementation cites to accurately reflect all statutes implemented through the rule.

**24.150.2202 EXCEPTIONS** (1) remains the same.

(2) The board reserves authority to make written exception for reasons of individual hardship including health, military service, foreign residence, retirement, or inaccessibility to programs.

(3) A licensee who submits medical proof from ~~he or she~~ the licensee's attending physician that ~~he or she~~ the licensee or a member of the licensee's immediate family suffered a serious or disabling illness or physical disability which prevented the licensee from complying with the requirements of the board during the 12 months immediately preceding the annual license renewal date, may be granted an exception.

AUTH: 37-1-131, 37-1-319, 37-16-202, MCA

IMP: 37-1-141, 37-1-306, 37-16-407, MCA

REASON: Authority and implementation cites are being amended to accurately reflect all statutes implemented through the rule, to provide the complete sources of the board's rulemaking authority, and to delete references to a repealed statute. Additional amendments are being made to comply with ARM punctuation requirements and to substitute gender neutral terms for gender specific language.

4. The proposed new rule provides as follows:

NEW RULE I FEE ABATEMENT (1) The Board of Hearing Aid Dispensers adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301.

AUTH: 37-1-131, MCA

IMP: 17-2-302, 17-2-303, 37-1-134, MCA

REASON: The board has determined there is reasonable necessity to adopt and incorporate by reference ARM 24.101.301 to allow the board to authorize the department to perform renewal licensure fee abatements as appropriate and when needed, without further vote or action by the board. The department previously adopted ARM 24.101.301 to implement a means for the prompt elimination of excess cash accumulations in the licensing programs operated by the department.

Adoption and incorporation of ARM 24.101.301 will allow the department to promptly eliminate excess cash balances of the board that result from unexpectedly high licensing levels or other nontypical events. Abatement in such instances will allow the licensees who have paid fees into the board's program to receive the temporary relief provided by abatement. Adoption of this abatement rule does not relieve the board from its duty to use proper rulemaking procedures to adjust the board's fee structure in the event of recurrent instances of cash balances in excess of the statutorily allowed amount.

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 Hearing Aid Dispensers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsddhad@mt.gov](mailto:dlibsddhad@mt.gov), and must be received no later than 5:00 p.m., March 9, 2007.

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 [www.hearingaid.mt.gov](http://www.hearingaid.mt.gov). The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web

site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request 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 Hearing Aid Dispensers administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Hearing Aid Dispensers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsddhad@mt.gov](mailto:dlibsddhad@mt.gov), or 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.

9. Lorraine Schneider, attorney, has been designated to preside over and conduct this hearing.

BOARD OF HEARING AID DISPENSERS  
STEVE WILSON, CHAIRPERSON

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

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 29, 2007

BEFORE THE BOARD OF MEDICAL EXAMINERS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed amendment ) NOTICE OF PUBLIC HEARING  
of ARM 24.156.2701 definitions and ) ON PROPOSED AMENDMENT  
24.156.2771 scope of practice, pertaining )  
to emergency medical technicians )

TO: All Concerned Persons

1. On March 2, 2007, at 9:00 a.m., a public hearing will be held in room 489, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Medical Examiners (board) no later than 5:00 p.m., on February 23, 2007, to advise us of the nature of the accommodation that you need. Please contact Jeannie Worsch, Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2360; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsmed@mt.gov.

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

24.156.2701 DEFINITIONS For purposes of the rules set forth in this subchapter, the following definitions apply:

(1) through (15) remain the same.

(16) through (19) remain the same but are renumbered (17) through (20).

~~(20)~~ (16) "~~Service medical~~ Medical director" means an unrestricted Montana licensed physician or physician assistant ~~certified~~ who is responsible professionally and legally for ~~overall medical care provided by a~~ providing medical oversight to a licensed EMT ~~service~~ and/or for the training provided in an approved program/course, ~~including all EMTs on the service or in training.~~

(21) remains the same.

AUTH: 37-3-203, 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: The board determined it is reasonably necessary to amend the definition of medical director to better delineate the requirement for medical oversight of EMTs. The original intent of the rule remains unchanged, but clarification is necessary to further define the role of the medical director and the responsibility of

medical oversight of emergency medical service providers. Terminology is being updated to coincide with currently used terms in the health care industry.

24.156.2771 SCOPE OF PRACTICE (1) An EMT licensed or endorsed at the BLS level may perform any acts allowed within the EMT's licensure or endorsement level when:

(a) operating within the most current version of the Montana statewide EMT protocols; or

(b) under the medical oversight from a medical director who is taking responsibility for the EMT; or

(c) participating in a continuing education program.

~~(1) (2)~~ (2) An EMT licensed or endorsed at the ALS level and with the oversight of a medical director beyond the EMT-B level may perform any acts allowed within the EMT's licensure level or endorsement level when:

~~(a) under the direct observation of an EMS~~ medical oversight from a medical director who is taking responsibility for the EMT; or

~~(b) operating under on a Montana licensed EMS service, licensed at or above the level of the individual and functioning under the formal, written board-approved standing orders or protocols; or~~

(c) remains the same.

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

~~(3) (4)~~ (4) Except as provided in (2) (3), an EMT may not perform any acts that are beyond the EMT's level of licensure or endorsement.

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

AUTH: 50-6-203, MCA

IMP: 37-1-131, 50-6-203, MCA

REASON: It is reasonable and necessary to amend this rule as board staff discovered that the scope of practice for EMTs at the basic life support level had been inadvertently omitted from the scope of practice rule. The amendment delineates the acts allowed for basic life support EMTs and also clarifies advanced life support levels with regard to medical oversight. The original intent of the rule remains unchanged, but clarification within the rule is necessary to further define the roles, levels, and medical oversight of these two levels of emergency medical service providers.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406)-841-2305, or by e-mail to [dlibsmed@mt.gov](mailto:dlibsmed@mt.gov), and must be received no later than 5:00 p.m., March 12, 2007.

5. An electronic copy of this Notice of Public Hearing is available through the department and board site on the World Wide Web at [www.medicalboard.mt.gov](http://www.medicalboard.mt.gov). The department strives to make the electronic copy of this Notice conform to the

official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request 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 Medical Examiners administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsdmed@mt.gov](mailto:dlibsdmed@mt.gov), or made by completing a request form at any rules hearing held by the agency.

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

8. Anne O'Leary, attorney, has been designated to preside over and conduct this hearing.

BOARD OF MEDICAL EXAMINERS  
MICHAEL D. LAPAN, DPM, PRESIDENT

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

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 29, 2007

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM ) CORRECTED NOTICE OF  
2.59.111 pertaining to retention of bank ) AMENDMENT  
records )

TO: All Concerned Persons

1. On July 27, 2006, the Division of Banking and Financial Institutions published MAR Notice No. 2-2-375 regarding the notice of public hearing on the proposed amendment of the above-stated rule at page 1762 of the 2006 Montana Administrative Register, issue number 14. On December 21, 2006, the division published the notice of amendment at page 3066 of the 2006 Montana Administrative Register, issue number 24.

The division made two clerical errors in MAR Notice No. 2-2-375, which was published on July 27, 2006. The first error pertained to the failure to underline new material contained within the notice of public hearing on the proposed amendment. In particular, 31-1-218, MCA, was not underlined as implemented by ARM 2.59.111. The second error pertained to including 32-1-218, MCA, as authorizing this rule. This reference to 32-1-218, MCA, was not underlined as new material, but it has also been determined that it should not have replaced the existing statute, 32-1-491, MCA, that authorizes this rule. The rule, as amended in corrected form, reads as follows, deleted matter interlined, new matter underlined:

2.59.111 RETENTION OF BANK RECORDS (1) through (7) remain as amended.

AUTH: ~~32-1-218~~, 32-1-491, MCA  
IMP: 32-1-218, 32-1-491, 32-1-492, MCA

2. The replacement page for this corrected notice was submitted to the Secretary of State on December 28, 2006.

By: /s/ Janet R. Kelly  
Janet R. Kelly, Director  
Department of Administration

By: /s/ Dal Smilie  
Dal Smilie, Rule Reviewer  
Department of Administration

Certified to the Secretary of State January 29, 2007.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM	)	CORRECTED NOTICE OF
2.59.1501 pertaining to definitions and ARM	)	AMENDMENT
2.59.1502 pertaining to application	)	
procedure required to engage in deposit	)	
lending, and the adoption of NEW RULE I	)	
pertaining to reports, NEW RULE II	)	
pertaining to schedule of charges, NEW	)	
RULE III pertaining to employees' character	)	
and fitness, NEW RULE IV pertaining to	)	
electronic deductions, and NEW RULE V	)	
pertaining to income verification	)	

TO: All Concerned Persons

1. On February 23, 2006, the Division of Banking and Financial Institutions published MAR Notice No. 2-2-369 regarding a public hearing on the proposed amendment and adoption of the above-stated rules at page 375 of the 2006 Montana Administrative Register, issue number 4. On March 9, 2006, the division published MAR Notice No. 2-2-370 at page 614 of the 2006 Montana Administrative Register, issue number 5, to amend the reasonable necessity statement. On June 1, 2006, the division published the notice of amendment and adoption at page 1373 of the 2006 Montana Administrative Register, issue number 11.

The corrected notice of amendment is to resolve an oversight in amendment of ARM 2.59.1501 and 2.59.1502. The division made two clerical errors in MAR Notice No. 2-2-369, which was published on February 23, 2006. These errors pertained to the failure to underline new material contained within the Notice of Proposed Amendment. In particular, 31-1-705 and 31-1-722, MCA, were not underlined as implemented by ARM 2.59.1501 and 31-1-722, MCA, was not underlined as implemented by ARM 2.59.1502. The rules, as amended in corrected form, read as follows, deleted matter interlined, new matter underlined:

2.59.1501 DEFINITIONS (1) through (5) remain as amended.

AUTH: 31-1-702, MCA

IMP: 31-1-702, 31-1-705, 31-1-711, 31-1-713, 31-1-722, MCA

2.59.1502 APPLICATION PROCEDURE REQUIRED TO ENGAGE IN DEPOSIT LENDING (1) through (5) remain as amended.

AUTH: 31-1-702, MCA

IMP: 31-1-702, 31-1-705, 31-1-722, MCA

2. The replacement pages for this corrected notice were submitted to the Secretary of State on December 28, 2006.

By: /s/ Janet R. Kelly  
Janet R. Kelly, Director  
Department of Administration

By: /s/ Dal Smilie  
Dal Smilie, Rule Reviewer  
Department of Administration

Certified to the Secretary of State January 29, 2007.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM )  
2.59.1705 pertaining to licensing )  
examination and continuing education )  
provider requirements, and the adoption of )  
NEW RULE I pertaining to records to be )  
maintained )

CORRECTED NOTICE OF  
AMENDMENT

TO: All Concerned Persons

1. On June 22, 2006, the Division of Banking and Financial Institutions published MAR Notice No. 2-2-373 regarding the public hearing on the proposed amendment and adoption of the above-stated rules at page 1498 of the 2006 Montana Administrative Register, issue number 12. On September 7, 2006, the division published the notice of amendment and adoption at page 2104 of the 2006 Montana Administrative Register, issue number 17.

The corrected notice of amendment is to resolve an oversight in the amendment of ARM 2.59.1705. The division made a clerical error in MAR Notice No. 2-2-373, which was published on June 22, 2006. This error pertained to the failure to underline new material contained within the notice of public hearing on proposed amendment and adoption. In particular, 32-9-110, MCA, was not underlined as implemented by ARM 2.59.1705. The rule, as amended in corrected form, reads as follows, deleted matter interlined, new matter underlined:

2.59.1705 LICENSING EXAMINATION AND CONTINUING EDUCATION PROVIDER REQUIREMENTS (1) through (15) remain as amended.

AUTH: 32-9-130, MCA  
IMP: 32-9-110, 32-9-118, MCA

2. The replacement page for this corrected notice was submitted to the Secretary of State on December 28, 2006.

By: /s/ Janet R. Kelly  
Janet R. Kelly, Director  
Department of Administration

By: /s/ Dal Smilie  
Dal Smilie, Rule Reviewer  
Department of Administration

Certified to the Secretary of State January 29, 2007.

BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM ) NOTICE OF AMENDMENT  
4.12.3013 relating to the seed civil )  
penalties matrix )

TO: All Concerned Persons

1. On December 21, 2006, the Montana Department of Agriculture published MAR Notice No. 4-14-173 relating to the above-stated rule at page 2996 of the 2006 Montana Administrative Register, Issue Number 24.

2. The agency has amended ARM 4.12.3013 exactly as proposed.

3. The following four comments were received and appear with the Department of Agriculture's responses:

COMMENT 1: One comment expressed concern that the proposed rule would prohibit producers from growing protected varieties and then saving seed to plant back on their own property.

RESPONSE: The proposed rule only affects sales of seed that are protected under the Plant Variety Protection Act. Montana producers would still be able to save seed of protected and nonprotected varieties for use in planting in their farming operation.

COMMENT 2: Three comments were received in support of the proposed increased civil penalties. They stated that the increased penalty, in conjunction with increased enforcement, would slow illegal sales of plant protected varieties. Two comments expressed that penalties would need to be higher to effectively deter violations.

RESPONSE: The Montana seed industry, comprised of both Montana producers and seed dealers, feels that increased penalties and enforcement will deter the widespread practice of producers saving seed to sell. The department is committed to enforcing federal and state seed laws. The department will respond to complaints of violations and, when they have sufficient information and evidence to substantiate a violation, will take regulatory action.

DEPARTMENT OF AGRICULTURE

/s/ Nancy K. Peterson  
Nancy K. Peterson, Director

/s/ Gregory H. Ames  
Gregory H. Ames  
Rule Reviewer

Certified to the Secretary of State, January 29, 2007.

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the adoption ) NOTICE OF ADOPTION  
of NEW RULE I Assignment of )  
Persons Providing Instruction to )  
Braille Students )

TO: All Concerned Persons

1. On November 22, 2006, the Board of Public Education published MAR Notice No. 10-55-242 regarding the public hearing on the proposed adoption of the above-stated rule at page 2869 of the 2006 Montana Administrative Register, Issue Number 22.

2. The Board of Public Education has adopted new RULE I, ARM 10.55.717 Assignment of Persons Providing Instruction to Braille Students as proposed.

3. The following comments were received and appear with the Board of Public Education's responses:

COMMENT 1: Steve Gettel, Superintendent of the Montana School for the Deaf and Blind (MSDB) commented in support of the rule and provided written testimony.

COMMENT 2: Martin Greiser, a concerned citizen and parent of a visually impaired student, stated that he believes this rule is long overdue and his only concern is one of compliance and monitoring in school districts.

COMMENT 3: Cody Greiser, a student with a visual impairment, commented that he thinks the rule is a good idea and is glad this standard will be implemented.

RESPONSE: The Board of Public Education thanked the commentors for their comments.

COMMENT 4: The Board of Public Education received written testimony in support of the new rule from Steve Gettel, Superintendent, MSDB; Jim and Gwen Beyer of Helping Other Parents Excel, Montana; Emily Coleman, parent of a child with visual impairment; Lois A. Thatcher, parent of a child with visual impairment; Diana Colgrove, Chairperson, Special Education Advisory Panel with OPI; Norman and Doris Balko, grandparents of a child with visual impairment; Nancy Getten, MSDB Resource Consultant; the Rolf family of which a family member is blind; Robert Runkel, Acting Assistant Superintendent, OPI; Peggy Jarrett, concerned citizen; Pam Lytton concerned citizen; and Kerri B. Norick, MSDB Outreach Vision consultant. The general nature and tone of their comments supported the need for this rule in the accreditation standards and that all Braille instructors should meet minimum state standards.

RESPONSE: The Board of Public Education appreciates the input and accepts and agrees with the comments.

/s/ Diane Fladmo  
Diane Fladmo, Chairperson  
Board of Public Education

/s/ Steve Meloy  
Steve Meloy, Executive Secretary  
Rule Reviewer  
Board of Public Education

Certified to the Secretary of State January 29, 2007.

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the adoption	)	
of New Rule I, amendment of	)	NOTICE OF ADOPTION,
ARM 10.58.102 through 10.58.104,	)	AMENDMENT, AND REPEAL
10.58.210, 10.58.304 through	)	
10.58.309, 10.58.501 through	)	
10.58.503, 10.58.505, 10.58.507	)	
through 10.58.528, 10.58.601 through	)	
10.58.603, 10.58.707, 10.58.801,	)	
10.58.802, and the repeal of	)	
10.58.201 through 10.58.204,	)	
10.58.208, 10.58.409, 10.58.410,	)	
10.58.701, and 10.58.704, rules relating	)	
to educator preparation programs	)	

TO: All Concerned Persons

1. On October 5, 2006, the Board of Public Education published MAR Notice No. 10-58-241 regarding the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 2198 of the 2006 Montana Administrative Register, Issue Number 19.

2. After consideration of the comments received, the Board of Public Education has adopted new RULE I, ARM 10.58.705 with the following changes, stricken matter interlined, new matter underlined:

COMMENT 1: Joanne Erickson from Montana State University and William McCaw from the University of Montana requested that the order of the entities named in the title of the rule be changed. Ms. Erickson and Mr. McCaw further recommended that (b) be deleted because those concepts are addressed in (1)(a).

RESPONSE: The Board of Public Education thanks Ms. Erickson and Mr. McCaw for their comments and has amended the rule accordingly.

COMMENT 2: Darrell Rud of School Administrators of Montana recommended that specific language be added to the last paragraph to provide a more common experience for interns. Mr. Rud further recommends that the New Rule be strengthened in the following areas: (1) the role of instructional leadership needs, (2) shared leadership needs, and (3) support for first year administrators and the role of mentorship.

RESPONSE: The Board of Public Education thanks Mr. Rud for his comments. In consultation with the Professional Educator Preparation Program Standards (PEPPS) New Rule Committee and the Office of Public Instruction, the board agrees with Mr. Rud that these specific content topics are important to the

preparation of superintendents, principals, supervisors, and curriculum directors. Instructional leadership and shared leadership are embedded within the standards and greater detail and guidance will be included in the PEPPS procedures and resource manual.

The Board of Public Education, in response to Mr. Rud's third item, support for first year administrators and the role of mentorship, believes that professional development and mentorship for first year administrators and school leaders is outside the purview of the professional education units. Under the current rules, mentorship and professional support for first year administrators and school leaders is the responsibility of the local school district and the professional education associations.

NEW RULE I ARM 10.58.705 SUPERVISORS, SCHOOL PRINCIPALS, SUPERINTENDENTS, SUPERVISORS, AND CURRICULUM DIRECTORS

(1) and (1)(a) remain as proposed.

~~(b) demonstrate the knowledge and ability to:~~

~~(i) develop a vision;~~

~~(ii) articulate a vision;~~

~~(iii) implement a vision;~~

~~(iv) steward a vision; and~~

~~(v) promote community involvement in the vision;~~

(c) through (g) remain as proposed but are renumbered (b) through (f).

~~(h)~~ (g) complete an internship/field experience that provides at least 216 hours of significant opportunities to synthesize and apply the knowledge and practice and develop the skills identified in this rule through substantial, sustained, standards-based work in real settings, planned and guided cooperatively by the institution and properly administratively endorsed school district personnel for graduate credit.

3. The Board of Public Education has amended ARM 10.58.102, 10.58.103, 10.58.104, 10.58.210, 10.58.305, 10.58.306, 10.58.309, 10.58.505, 10.58.507, 10.58.512, 10.58.513, 10.58.514, 10.58.515, 10.58.516, 10.58.517, 10.58.520, 10.58.521, 10.58.524, 10.58.525, 10.58.526, 10.58.527, 10.58.601, 10.58.602, 10.58.603, 10.58.707, 10.58.801, and 10.58.802, as proposed.

4. After consideration of the comments received, the Board of Public Education has amended the following rules as proposed with the following changes, stricken matter interlined, new matter underlined:

COMMENT 3: Eric Feaver, President, of MEA-MFT commented on ARM 10.58.304 and recommended that teacher candidates and candidates for other professions have specific knowledge of Montana school governance, funding, and collective bargaining.

RESPONSE: The Board of Public Education thanks Mr. Feaver for his comment and has amended the rule accordingly.

COMMENT 4: Carol Juneau, President, of the Montana Indian Education Association recommends teacher candidates and candidates for other professional school roles demonstrate an understanding of the effects of concentrated generational poverty and its effects on academic achievement.

RESPONSE: The Board of Public Education thanks Ms. Juneau for her comments and has amended the rule as suggested.

10.58.304 CANDIDATE KNOWLEDGE, SKILLS, AND DISPOSITIONS

(1) through (1)(h) remain as proposed.

(i) Teacher candidates have a working, demonstrable knowledge of Montana school governance, funding, and collective bargaining.

(j) Candidates for other professional school roles have a working, demonstrable knowledge of Montana school governance, funding, and collective bargaining.

(k) Teacher candidates demonstrate an understanding of the effects of concentrated generational poverty on student academic achievement.

(l) Candidates for other professional school roles demonstrate an understanding of the effects of concentrated generational poverty on student academic achievement.

COMMENT 5: The PEPPS New Rule Committee states that the intent of Indian Education for All is to address Montana American Indians, therefore they recommend that "Montana" be inserted before "American Indian people" in ARM 10.58.307(1) and 10.58.502(2)(c).

RESPONSE: The Board of Public Education concurs with the committee's comment and has amended the rules accordingly.

10.58.307 DIVERSITY (1) The unit designs, implements, and evaluates curriculum and experiences for candidates to acquire and apply the knowledge, skills, and dispositions necessary to help all students learn. The unit explicitly recognizes the importance of implementing 20-1-501, MCA, by providing experiences that ensure that all school personnel have an understanding and awareness of Indian tribes to help them relate effectively with Indian students and parents, and an understanding of, and appreciation for, the Montana American Indian people. These experiences include working with diverse higher education and school faculty, diverse candidates, and diverse students in K-12 schools.

(a) through (d) remain as proposed.

COMMENT 6: Salish Kootenai College education faculty recommend the addition of "are pursuing" before "doctorates" in ARM 10.58.308(1)(a).

RESPONSE: The Board of Public Education thanks the Salish Kootenai College education faculty for their comment and has amended the rule as suggested.

10.58.308 FACULTY QUALIFICATIONS, PERFORMANCE, AND DEVELOPMENT (1) remains the same.

(a) Professional education faculty at the institution have earned, or are pursuing doctorates or have exceptional expertise that qualifies them for their assignments. School faculty are licensed in the fields that they teach or supervise, but often do not hold the doctorate. Clinical faculty from higher education have contemporary professional experiences in school settings at the levels that they supervise.

(b) through (g) remain as proposed.

COMMENT 7: Eric Feaver, President, of MEA-MFT recommends that the title to ARM 10.58.501 be changed to "Montana Cultures and History."

RESPONSE: The Board of Public Education thanks Mr. Feaver for his comment. Montana cultures and history are embedded within ARM 10.58.501 General Requirements. However, the standard includes additional requirements for content knowledge, assessment skills, etc; therefore, the title remains General Requirements.

COMMENT 8: The Salish Kootenai College faculty recommend that ARM 10.58.501(1)(d) be amended to better address diverse learners within Montana American Indian cultures as well as across cultures.

RESPONSE: The Board of Public Education thanks the Salish Kootenai College faculty for their comment and has amended the rule as suggested.

10.58.501 GENERAL REQUIREMENTS (1) through (1)(c) remain as proposed.

(d) demonstrate knowledge of how students, within different populations, including Montana American Indians, differ in their approaches to learning and create instructional opportunities that are adapted to diverse learners, ~~including American Indian learners~~;

(e) through (m) remain as proposed.

10.58.502 AGRICULTURAL EDUCATION (1) through (2)(b) remain as proposed.

(c) demonstrate competence in the development of a comprehensive instructional program based on identified agriculture industry demographic and technological advances, including Montana American Indian agricultural contributions, while recognizing the social, economic, and demographic diversity of the community in conjunction with a partnership of students, community, business, industry, tribes, families, and an appointed advisory committee;

(d) through (h) remain as proposed.

COMMENT 9: The Salish and Kootenai College faculty recommend that ARM 10.58.503(1)(b) and (1)(e)(i) be amended for clarification purposes.

RESPONSE: The Board of Public Education thanks the Salish Kootenai College faculty for their comment and has amended the rule as suggested.

10.58.503 ART K-12 (1) through (1)(a)(iv) remain as proposed.

(b) use ~~technology as a tool~~ appropriate technologies as tools of expression, research, and assessment;

(c) through (e) remain as proposed.

(i) the stages of ~~graphic~~ development as it these relates to art curriculum, and ensuring that the scope and sequence of the curriculum is age appropriate;

(ii) through (h) remain as proposed.

COMMENT 10: The Salish Kootenai College faculty recommend that ARM 10.58.508(1)(c)(i), (ii), and (iv) be amended for consistency and clarification purposes.

RESPONSE: The Board of Public Education thanks the Salish Kootenai College faculty for their comment and has amended the rule as suggested.

10.58.508 ELEMENTARY (1) through (1)(c) remain as proposed.

(i) demonstrate ~~their~~ understanding of how students, within different populations, including Montana American Indians, differ in their development and approaches to learning and create instructional opportunities that are adapted to diverse learners;

(ii) demonstrate ~~their~~ understanding of and use a variety of teaching routines and strategies that encourage students' development of critical thinking, problem solving, and performance skills, including the appropriate use of current and emerging technologies;

(iii) remains as proposed.

(iv) apply knowledge and understanding of effective verbal, nonverbal, and ~~media~~ electronic communication techniques to develop inquiry, collaboration, and supportive interaction;

(d) remains as proposed.

COMMENT 11: The Salish Kootenai College faculty recommend that ARM 10.58.509(1)(f) and (2)(c) and (e) be amended to more specifically reflect current research in teaching reading.

RESPONSE: The Board of Public Education thanks the Salish Kootenai College faculty for their comment and has amended the rule as suggested.

10.58.509 ENGLISH/LANGUAGE ARTS (1) through (1)(e) remain as proposed.

(f) demonstrate understanding of legal and ethical issues in English/ language arts such as freedom of expression, and censorship, and bias in literature.

(2) through (2)(b) remain as proposed.

(c) knowledge of and skills in the use of reading processes, (e.g., phonemic awareness, word identification and phonics, vocabulary and background knowledge, fluency, comprehension strategies, and motivation);

(d) remains as proposed.

(e) knowledge of and skills in using an extensive range of literature, including works by and about Montana American Indians;

(f) through (h) remain as proposed.

COMMENT 12: Mary Susan Fishbaugh, Dean of the College of Education, Montana State University-Billings and Linda Reiten, Professor, Education Department of the University of Montana-Western, recommend that the catchphrase for ARM 10.58.510 remain "Students with Disabilities." They also recommend an additional standard to address behavior management.

RESPONSE: The Board of Public Education thanks Ms. Fishbaugh and Ms. Reiten for their comments and has amended the rule as suggested.

10.58.510 STUDENTS WITH DISABILITIES EXCEPTIONAL CHILDREN K-12 (1) through (1)(i) remain as proposed.

(j) demonstrate understanding of personal, cultural, and socioeconomic biases and how teaching style differences affect one's teaching; ~~and~~

(k) demonstrate understanding of ethical and professional practices; ~~and~~

(l) demonstrate knowledge and understanding of psychological perspectives, applicable laws and regulations, procedural safeguards, ethical concerns, and appropriate instructional strategies, practices, and techniques to support students with challenging behaviors.

COMMENT 13: Tomas Graman of the Carroll College Spanish Department recommends that ARM 10.58.511 be amended to better reflect current research in teaching a second language.

RESPONSE: The Board of Public Education thanks Mr. Graman for his comment and has amended the rule as suggested.

10.58.511 WORLD LANGUAGES (1) remains as proposed.

(a) demonstrate knowledge of phonetics, phonology, morphology, syntax, second-language acquisition, and other aspects of grammar and composition, linguistics (applied to the specific language or applied to second language study as a whole), literature, and culture;

(b) through (e) remain as proposed.

(f) demonstrate a working social and professional competence in cultural skills (reflecting the international character of present-day social, political, and economic ties among countries);

(g) remains as proposed.

(h) demonstrate understanding of language as an essential element of culture, of the principal ways in which the second target language culture differs from the first language culture, first-hand knowledge of literary masterpieces, and the

geography, history, art, and social customs of major lands in which the language is dominant;

(i) demonstrate and apply an understanding of the differences between the ~~phonological, grammatical, and semantic~~ systems of the second language and those of English;

(j) and (k) remain as proposed.

(l) demonstrate knowledge of language proficiency in the second target language resulting from the achievement of an appropriate score (at a specific level determined by the degree granting college or university) on an internationally recognized proficiency examination.

COMMENT 14: Rocky Mountain College and MSU-Billings Education faculties recommend that ARM 10.58.518(3)(b) be amended to address the specific content of algebra.

RESPONSE: The Board of Public Education thanks the faculties of Rocky Mountain College and MSU-Billings and has amended the rule as suggested. The board has also amended (1)(f) to better represent the intent of the PEPPS rule committee.

10.58.518 MATHEMATICS (1) through (1)(e) remain as proposed.

(f) appropriately use current and emerging ~~technology~~ technologies as an essential tool~~s~~ for teaching and learning mathematics; and

(g) through (3)(a) remain as proposed.

~~(b) algebra by demonstrating knowledge of relationships among quantities including functions, ways of representing mathematical relationships, and the analysis of change~~ different perspectives on algebra including ways of representing mathematical relationships and algebraic structures;

(c) through (g) remain as proposed.

COMMENT 15: Rocky Mountain Music and the University of Montana faculties recommend that ARM 10.58.519 be amended to achieve parallel structure and to ensure measurable standards.

RESPONSE: The Board of Public Education thanks Rocky Mountain Music and the University of Montana faculties for their comment and has amended this rule as suggested.

10.58.519 MUSIC K-12 (1) remains as proposed.

~~(a) are competent, proficient musicians that:~~

~~(i)~~ demonstrate ability to advise and encourage students about higher education and career opportunities related to the study and performance of music and music related fields;

~~(ii) (b)~~ demonstrate an appreciation for the role technology plays competence in the appropriate use of current and emerging technologies in contemporary music education, such as music writing programs, music theory/skills programs, keyboard/midi, and recording technology;

- ~~(iii)~~ (c) ~~are proficient~~ demonstrate proficiency on keyboard and fretted instruments in order to use the instruments for demonstration and rehearsal;
- (iv) through (xi) remain as proposed but are renumbered (d) through (k).
- ~~(xii)~~ (l) analyze music aurally and visually ~~analyze music~~ in terms of musical elements;
- (xiii) remains as proposed but is renumbered (m).
- ~~(xiv)~~ (n) identify music stylistically ~~identify~~ and place ~~music~~ it in an historical period;
- ~~(xv)~~ (o) demonstrate knowledge and appreciation of past and present music of Montana's cultures, especially Montana American Indian cultures, and world cultures ~~and especially Montana American Indians~~;
- (xvi) through (xviii) remain as proposed but are renumbered (p) through (r).
- (b) through (e) remain as proposed but are renumbered (s) through (v).
- ~~(f)~~ ~~use effective verbal, nonverbal, and media communication techniques to develop music learning~~;
- (g) and (h) remain as proposed but are renumbered (w) and (x).
- ~~(i)~~ (y) evaluate the effects of their choices and actions on others; and
- ~~(j)~~ ~~seek opportunities to grow professionally~~; and
- ~~(k)~~ (z) develop understanding of relationships with colleagues, parents, and community members to support student learning.

COMMENT 16: The University of Montana-Western faculty recommended that ARM 10.58.522 be amended to clearly delineate the appropriate options for course of study for a teaching endorsement in science.

COMMENT 17: The Montana State University education faculty recommended that ARM 10.58.522(1) be amended to delete "philosophy, theory," and add "and dispositions" in the second to the last line of that section.

COMMENT 18: The Rocky Mountain College Department of Biology and Education recommends that ARM 10.58.522(4) be amended to better address the course of study for an endorsement in biology.

RESPONSE: The Board of Public Education thanks the faculty from these institutions and has amended the rule as suggested.

10.58.522 SCIENCE (1) The science program ensures that successful candidates follow the subject major and/or minor program of study or the broadfield major program of study. Subject major and/or minor teaching endorsement programs are limited to biology, earth science, chemistry, and physics. The broadfield major includes a concentration in one of the endorsable disciplines, coupled with balanced study in three other endorsable science disciplines. Science disciplines selected adhere to a scope and sequence which ensures a thorough grounding in the basic ~~philosophy, theory,~~ concepts, and skills, and dispositions associated with Montana and national K-12 content standards.

(2) through (4) remain as proposed.

(a) ~~conceptual~~ understanding of ~~in~~ the unifying concepts ~~and processes~~ of

biological systems: cellular order and organization, order, sensitivity, growth/development/reproduction, energy utilization, evolutionary adaptation, and homeostasis evidence models and explanation, change constancy, measurement, evolution and equilibrium, form and function;

(b) exploration and inquiry learning as tools in investigating all aspects of the natural environment and knows experimental design and how to apply and teach these methods ~~when instructing students;~~

(c) conceptual understanding of living organisms, ethical laboratory and field studies promoting ~~investigation~~ scientific inquiry, applications of biology in social and historical perspectives, ~~and the use of experimental methods;~~

(d) ~~conceptual understanding of~~ course work in the diversity of life including zoology, botany, ~~physiology, genetics, ecology, and~~ microbiology, ~~cell biology/biochemistry, and evolution, and their relationships with each other, including the processes and diversity of life~~ encompassing the subdisciplines and noting the interrelationships of physiology, genetics, ecology, and evolution;

(e) remains as proposed.

(f) conceptual understanding of two out of three areas of physics, chemistry, or earth science emphasizing the interrelationships among the sciences;

(g) through (7)(l) remain as proposed.

COMMENT 19: Bryce Carpenter of the Department of Education at Montana State University recommends that ARM 10.58.523(1) be amended to define concentration in history and government by requiring a specified number and level of courses.

RESPONSE: The Board of Public Education thanks Mr. Carpenter. The standards are intended to provide professional education units broad guidance to establish their programs of study. Such specificity and detail will be provided by the individual professional education unit. Additional guidance will be included in the PEPPS procedures and resource manual.

COMMENT 20: Jean Luckowski of the School of Education at the University of Montana recommends that ARM 10.58.523(2) be amended to better align with the National Council for the Social Studies Standards for teacher preparation.

COMMENT 21: Bryce Carpenter of the Department of Education at Montana State University recommends that ARM 10.58.523(5) be amended to provide current terminology to the standard.

COMMENT 22: Barbara Vail, Chairperson of the Education Department at Rocky Mountain College recommends that ARM 10.58.523(7)(b) be amended to provide parallel language to the standard.

RESPONSE: The Board of Public Education thanks Ms. Luckowski, Ms. Vail, and Mr. Carpenter for their comments and has amended the rule as suggested.

10.58.523 SOCIAL STUDIES (1) and (2) remain as proposed.

- ~~(a) demonstrate a thorough understanding of inquiry-based learning across the social studies;~~
- ~~(b) demonstrate understanding of and ability to integrate into curriculum knowledge of the history, cultural heritage, and contemporary status of American Indians and tribes in Montana;~~
- ~~(c) demonstrate knowledge and skills in the methods of guided and facilitated learning in order to interpret and communicate social studies concepts and research to others;~~
- ~~(d) apply instructional strategies which model learning environments with extended time, appropriate space, resources, and emerging technology found in the contemporary secondary classroom;~~
- ~~(e) demonstrate knowledge of formative and summative assessment techniques that model a variety of authentic and equitable assessment strategies to ensure the continuous intellectual, social, and personal development of the learner in all aspects of social studies;~~
- ~~(f) apply and evaluate models of interdisciplinary approaches to provide experiences in understanding social studies; and~~
- ~~(g) articulate a well-defined rationale for instructional goals, materials, and actions in relation to state and national social studies standards and student achievement.~~

(a) demonstrate knowledge of the purposes of social studies, how to select content appropriate to those purposes, and how to assess student learning in terms of social studies goals;

(b) demonstrate knowledge of and ability to plan instruction based on state and national social studies curriculum standards;

(c) demonstrate ability to select and integrate the content and methods of investigation of history and the social science disciplines for use in social studies instruction;

(d) demonstrate knowledge of and ability to plan instruction on the history, cultural heritage, and contemporary status of American Indians and tribes in Montana; and

(e) demonstrate ability to use a variety of approaches to instruction that are appropriate to the nature of social studies content and goals and to use them in diverse settings with students with diverse backgrounds, interests, and abilities.

(3) through (5) remain as proposed.

(a) the nature of individual dignity, human rights, (popular) sovereignty, political power, citizenship, and political authority;

(b) and (c) remain as proposed.

(d) the role of public opinion, the press, elections, interest groups, and political leaders in building compromise and policy making;

(e) through (6)(d) remain as proposed.

(e) the cultural, economic, political, scientific/technological, and social activity of humans in the analysis of contemporary issues and problems; ~~and~~

(f) the history, cultural heritage, political development, and contemporary status of American Indians and tribes in Montana; ~~and~~

(g) the changing role of race, gender, class, and identity in human affairs.

(7) and (7)(a) remain as proposed.

- (b) the ~~applying~~ application of the processes of scientific inquiry and descriptive statistics to questions concerning human behavior;
- (c) through (8)(c) remain as proposed.
- (d) the importance of ~~cultural~~ diversity in ~~contemporary~~ society.

COMMENT 23: Rod Thronson of the Carroll College Education Department recommends that ARM 10.58.528(1)(f)(v) be amended because advanced placement course development is under the purview of advanced placement not professional education units.

RESPONSE: The Board of Public Education thanks Mr. Thronson for his comment and has amended the rule as suggested.

10.58.528 COMPUTER SCIENCE (1) through (1)(f)(iv) remain as proposed.  
(v) ~~advanced placement (AP) course development and other~~ develop online/  
electronic class formats; and  
(vi) and (g) remain as proposed.

5. The Board of Public Education has repealed the following rules as proposed:

ARM: 10.58.201, 10.58.202, 10.58.203, 10.58.204, 10.58.208, 10.58.409, 10.58.410, 10.58.701, and 10.58.704

/s/ Patty Myers  
Patty Myers, Chairperson  
Board of Public Education

/s/ Steve Meloy  
Steve Meloy, Executive Secretary  
Rule Reviewer  
Board of Public Education

Certified to the Secretary of State January 29, 2007.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM )  
17.30.1303 and 17.30.1330 pertaining to )  
incorporations by reference and )  
concentrated animal feeding operations )

NOTICE OF AMENDMENT  
  
(WATER QUALITY)

TO: All Concerned Persons

1. On December 21, 2006, the Board of Environmental Review published MAR Notice No. 17-256 regarding a notice of proposed amendment, no public hearing contemplated, of the above-stated rules at page 3002, 2006 Montana Administrative Register, issue number 24.

2. The board has amended the rules exactly as proposed.

3. No public comments or testimony were received.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ James M. Madden  
JAMES M. MADDEN  
Rule Reviewer

/s/ Joseph W. Russell  
JOSEPH W. RUSSELL, M.P.H.  
Chairman

Certified to the Secretary of State, January 29, 2007.

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

In the matter of the amendment ) NOTICE OF AMENDMENT  
of ARM 24.204.401 fee schedule, )  
24.204.404 limited permit holder fees, )  
24.204.2101 continuing education, )  
and 24.204.2301 unprofessional conduct )

TO: All Concerned Persons

1. On October 5, 2006, the Board of Radiologic Technologists (board) published MAR Notice No. 24-204-33 regarding the public hearing on the proposed amendment of the above-stated rules, at page 2314 of the 2006 Montana Administrative Register, issue no. 19.

2. On October 30, 2006, a public hearing was held on the proposed amendment of the above-stated rules in Helena. No comments or testimony were received.

3. The Board of Radiologic Technologists has amended ARM 24.204.401, 24.201.404, 24.204.2101, and 24.204.2301 exactly as proposed.

BOARD OF RADIOLOGIC TECHNOLOGISTS  
ANNE DELANEY, RT, CHAIRPERSON

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

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 29, 2007

BEFORE THE BOARD OF REAL ESTATE APPRAISERS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment ) NOTICE OF AMENDMENT  
of ARM 24.207.401 fees, 24.207.402 )  
adoption of USPAP by reference, )  
24.207.404 appraisal review, and )  
24.207.518 mentor requirements )

TO: All Concerned Persons

1. On December 21, 2006, the Board of Real Estate Appraisers (board) published MAR Notice No. 24-207-27 regarding the proposed amendment of the above-stated rules, at page 3022 of the 2006 Montana Administrative Register, issue no. 24.

2. On January 11, 2007, a public hearing was held on the proposed amendment of the above-stated rules in Helena. No comments or testimony were received.

3. The board has amended ARM 24.207.401, 24.207.402, 24.207.404, and 24.207.518 exactly as proposed.

BOARD OF REAL ESTATE APPRAISERS  
KRAIG KOSENA, CHAIRPERSON

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

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 29, 2007

BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM )  
32.3.104, 32.3.201, 32.3.212, and the ) NOTICE OF AMENDMENT  
adoption of NEW RULES I through VI ) AND ADOPTION  
pertaining to disease control )

TO: All Concerned Persons

1. On November 9, 2006 the Department of Livestock published MAR Notice No. 32-6-185 pertaining to the proposed amendment and adoption of the above-stated rules at page 2775 of the 2006 Montana Administrative Register, Issue Number 21.

2. The Department of Livestock has amended ARM 32.3.201 and 32.3.212 and adopted NEW Rules I (32.3.501), II (32.3.502), III (32.3.503), IV (32.3.504), V (32.3.505), and VI (32.3.506) exactly as proposed.

3. The Department of Livestock has amended ARM 32.3.104 as proposed, but with the following changes. Stricken matter interlined, new matter underlined.

32.3.104 SUBJECT DISEASES OR CONDITIONS (1) through (4)(h) remain as proposed.

- (i) Equine viral arteritis (EVA) (quarantine);
- (j) through (11) remain as proposed.

4. The department noted that the word quarantine was inadvertently left out on (4)(i). Therefore the word quarantine was inserted in its proper position in the rule.

5. The department has thoroughly considered all comments received. Those comments, and the department's responses are as follows:

COMMENT NO. 1 – One comment was received regarding the definition of an approved laboratory and the process/criteria for laboratory approval. The comment noted some licensed veterinarians perform trichomoniasis testing in-house and have concerns regarding the viability of the organism in transit to an approved laboratory.

RESPONSE – The department recognizes licensed veterinarians perform trichomoniasis testing in-house for a variety of reasons and the intention is not to preclude veterinarians from performing in-house testing. The definition of 'official trichomoniasis test' allows testing to be conducted at a laboratory approved by the state veterinarian, which may include an in-house veterinarian lab.

COMMENT NO. 2 – One comment was received with questions regarding other states and if results from approved laboratories would be accepted by other states.

RESPONSE – The department recognizes several states have trichomoniasis testing requirements for the importation of nonvirgin bulls. The animal health officials in these states will make the final determination regarding their importation requirements and what they consider to be appropriate testing procedures, including criteria for approved laboratories.

COMMENT NO. 3 – One comment was received with concerns regarding liability as an approved laboratory, in the event of civil or criminal litigation.

RESPONSE – The department is proposing rules which define ‘official trichomoniasis testing’ in approved labs to set standards for licensees. The department cannot offer complete indemnification to those performing trichomoniasis testing, but the state of Montana will evaluate compliance with all department statutes and rules on these procedures as evidence of proper safeguards and procedures.

COMMENT NO. 4 – One comment was received regarding In-Pouch testing protocol. Specifically, what is the approved time-frame and frequency for microscopic examinations of the test samples.

RESPONSE – The department recognizes the protocol as currently established by In-Pouch™ TF product label specifications and recommendation from the manufacturer, Biomed Diagnostics of White City, Oregon. At a minimum, the pouches must be examined a minimum of three times. The initial examination must be conducted no later than 48 hours after the collection of the sample. The subsequent examinations must be conducted no sooner than 24 hours after the previous examination and must be completed within seven days of sample collection.

/s/ George H. Harris \_\_\_\_\_  
George H. Harris  
Designated Signer  
Board of Livestock  
Department of Livestock

/s/ Carol Grell Morris \_\_\_\_\_  
Carol Grell Morris  
Rule Reviewer

Certified to the Secretary of State January 29, 2007.

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

In the matter of the adoption of New	)	CORRECTED NOTICE OF
Rules I through IV, and the amendment	)	ADOPTION AND AMENDMENT
of ARM 37.85.406, 37.86.105,	)	
37.86.205, 37.86.506, 37.86.2801,	)	
37.86.2803, 37.86.2901, 37.86.2905,	)	
37.86.2912, 37.86.2918, 37.86.2943,	)	
37.86.2947, 37.86.3001, 37.86.3005,	)	
37.86.3007, 37.86.3009, 37.86.3016,	)	
37.86.3018, 37.86.3020, 37.86.3025,	)	
37.88.206, 37.88.306, 37.88.606, and	)	
37.88.1106 pertaining to Medicaid	)	
reimbursement of hospitals, provider	)	
based entities, and birthing centers	)	

TO: All Interested Persons

1. On November 9, 2006, the Department of Public Health and Human Services published MAR Notice No. 37-395 pertaining to the proposed adoption and amendment of the above-stated rules at page 2793 of the 2006 Montana Administrative Register, issue number 21, and on December 21, 2006 published notice of the adoption and amendment on page 3078 of the 2006 Montana Administrative Register, issue number 24.

2. This corrected notice is being filed to correct an error in the numbering of rule sections in ARM 37.86.105 and ARM 37.86.2803.

3. The rules are corrected as follows:

37.86.105 PHYSICIAN SERVICES, REIMBURSEMENT/GENERAL REQUIREMENTS AND MODIFIERS (1) through (3)(b) remain as amended.  
~~(4) through (4)(b) remain the same.~~  
(4) and (4)(a) remain the same.  
(5) remains as amended.

AUTH: 53-6-101, 53-6-113, MCA  
IMP: 53-6-101, 53-6-113, 53-6-141, MCA

37.86.2803 ALL HOSPITAL REIMBURSEMENT, COST REPORTING  
(1) through (3) remain as amended.  
~~(a) through (5) remain the same.~~  
(a) through (4) remain the same.

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, 53-6-149, MCA

4. The notice of proposal inadvertently reflected that ARM 37.86.105 had subsections (4)(a) and (b) that remained the same, when in fact, (4) did not have a (4)(b). The notice of proposal also incorrectly reflected that ARM 37.86.2803(5) remained the same; however, the rule only had sections (1) through (4). To avoid any future confusion, the department is taking this opportunity to correct the typographical errors and remove references to the nonexistent sections.

5. All other rule changes adopted and amended remain the same.

/s/ John Koch for \_\_\_\_\_  
Rule Reviewer

/s/ Russell Cater for \_\_\_\_\_  
Director, Public Health and  
Human Services

Certified to the Secretary of State January 29, 2007.

## **NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE**

### **Interim Committees and the Environmental Quality Council**

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

#### **Economic Affairs Interim Committee:**

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

#### **Education and Local Government Interim Committee:**

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

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

- Department of Public Health and Human Services.

#### **Law and Justice Interim Committee:**

- Department of Corrections; and
- Department of Justice.

#### **Energy and Telecommunications Interim Committee:**

- Department of Public Service Regulation.

**Revenue and Transportation Interim Committee:**

- Department of Revenue; and
- Department of Transportation.

**State Administration and Veterans' Affairs Interim Committee:**

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

**Environmental Quality Council:**

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

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 or Register) is a soft back, bound publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the attorney general (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding register.

### Use of the Administrative Rules of Montana (ARM):

- |               |   |
|---------------|---|
| Known Subject | 1. Consult ARM topical index.<br>Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute       | 2. Go to cross reference table at end of each Number and title which lists MCA section numbers and Department corresponding ARM rule numbers.                     |

## 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 September 30, 2006. This table includes those rules adopted during the period September 1 through December 31, 2006 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 include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through September 30, 2006, 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 2006 and 2007 Montana Administrative Register.

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        Scheduled Dates for the 2007 Montana Administrative Register,  
p. 2820, 3112

### ADMINISTRATION, Department of, Title 2

I                Retention of Credit Union Records, p. 1759, 3068  
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