

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 24

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Rule Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after print 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.

Page Number

TABLE OF CONTENTS

PROPOSAL NOTICE SECTION

STATE AUDITOR, Office of, Title 6

6-208 (Commissioner of Securities and Insurance) Notice of Public Hearing on Proposed Adoption - Network Adequacy. 3017-3025

COMMERCE, Department of, Title 8

8-94-127 Notice of Proposed Repeal - Administration of the CDBG Program. No Public Hearing Contemplated. 3026-3030

ENVIRONMENTAL QUALITY, Department of, Title 17

17-367 (Board of Environmental Review) (Air Quality) Notice of Public Hearing on Proposed Amendment and Repeal - Definitions - Incorporation by Reference - Availability of Referenced Documents - Ambient Air Monitoring - Fluoride in Forage - Methods and Data. 3031-3040

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-703 Notice of Public Hearing on Proposed Amendment - Extension of Enhanced Reimbursements for Primary Providers. 3041-3044

RULE ADOPTION SECTION

STATE AUDITOR, Office of, Title 6

6-211 (Commissioner of Securities and Insurance) Notice of Adoption - Patient-Centered Medical Homes. 3045-3050

6-212 (Commissioner of Securities and Insurance) Notice of Adoption and Amendment - Patient-Centered Medical Homes. 3051-3052

FISH, WILDLIFE AND PARKS, Department of, Title 12

12-406 (Fish and Wildlife Commission) Notice of Amendment - Whitefish River. 3053-3055

ENVIRONMENTAL QUALITY, Department of, Title 17

17-365 (Board of Environmental Review) (Water Quality) Notice of Amendment - Montana Pollutant Discharge Elimination System (MPDES) Permits - Purpose and Scope - Definitions - Permit Requirements - Exclusions - Designation Procedures: Small Municipal Separate Storm Sewer Systems (MS4s) - Application Procedures - General Permits - Conditions Applicable to All Permits - Application Procedures: General - Notice of Intent Procedures - Transfer of Permit Coverage Pertaining to Storm Water Discharges. 3056-3057

LABOR AND INDUSTRY, Department of, Title 24

24-17-288 Notice of Amendment - Prevailing Rates for Public Works Projects. 3058-3061

24-138-70 (Board of Dentistry) Notice of Amendment - Fee Schedule. 3062-3063

24-207-38 (Board of Real Estate Appraisers) Notice of Amendment and Adoption - Fees - Regulatory Reviews - Appraisal Review - Definitions - Military Training or Experience - Examination - Application Requirements - Experience—Number of Hours Required - Qualifying Education Course Requirements - Ad Valorem Tax Appraisal Experience - Qualifying Experience - Scope of Practice - Trainee Requirements - Mentor Requirements - Appraisal Management Record Keeping - AMC Audit Requirements - Continuing Education - Continuing Education Noncompliance - Unprofessional Conduct. 3064-3065

24-222-25 (Board of Speech-Language Pathologists and Audiologists) Notice of Amendment - Fees. 3066-3068

LIVESTOCK, Department of, Title 32

32-14-252 Notice of Amendment - Additional Requirements for Cattle - Brucellosis Vaccination of Imported Cattle Under Four Months of Age. 3069-3072

32-14-256 Notice of Amendment - Miscellaneous Fees. 3073

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-686 Notice of Amendment - Date Changes to ICD CM and PCS Services-ICD-10. 3074

37-690 Notice of Adoption - Implementing the New Program Community First Choice Services. 3075-3084

37-693 Notice of Amendment - Updating the Hospital Swing-Bed Direct Care Wage to the Current Fiscal Year. 3085

37-694 Notice of Adoption and Repeal - Establishment of Regulations for the Personal Assistance Services Program. 3086-3092

37-695 Notice of Amendment - Big Sky Rx Prescription Drug Premium Changes. 3093

37-696 Notice of Amendment - Addition of Definitions to the Outpatient Drugs, Fraud, Waste, and Abuse Rules. 3094

37-697 Notice of Amendment - Coverage Codes for Durable Medical Equipment. 3095

37-699 Notice of Amendment - Changes to Medicaid Inpatient Hospital Services. 3096

REVENUE, Department of, Title 42

42-2-925 Notice of Adoption - Value Before Reappraisal for Agricultural Land. 3097-3098

SPECIAL NOTICE AND TABLE SECTION

Function of Administrative Rule Review Committee.	3099-3100
How to Use ARM and MAR.	3101
Accumulative Table.	3102-3113
Boards and Councils Appointees.	3114-3118
Vacancies on Boards and Councils.	3119-3138

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the adoption of NEW) NOTICE OF PUBLIC HEARING ON
RULES I through VII pertaining to) PROPOSED ADOPTION
network adequacy)

TO: All Concerned Persons

1. On January 15, 2015, at 10:00 a.m., the Commissioner of Securities and Insurance, Montana State Auditor, will hold a public hearing in the 2nd floor conference room, at the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), 840 Helena Ave., Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The CSI 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 CSI no later than 5:00 p.m., January 8, 2015, to advise us of the nature of the accommodation that you need. Please contact Darla Sautter, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; TDD (406) 444-3246; fax (406) 444-3499; or e-mail dsautter@mt.gov.

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

NEW RULE I APPLICABILITY AND IDENTIFICATION OF DIFFERENT LEVELS OF ADEQUACY (1) A health care insurer who issues disability benefits and meets the requirements of 33-22-1706(4)(c), MCA, is deemed to have an adequate network, for that category of health care providers, provided that the insurer submits the information and follows the requirements set forth in this chapter.
(2) If the commissioner determines an insurer's network to be "not adequate," the cost sharing may be adjusted to no greater than a 25% payment differential.
(a) The commissioner shall determine whether the payment difference between in and out of network is 25% or less, according to a formula prescribed by the commissioner.
(b) Even if the commissioner determines that the insurer utilizes an acceptable payment differential under (2), that insurer shall submit the information and follow the requirements set forth in this chapter.
(3) If the commissioner determines that the network is so inadequate that representing it to the public as a network constitutes a misrepresentation under 33-1-502, MCA, the insurer may not issue a network plan under this chapter.

AUTH: 33-22-1707, MCA
IMP: 33-22-1706, MCA

NEW RULE II NETWORK ADEQUACY (1) The commissioner may determine that an insurer has an adequate network, even if the network does not

meet all of the percentages for various types of providers or facilities specified in 33-22-1706(4)(c), MCA.

(2) As used in 33-22-1706(4)(c), MCA, and this chapter, the terms "physician" and "provider" include a specialty health care provider that delivers necessary medical services.

(3) For the purposes of determining network adequacy when the total percentage of any type of provider or facility is less than the minimum adequacy percentage set forth in 33-22-1706(4)(c), MCA, the commissioner shall review the insurer's network to determine if it is sufficient in numbers and types of providers and facilities to assure that all covered health plan services to covered persons are accessible without unreasonable delay, within a reasonable proximity, and with sufficient provider choice, based on the availability of those types of providers and facilities.

(4) All insurers' networks must ensure that each covered person shall have adequate choice of each type of provider and facility, including but not limited to the following types:

- (a) physicians;
- (b) mental health and chemical dependency treatment providers;
- (c) pharmacies;
- (d) hospitals;
- (e) surgi-centers; and
- (f) residential treatment centers.

(5) Sufficiency and adequacy of choice for each type of provider or facility must be demonstrated to the commissioner by reasonable criteria. "Reasonable criteria" may include provider to covered person ratios by specialty, primary care provider to covered person ratios, geographic accessibility, waiting times for appointments with participating providers, and the volume of specialty services available to serve the needs of covered persons requiring specialty care.

(6) If the insurer has an absence or insufficient number or type of participating providers or facilities qualified to provide necessary specialty care for a particular covered health care service within a reasonable proximity, regardless of whether adequacy was determined by a threshold percentage or other criteria listed in (3), the insurer shall ensure that the covered person obtains the covered service from a qualified provider or facility within reasonable proximity of the covered person at no greater level of cost-sharing to the covered person than if the service were obtained from an in-network provider or facility. The requirements of this section apply only if:

- (a) the care the covered person is seeking is medically necessary; and
- (b) the insurer:
 - (i) does not have a participating provider with the training and certification required to provide the necessary health care services, including access to specialty pediatric services, within a reasonable proximity; or
 - (ii) cannot provide reasonable access to a participating provider with the necessary expertise without unreasonable delay.

(7) The commissioner shall determine what constitutes reasonable proximity and appropriate access according to the availability of providers with the necessary expertise in that area.

(8) When providing access to a nonparticipating provider or facility pursuant to (5), an insurer is not responsible for amounts that the nonparticipating provider may charge to the patient for a service that is above the reasonable "allowable charge," as determined under 33-15-308, MCA.

(9) An insurer shall establish and maintain adequate arrangements to ensure reasonable proximity of network providers and facilities to the business or personal residence of covered persons.

(a) An insurer shall include providers and facilities in networks in a manner that limits the amount of travel required to obtain covered benefits, based on the relative availability of providers and the geographic barriers existing in that particular area; and

(b) Relative availability includes the willingness of providers or facilities in the service area to contract with the insurer under reasonable terms and conditions.

(10) An insurer shall monitor, on an ongoing basis, the ability and capacity of its network providers and facilities to furnish health plan services to covered persons.

(11) A contract between a preferred provider and an insurer must require a preferred provider who is compensated by the insurer on a discounted fee basis to accept the rate that is negotiated with the insurer as payment in full, and the participating provider may not bill the patient for charges above that amount for medically necessary covered services.

(12) This rule does not prohibit an insurer from using restricted networks, as long as that insurer otherwise meets the network adequacy requirements set forth in these rules. This rule does not prohibit an insurer from placing reasonable requirements on providers with whom it contracts.

AUTH: 33-22-1707, MCA

IMP: 33-22-1706, MCA

NEW RULE III FILING PROVIDER LISTS (1) An insurer shall, no later than May 1 of each year, file an electronic report of all participating providers in that insurer's network on a form and in a manner prescribed by the commissioner. If the insurer maintains health plans with different network access, the insurer must file a separate report for each network.

(2) An insurer shall file an updated report if:

(a) provider numbers decrease by five percent or more;

(b) a hospital, surgi-center, or other inpatient facility, with more than five beds, terminates its provider contract with that insurer; or

(c) requested by the commissioner.

(3) The commissioner may conduct an audit of an insurer's provider network.

AUTH: 33-22-1707, MCA

IMP: 33-22-1706, MCA

NEW RULE IV CHOICE OF PRIMARY CARE PHYSICIAN (1) If an insurer requires a covered person to choose a primary care provider and ties claims payment to that choice or requires a primary care provider referral before seeking

specialty provider services, that insurer shall provide the covered person with the following:

(a) a list of participating primary care providers who are accepting new patients and who are located within a reasonable proximity of the home or business of the covered person. Covered persons must be permitted to change primary care providers at any time with the change becoming effective no later than 30 days following the covered person's request for the change; and

(b) a process whereby a covered person with a complex or serious medical or psychiatric condition may receive a standing referral to a participating specialist for an extended period of time. The standing referral must be consistent with the covered person's medical needs and the plan's benefits. A referral does not preclude the insurer from performing medical necessity reviews.

AUTH: 33-22-1707, MCA

IMP: 33-22-1706, MCA

NEW RULE V REQUIRED DISCLOSURES REGARDING NETWORK ADEQUACY (1) Each insurer shall have a preferred provider directory on its web site and available in hard copy, if requested. The provider directory must be searchable by specialty, including primary provider designation, county and city or town. The directory must include facilities and must be updated monthly to reflect whether or not the provider is accepting new patients, if that information is available, and any additions or subtractions to the provider list. There must be a separate and clearly designated directory for each health plan type, if more than one network is offered by that insurer.

(2) The outline of coverage, which is delivered at the point of sale, must contain a prominent disclosure concerning reimbursement of nonpreferred, out-of-network providers, including the following information:

(a) a disclosure concerning how the allowable charge is determined;

(b) a statement that the insurer's reimbursement for out-of-network claims may be less than the full billed charges;

(c) a disclosure that the covered person may be liable to the nonpreferred provider for amounts not paid by the insurer;

(d) the amount by which the covered person's cost sharing, including deductibles, coinsurance and copayments, will be increased for out-of-network services; and

(e) disclosure of all continuity of care provisions applicable to the policy.

(3) If a new outline of coverage is not delivered at the time of renewal, the insurer shall deliver the information in (2) at renewal in a separate notice.

(4) An insurer shall also include the following information displayed in a prominent manner, in the outline of coverage and, as applicable, in the separate notice required in (3):

(a) a description of the process required in [New Rule II] regarding how patients are provided access to and compensated for medically necessary care if there are no participating providers with the necessary expertise within a reasonable proximity who are able to provide the health care service without unreasonable delay;

(b) a statement advising that out-of-network emergency room services to treat an emergency medical condition are reimbursed as if obtained in network, if an in-network emergency room is not reasonably available. That disclosure must include the definition of emergency medical condition provided in applicable federal law; and

(c) access to a directory of out-of-state participating providers that includes location, provider type, and specialty.

(5) If an insurer has limitations or restrictions on access to participating providers and facilities based on required authorizations or referrals, the insurer shall prominently disclose the limitations or restrictions in the outline of coverage, the supplemental notice described in (3), and in the front of the policy, certificate, or member contract itself, along with detailed instructions regarding how to obtain the service.

(6) A provider or insurer shall provide a 60-day notice to the other party prior to terminating a provider contract.

(a) An insurer shall ensure that covered persons are notified at least 30 days before a provider contract termination is effective, or as soon as possible after the insurer learns of the termination, by a notice delivered electronically or by mail to, at a minimum:

(i) all covered persons who are identified as having obtained services from the provider within the last two years; and

(ii) in the case of a facility, all covered persons who live in the area that the facility serves.

(b) An insurer shall also use the following notification methods:

(i) a prompt correction of the provider directory; and

(ii) a request to the provider, asking that a notice be posted in the provider office or facility that notifies patients of the termination.

(7) The notice in (6)(a) must disclose any applicable continuity of coverage provisions contained in the policy or outline of coverage. This notice must include a list of available preferred providers in the same geographic area who are the same provider type.

AUTH: 33-22-1707, MCA

IMP: 33-22-1706, MCA

NEW RULE VI GEOGRAPHIC SERVICES AREAS (1) An insurer may offer health plans with a limited geographic area only to residents of that area, as long as the insurer meets the network adequacy requirements set forth in these rules and provides the commissioner with the following information:

(a) a description of the geographic area; and

(b) the rationale for limiting the sales of that product to that area.

(2) All insurers who are licensed as a health service corporation and all insurers who are qualified health plan issuers in the federally facilitated exchange must offer a health plan in all parts of the state.

AUTH: 33-33-1707, MCA

IMP: 33-22-1706, MCA

NEW RULE VII CONTINUITY OF CARE (1) When an insured's provider is dropped for any reason from the network, an insurer shall establish reasonable procedures to transition the insured to a preferred provider in a manner that ensures continuity of care.

(2) If the treating provider identifies a special circumstance, the treating provider shall:

(a) request that the insured be permitted to continue treatment under the provider's care;

(b) agree to accept the same reimbursement from the insurer for that patient as provided for under that insurer's provider contract; and

(c) agree not to seek payment from the insured of any amount for which the insured would not be responsible if the provider were still a preferred provider.

(3) As used in this rule, "special circumstance" means a condition which a provider reasonably believes could cause harm to an insured if care by the treating provider is suddenly discontinued, such as pregnancy or an ongoing course of treatment for an episode of cancer or other acute condition:

(a) In a case involving a special circumstance, an insurer must ensure continuity of care until the later of the following:

(i) the ongoing course of treatment is completed; or

(ii) through the postpartum period for a covered person in her second or third trimester of pregnancy.

(b) Except in the case of pregnancy, a special circumstance may not last longer than the next renewal date for that policy without insurer consent; and

(c) A special circumstance does not include routine care for a chronic condition or primary and preventive care.

(4) An insurer shall agree to extend its obligation to reimburse the treating provider for ongoing treatment at the in-network rate if:

(a) the insurer agrees that a condition for which ongoing treatment is being provided is a special circumstance; and

(b) the contract termination was not "for cause."

(5) If the insurer does not agree to extend ongoing treatment at the in-network rate, the insured may appeal that decision under the appeal rights outlined in the insurance contract. An expedited appeal process must be available.

AUTH: 33-22-1707, MCA

IMP: 33-22-1706, MCA

4. STATEMENT OF REASONABLE NECESSITY: The Commissioner of Securities and Insurance, Montana State Auditor, Monica J. Lindeen, (commissioner) is the statewide elected official responsible for administering the Montana Insurance Code and regulating the business of insurance.

NEW RULE I is proposed to be adopted in order to clarify the treatment of health plans that have different levels of network adequacy as identified in 33-22-1706, MCA. Specifically, the rule identifies the circumstances under which the 25 percent payment differential restriction contained in 33-22-1706(40)(b), MCA, applies.

The rule also prohibits an insurer from representing a significantly inadequate network to the public as a "network." These provisions are necessary to protect consumers from unreasonable payment differentials associated with an inadequate network, and from enrolling in plans expecting the benefits of network participation when in reality the plan's network is thoroughly substandard or nonexistent.

NEW RULE II is proposed to be adopted in order to specify what access standards the commissioner will consider when a network is below the threshold percentage that prompts "deemed adequate" under the applicable statute. In addition, this rule provides for a process for a consumer to seek necessary health care services from an out-of-network specialist if an "in-network" specialist is not available within a reasonable proximity. This ensures reasonable access to necessary health care services. For instance, even if an insurer has 80% or more of the physicians in the state, it may have no anesthesiologists, oncologists, or cardiologists in a given area. In that case, there would be a process to protect consumers from out-of-network cost sharing that is up to four times higher than in-network cost sharing. This rule expressly reserves the right of insurers to offer health insurance products to consumers that have restricted networks. This is necessary because insurers must have ways to lower medical costs so that lower premiums may be offered.

NEW RULE III is proposed to be adopted in order to provide instructions to insurers regarding how and when provider lists must be submitted to the commissioner's office so that percentages can be determined pursuant to 33-22-1706 (4), MCA, as well as providing the ability to audit and ensure the accuracy of the lists provided.

NEW RULE IV is proposed to be adopted to protect consumers who purchase a network health plan that requires covered persons to designate a primary care physician and whose claims payment hinges on first getting a referral from a primary care physician before seeking services from a specialist physician. Under those circumstances, those consumers should have the freedom to change their primary care physician once every 30 days so that freedom of choice of physician is not unduly restricted.

NEW RULE V is proposed to be adopted in order to provide consumers with accurate and comprehensive disclosures about the provider networks for the plans offered for sale. Many consumers need access to specific doctors or specific types of health care providers. Because out-of-network cost sharing is often four times higher than in-network cost sharing, consumers must shop carefully. If provider directories are not accurate and up to date, informed purchases become impossible; consumers are faced with very large medical bills; and insurers run the risk of an allegation of misrepresentation under the Unfair Trade Practices Act, Title 33, chapter 18, MCA. In addition, disclosures must prominently state how to seek treatment from participating providers, how to obtain necessary medical services when no in-network provider is available, and the financial consequences of accepting services from an out-of-network provider, such as balance-billing and four

times higher deductibles and coinsurance. This rule also requires disclosures to the consumer regarding restrictions on access to participating providers such as prior authorization or referrals. In order to limit changes in the network without proper notification to insureds, providers and insurers are required to provide 60 days' notice of their intent to terminate a provider contract. Insurers are required to give affected consumers at least 30 days' notice of changes in the provider network in order to allow time to make necessary arrangements for medical care.

NEW RULE VI is proposed to be adopted in order to clarify that these rules do not prohibit insurers from offering an insurance product with a network that is limited to certain geographic areas only. However, in order to protect Montanans who live in remote parts of this state and in keeping with the intent of the legislature in adopting amendments to 33-22-1706, MCA, this rule also provides that most major medical health insurers shall also offer health insurance products that cover all parts of the state. This rule also requires insurers to fully disclose geographic restrictions on narrower networks.

NEW RULE VII is proposed to be adopted in order to ensure that when a patient is in active treatment, such as pregnancy or ongoing cancer treatment, there is a mechanism to continue that treatment under the terms of the original provider contract, even after the provider has otherwise terminated the relationship with the insurer. This continuity of care option must be initiated by the health care provider and accepted by the insurer and the patient. This is a process that is already contained in most provider contracts and is required by national health plan accrediting agencies. The rule is necessary to protect consumers from mid-policy year terminations of provider contracts and also to ensure that consumers in Montana are protected in a uniform manner and not subject to harm from contracts that they are not a party to.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Christina Goe, General Counsel, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-2040; fax (406) 444-3499; or e-mail cgoe@mt.gov, and must be received no later than 5:00 p.m., January 23, 2015.

6. Christina Goe, General Counsel, has been designated to preside over and conduct this hearing.

7. The CSI maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Such written request may be mailed or delivered to Darla Sautter, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-

2726; fax (406) 444-3499; or e-mail dsautter@mt.gov, or may be made by completing a request form at any rules hearing held by the CSI.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the 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 Secretary of State works 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.

9. Pursuant to 2-4-302, MCA, the bill sponsor contact requirement does apply. Representative Scott Reichner, sponsor of HB 544, was contacted directly by phone on or about September 3, 2014, and a copy of these proposed rules were sent to him directly by mail through the U.S. Postal Service on December 15, 2014.

10. The CSI has complied with the requirements of 2-4-111, MCA, and determined that these rules will not significantly and directly impact small businesses.

/s/ Nick Mazanec
Nick Mazanec
Rule Reviewer

/s/ Christina L. Goe
Christina L. Goe
General Counsel

Certified to the Secretary of State December 15, 2014.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the repeal of ARM)	NOTICE OF PROPOSED REPEAL
8.94.3708, 8.94.3709, 8.94.3710,)	
8.94.3711, 8.94.3712, 8.94.3713,)	NO PUBLIC HEARING
8.94.3714, 8.94.3715, 8.94.3716,)	CONTEMPLATED
8.94.3717, 8.94.3718, 8.94.3719,)	
8.94.3720, 8.94.3721, 8.94.3722,)	
8.94.3723, 8.94.3724, 8.94.3725)	
relating to the administration of the)	
CDBG Program)	

TO: All Concerned Persons

1. On January 23, 2015, the Department of Commerce proposes to repeal the above-stated rules.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Commerce no later than 5:00 p.m. on January 21, 2015, to advise us of the nature of the accommodation that you need. Please contact Bonnie Martello, Paralegal, Director's Office, Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501; telephone (406) 841-2596; fax (406) 841-2701; TDD (406) 841-2702; or e-mail bmartello@mt.gov.

3. The department proposes to repeal the following rules:

8.94.3708 INCORPORATION BY REFERENCE OF RULES FOR
ADMINISTERING THE 1992 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3709 INCORPORATION BY REFERENCE OF RULES FOR
ADMINISTERING THE 1993 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3710 INCORPORATION BY REFERENCE OF RULES FOR
ADMINISTERING THE 1994 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3711 INCORPORATION BY REFERENCE OF RULES FOR ADMINISTERING THE 1995 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3712 INCORPORATION BY REFERENCE OF RULES FOR ADMINISTERING THE 1996 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3713 INCORPORATION BY REFERENCE OF RULES FOR ADMINISTERING THE 1997 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3714 INCORPORATION BY REFERENCE OF RULES FOR ADMINISTERING THE 1998 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3715 INCORPORATION BY REFERENCE OF RULES FOR ADMINISTERING THE 1999 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3716 INCORPORATION BY REFERENCE OF RULES FOR ADMINISTERING THE 2000 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3717 INCORPORATION BY REFERENCE OF RULES FOR ADMINISTERING THE 2001 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3718 INCORPORATION BY REFERENCE OF RULES FOR ADMINISTERING THE 2002 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3719 INCORPORATION BY REFERENCE OF RULES FOR ADMINISTERING THE 2003-2004 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3720 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE 2004-2005 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3721 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE 2005-2006 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3722 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE 2006-2007 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3723 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE 2007-2008 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3724 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE 2008-2009 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

8.94.3725 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE 2009-2010 CDBG PROGRAM

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

REASON: The Department of Commerce has determined there is reasonable necessity to repeal ARM 8.94.3708 through 8.94.3725 because all projects initiated there under have been closed out. Therefore, these rules are no longer necessary and have no effect.

4. Concerned persons may submit their data, views, or arguments in writing to: Bonnie Martello, Director's Office, Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501; telephone (406) 841-2596; fax (406) 841-2701; or e-mail bmartello@mt.gov, and must be received no later than 5:00 p.m., January 21, 2015.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Bonnie Martello at the above address no later than 5:00 p.m., January 21, 2015.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Ten percent of those directly affected has been determined to be two, based on an estimated 20 eligible applicants for CDBG Housing and Public Facilities Planning Grants. Notice of the hearing will be published in the Montana Administrative Register.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State 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 Secretary of State works 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.

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

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

/s/ G. Martin Tuttle
G. Martin Tuttle
Rule Reviewer

/s/ Douglas Mitchell
DOUGLAS MITCHELL
Deputy Director
Department of Commerce

Certified to the Secretary of State December 12, 2014.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)
17.8.101, 17.8.103, 17.8.201, 17.8.202,)
17.8.204, and 17.8.230 pertaining to)
definitions, incorporation by reference)
and availability of referenced)
documents, definitions, incorporation by)
reference, ambient air monitoring, and)
fluoride in forage and the repeal of ARM)
17.8.206 pertaining to methods and data)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
REPEAL

(AIR QUALITY)

TO: All Concerned Persons

1. On January 15, 2015, at 9:30 a.m., the Board of Environmental Review will hold a public hearing in Room 111, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The board 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 Elois Johnson, Paralegal, no later than 5:00 p.m., January 5, 2015, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov.

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

17.8.101 DEFINITIONS As used in this chapter, unless indicated otherwise in a specific subchapter, the following definitions apply:

(1) through (7) remain the same.

(8) "Board" means the Board of Environmental Review as provided for in 2-15-3502, MCA.

(8) through (11) remain the same, but are renumbered (9) through (12).

(13) "Department" means the Department of Environmental Quality as provided for in 2-15-3501, MCA.

(12) through (42) remain the same, but are renumbered (14) through (44).

AUTH: 75-2-111, MCA

IMP: Title 75, chapter 2, MCA

REASON: The board is proposing to add the definitions of "board" and "department" to this rule because the terms are used throughout Chapter 8. Rather than define the terms in each subchapter, the board is proposing to define them

once, in this rule, for the entire chapter.

17.8.103 INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED DOCUMENTS (1) For the purposes of this subchapter, the board adopts and incorporates by reference the following:

(a) through (l) remain the same.

(m) section 112(b)(1) of the Federal Clean Air Act (FCAA), as codified in 42 USC 7412(b)(1), pertaining to substances designated as hazardous air pollutants; and

(n) the Montana Source Test Protocol and Procedures Manual (July 1994 ed.), a department manual pertaining to sampling and data collection, recording, analysis, and transmittal requirements; and

~~(o) the Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I: A Field Guide to Environmental Quality Assurance (EPA-600/R-94/038a, revised April 1994); Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II: Part 1 Ambient Air Quality Monitoring Program Quality System Development (EPA-454/R-98/004, revised August 1998); Quality Assurance Handbook for Air Pollution Measurement Systems, Volume III: Stationary Source Specific Methods (EPA-600/R-94/038c, revised September 1994); and Quality Assurance Handbook for Air Pollution Measurement Systems, Volume IV: Meteorological Methods (EPA-600/R-94/038d, revised March 1995), a federal manual pertaining to sampling and data collection, recording, analysis, and transmittal requirements.~~

(2) through (4) remain the same.

AUTH: 75-2-111, MCA

IMP: Title 75, chapter 2, MCA

REASON: The board is proposing to delete ARM 17.8.103(1)(o) to remove references to Volumes I through IV of the Quality Assurance Handbook for Air Pollution Measurement Systems published by the federal Environmental Protection Agency (EPA). Volumes I, II, and IV are already appropriately referenced in the applicable federal regulations incorporated by reference in ARM Title 17, chapter 8, subchapter 1, and the reference to Volume III was inappropriate, as it did not address ambient monitoring.

17.8.201 DEFINITIONS In this subchapter, the following words and phrases shall have the following meanings:

(1) remains the same.

(2) "Administrator," as used in 40 CFR Part 58, means the department.

(2) through (5) remain the same, but are renumbered (3) through (6).

~~(6) "Department" means the Department of Environmental Quality.~~

(7) through (25) remain the same.

(26) "Regional administrator," as used in 40 CFR Part 58, means the department.

(26) through (33) remain the same, but are renumbered (27) through (34).

AUTH: 75-2-111, 75-2-202, MCA
IMP: 75-2-202, MCA

REASON: The board is proposing to delete the definition of "department" from this subchapter because it is proposing, as discussed above, to define the term in ARM 17.8.101 for the entire chapter. It is unnecessary to define a term in a subchapter when that term is defined for the entire chapter. The board is proposing to add definitions of "administrator" and "regional administrator," as those terms are used in 40 CFR Part 58, which is incorporated by reference in ARM 17.8.202. Those terms would mean the department. This would clarify that the department will be the administrator for that regulation.

17.8.202 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board adopts and incorporates by reference the following:

(a) ~~The Montana Ambient Air Monitoring Program Quality Assurance Project Plan (November 1996 ed. 2013), a Department of Environmental Quality department manual specifying that specifies ambient air sampling and data collection, recording, analysis, and transmittal requirements that pertain only to the department's monitoring program;~~

~~(b) Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I: A Field Guide to Environmental Quality Assurance, (EPA/600/R-94/038a, revised April 1994); Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II: Part 1 Ambient Air Quality Monitoring Program Quality System Development, (EPA/454/R-98-004, revised August 1998); Quality Assurance Handbook for Air Pollution Measurement Systems, Volume III: Stationary Source Specific Methods, (EPA/600/R-94/038c, revised September 1994); and Quality Assurance Handbook for Air Pollution Measurement Systems, Volume IV: Meteorological Methods, (EPA/600/R-94/038d, revised March 1995), a federal manual specifying sampling and data collection, recording, analysis, and transmittal requirements EPA Ambient Monitoring Guidelines for Prevention of Significant Deterioration (PSD), EPA-450/4-87-007 (May 1987);~~

~~(c) Methods of Air Sampling and Analysis, Third Edition (1989), Method No. 204, determination of fluoride content of the atmosphere and plant tissues (semi-automated method), a nationally recognized document specifying field and laboratory analytic procedures;~~

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

~~(f) (e) 40 CFR Part 58, including Appendices A through G, specifying criteria and requirements for ambient air quality monitoring and reporting.~~

~~(2) through (4) remain the same.~~

AUTH: 75-2-111, 75-2-203, MCA
IMP: 75-2-203, MCA

REASON: The board is proposing to amend ARM 17.8.202(1)(a) to incorporate by reference the updated 2013 version of the Montana Ambient Air Monitoring Program Quality Assurance Project Plan (QAPP) and remove the outdated 1996 version of the QAPP. The major changes in the 2013 version include

monitoring protocols for additional pollutants, substitution of citations to federal regulatory language in place of the actual language in the text, and replacement of references to outdated technologies with references to modern methods. For example, ozone, while a regulated pollutant, was not addressed in the 1996 Montana QAPP and PM_{2.5} was not a regulated pollutant at that time, so was not addressed in the 1996 QAPP. Both pollutants are addressed in the 2013 QAPP. In addition, the 1996 Montana QAPP unnecessarily repeated federal regulatory language and the 2013 version has eliminated that repetition by referencing those requirements instead of repeating them. Numerous other changes address the significant changes in the technologies and methods now used to conduct monitoring compared to those used in 1996. These and other changes are described in Summary of Changes: 1996 to 2013 QAPP. It, and the complete text of the Montana Ambient Air Monitoring Program Quality Assurance Project Plan (2013), are available on the department's web site at <http://deq.mt.gov/airmonitoring/monitoringdocuments.mcp>.

Annually hereafter, or as needed, the board will initiate rulemaking to update the version of the QAPP that is incorporated by reference in the ARM. In addition, the board is proposing to remove from this rule references to Volumes I through IV of the Quality Assurance Handbook for Air Pollution Measurement Systems published by EPA for the same reasons given in the discussion of the proposed amendments to ARM 17.8.103. Finally, the board is proposing to incorporate by reference "EPA Ambient Monitoring Guidelines for Prevention of Significant Deterioration (PSD)" (May 1987). These guidelines are used in ARM 17.8.204 to establish the requirements for monitoring performed by sources subject to subchapter 8, which concerns prevention of significant deterioration of air quality. These guidelines are not adopted in the federal regulations adopted by reference in this chapter, but they provide supplemental information that is important when a company makes PSD monitoring determinations and when the department makes decisions about the quality and acceptability of collected monitoring data. The board is proposing to adopt and require compliance with the guidelines to provide as much consistency and clarity as possible to entities developing a monitoring project. Adoption of these guidelines would conform the rules to match the practices that monitoring entities, other than the department, must already follow to obtain air quality data suitable for use in the PSD review process. The complete text of the guidelines is available at <http://nepis.epa.gov/Exe/ZyPDF.cgi/2000J2Q6.PDF?Dockey=2000J2Q6.PDF>.

17.8.204 AMBIENT AIR MONITORING (1) ~~The requirements of this rule apply to any ambient air monitoring performed by the department or any other entity as required by this chapter, including any ambient air monitoring performed as a result of any condition of any permit issued under subchapters 7 or 8 regardless of the date of issuance, or any other ambient air monitoring by any entity in order to determine compliance with subchapters 2 or 8. that is:~~

- (a) required by this chapter;
- (b) used to demonstrate compliance with this chapter;
- (c) submitted in an application for, or to comply with a condition of, a permit under this chapter; or

(d) used to satisfy any applicable requirement of Title 75, chapter 2, MCA, or the federal Clean Air Act, 42 USC 7401 through 7671g, or implementing regulations, for which the department has oversight.

~~(2) Except as otherwise provided in this chapter, or unless written approval is obtained from the department for an exemption from a specific part of the Montana Quality Assurance Project Plan, all sampling and data collection, recording, analysis, and transmittal including, but not limited to, site selection, precision and accuracy determinations, data validation procedures and criteria, preventive maintenance, equipment repairs, and equipment selection must be performed as specified in the Montana Quality Assurance Project Plan, incorporated by reference in ARM 17.8.202, except when more stringent requirements are determined by the department to be necessary pursuant to the Quality Assurance Handbook for Air Pollution Measurement Systems, or 40 CFR Part 50 including Appendices A through E, Part 53, and Part 58 also incorporated by reference in ARM 17.8.202, at which time the latter two documents shall be adhered to for the specific exception. Any entity performing ambient air monitoring within the state of Montana for a purpose listed in (1) shall perform it according to a Quality Assurance Project Plan (QAPP) prepared to satisfy the applicable requirements of 40 CFR Parts 50, 53, and 58, and, if performed to comply with subchapter 8 of this chapter, the EPA Ambient Monitoring Guidelines for PSD, which are adopted by reference in ARM 17.8.202.~~

(3) If monitoring for a purpose in (1) is performed by:

(a) the department, it must be performed in compliance with the Montana Ambient Air Monitoring Program Quality Assurance Project Plan; or

(b) any other entity, it must be performed in compliance with a project-specific QAPP that has been submitted to and approved by the department.

~~(3) (4) Failure to comply with this rule is grounds to partially or totally invalidate the appropriate ambient air monitoring data which subsequently could result in: The department may invalidate, in whole or in part, ambient air monitoring data that was not obtained in compliance with this rule. Invalidated data may not be used for the purposes listed in (1).~~

~~(a) a violation of the conditions of a permit issued under subchapters 7 or 8; or~~

~~(b) a determination by the department that a permit application submitted under subchapters 7 or 8 is incomplete; or~~

~~(c) a determination that insufficient ambient air quality data is available to determine compliance with any ambient air quality standard contained in subchapter 2 or a prevention of significant deterioration increment contained in ARM 17.8.804.~~

AUTH: 75-2-111, MCA

IMP: 75-2-201, 75-2-202, MCA

REASON: The proposed amendments to (1) would establish a single, uniform standard by which all regulatory-quality ambient air monitoring must be conducted within the state of Montana, whether performed by the department or any other entity. That standard would require ambient air quality monitoring to comply with ARM 17.8.204, if it is: (a) required by the air quality rules in ARM Title 17, chapter 8 (the rules that implement the Montana Clean Air Act); (b) used to

demonstrate compliance with those rules; (c) submitted as part of an air quality permit application or to comply with an air quality permit condition; or (d) used to satisfy any requirement of the Montana Clean Air Act or federal Clean Air Act, or implementing regulations. These amendments are necessary because the requirements in the current rule that ambient monitoring be performed according to a QAPP are limited to ambient monitoring required by an air quality rule or an air quality permit. These requirements would be retained in the proposed amendments. In addition, the proposed amendments to (1)(c) and (1)(d) would require that ambient monitoring data, that may be submitted in a permit application or to satisfy a requirement of the Montana Clean Air Act or the federal Clean Air Act and implementing regulations, must comply with a QAPP approved under ARM 17.8.204.

The proposed amendment to (1)(c), which would require that monitoring data submitted in an air quality permit application must meet the quality assurance and quality control (QA/QC) requirements of this subchapter, is necessary because that requirement is not in the existing rule and the requirement would ensure that the data in a permit application are reliable. For example, a new mine or electrical generating plant may be required by ARM 17.8.822(5) and (6) to monitor for a year to develop data concerning wind direction and speed and baseline levels of air pollutants before applying for an air quality permit. The proposed requirement in (1)(c) for such pre-application monitoring to be performed according to the QA/QC provisions of this subchapter would ensure that, when the data is submitted as part of a permit application, it has been collected according to acceptable national standards.

The proposed new language in (1)(d), which would require that monitoring used to satisfy any requirement of the state or federal Clean Air Acts or implementing regulations must meet the QA/QC requirements of this subchapter, is necessary because it is not in the existing rules. The proposed requirement would ensure that monitoring used, for example, to influence a nonattainment designation is reliable. For example, under 42 USC 7407(d), a provision of the federal Clean Air Act, each state must submit, within one year after a new national ambient air quality standard (NAAQS) is adopted in federal regulation, a designation to EPA of the attainment status of all areas in the state for that NAAQS. Private entities conducting ambient monitoring for the subject criteria pollutant may also submit data to the department in support of a specific designation. Such monitoring might not be required by Montana law or rules, federal law or regulations, or an air quality permit. However, if data generated by that monitoring is submitted to influence an attainment or nonattainment designation by the department, the proposed new language in (1)(d) would require that it satisfy the ambient air quality monitoring requirements in this subchapter to the same extent as data generated by the department.

The amendments to (2) would eliminate the requirement that all ambient monitoring must be performed according to the Montana Quality Assurance Project Plan (Montana QAPP) and instead require that all ambient monitoring be performed in compliance with a QAPP prepared in accordance with the federal quality assurance regulations and guidelines. The reason the existing requirement should be eliminated is that it is inappropriate and must be replaced as described below. The existing rule requires entities, other than the department, that conduct ambient

air quality monitoring to use the same QAPP that the department uses, unless an exemption is granted by the department. This is not appropriate because the QAPP used by the department contains specific processes and procedures required only of regulatory agencies, which are not within the ability or purview of other entities, such as submitting data to federal databases, determining compliance with NAAQS, providing the public with air quality data, and participating in state and federal research efforts. On the other hand, a QAPP to be used for project-specific monitoring must be designed for the specific characteristics of the area, such as appropriate siting, topography, wind direction and speed, and specifics of the project, such as pollutants to be emitted. In addition, project-specific monitoring may include PSD monitoring, which is required of industrial sources and cannot be conducted by the department. The reference to the Montana QAPP in the existing rule is inappropriate and, in practice, entities other than the department, that conduct ambient monitoring for the purposes in (1), have submitted and obtained department approval for project-specific QAPPs.

The proposed new language in (2) would add the requirement that all ambient monitoring used for a purpose in (1) must be performed according to a QAPP prepared to satisfy federal regulations concerning QA/QC for such monitoring. Under the proposed amendment, all monitoring to be used for a purpose in (1) would be required to be performed according to a QAPP satisfying 40 CFR Parts 50, 53, and 58, including quality assurance requirements for state or local air monitoring stations (SLAMS), special purpose monitor stations (SPMs), and prevention of significant deterioration (PSD) air monitoring. The reason for the proposed new language is to ensure that all monitoring used for a purpose in (1) is performed in compliance with a single set of federal QA/QC requirements. It is beneficial to the department and other entities, as described above, that all monitoring that may be used for a regulatory purpose meet a consistent, defined level of QA/QC. The federal regulations concerning QA/QC already provide a suitable, nationally standardized and applicable apparatus by which to ensure the accuracy and reliability of such monitoring data. Under the proposed rule, the QAPPs required to be used by the department and private entities would all be subject to this same set of regulations.

The proposed new language in (3)(a) would require that, if the monitoring is performed by the department, it must comply with the Montana Ambient Air Monitoring Program Quality Assurance Project Plan. This is a QAPP that is based on the federal regulations in 40 CFR Parts 50, 53, and 58 and is designed to address matters relevant to ambient monitoring conducted by the state. A renamed and updated version of that QAPP is being proposed for adoption in ARM 17.8.202(1)(a). This would bring the Montana requirement up-to-date with federal regulations for ambient monitoring of such pollutants as PM_{2.5}, for example, which was not a regulated pollutant when the last version of the Montana QAPP was adopted in 1996.

The proposed new language in (3)(b) would incorporate the requirement from 40 CFR Part 58 that a project-specific QAPP be submitted to and approved by the department before monitoring begins. In practice, the department has worked to approve QAPP documents in a timely manner and anticipates publishing guidance to that end. A project-specific QAPP is necessary for the reasons discussed above.

When an entity other than the department performs ambient monitoring before a permit application is submitted or to comply with a permit condition, it is required by existing federal regulations to perform it according to a QAPP that has been reviewed and approved by the EPA. Under the proposed amendments to ARM 17.8.201(2) and (26) and ARM 17.8.204(2)(b), the department would be the reviewing and approving authority. The department's review and approval of another entity's QAPP for monitoring performed to satisfy other requirements of the state or federal Clean Air Acts or implementing regulations is not required by federal regulations. However, department review and approval of a QAPP is necessary to ensure that the monitoring data collected will be reliable and appropriate to use for such actions as proposing designations of whether areas are attaining the NAAQS. The complete text of 40 CFR Part 58 is available at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR&searchPath=Title+40%2FChapter+1%2FSubchapter+C%2FPart+58&oldPath=Title+40%2FChapter+1%2FSubchapter+C%2FPart+58@isCollapsed=true&selectedYearFrom=2013&ycord=1652>.

The proposed amendments to (4) would authorize the department to invalidate data submitted for the regulatory purposes described above in (1), if the data was not obtained in compliance with ARM 17.8.204. If invalidated, the department may not use the data for regulatory purposes. While the proposed amendments maintain the department's existing authority to invalidate data, they also authorize the department to exercise discretion not to invalidate data, even if not obtained in compliance with the rule. This amendment would allow the department to determine whether failure to fully comply with the applicable rules and regulations undermines the quality of the data produced. In some cases, substantial compliance may produce data of appropriate quality to be used for a purpose listed in (1). This is consistent with 40 CFR Part 58, Appendix A, the regulation of the federal EPA that governs QAPPs for ambient monitoring. Section 1(a) of that appendix states: "Each monitoring organization is required to implement a quality system that provides sufficient information to assess the quality of the monitoring data. The quality system must, at a minimum, include the specific requirements described in this appendix of this subpart. Failure to conduct or pass a required check or procedure, or a series of required checks or procedures, does not by itself invalidate data for regulatory decision making. Rather, monitoring agencies and EPA shall use the checks and procedures required in this appendix in combination with other data quality information, reports, and similar documents showing overall compliance with Part 58. Accordingly, EPA and monitoring agencies shall use a 'weight of evidence' approach when determining the suitability of data for regulatory decisions." The proposed amendments would also remove language that is unnecessarily repetitive of ARM 17.8.204(1).

17.8.230 FLUORIDE IN FORAGE (1) remains the same.

(2) The following sampling protocol must be applied:

(a) through (g) remain the same.

(h) The composite sample must be thoroughly mixed prior to any chemical analysis. Replicate aliquots are to be taken using a sample splitter or any other unbiased technique, and analyzed chemically for fluoride using ~~the semi-automated~~

~~a method, as more fully described in Methods of Air Sampling and Analysis, incorporated by reference in ARM 17.8.202, except that the surfaces of the plant material must not be washed, or by an approved equivalent method approved by the department.~~

(i) remains the same.

AUTH: 75-2-111, 75-2-202, MCA

IMP: 75-2-202, MCA

REASON: The board is proposing to remove a reference to the semi-automated method for fluoride monitoring in Methods of Air Sampling and Analysis. That document is also being proposed to be removed from incorporation by reference in ARM 17.8.202, as described above. The reason for the proposed amendment is that the method is no longer commonly used and it is difficult to find an accredited laboratory to perform the post-sampling analysis required by the method. Updated methods are available and the board is proposing that the department will determine, on a case-by-case basis, the appropriate method to be used.

4. The rule proposed to be repealed is as follows:

17.8.206 METHODS AND DATA (AUTH: 75-2-111, 75-2-202, MCA; IMP, 75-2-202, MCA), located at page 17-272, Administrative Rules of Montana. The board is proposing to repeal ARM 17.8.206 because the requirements of that rule are already contained in applicable state rules or federal regulations and are, therefore, redundant. Specifically, the requirements of that rule are contained in the Montana Ambient Air Monitoring Quality Assurance Project Plan, 40 CFR Parts 50, 53, and 58 and EPA's Quality Assurance Handbook for Air Pollution Measurement Systems, all of which are incorporated by reference in ARM 17.8.202.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to ejohnson@mt.gov, no later than 5:00 p.m., January 22, 2015. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

6. Ben Reed, attorney for the board, or another attorney for the Agency Legal Services Bureau, has been designated to preside over and conduct the hearing.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid

waste; junk vehicles; infectious waste; public water supply; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to Elois Johnson at ejohnson@mt.gov, or may be made by completing a request form at any rules hearing held by the board.

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

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

Reviewed by: BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North
JOHN F. NORTH
Rule Reviewer

BY: /s/ Robin Shropshire
ROBIN SHROPSHIRE
Chairman

Certified to the Secretary of State, December 15, 2014.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.86.101, 37.86.105, and) PROPOSED AMENDMENT
37.86.202 pertaining to the extension)
of enhanced reimbursement for)
primary providers)

TO: All Concerned Persons

1. On January 13, 2015, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on January 6, 2015, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.86.101 PHYSICIAN SERVICES, DEFINITIONS (1) through (4) remain the same.

(5) The department adopts and incorporates by reference the Physician-Related Services Manual governing the administration of the Physician program dated ~~March 2012~~ July 2014. The Physician-Related Services Manual is available for public viewing at the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951 and at the department's web site at <http://medicaidprovider.hhs.mt.gov/pdf/manuals/physician07012014.pdf> <http://medicaidprovider.hhs.mt.gov/providerpages/providertype/27.shtml>.

(6) through (8) remain the same.

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

37.86.105 PHYSICIAN SERVICES, REIMBURSEMENT/GENERAL REQUIREMENTS AND MODIFIERS (1) through (6) remain the same.

(7) A Medicaid fee for services without fees is determined for physician services and anesthesia services as defined at ARM 37.85.212 and birth attendant services as defined at ARM 37.86.1201 ~~for services without fees~~.

(a) and (b) remain the same.

(8) Reimbursement for primary care services performed by confirmed primary care physicians:

(a) and (b) remain the same.

(c) for E&M procedure codes and vaccine administration codes not part of the VFC program, in calendar year 2014, is the 2014 Montana Medicare reimbursement amount or the amount determined by multiplying the 2009 Medicare conversion factor by the 2014 relative value unit for Montana, whichever is greater; ~~and~~

(d) for E&M procedure codes and vaccine administration codes not part of the VFC program, January 1, 2015 through June 30, 2015, is the 2015 Montana Medicare reimbursement amount or the amount determined by multiplying the 2009 Medicare conversion factor by the 2015 relative value unit for Montana, whichever is greater;

(e) for vaccine administration codes for the VFC program, January 1, 2015 through June 30, 2015, is the lesser of the 2015 Montana Medicare reimbursement amount or the maximum regional VFC amount; and

(d) remains the same, but is renumbered (f).

(9) through (11) remain the same.

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

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

37.86.202 MID-LEVEL PRACTITIONER SERVICES, DEFINITIONS For the purpose of these rules, the following definitions will apply:

(1) "Advanced practice registered nurse" means a registered professional nurse licensed as provided in Title 37, chapter 8, MCA and ~~ARM Title 8, chapter 32, subchapter 3~~ ARM Title 24, chapter 159, subchapter 14 and includes nurse practitioner, nurse anesthetist, and nurse midwife and clinical nurse specialist.

(2) through (16) remain the same.

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

IMP: 53-6-101, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (the department) is proposing an amendment to ARM 37.86.105 to extend payments to primary care practitioners for primary care services from January 1, 2015 through June 30, 2015. This extension will allow the enhanced reimbursement for primary care services, a two-year program established under The Affordable Care Act (ACA) currently scheduled to end December 31, 2014, to end on June 30, 2015. If the primary care rate is allowed to end on December 31, 2014, reimbursement rates for primary care providers would be lowered. The higher reimbursement rate for providers has

allowed Medicaid clients greater access to primary care services. Without the higher rate, some primary care providers may decide not to accept Medicaid clients. It is anticipated, beginning July 1, 2015, normal increase in the reimbursement rates for physicians for these services will increase and will equal or exceed the primary care provider rate and special pricing will no longer be needed.

ARM 37.86.101

Proposed revisions were made to the Physician-Related Services Manual and the provider web site. This proposed amendment will update the current listed link and publication date for the most current adopted provider manual as listed in ARM 37.86.101.

ARM 37.86.105

The proposed amendment in ARM 37.86.105(7) details how services without fees are reimbursed. This section will be amended to reinforce the intent of the rule.

ARM 37.86.202

The department is proposing to amend a citation to an administrative rule in (1) that was transferred to a different title and chapter by another department. This oversight was discovered by the Office of the Secretary of State, Administrative Rules Bureau, who sent information to our department's Office of Legal Affairs requesting the correction of the citation. This proposed amendment is necessary to ensure that the department's administrative rules are accurate and up to date.

Fiscal Impact

The enhanced reimbursement for primary care practitioners for primary care services for Calendar Years 2013 and 2014 was funded at 100% FMAP based on Section 2303(a)(2) of the Affordable Care Act. This funding expires on December 31, 2014. Funding for January 1, 2015 through June 30, 2015 will be at the standard FMAP rate. The total additional cost for the enhanced payment is expected to be \$6381.00, of which \$2174.50 will be state share, and \$4206.50 will be federal match. The program is not anticipated to continue in SFY 2016, so there is no cost associated with SFY 2016 or SFY 2017.

	<u>Total Cost</u>	<u>State General Fund</u>	<u>Federal Match</u>
SFY2015	\$6381.00	\$2174.50	\$4206.50
SFY2016	0	0	0

5. The department intends to apply these rule amendments retroactively to January 1, 2015. A retroactive application of the proposed rule amendments does not result in a negative impact to any affected party.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., January 21, 2015.

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

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the 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 Secretary of State works 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.

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

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

/s/ Susan Callaghan
Susan Callaghan, Attorney
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State December 15, 2014.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the adoption of NEW) NOTICE OF ADOPTION
RULE I pertaining to Patient-)
Centered Medical Homes)

TO: All Concerned Persons

1. On August 21, 2014, the Commissioner of Securities and Insurance, Montana State Auditor, published MAR Notice No. 6-211 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 1863 of the 2014 Montana Administrative Register, Issue Number 16.

2. On September 11, 2014, a public hearing was held on the proposed adoption of the above-stated rule in Helena. Comments were received by the September 19, 2014, deadline.

3. The department has adopted New Rule I (ARM 6.6.4907) exactly as proposed.

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

COMMENT NO. 1: The first commenter stated that the rule should specifically reference data privacy and security requirements for quality measure data reported to the PCMH program.

RESPONSE NO. 1: The Office of the Commissioner of Securities and Insurance (CSI), the Department of Public Health and Human Services (DPHHS) and all of the participants in the Montana Patient Centered Medical Home Program are bound by various state and federal privacy protection laws that require them to safeguard all protected personal health and financial information. These laws include, but are not limited to, the Health Insurance Portability and Accountability Act (HIPAA), various privacy and security regulations related to the Gramm-Leach-Bliley Act (GLBA), the Montana Insurance Information and Privacy Protection Act, and the Montana Constitution. It is not necessary to restate those laws here. All applicable state and federal privacy laws will be followed in the administration of this program. No change was made to the rule in response to this comment.

COMMENT NO. 2: The same commenter also stated that the rule should clarify how the data requested would be de-identified and then went on to state that de-identified data would need to be protected from re-identification. On this same issue, the commenter raised other issues related to data use restrictions.

RESPONSE NO. 2: This rule was adopted in response to a legislative requirement placed in the statute, requiring the CSI to establish "a uniform set of health care quality and performance measures that include prevention services" and to provide for reporting to the commissioner and the Department of Public Health and Human Services to ensure compliance. Outside of reporting to those two state agencies, the statute and the rules reference only a report of aggregate data results to the public and to the legislature, to be prepared by the commissioner and the stakeholder council. In addition to the rule, the commissioner is adopting data reporting guidelines, which were drafted by the stakeholder council. The guidelines will provide more detail about the level of de-identification. In addition, a confidentiality and data use agreement will be drafted by the Office of the Commissioner of Securities and Insurance, in consultation with the stakeholders and then executed for each program participant. If the uses or level of de-identification changes, a new agreement will be executed, and additional changes will be made to the guidelines and rules, if necessary. The concerns about privacy and the scope of the data use expressed by this commenter will be addressed in the data use agreement that can be updated as needed. No change was made to the rule in response to this comment.

COMMENT NO. 3: The second commenter stated that the quality measures identified in the rules should also include cancer screenings.

RESPONSE NO. 3: The commissioner and the PCMH stakeholder council limited the initial number of quality measures to four because these measures also require data reporting. Some health care providers expressed a need to limit the amount of data reporting required. These particular measures were chosen because the data collected from these four measures may also be used to promote previously identified public health improvement goals. Many PCMH payors require reporting on numerous additional quality measures by PCMH health care providers, including measures relating to cancer screening. In the future, the stakeholder council and the commissioner may recommend the adoption of additional quality measures. No change was made to the rule in response to this comment.

COMMENT NO. 4: The second commenter also expressed concern that the public reports will contain only aggregate data on PCMH quality measure reporting, which they believe would limit transparency and make the report less meaningful.

RESPONSE NO. 4: The aggregate data restriction was requested by the health care providers who were concerned about public reporting of data from identified PCMH practices. The CSI and many stakeholders believe that meaningful data on quality measures can be reported to the public using aggregated data from all of the PCMH practices, rather than practice-specific data. No change was made to the rule in response to this comment.

COMMENT NO. 5: The second commenter also expressed support for patient-level data reporting on quality measures, with an "opt-out" option for PCMH practices that do not currently have a payor contract and therefore are not already reporting this

and other data to a payor. This commenter believes that research indicates that patient-level data reporting is necessary for an effective evaluation of the program.

RESPONSE NO. 5: Because the stakeholder council and other interested parties were split on the issue of reporting on patient-level data, as opposed to reporting on aggregate data accompanied by an attestation from the health care provider, a compromise was reached and is expressed in the data reporting guidelines that are referenced in these rules. The proposed guidelines allow the practices to choose to report using aggregate or patient-level data in the first year. The requirement for all patient-level data reporting will be phased in over a two-year period. No change was made to the rule in response to this comment.

COMMENT NO. 6: A third commenter objects to the fact that the instructions for data reporting are contained in guidance published by the commissioner instead of in the rule itself. The commenter goes on to complain that the draft guidance for reporting data is not yet complete and places too great a burden on primary care practices because it proposes reporting of patient-level data. In addition, the commenter states that the Office of the Commissioner of Securities and Insurance (CSI) has not fully considered the needs of primary care practices.

RESPONSE NO. 6: The commissioner is committed to working with the interested parties on all aspects of the administration of the Montana PCMH program and the commissioner has created a stakeholder council for that purpose. In addition, there has been constant outreach to other interested parties. There are 157 entities on the interested parties list, including all qualified PCMH health care practices. Many interested parties, in addition to appointed stakeholder council members regularly participate in the monthly stakeholder council meetings and subcommittee meetings. On average, the CSI holds at least three meetings a month with all stakeholders. The guidelines for data reporting and the draft of the rules were discussed at nearly all of those meetings. The state-specific measures, including patient-level reporting guidelines were initially introduced to the stakeholder council and interested parties at the December 2013 meeting where the proposal received positive response, including the concern for measures that show PCMH specific practice improvement. These rules and the accompanying guidelines have been discussed with the interested parties for at least 12 months and many adjustments and changes were made in the rule and the guidelines for data reporting in order to respond to concerns expressed by the interested parties.

The stakeholder council agreed that keeping the instructions for data reporting outside of the rule was the best approach in order to allow for necessary flexibility in data reporting instructions. Those instructions are issued by the commissioner, but in fact were written by members of the quality measure subcommittee and approved by the stakeholder council as a whole. After many months of discussions and changes to the rules and the guidelines, additional concerns were expressed about the need to for patient-level data rather than aggregate data attested to by the health care provider. In response to those concerns, the CSI worked with stakeholders to get agreement about the content of the guidelines for data reporting. Additional

research was done and information was provided to the council about the value of patient-level data for evaluating the success and performance of PCMH health care delivery methods.

The issue of requiring patient-level data versus aggregate data was put to a vote of the stakeholder council. That vote was essentially tied. Therefore, a longer meeting was scheduled with the council in order to discuss next steps for finalizing the reporting guidelines in October 2014. Great care was taken to balance the burden that data reporting places on health care providers against the importance of collecting valid data that would inform the Montana PCMH program concerning the long term effectiveness and cost savings generated by certain healthcare delivery reforms implemented under PCMH.

At the October 2014 meeting, the council developed a consensus to recommend to the commissioner a stepwise approach, including a voluntary pilot group for patient-level reporting, allowing for inclusivity and time to develop better systems/infrastructures for future data reporting, as well as data-sharing agreements. The council made the following recommendation to the commissioner: All practices will submit aggregate clinical quality data in March of 2015 for the quality measures identified in ARM 6.6.4907. Practices can volunteer to submit patient-level data as a pilot in March of 2015. The ultimate goal is for all practices participating in the Montana PCMH Program to submit patient-level data starting March of 2017. A work group will convene to oversee the development of required systems to collect, analyze, and report on patient-level data by March 2017. The work group will also recommend privacy and security infrastructure and data governance.

The rule requires all payors to adapt their reporting requirements to the reporting requirements of the state program. In addition, the rule requires that the reporting of quality measures must line up with PQRS reporting requirements.

At this point the instructions for data reporting are complete on all substantive details and the stakeholders have agreed on the reporting methods for 2014 to 2016. The commissioner is committed and legally required to consult with stakeholders and the minutes of the numerous stakeholder meetings and calls are evidence of that commitment.

COMMENT NO. 7: Commenter number three also disagrees that supporting public health goals is a benefit and that the only purpose of these rules should be to support the improvement of clinical care of patients and patient populations from the perspective of primary care practices.

RESPONSE NO. 7: In the Act that implements the PCMH program, the legislature states certain goals, which include but are not limited to:

1. The development of "a single definition and common set of quality measures, as well as a uniform payment methodology, [in order to] provide the best chance of

success for the patient-centered medical homes model by increasing consistency in reporting across health plans and primary care practices."

2. "Help slow the continuing escalation of health care costs as well as improve health outcomes for Montana citizens."

3. Develop "an ongoing process (...) to evaluate the effectiveness of patient-centered medical homes."

The law and the administrative rule require the commissioner to consult with interested parties at all times. Section 33-40-104, MCA, specifically includes the public health agencies as a required "interested party."

In one of the first stakeholder council meetings, at the beginning of the rulemaking process, the Department of Public Health and Human Services (DPHHS) presented its suggestions for quality measures to the other stakeholders. The director of the public health department is a member of the stakeholder council, per legislative direction. She and her colleagues presented four measures that would advance the goals of promoting and supporting primary care, preventive health care, the Montana PCMH program and state public health improvement goals. These are not obscure measures, but rather are measures that achieve multiple goals. In addition, all payors who are requiring reporting of measures are including these four measures, which are also PQRS measures.

These measures were discussed at numerous meetings and at no time was there any disagreement on the measures. This commenter does not appear to disagree with measures, but with the statement that the measures also support public health goals. The quality measures chosen for the program are limited in number and clearly support all the goals of the PCMH program.

COMMENT NO. 8: Commenter number three also states that aggregate data is sufficient to support the goal of enhancing primary care.

RESPONSE NO. 8: As stated in response number six, this matter has been resolved by changes in the data reporting instructions to allow the requirement of patient-level data to be phased in over a two year period. Evidence concerning the need for patient-level data was presented to the stakeholder council. This evidence was supported by the long-term experience of other PCMH programs that started out with aggregate data, found it to be ineffective to support the goals of the program and had to switch to patient-level data. Because of the information presented, many primary care provider stakeholders are opting to provide patient-level data in the first year. At no time did the CSI or the majority of other stakeholders state or believe that patient-level data was for the benefit of the public health department only.

This commenter goes on to state the entire stakeholder council should agree before additional data elements are added. Additional data elements would be classified as additional quality measures, which would require additional rulemaking. The law

already requires the commissioner to consult with stakeholders before adopting new rules.

This commenter also states that "primary care providers" must be in agreement before changes to the rule or the instructions for data reporting are made. Although primary care practices are extremely important to the program, they are not the only stakeholders. Health care providers, payors, and patients must work together—and the legislature lists all three of those groups as equal stakeholders in this process. The vote of the stakeholder council was extremely divided on this issue and the later debate on the changes to the instructions included many primary care physician groups who are not members of the stakeholder council.

COMMENT NO. 9: Commenter number three goes on to state that the commissioner is not doing enough to require that all payors reimburse all qualified PCMH practices.

RESPONSE NO. 9: This comment is not relevant to the rules on quality measures. The commissioner is also adopting rules on payor standards. The commissioner does not have the authority to force payors to reimburse providers.

/s/Nick Mazanec
Nick Mazanec
Rule Reviewer

/s/Christina L. Goe
Christina L. Goe
General Counsel

Certified to the Secretary of State December 15, 2014.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the adoption of NEW) NOTICE OF ADOPTION AND
RULE I and NEW RULE II, and the) AMENDMENT
amendment of ARM 6.6.4902 and)
6.6.4906 pertaining to Patient-)
Centered Medical Homes)

TO: All Concerned Persons

1. On November 6, 2014, the Commissioner of Securities and Insurance, Montana State Auditor, published MAR Notice No. 6-212 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 2702 of the 2014 Montana Administrative Register, Issue Number 21.

2. On December 2, 2014, a public hearing was held on the proposed adoption and amendment of the above-stated rules in Helena. Comments were received by the December 10, 2014, deadline.

3. The department has adopted New Rule II (6.6.4909) exactly as proposed. The department has adopted New Rule I (6.6.4908) exactly as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

6.6.4908 STANDARDS FOR PAYMENT METHODS (1) through (3) remain as proposed.

(4) A payor may not participate in the Montana patient-centered medical home program until the commissioner approves the payor as meeting the requirements of this rule. The commissioner shall approve, disapprove, or request additional information no later than 30 days after receipt of the letter of intent.

(5) through (6)(f) remain as proposed.

AUTH: 33-40-104, MCA

IMP: 33-40-104, 33-40-105, MCA

4. The department has amended ARM 6.6.4902 and 6.6.4906 exactly as proposed.

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

COMMENT NO. 1: One commenter stated that the commissioner should add a measurable time period for the commissioner's approval of the payor letter of intent referenced in New Rule 1, Section 4. The commenter suggested 30 days.

RESPONSE NO. 1: The rule has been amended to add a time frame.

/s/ Nick Mazanec
Nick Mazanec
Rule Reviewer

/s/Christina L. Goe
Christina L. Goe
General Counsel

Certified to the Secretary of State December 15, 2014.

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 12.11.645 pertaining to)
Whitefish River)

TO: All Concerned Persons

1. On March 13, 2014, the Fish and Wildlife Commission (commission) published MAR Notice No. 12-406 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 434 of the 2014 Montana Administrative Register, Issue Number 5. On July 10, 2014, the commission published a notice of extension of comment period at page 1460 of the 2014 Montana Administrative Register, Issue Number 13.

2. The commission has amended ARM 12.11.645 as proposed in the original proposal notice published on March 13, 2014, page 434, Issue Number 5.

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

Comment 1: The commission received comments stating there wasn't a need to eliminate boating on the river altogether.

Response 1: The restriction adopted by the commission will not eliminate boating on the river entirely. The restriction is only on the use of gas motors from the train trestle to the JP Bridge, a distance of approximately 3 miles.

Comment 2: The commission received comments stating the use of motorized water craft should not be allowed at any time on the Whitefish River from the lake outlet to the bridge at JP Road.

Response 2: The proposed rule language was in response to petition submitted by the City of Whitefish and did not include the river upstream of the trestle. The current no-wake regulation would still be in effect in the river upstream of the trestle to Whitefish Lake.

Comment 3: The commission received comments stating motorized access to Whitefish Lake is important to many residents who live on the river because other accesses to the lake are very congested during the summer months and there is no public access on the Whitefish River for boats and trailers except Whitefish Lake.

Response 3: Motorized access is still allowed on this stretch of river; however, it will require people to either row their boats or use electric motors to get through the area between JP Bridge and the BNSF trestle.

Comment 4: The commission received comments stating the existing no-wake rule is impossible to enforce and a no-wake rule for the entire river would be easier to enforce.

Response 4: The current no-wake regulation is enforceable.

Comment 5: The commission received comments stating the proposed restrictions would harm tourism and comments stating the proposed restriction would improve tourism.

Response 5: The commission does not believe that the restrictions will have any impact on tourism in the area.

Comment 6: One person stated they have never experienced any unsafe conditions on the river.

Response 6: Restricting use to manually powered vessels and electric motors would decrease safety concerns.

Comment 7: The commission received a comment stating the petition process established a negative precedent of one user group lobbying to restrict access for other user groups.

Response 7: Many issues brought to the commission have user groups opposing each other. The commission considers all comments submitted when making a reasoned and informed decision.

Comment 8: The commission received comments supporting the additional language "minimum operating speed necessary to progress upstream."

Response 8: The commission did not add the new language to allow for minimum speed to maintain upstream travel and adopted the language submitted in the petition.

Comment 9: The commission received comments stating the rule amendment would limit fishing and hunting opportunities.

Response 9: The rule amendments do not affect the ability to fish the river. Hunting is already illegal on this stretch of river because it is within the Whitefish city limits and it is against the law to discharge a firearm in the city limits.

Comment 10: The commission received comments stating the environment concerns of noise and pollution from gas motors exist and also comments stating they don't exist.

Response 10: The rule will decrease noise and pollution caused by gas motors by limiting usage to manually powered vessels and electric motors.

Comment 11: The commission received comments stating the rule amendments will decrease the property value of privately owned land.

Response 11: It is unknown if this amendment will affect property values.

/s/ Dan Vermillion
Dan Vermillion
Chairman
Fish and Wildlife Commission

/s/ Zach Zipfel
Zach Zipfel
Rule Reviewer

Certified to the Secretary of State December 15, 2014.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)
17.30.1101, 17.30.1102, 17.30.1105,)
17.30.1106, 17.30.1107, 17.30.1111,)
17.30.1341, and 17.30.1342 pertaining)
to Montana pollutant discharge)
elimination system (MPDES) permits,)
purpose and scope, definitions, permit)
requirements, exclusions, designation)
procedures: small municipal separate)
storm sewer systems (MS4s),)
application procedures, permit)
requirements, general permits and)
conditions applicable to all permits and)
repeal of ARM 17.30.1110, 17.30.1115,)
and 17.30.1117 application procedures:)
general, notice of intent procedures, and)
transfer of permit coverage pertaining to)
storm water discharges)

NOTICE OF AMENDMENT

(WATER QUALITY)

TO: All Concerned Persons

1. On August 7, 2014, the Board of Environmental Review published MAR Notice No. 17-365 regarding a notice of public hearing on the proposed amendment and repeal of the above-stated rules at page 1667, 2014 Montana Administrative Register, Issue Number 15.

2. The board has amended ARM 17.30.1106 exactly as proposed. The board has not amended or repealed any of the other rules.

3. The following comments on the proposed amendments to ARM 17.30.1106 were received and appear with the board's responses:

COMMENT NO. 1: The storm water runoff exemption in ARM 17.30.1106 for mining and oil and gas operations should be extended to municipal separate storm sewer systems (MS4s) so that discharges to conveyance systems (pipes, conduits, ditches, and channels) do not require permit coverage.

RESPONSE: The proposed storm water exemption for mining and oil and gas operations in ARM 17.30.1106 is the same as an exemption for the operations under the national pollutant discharge elimination system in the federal Clean Water Act at 33 USC 1342(l)(2) (CWA §402(l)(2)). There is no equivalent exemption for MS4 discharges in the federal statutes or regulations. Exemption of MS4s from the MPDES permit requirement would jeopardize Montana's primacy under the Clean Water Act and expose cities to potential federal regulation.

COMMENT NO. 2: The reason given for excluding storm water runoff from mining and oil and gas activities, in ARM 17.30.1106(c), is for consistency with federal regulations. Federal and Montana statutes specifically allow adoption of regulations that are more stringent than the Code of Federal Regulations. It seems appropriate to subject mining and oil and gas activities, and other extractive industries, to more stringent regulation.

RESPONSE: Mining activities are already exempted in this rule, and proposed amendment would continue that exemption. The amendments would add oil and gas operations, but only if the storm water has not come into contact with overburden, raw material, products or byproducts, or wastes. If pollutants are not coming into contact with the storm water, there is no reason for the operation to obtain a MPDES permit for that conveyance.

4. The board received a number of comments on other rules in this rulemaking. However, the board is not adopting amendments to any rule except ARM 17.30.1106 and the Department of Environmental Quality will be engaging in a stakeholder process regarding the unamended rules. The comments on those rules are, therefore, not addressed in this notice.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North

JOHN F. NORTH

Rule Reviewer

By: /s/ Robin Shropshire

ROBIN SHROPSHIRE

Chairman

Certified to the Secretary of State, December 15, 2014.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF AMENDMENT
ARM 24.17.103, 24.17.119,)	
24.17.120, 24.17.121, 24.17.122,)	
24.17.127, 24.17.321, and 24.17.821,)	
and the repeal of ARM 24.17.101,)	
pertaining to prevailing wage rates for)	
public works projects)	

TO: All Concerned Persons

1. On October 23, 2014, the Department of Labor and Industry published MAR Notice No. 24-17-288 regarding the public hearing on the amendment of the above-stated rules on page 2499 of the 2014 Montana Administrative Register, Issue No. 20.

2. On November 21, 2014, a public hearing was held at which time members of the public made oral and written comments and submitted documents. Additional comments were received during the comment period.

3. The department has thoroughly considered the comments and testimony received from the public. The following is a summary of the public comments received and the department's response to those comments:

COMMENT 1: Kim Rickard, business manager, Laborers International Union of North American (LIUNA) #1686, supports the preliminary prevailing wage rates. The commenter also stated she is against the repeal of ARM 24.17.101. She believes "repealing the rule would cause the purpose of prevailing wage to become unclear," and that "24.17.101 defines for the current and future generations why Montana Prevailing Wage Laws are important. If people don't know why laws are important then we risk them becoming irrelevant."

RESPONSE 1: The department believes its goal of producing and maintaining administrative rules which are clear, concise, and free of superfluity is a benefit to users; however, we also believe rules that help the public understand the importance of the law are equally valuable. ARM 24.17.101 will remain in effect.

COMMENT 2: Carey Hegreberg, executive director, Montana Contractors Association (MCA), supports the rates and the process. He believes there continues to be improvement in the consistency and uniformity in the prevailing wage rates. Mr. Hegreberg would like to see continuing improvement, especially in the benefit rates for some of the classifications.

RESPONSE 2: The department thanks Carey Hegreberg and the MCA for their support and looks forward to working with them and other groups to provide continuing improvement to Montana's Prevailing Wage Law.

COMMENT 3: In an e-mail to the department, Seth Bergen, business agent, Iron Workers Local 762, informs the department that his collective bargaining agreement (CBA) has the highest wage, and therefore the travel for the Ironworker classification in the highway rate schedule should be from Local 762's CBA.

RESPONSE 3: Mr. Bergen is correct. The correct CBA to reference for travel pay for the Ironworker classification in the highway rate schedule is Local 762's. The travel pay for Ironworkers in the highway rate schedule has been revised. Revised rates are identified below in paragraphs 4 and 5.

COMMENT 4: In a letter to the department, Mario Martinez, lead service representative, Pacific Northwest Council of Carpenters (PNWCC), Local 82, provided additional information and requested the wage rates for the Carpenter classification in the building rate schedule for districts 2 and 3, and the wage rate for the Drywall Applicator classification in the building rate schedule in district 3, be reviewed.

RESPONSE 4: The department has reviewed the additional information and the wage rates for the Carpenter classification in the building rate schedule for districts 2 and 3, and the wage rate for the Drywall classification in the building rate schedule in district 3 have been revised. Revised rates are identified below in paragraphs 4 and 5.

COMMENT 5: In an e-mail to the department, Andrea K. Evans, Sr. Director Partnership Relations, Corrections Corporation of America (CCA), questioned why the benefit rate for the Corrections and Detentions Officer in district 2 (previously district 4 in 2013) has fluctuated from \$4.87 in 2013 up to \$7.37 in 2014 and back down to \$6.68 in 2015. Ms. Evans also questions why there is a difference between the Service Contract Act (SCA) benefit rates for Correction and Detention Officers (\$4.02) and the benefit rates in the Montana Prevailing Wage Rates (\$6.38-\$7.74), and why there is one rate for the SCA and four for Montana's Prevailing Wage Rates.

RESPONSE 5: When the state went from ten districts to four in 2014, CCA's Shelby, Montana facility went from being located in district 4 to district 2. The Montana State Men's Prison went from being located in district 3 in 2013 to district 2 in 2014; therefore, the data from the men's prison and CCA are now combined. That caused the spike in benefit rates from 2013 to 2014. Wage and benefit rates go up and down depending on the number and quality of data the department receives. The decline in the preliminary benefit rates from 2014 benefit rates can be explained by those types of variation in the data collection period. As for the concerns regarding the differences in state and federal rates, the state rates and fringe benefits are determined and calculated using the provisions outlined in ARM

24.17.122. CCA will have to either contact the USDOL to find out their exact process in setting rates or reference applicable federal law or regulation.

COMMENT 6: Kim Rickard, business manager, LIUNA #1686, submitted additional information to be included in the rate setting process for Laborers Group 2, district 4, in the form of a CBA for Sletten Construction.

RESPONSE 6: The department had already received and considered the CBA provided and set the rates appropriately according to ARM 24.17.119(3)(b).

4. The following rates in the "Montana Prevailing Wage Rates for Building Construction Services 2014" publication, incorporated by reference in the rule, have been amended as follows, stricken matter interlined, new matter underlined:

Carpenter		
District	Wage	Benefit
2	\$21.00 <u>21.50</u>	\$11.86
3	\$21.00 <u>21.50</u>	\$11.57

Drywall Applicators		
District	Wage	Benefit
3	\$16.50 <u>21.50</u>	\$11.57

5. The following rates in the "Montana Prevailing Wage Rates for Highway Construction Services 2014" publication, incorporated by reference in the rule, have been amended as follows, stricken matter interlined, new matter underlined:

Ironworkers-Structural Steel and Rebar Placers

Travel:	
0-45 mi. free zone	
>45-60 mi. \$30.00/day	
>60-100 mi. \$55.00/day	
>100 mi. \$75.00/day	
<u>0-45 mi. free zone</u>	
<u>>45-85 mi. \$45.00/day</u>	
<u>>85 mi. \$75.00/day</u>	

6. After consideration of the comments and additional data provided, the department has amended the above-stated rules as proposed. As noted in paragraphs 4 and 5, certain rates in the publications incorporated by reference in ARM 24.17.127 have been amended.

7. After consideration of the comments received with regard to the repeal of ARM 24.17.101, that rule will remain in force and effect.

8. These amendments and the rates are effective January 2, 2015.

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State December 15, 2014.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.138.402 fee schedule)

TO: All Concerned Persons

1. On October 9, 2014, the Board of Dentistry (board) published MAR Notice No. 24-138-70 regarding the public hearing on the proposed amendment of the above-stated rule, at page 2346 of the 2014 Montana Administrative Register, Issue No. 19. On November 6, 2014, the board published an amended notice of public hearing at page 2710 of the 2014 Montana Administrative Register, Issue No. 21.

2. On December 1, 2014, a public hearing was held in Helena on the proposed amendment of the above-stated rule. Comments were received by the December 5, 2014, comment deadline.

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

COMMENT 1: Commenters neither supported nor opposed the fee increases, but stated that, rather than a 100 percent increase every 19 years, they would prefer smaller renewal fee increases, even if needed more often.

RESPONSE 1: Section 37-1-134, MCA, requires the board to set and maintain licensure fees commensurate with associated board costs. The only method for generating revenue for operations is through application and renewal fees. The board cannot set fees according to inflation, state of the economy, cost of living, current salaries of licensees, graduate debt load, or national fee averages. The board determined that the proposed fees are the minimum increases to maintain board operations and avoid another increase in the near future.

The board has traditionally maintained a cash balance carryover of approximately \$200,000 from fiscal year to fiscal year, although board expenses have regularly exceeded revenue. Revenues for the board (from all sources) have risen from \$200,500 in fiscal year 2009 to over \$219,000 in fiscal year 2013, while board expenses have risen from \$220,300 to over \$270,000 over the same period. At the end of fiscal year 2013, the board's cash balance was \$96,516. In comparison, the cash balance at the end of fiscal year 2012 was approximately \$147,000 and approximately \$216,000 in fiscal year 2011.

Staff provided a comprehensive fee increase proposal in the spring of 2010 (fiscal year 2010) when it appeared the cash balance might dip below \$200,000, and the financial projection showed a steady erosion of the cash balance in the future. The board determined not to proceed with a fee increase, but to monitor the financial status. The final cash balance after fiscal year 2010 ended was \$226,446. A number of factors have seen the board's cash balance erode significantly since fiscal

year 2012. These include the cost of contracting for an impairment program, paying a portion of the cost of a new licensing database, an increase in wages and benefits as previously approved by the legislature, contracting with an independent investigator for dental office sanitation complaints in fiscal year 2013, and additional department legal expenses to address a lawsuit against the board.

Additionally, there was an overall increase in costs for processing complaints and investigations over the past five fiscal years and there have also been increases in the costs of doing business that all licensing boards are required to pay, such as rent, information technology maintenance fees, postage, and mailing, etc.

COMMENT 2: Commenters alleged that the board has consistently worked to illegally restrain dentistry and asserted that denturists should not be required to fund those activities through higher fees.

RESPONSE 2: Section 37-1-134, MCA, requires the board to set and maintain licensure fees commensurate with associated board costs. The only method for generating revenue for operations is through application and renewal fees. The board cannot set fees according to inflation, state of the economy, cost of living, current salaries of licensees, graduate debt load, or national fee averages. The board determined that the proposed fees are the minimum increases to maintain board operations and avoid another increase in the near future.

4. The board has amended ARM 24.138.402 exactly as proposed.

BOARD OF DENTISTRY
DR. TERRY KLISE, D.D.S., PRESIDENT

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

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State December 15, 2014

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

In the matter of the amendment of)	NOTICE OF AMENDMENT AND
ARM 24.207.401 fees, 24.207.403)	ADOPTION
regulatory reviews, 24.207.404)	
appraisal review, 24.207.406)	
definitions, 24.207.408 military)	
training or experience, 24.207.501)	
examination, 24.207.502 application)	
requirements, 24.207.503 experience)	
- number of hours required,)	
24.207.504, 24.207.505, 24.207.506,)	
and 24.207.507 qualifying education)	
course requirements, 24.207.508 ad)	
valorem tax appraisal experience,)	
24.207.509 qualifying experience,)	
24.207.510 scope of practice,)	
24.207.517 trainee requirements,)	
24.207.518 mentor requirements,)	
24.207.1507 appraisal management)	
record keeping, 24.207.1509 AMC)	
audit requirements, 24.207.2101)	
continuing education, 24.207.2102)	
continuing education noncompliance,)	
and the adoption of NEW RULES I)	
and II unprofessional conduct)	

TO: All Concerned Persons

1. On November 6, 2014, the Board of Real Estate Appraisers (board) published MAR Notice No. 24-207-38 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 2714 of the 2014 Montana Administrative Register, Issue No. 21.

2. On December 1, 2014, a public hearing was held in Helena on the proposed amendment and adoption of the above-stated rules. Comments were received by the December 5, 2014, comment deadline.

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

COMMENT: Several commenters suggested that the language in New Rule II be revised to limit the types of requests for which an appraisal management company could face disciplinary action to requests that are related to the board's statutory

authority under Title 37, chapter 54, MCA, regarding audits, investigations, or complaints.

RESPONSE: The board acknowledges that the language of proposed New Rule II is broad. However, the board understands it cannot stray beyond the regulatory authority granted to the board by the legislature. The proposed language is necessarily broad to allow the board to collect information required to complete routine administrative tasks associated with licensing appraisal management companies. Any appraisal management company responding to a request from the board will have an opportunity to request clarification of the request and may challenge the basis for the request as part of the complaint process.

4. The board has amended ARM 24.207.401, 24.207.403, 24.207.404, 24.207.406, 24.207.408, 24.207.501, 24.207.502, 24.207.503, 24.207.504, 24.207.505, 24.207.506, 24.207.507, 24.207.508, 24.207.509, 24.207.510, 24.207.517, 24.207.518, 24.207.1507, 24.207.1509, 24.207.2101, and 24.207.2102 exactly as proposed.

5. The board has adopted NEW RULE I (ARM 24.207.2301) AND NEW RULE II (ARM 24.207.2305) exactly as proposed.

BOARD OF REAL ESTATE APPRAISERS
THOMAS STEVENS, CERTIFIED
GENERAL APPRAISER, CHAIRPERSON

/s/ DARCEE L. MOE

Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY

Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State December 15, 2014

BEFORE THE BOARD OF SPEECH-LANGUAGE PATHOLOGISTS
AND AUDIOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.222.401 fees)

TO: All Concerned Persons

1. On November 6, 2014, the Board of Speech-Language Pathologists and Audiologists (board) published MAR Notice No. 24-222-25 regarding the public hearing on the proposed amendment of the above-stated rule, at page 2736 of the 2014 Montana Administrative Register, Issue No. 21.

2. On December 1, 2014, a public hearing was held in Helena on the proposed amendment of the above-stated rule. Several comments were received by the December 5, 2014, comment deadline.

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

COMMENT 1: Several commenters opposed the proposed fee increases, asserting that if increased as proposed, Montana would be tied as having the second highest fees among 39 of the United States. The commenters stated that such high fees will not correlate with the low compensation of Montana speech-language pathologists and audiologists, and will result in new graduates leaving the state and more difficulty in recruitment from out of state. The commenters asserted the new fees will be a burden on licensees and Montana employers of speech-language pathologists, especially school districts, and rural districts will continue to suffer a lack of speech-language pathologists.

RESPONSE 1: The board is statutorily required to set and maintain licensure fees that are commensurate with associated board costs. Licensure fees are directly impacted by the number of licensees a board regulates, so boards with fewer licensees generally charge higher fees and boards with more licensees may charge lower licensure fees.

The board understands the concerns that licensees have with increased renewal and application fees. However, whether an employer elects to pay the licensing fees of its employees is at the employer's discretion. The board determined that the proposed fees are the minimum increases to maintain board operations and avoid another increase in the near future.

All licensing boards are statutorily mandated by 37-1-134, MCA, to set board fees commensurate with the actual costs of licensure and regulation of its licensees. The only method for generating revenue for operations is through application and renewal fees. The board cannot set fees according to inflation, state of the economy, cost of living, current salaries of licensees, graduate debt load, or national

fee averages. Further, roughly 47 percent of the board's budget is a fixed cost allocation to the board for department-provided computer systems, web site support, staff salaries, and phone and mail services.

COMMENT 2: Commenters questioned how the board intends to utilize the additional revenue from the proposed fee increases and asserted that "program costs," as stated in the proposal notice, is vague.

RESPONSE 2: The department is required to biennially provide detailed information to the Montana Legislature on current and projected licensee numbers and board revenues, expenses, activities, goals, objectives, and complaints. The board also reviews a current financial report, including the board's fiscal year income and expenditures to date, at each full board meeting. This fiscal information is publicly available from the board and is open to public inspection and scrutiny. It is impossible to provide a detailed plan of the board's future spending patterns, since costs increase and consistently change.

COMMENT 3: Several commenters opposed the fee increase and stated that Montana's fees should be commensurate with the national average of about \$105.

RESPONSE 3: See RESPONSE 1.

COMMENT 4: Commenters opposed the fee increase and requested the board consider other cost-saving measures first.

RESPONSE 4: The board and the department continually seek and implement ways to reduce costs associated with board functions, and both welcome input from the public. Examples of current cost-saving processes include using electronic board books instead of paper ones, holding board meetings by telephone conference instead of in-person attendance, reducing or eliminating travel opportunities for board and staff, and transmitting board materials electronically. Additionally, the department provides standardized application and complaint processing to all boards, which results in consistency and overall cost savings among the boards.

COMMENT 5: One commenter stated that the timing of the rule change was the "worst possible" and resulted in less input and participation at the rules hearing.

RESPONSE 5: The board has fully complied with all the requirements for rulemaking in the Montana Administrative Procedure Act (Title 2, chapter 4, MCA), including provisions for publication, timelines, public participation, and opportunity for comment. It is necessary to proceed with the increase now, so the new fees will be in place for the 2015 renewal cycle.

Further, the board points out that the hearing is but one of several avenues for the public to provide input and comment on rule changes. The public can provide comments through regular mail, e-mail, and fax. Department staff conducts the hearings and the board does not attend them. However, the board does consider

and respond to all timely received comments, regardless of how the comments were submitted.

COMMENT 6: One commenter opposed the fee increases, but suggested that higher fees might be justified if MSHA (Montana Speech-Language and Hearing Association) advocated more for higher Montana salaries, and offered more scholarships and cheaper continuing education opportunities for licensees.

RESPONSE 6: Licensing boards and professional associations have distinctly separate goals and purposes. State legislatures create licensing boards to license and regulate qualified individuals to practice safely in a profession, solely for the protection of the public. Professional associations promote and advocate for the success of specific professions. The entities have separate functions and the fees for one do not impact the other. Also see RESPONSE 1.

COMMENT 7: One commenter asserted that higher licensure fees will decrease the ability of women to maintain licensure when choosing not to work.

RESPONSE 7: See RESPONSE 1.

4. The board has amended ARM 24.222.401 exactly as proposed.

BOARD OF SPEECH-LANGUAGE
PATHOLOGISTS
AND AUDIOLOGISTS
LYNN HARRIS, AuD, CHAIR

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

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State December 15, 2014

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 32.3.212 additional)
requirements for cattle and 32.3.212A)
brucellosis vaccination of imported)
cattle under four months of age)

TO: All Concerned Persons

1. On September 18, 2014, the Department of Livestock published MAR Notice No. 32-14-252 regarding the public hearings on the proposed amendment of the above-stated rules at page 2067 of the 2014 Montana Administrative Register, Issue Number 18.

2. The department has amended ARM 32.3.212A as proposed.

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

32.3.212 ADDITIONAL REQUIREMENTS FOR CATTLE (1) remains as proposed.

(2) Nonvaccinated sexually intact cattle, 12 months of age and older, must have a negative brucellosis test no more than 30 days prior to arrival unless originating from a:

(a) U.S. state, ~~area, province,~~ or territory that has been brucellosis class free for ten years or more; or

(b) through (13) remain as proposed.

4. MDOL received written comments and collected comments at public hearings on this proposal. Of the 11 written comments, ten were in favor of the proposal and one was opposed. Comments were submitted by veterinarians, ranchers, feedlot owners, livestock market owners, and regulatory personnel. Public hearings were held in Billings (0 attendees) and Three Forks (12 attendees). A number of comments were made at the hearing in Three Forks that were outside the scope of this proposal.

A summary of the comments received and the department's responses are as follows:

Comment 1: A number of comments suggested that requiring vaccination for import is illogical and unnecessary when there is no statewide official calfhood vaccination (OCV) requirement.

Response 1: MDOL agrees with these comments. A statewide vaccination requirement was proposed in 2009 but was rejected by the industry. The rationale

that Montana uses to justify that cattle have no risk of brucellosis outside the Designated Surveillance Area (DSA) also applies to other states that are brucellosis class-free, especially if they have been class-free for ten years or more. In order for Montana's non-DSA areas to be recognized as brucellosis-free, it's important that Montana recognizes the disease status of other states.

Comment 2: MDOL has done an excellent job "selling" our brucellosis surveillance plan to other states, and I agree there is currently no good answer when asked why cattle from their states have to be vaccinated prior to entry (other than SW Montana). If we enacted statewide mandatory vaccination, this situation would be different.

Response 2: See Response 1.

Comment 3: Many comments stated that the risk of importing brucellosis from a brucellosis-free state (or from a non-DSA county in Montana) is very low and that this change would not create any additional risk to Montana cattle.

Response 3: MDOL agrees that the risk of importing a diseased animal from a brucellosis-free state is extremely low; and if it were a concern, the most effective method of mitigating that concern would be to require a brucellosis test prior to import. Vaccination prior to entry does not prevent a diseased animal from entering Montana.

Comment 4: Several comments stated that changing the import regulation would not affect the fact that the majority of breeding heifers in Montana are vaccinated.

Response 4: MDOL agrees that the rate of brucellosis vaccination of breeding heifers would not likely be affected by this proposal. Approximately 70% of Montana heifers are vaccinated each year, even without a statewide vaccination requirement.

Comment 5: Vaccination on import is a regulation that adds an unnecessary cost to Montana producers, especially in the case of feeder heifers.

Response 5: MDOL agrees that quarantines create an additional cost to producers. For example, as of early December 2014, one Montana producer had been issued quarantines for nearly 6000 feeder heifers that could otherwise have remained unvaccinated until slaughter. MDOL must track the inventory of animals imported under quarantine until they are either vaccinated or spayed by a veterinarian. There can be additional cost to the buyer associated with tracking quarantined animals and penning them separately.

Comment 6: Removing the OCV requirement would increase the number of female cattle imported into Montana without official identification.

Response 6: MDOL sets most official identification requirements by office policy, which would be adjusted to ensure that identification and traceability requirements are maintained.

Comment 7: The ten-year duration of class-free status may not be necessary but probably serves to show continued vigilance.

Response 7: Requiring that a state has been brucellosis class-free for ten years or more provides added assurance that no disease remains in the state.

Comment 8: Multiple comments stated that when procuring feeder heifers from within the state of Montana, they are not bangs vaccinated, but to import them from another state they must be vaccinated at additional cost and stress to the animals.

Response 8: See Responses 1, 3, and 5.

Comment 9: The current regulations impede commerce when purchasing heifers from livestock markets by creating additional processing time, logistical issues with veterinarian and trucker schedules, animal stress, and cost.

Response 9: See Responses 1, 3, and 5. Currently, nonvaccinated females from a sale yard must be vaccinated prior to entry. This proposal would eliminate these costs.

Comment 10: How does MDOL plan to handle imports into the four counties in which brucellosis vaccination is required?

Response 10: Vaccination has been required in Beaverhead, Gallatin, Madison, and Park counties since 2009. Under the proposed rule, cattle imported from out-of-state into these four counties would be subject to the same regulations as cattle entering those four counties from other parts of Montana. Therefore, the proposed rule would simplify compliance with existing regulations for vaccination in the four-county area. However, MDOL will send correspondence to producers importing nonvaccinates from out-of-state into the four counties informing them of the requirements.

Comment 11: "I don't know details of the immune response of vaccinates compared to naive cattle, but it is at least conceivable that vaccinated cows might be more likely to show a positive titer following exposure while less likely to harbor an active infection posing risk of transmission to herd mates. While I think dropping the vaccination requirement for females imported to MT outside the four counties in which the DSA is located is a good idea, I don't think the fact that most reactors have been vaccinates is a good reason to drop that requirement."

Response 11: Many details of the immune response to brucellosis vaccine are not well understood. However, brucellosis vaccination has been demonstrated to be critical to reduce transmission and minimize the impact of the disease in a herd. The disease status of states that have been class-free for ten years or more was the most significant factor driving this proposal. It would remove brucellosis vaccination requirements for cattle with negligible risk of exposure to the disease and that do not, therefore, benefit from the vaccine.

Comment 12: The burden of enforcement of vaccination of imported female cattle in the four counties in which vaccination is required will be placed on producers and local enforcement officials.

Response 12: See Response 10.

Comment 13: If MDOL expects the district, market, and local brand inspectors to carry out the enforcement of vaccination of imported cattle in Beaverhead, Gallatin, Madison, and Park counties, they need to be educated and compensated accordingly.

Response 13: See Response 10. Current regulations and MDOL ARM proposals and adoptions are available on the MDOL web site: www.liv.mt.gov. MDOL sends regular updates to district, market, and local inspectors when changes to livestock laws and policy occur. MDOL will issue a press release if this proposal is adopted.

Comment 14: One commenter expressed concerns that brucellosis testing of Canadian cattle provides added assurance that imported animals are brucellosis-free.

Response 14: Exempting adult Canadian origin cattle from brucellosis testing was a clerical error, and will be addressed in the final rule. MDOL agrees that the most certain way to ensure the brucellosis-negative status of international imports is to require a test.

Comment 15: It is imperative that MDOL communicates the option to import nonvaccinated females into Montana as well as the implications of importing nonvaccinates into the four counties in which vaccination is required.

Response 15: See Responses 10 and 13.

Comment 16: It seems that the DSA has been a vehicle to shift the risk and burden of diseased wildlife away from the managing state and federal agencies and onto the private producer who has little control of where this diseased wildlife roams.

Response 16: MDOL agrees that the DSA has been successful in maintaining the marketability of Montana cattle and minimizing regulations placed by other states. Wildlife management is outside the scope of this proposal.

Comment 17: Any time there are restrictions placed on cattle in commerce, it costs producers money.

Response 17: See Responses 5 and 9.

DEPARTMENT OF LIVESTOCK

BY: /s/ Christian Mackay
Christian Mackay
Executive Officer
Board of Livestock
Department of Livestock

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

Certified to the Secretary of State December 15, 2014.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 32.2.405 pertaining to)
department of livestock)
miscellaneous fees)

TO: All Concerned Persons

1. On November 6, 2014, the Department of Livestock published MAR Notice No. 32-14-256 regarding the proposed amendment of the above-stated rule at page 2739 of the 2014 Montana Administrative Register, Issue Number 21.

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

3. No comments or testimony were received.

DEPARTMENT OF LIVESTOCK

BY: /s/ Christian Mackay
Christian Mackay
Executive Officer
Board of Livestock
Department of Livestock

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

Certified to the Secretary of State December 15, 2014.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.85.403 and 37.86.2907)
pertaining to date changes to ICD CM)
and PCS Services-ICD-10)

TO: All Concerned Persons

1. On August 7, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-686 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1778 of the 2014 Montana Administrative Register, Issue Number 15.

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

3. No comments or testimony were received.

/s/ Shannon L. McDonald
Shannon L. McDonald
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State December 15, 2014.

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

In the matter of the adoption of New) NOTICE OF ADOPTION
Rules I through XVI, pertaining to)
implementing the new program)
Community First Choice Services)

TO: All Concerned Persons

1. On October 9, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-690 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 2381 of the 2014 Montana Administrative Register, Issue Number 19.

2. The department has adopted New Rule IV (37.40.1006), V (37.40.1007), VI (37.40.1008), VIII (37.40.1013), IX (37.40.1016), X (37.40.1017), XI (37.40.1018), XII (37.40.1022), XIII (37.40.1023), XIV (37.40.1026), XV (37.40.1027), and XVI (37.40.1030) as proposed.

3. The department has adopted the following rules as proposed with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

NEW RULE I (37.40.1001) AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: DEFINITIONS (1) through (5) remain as proposed.

(6) "Community First Choice Services" (CFCS) means the delivery of medically necessary in-home and community-based services provided to Medicaid eligible members whose health conditions cause them to be functionally limited in performing activities of daily living and instrumental activities of daily living.

(7) and (8) remain as proposed.

(9) "Functional assessment" means an assessment that is performed by the designated quality improvement organization licensed nurse to determine if the member qualifies for CFCS and requires assistance with activities of daily living, instrumental activities of daily living, and ~~health-related tasks~~ health maintenance activities.

(10) through (25) remain as proposed.

(26) "Self-directed services" means a service delivery option for CFCS. In this option the member, or a personal representative, takes responsibility of managing the CFCS. Under the self-directed option, the member or personal representative must hire, fire, supervise, and manage the personal care attendants. In this service option personal care attendants are employed by the provider agency.

(27) through (32) remain as proposed.

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

NEW RULE II (37.40.1002) AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: ELIGIBILITY, SERVICES PROVIDED, AND LIMITATIONS (1) through (12) remain as proposed.

~~(13) In addition to the CFCS provided through these rules, a member may receive CFCS through the Medicaid Home and Community-Based Services Program for elderly and physically disabled persons, persons with severe and disabling mental illness, or persons with developmental disabilities.~~

(14) and (15) remain as proposed, but are renumbered (13) and (14).

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

NEW RULE III (37.40.1005) AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: PERSON-CENTERED PLAN REQUIREMENTS (1) remains as proposed.

(2) The Person-Centered Planning requirements in (1) may be delayed in the circumstances outlined in ~~(6)~~(7).

(3) through (5) remain as proposed.

(6) A member will not receive CFCS beyond the service profile authorization unless one of two conditions is met:

(a) The provider agency implements a temporary service plan as outlined in ~~(6)~~(7).

(i) through (10) remain as proposed.

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

NEW RULE VII (37.40.1012) AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: TERMINATION FROM SERVICES

(1) and (2) remain as proposed.

(3) The provider must give at least ten days advance notice to a member when CFCS are terminated for reasons listed in ~~(1)(d)(f)~~ through (1)(j).

(4) The provider may immediately, but temporarily, suspend services for the reasons listed in (1)(a) through ~~(1)(e)(e)~~. Following the temporary suspension of services the provider may enter into an agreement with the member to ensure that the violations of (1)(a) through ~~(1)(e)(e)~~ do not reoccur. If the member fails to abide by the terms of the agreement, services may be permanently terminated.

(5) and (6) remain as proposed.

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

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

COMMENT #1: Commenters stated overall support of the proposed rules because they allow Montana to receive more funding for home-based service, which will improve service system and increase wages to direct care workers.

RESPONSE #1: The department appreciates the support and agrees that the ability to fund home-based services at an enhanced matching rate has the potential to affect the entire home-based service delivery system, including members and their direct care workers.

COMMENT #2: One commenter was concerned that the rate of reimbursement associated with the additional provider responsibilities was not sufficient to compensate for the loss of oversight reimbursement and increased administrative, planning, and other required duties.

RESPONSE #2: The fee schedule for the Personal Assistance (PA) program and Community First Choice (CFC) program was published with Montana Administrative Register (MAR) Notice No. 37-683 in July 2014. The increased administrative requirements and other expectations were included as part of the rationale for the necessity for the fee change and the resulting rates were increased to reflect this increased level of effort.

COMMENT #3: A couple of commenters were concerned that the language in New Rule I(6) of "in-home services" was restrictive for purposes of the CFC service delivery model since some of the CFC services are delivered outside of the home. A couple of commenters were also concerned that the definition was limited to medically necessary activities of daily living and failed to take into consideration services available outside the home to enable members to participate in community activities.

RESPONSE #3: The department's intent is that these services are delivered where the member needs them in accordance with the approved person-centered plan and they are inclusive of both activities of daily living and instrumental activities of daily living. We have made a change in the rule language to read: "Community First Choice Services" (CFCS) means the delivery of medically necessary in home and community-based services provided to Medicaid eligible members whose health conditions cause them to be functionally limited in performing activities of daily living and instrumental activities of daily living.

COMMENT #4: One commenter suggested using the phrase "health maintenance activity" in New Rule I(9), rather than, "health-related task" to describe this service.

RESPONSE #4: The department agrees with this comment and has amended New Rule I(9) to read "health maintenance activities" rather than health-related tasks.

COMMENT #5: One commenter asked for a clarification in New Rule I(10) regarding the distribution of health care for health care worker funding and whether it included Personal Assistance Services (PAS).

RESPONSE #5: Proposed New Rule XVI outlines the full scope of this program as it pertains to CFC and to PAS. New Rule XVI(1)(a) specifies that these funds will be distributed based on Medicaid utilization for providers that participate in each of these programs.

COMMENT #6: A few commenters suggested that the department use the term "personal assistant" rather than "personal care attendant" in New Rule I(18).

RESPONSE #6: The department collaborated with a work group to decide on terminology that was consumer-focused and would resonate with the service recipients. "Personal care attendant" was the term the group advised the department to use. It is also a widely accepted and utilized term in the home-based service delivery arena.

COMMENT #7: One commenter recommended that in New Rule I(26) a statement about a personal care assistant being an employee of the provider agency should be added to the service definition.

RESPONSE #7: The department had already stated in New Rule II(14) that CFCS must be delivered by a CFCS personal care attendant employed by an enrolled Medicaid provider that has met the criteria established by the department for the delivery of CFCS as referenced in New Rules X and XI. We agree that it would be helpful to add this additional clarification to New Rule I(26) as it relates to self-directed services and have done so.

COMMENT #8: One commenter questioned why, in New Rule I(30), skill acquisition, maintenance, and enhancement service should be based on a member needing assistance with a task and proposed authorizing the service when someone needed to learn or relearn the task.

RESPONSE #8: The CFC federal regulation 42 CFR 441.520(a)(2) stipulates included services as the following: "acquisition, maintenance, and enhancement of skill necessary for the individual to accomplish ADLs, IADLs and health-related tasks." The department established the service definition for skill acquisition based on the terminology in the federal statute, which focuses on the term "skill." The department believes that the current definition for this service is in alignment with the intent of the regulation and Montana's CFC state plan because it provides additional support to a member to acquire the skills necessary to achieve independence with a task.

COMMENT #9: A couple of commenters suggested the department change the service limits for instrumental activities of daily living (IADL) in New Rule II(3) because they did not allow sufficient time to perform Community Integration.

RESPONSE #9: The CFC program provides for an expansion of services under the state plan option. This expansion includes increased service options under the category of instrumental activities of daily living and additional time to perform these tasks. The majority of Medicaid CFC members will receive additional time to perform these activities. The limits are in compliance with Montana's CFC state plan amendment. The person-centered planning process provides a member with the opportunity to prioritize their needs for instrumental activities of daily living and make individual decisions about what would be most beneficial to the member based on the service limits.

The department believes there is value in providing additional IADL support and has structured the Medicaid waivers to provide for expanded support. The department will continue to look at the costs associated with home-based services to determine whether it is more advantageous to deliver these services under the state plan or waiver option. The department has also committed to continued meetings with the Community First Choice Advisory Council to discuss ways to enhance and expand service options.

COMMENT #10: A couple commenters suggested that the service section in New Rule II(7) should include the provision of activities of daily living (ADL) outside the home.

RESPONSE #10: New Rule II(7) provides for the delivery of ADL tasks in association with specified IADL services outside the home. These services include shopping, community integration, and medical escort. The authorization and delivery of these services are based on the assessment that there is a need for ADL assistance while the member participates in the IADL service. The provision of ADL activities when a member is not participating in community integration, shopping, or medical escort must be provided in the member's home.

COMMENT #11: Multiple comments were received related to concerns with the language in New Rule II(9)(c) that stated CFC services would not be available if a member lives in a home which is not safely accessible by normal modes of transportation. They were concerned this would limit access to service for members who live in remote areas of our state. A few commenters also questioned how "safely accessible" would be defined.

RESPONSE #11: The department believes there is merit in maintaining this language because there are situations where it is impossible for the required department staff, contract staff, provider agency staff, and personal care attendants to reach a member to assess, authorize, or deliver services. In these situations it may not be possible to provide CFC services to a member. The department, provider, and contract agencies are very cognizant of the rural nature of the state

and are creative when trying to provide services in remote areas. The determination whether a home is accessible will be made on a case-by-case basis and based on the facts of each specific situation.

COMMENT #12: One commenter suggested a change in language in New Rule II(11)(d) from "certified" to "trained" regarding the use of CFC services for the maintenance of animals.

RESPONSE #12: The department requires that a service animal be certified in order to qualify for assistance. The suggestion for an animal to be "specifically trained to meet the needs of the member" is too broad to meet the criteria for this service category. The waiver program has a certification program for service animals and the CFC service is intended to allow a personal care attendant to maintain service animals for members who receive a service animal that has gone through the waiver certification process or a similar type of certification.

COMMENT #13: A commenter suggested that the New Rule II(13) be expanded to include children on waivers.

RESPONSE #13: The department has reviewed this section and has decided to remove the language in New Rule II(13) from the CFC rule. CFC services are only available under the CFC state plan option. Waivers provide expanded state plan services and the scope and type of services provided in each waiver are defined in each of the specific waiver's administrative rules and as such we do not need to state this requirement in these rules.

COMMENT #14: One person commented that they believe the requirement in New Rule III(4) for the coordination of the person-centered planning visit seems like a significant waste of time and is a conflict of interest because information shared may not be relevant to all parties.

RESPONSE #14: The requirement for coordination of the person-centered planning process between case managers and CFC provider agencies is designed to improve service outcomes for members. Prior to making this decision, the department conducted an online survey of members, advocates, providers, case managers and worked with the CFC Advisory Council, to gather recommendations on how to improve the home-based service delivery system and make it more person centered. The feedback that was gathered emphasized the need for coordination of visits and sharing of information. New Rule III incorporates this feedback into the functional design of the CFC program.

The department agrees with this commenter that there may be information conveyed in the coordinated visit that is not relevant to all participants. As such, the department only requires that the CFC person-centered planning components be communicated during the joint visit. There may be other portions of the visit that someone may not attend. The department encourages the plan facilitator and CFC agency staff to communicate with members and use the person-centered planning

framework to coordinate and schedule the visits with the member so member preferences and concerns are addressed.

COMMENT #15: One commenter was concerned that New Rule V(3) implied a member who qualifies for health maintenance activities would not have a choice to receive those services in another service arena.

RESPONSE #15: Mountain Pacific Quality Health will only authorize a service based on a member's identified need for the service and the member's desire to receive the service through the self-directed program. If a member would like to receive health maintenance activities in another service arena they can communicate this to Mountain Pacific Quality Health and receive the service. These services will no longer be authorized under their CFC plan.

COMMENT #16: One commenter suggested that the department remove the limitation in New Rule VI(2)(c) that a personal representative cannot be employed by the member's CFC provider agency.

RESPONSE #16: The department has established this assurance as a safeguard to ensure there are no conflicts of interest for the personal representative and to ensure that the person can act solely on behalf of the member.

COMMENT #17: Regarding New Rule VII(1)(g), one commenter asked if a member could be terminated from the program under this rule if she does not want a member of the opposite sex doing her bathing, etc.

RESPONSE #17: If a member does not want someone of the opposite sex to perform certain tasks the member would indicate this preference in the person-centered planning process and the agency would be expected to comply with this request. However, if the member discriminates solely or partly on the attendant's race, creed, religion, sex, marital status, color, age, handicap, or national origin, they may be subject to termination from the program.

COMMENT #18: Regarding New Rule VII(2), one commenter stated that termination of the CFC program or reduction of available services should require legislative action.

RESPONSE #18: Termination or reduction of CFC services may occur when funding is unavailable. Legislative action is one reason this may occur but it is not the only reason. The department is given broad authority to make these decisions when necessary without legislative approval in order to manage Medicaid programs.

COMMENT #19: Several commenters suggested additions or clarifications to New Rule VII(3) and (4). One requested that termination rights be granted when a member doesn't maintain Medicaid eligibility. Another commenter requested that illegal activity in the home and falsification of service delivery records be considered for immediate termination.

RESPONSE #19: The department has clarified New Rule VII(3) to incorporate the reasons for ten-day advanced notice to a member when CFCS are terminated for reasons listed in New Rule VII(1)(f) through (1)(j) of this rule section, and has clarified New Rule VII(4) to incorporate the reason that a provider may immediately, but temporarily, suspend services for the reasons listed in New Rule VII(1)(a) through (1)(e) which includes the member is engaging in illegal activity in the home. We will not change the falsification of service delivery records New Rule VII(1)(j) recommendation for immediate termination.

COMMENT #20: Regarding New Rule VII(4), a commenter requested that the department provide further direction on the terms a provider should use to enter into an agreement when violations have occurred.

RESPONSE #20: New Rule VII(4) states that a provider agency may enter into an agreement with a member to ensure that violations do not reoccur. This is not mandatory. As such the department believes it is important to leave the parameters of this arrangement up to each provider agency's internal policy and procedures.

COMMENT #21: Several comments were received in favor of New Rules X and XI. The comments included that the new rules would address the deficiencies of skill levels and training for staff. The comments also indicated that quarterly reports would allow the department to collect information to improve the quality of self-directed services delivered to members enrolled in the CFC program.

RESPONSE #21: The department agrees that the information gathered may be helpful in determining whether additional training is required related to this service delivery option and will allow the department to evaluate the work force quality, stability, and sustainability.

COMMENT #22: Regarding New Rule XI(6), one commenter requested additional language be added to "allow the provider agency the right to terminate personal assistants for failure to follow agency rules."

RESPONSE #22: The goal of the Self-Directed CFC program is to provide members choice and control over the services they receive. New Rule VI requires the self-directed CFC member be capable of recruiting, hiring, scheduling, training, and dismissing all personal care attendants. The member has the responsibility to terminate a personal assistant for failing to follow agency rules when appropriate.

COMMENT #23: Several comments were received regarding opposing New Rule XI(7). The comments included that the information received could be construed as a Health Insurance Portability and Accountability Act (HIPAA) breach, there was concern about disclosure of the information received and the feeling that it was an unnecessary violation of personal privacy, concern that the rule is not voluntary, concern that the rule may detract individuals from choosing to become a personal assistant, increased administrative burden for provider agencies, and the

department should not single out self-direct providers. Some commenters were also concerned that the statement of reasonable necessity regarding the department's involvement in reporting and training of the workforce was contrary to the philosophy of the self-directed program.

There were also several comments in support of New Rule XI(7) as set forth in Comment #21.

RESPONSE #23: The information required for quarterly reports of workers that deliver self-directed services does not include protected health information; therefore, it is not considered a HIPAA breach of information. The CFC program is funded with Medicaid dollars and the need to gather information regarding the delivery of services and the accountability and sustainability of services is appropriate and necessary in order to manage this joint state and federal program. The information required will be used to evaluate this work force for quality, stability, and sustainability. The department may create a voluntary online directory that could assist a member in choosing a personal assistant.

The department will work with self-direct provider agencies to create a streamlined process for providing the information required with quarterly reports to have the least amount of administrative burden possible. The department will also work with provider agencies and consumers, within the framework of the self-directed model, to make decisions on identifying and responding to workforce training needs that may be identified through the reports.

Finally, the department recognizes the differences in the expectations of the agency-based and self-directed options of the CFC program and has determined that the self-direct option would benefit from having the information from quarterly reports and a voluntary online directory. Based on the results of the quarterly reporting for self-directed programs, the department may make a decision in the future that this reporting requirement would be beneficial for agency-based programs and may adopt rules to expand the reporting requirement to agency-based providers.

COMMENT #24: New Rule III(2) and (6) have an incorrect reference related to where the temporary service plan requirements can be found. The correct reference should be New Rule III(7) as was noted at the public rule hearing.

RESPONSE #24: The department has made this correction in New Rule III(2) and (6)(a) to correct this reference to temporary service plans to reference New Rule III(7).

5. The department intends to apply these rule adoptions retroactively to July 1, 2014. The implementation date is consistent with the federal approval of the Community First Choice state plan amendment. A retroactive application of the proposed rule adoptions does not result in a negative impact to any affected party.

/s/ Valerie Bashor
Valerie Bashor, Attorney
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State December 15, 2014

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.40.402, 37.40.406,)
37.40.420, and 37.40.422 pertaining)
to updating the hospital swing-bed)
direct care wage to the current fiscal)
year)

TO: All Concerned Persons

1. On October 23, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-693 pertaining to the proposed amendment of the above-stated rules at page 2548 of the 2014 Montana Administrative Register, Issue Number 20.
2. The department has amended the above-stated rules as proposed.
3. No comments or testimony were received.
4. These rule amendments are effective January 1, 2015.

/s/ Valerie Bashor
Valerie Bashor, Attorney
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State December 15, 2014.

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

In the matter of the adoption of New) NOTICE OF ADOPTION AND
Rules I through XIV and repeal of) REPEAL
ARM 37.40.1101, 37.40.1102,)
37.40.1105, 37.40.1106, 37.40.1301,)
37.40.1302, 37.40.1303, 37.40.1305,)
37.40.1306, 37.40.1307, 37.40.1308,)
and 37.40.1315 pertaining to the)
establishment of regulations for the)
personal assistance services program)

TO: All Concerned Persons

1. On October 23, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-694 pertaining to the public hearing on the proposed adoption and repeal of the above-stated rules at page 2552 of the 2014 Montana Administrative Register, Issue Number 20.

2. The department has adopted New Rule III (37.40.1114), IV (37.40.1115) V (37.40.1116), VI (37.40.1117), VIII (37.40.1122), IX (37.40.1125), X (37.40.1126), XI (37.40.1127), XII (37.40.1131), XIII (37.40.1132), and XIV (37.40.1135), as proposed.

3. The department has repealed ARM 37.40.1101, 37.40.1102, 37.40.1105, 37.40.1106, 37.40.1301, 37.40.1302, 37.40.1303, 37.40.1305, 37.40.1306, 37.40.1307, 37.40.1308, and 37.40.1315 as proposed.

4. The department has adopted the following rules as proposed with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

NEW RULE I (37.40.1110) AGENCY-BASED AND SELF-DIRECTED PERSONAL ASSISTANCE SERVICES: DEFINITIONS (1) through (6) remain as proposed.

(7) "Functional assessment" means an assessment that is performed by the designated quality improvement organization licensed nurse to determine if the member qualifies for PAS and requires assistance with activities of daily living, instrumental activities of daily living, and ~~health-related tasks~~ health maintenance activities.

(8) through (13) remain as proposed.

(14) "Personal Assistance Services" (PAS) means the delivery of medically necessary in-home and community-based services provided to Medicaid eligible members whose health conditions cause them to be functionally limited in

performing activities of daily living and instrumental activities of daily living. A member must have a medical need for hands-on assistance in order to receive PAS.

(15) through (22) remain as proposed.

(23) "Self-directed services" means a service delivery option for PAS. In this option the member, or a personal representative, takes responsibility of managing the PAS. Under the self-directed option, the member or personal representative must hire, fire, supervise, and manage the personal care attendants. In this service option personal care attendants are employed by the provider agency.

(24) through (26) remain as proposed.

AUTH: 53-2-201, 53-6-101, MCA

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

NEW RULE II (37.40.1111) AGENCY-BASED AND SELF-DIRECTED PERSONAL ASSISTANCE SERVICES: ELIGIBILITY, SERVICES PROVIDED, AND LIMITATIONS (1) through (10) remain as proposed.

~~(11) In addition to the PAS provided through these rules, a member may receive PAS through the Medicaid Home and Community-Based Services Program for elderly and physically disabled persons, persons with severe and disabling mental illness, or persons with developmental disabilities.~~

(12) and (13) remain as proposed, but are renumbered (11) and (12).

AUTH: 53-2-201, 53-6-101, MCA

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

NEW RULE VII (37.40.1121) AGENCY-BASED AND SELF-DIRECTED PERSONAL ASSISTANCE SERVICES: TERMINATION OF SERVICES (1) and (2) remain as proposed.

(3) The provider must give at least ten days advance notice to a member when PAS are terminated for reasons listed in (1)~~(d)~~(f) through (1)(j).

(4) The provider may immediately, but temporarily, suspend services for the reasons listed in (1)(a) through (1)~~(e)~~(e). Following the temporary suspension of services the provider may enter into an agreement with the member to ensure that the violations of (1)(a) through (1)~~(e)~~(e) do not reoccur. If the member fails to abide by the terms of the agreement, services may be permanently terminated.

(5) and (6) remain as proposed.

AUTH: 53-2-201, 53-6-101, MCA

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

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

COMMENT #1: One commenter had previously commented on the Community First Choice (CFC) rule and suggested changing the definition of "functional assessment"

in New Rule I(7) to use the phrase "health maintenance activity," rather than, "health-related task" to describe this service.

RESPONSE #1: The department agreed with this comment and has amended the CFC rule to read "health maintenance activities" rather than health-related tasks. Since the definitions in the CFC Services rule and Personal Assistance Services (PAS) rule are intended to be consistent across both programs the department has made an identical change in the personal assistance services rule.

COMMENT #2: A couple of commenters were concerned that the language of "in-home services" in New Rule I(14) was restrictive for purposes of the PAS definition since some of the PAS are delivered outside of the home. A couple of commenters were also concerned that the definition was limited to medically necessary activities of daily living, and failed to take into consideration services available outside the home to enable members to participate in community activities.

RESPONSE #2: The department's intent is that these services are delivered where the member needs them in accordance with the approved person-centered plan and they are inclusive of both activities of daily living and instrumental activities of daily living. We have made a change in the rule language to read "Personal Assistance Services" (PAS) means the delivery of medically necessary in home and community-based services provided to Medicaid eligible members whose health conditions cause them to be functionally limited in performing activities of daily living and instrumental activities of daily living."

COMMENT #3: A couple commenters suggested that the service definition of the PAS program in New Rule I(15) be broadened to no longer be based on the "medically necessary in-home criteria."

RESPONSE #3: The service definition includes the provision services to individuals "in their homes or communities rather than institutional settings." The department recognizes the need for service delivery outside of the home setting. The criteria for services to be medically necessary, which means there is a hands-on need for the service, is a requirement of the PAS state plan and enables the department to provide services to the people who need the service most in a cost-effective manner.

COMMENT #4: A few commenters suggested that the department use the term "personal assistant" in New Rule I(16) rather than "personal care attendant."

RESPONSE #4: The department collaborated with a work group to decide on terminology that was consumer-focused and would resonate with the service recipients. Personal care attendant was the term the group advised the department to use. It is also a widely accepted and utilized term in the home-based service delivery arena.

COMMENT #5: One commenter had previously commented on the CFC rule and suggested that a statement in New Rule I(23), about a personal care assistant being an employee of the provider agency, should be added to the service definition.

RESPONSE #5: The department agreed with the comment and amended the CFC rule to include the recommended statement. Since the definitions in the CFC services rule and PAS rule are intended to be consistent across both programs, the department has made an identical change in the PAS rule at New Rule I(23).

COMMENT #6: A couple commenters suggested that the service section in New Rule II(5) should include the provision of activities of daily living (ADL) outside the home.

RESPONSE #6: New Rule II(5) provides for the delivery of ADL tasks in association with specified IADL services outside the home. These services include shopping and medical escort. The authorization and delivery of these services are based on the assessment that there is a need for ADL assistance while the member participates in the instrumental activity of daily living service. The provision of ADL activities when a member is not participating in shopping medical escort must be provided in the member's home.

COMMENT #7: Multiple comments were received related to concerns with the language in New Rule II(7)(c) that stated PAS services would not be available if a member lives in a home which is not safely accessible by normal modes of transportation. They were concerned this would limit access to service for members who live in remote areas of our state. A few commenters also questioned how "safely accessible" would be defined.

RESPONSE #7: The department believes there is merit in maintaining this language because there are situations where it is impossible for the required department staff, contract staff, provider agency staff, and personal care attendants to reach a member to assess, authorize, or deliver services. In these situations it may not be possible to provide PAS services to a member. The department, provider, and contract agencies are very cognizant of the rural nature of the state and are creative when trying to provide services in remote areas. The determination whether a home is accessible will be made on a case-by-case basis, based on the facts of each specific situation.

COMMENT #8: One commenter suggested a change of language in New Rule II(9)(d) from "certified" to "trained" regarding the use of services for the maintenance of animals.

RESPONSE #8: The department requires that a service animal be certified in order to qualify for assistance. The suggestion for an animal to be "specifically trained to meet the needs of the member" is too broad to meet the criteria for this service category. The waiver program has a certification program for service animals and the personal assistance service is intended to allow a personal care attendant to

maintain service animals for members who receive a service animal that has gone through the waiver certification process or a similar type of certification.

COMMENT #9: One commenter had previously provided a comment to the CFC rule about New Rule II(11) and suggested that the rule be expanded to include children on waivers.

RESPONSE #9: Since the definitions in the CFC Services rule and PAS rule are intended to be consistent across both programs the department has made an identical change in the PAS rule to remove the language in New Rule II(11). Waivers provide expanded state plan services and the scope and type of services provided in each waiver are defined in each waiver's administrative rules and as such we do not need to state that in these rules.

COMMENT #10: Regarding New Rule III(9), one commenter suggested that an agency be required to give consumers their written complaint process at the time of intake, not only upon request.

RESPONSE #10: The department believes it is important to provide members with adequate information about the requirement of complaint processes for Medicaid provider agencies. The PAS person-centered planning process includes information about the requirement that every agency have a grievance procedure. This information is provided in the "Grievance Procedures" section of the "Community First Choice and Personal Assistance Services Handbook" that is provided to every member prior to enrolling in the program. The department believes this approach empowers the member to be informed and educated in gathering information that will be useful in the person-centered planning process. In addition, the standard practice is for PAS provider agencies to distribute a grievance policy at the time of intake.

COMMENT #11: Regarding New Rule V(3), one commenter was concerned that the rule implied a member who qualifies for health maintenance activities would not have a choice to receive those services in another service arena.

RESPONSE #11: Mountain Pacific Quality Health will only authorize a service based on a member's identified need for the service and the member's desire to receive the service through the self-directed program. If a member would like to receive health maintenance activities in another service arena, they can communicate this to Mountain Pacific Quality Health and receive the service; however, these services will no longer be authorized under their PAS plan.

COMMENT #12: Regarding New Rule VII(1)(g), one commenter asked if a member could be terminated from the program under this rule if she does not want a member of the opposite sex doing her bathing, etc.

RESPONSE #12: If a member does not want someone of the opposite sex to perform certain tasks the member would indicate this preference in the person-

centered planning process and the agency would be expected to comply with this request. However, if the member discriminates solely or partly on the attendant's race, creed, religion, sex, marital status, color, age, handicap, or national origin, they may be subject to termination from the program.

COMMENT #13: Regarding New Rule VII(2), one commenter stated that termination of the PAS program or reduction of available services should require legislative action.

RESPONSE #13: Termination or reduction of PAS services may occur when funding is unavailable. Legislative action is one reason this may occur; but it is not the only reason. The department is given broad authority to make these decisions when necessary without Legislative approval in order to manage Medicaid programs.

COMMENT #14: Several commenters suggested additions or clarifications to New Rule VII(3) and (4). One requested that termination rights be granted when a member doesn't maintain Medicaid eligibility. Another commenter requested that illegal activity in the home and falsification of service delivery records be considered for immediate termination.

RESPONSE #14: The department has clarified New Rule VII(3) to incorporate the reasons for ten-day advanced notice to a member when PAS are terminated for reasons listed in New Rule VII(1)(f) through (1)(j) of this rule section, and has clarified New Rule VII(4) to incorporate the reason that a provider may immediately, but temporarily, suspend services for the reasons listed in New Rule VII(1)(a) through (1)(e) which includes the member is engaging in illegal activity in the home. We will not change the falsification of service delivery records New Rule VII(1)(j) recommendation for immediate termination.

COMMENT #15: Several comments were received regarding opposing New Rule XI(7). The comments included that the information received could be construed as a Health Insurance Portability and Accountability Act (HIPAA) breach, there was concern about disclosure of the information received and the feeling that it was an unnecessary violation of personal privacy, concern that the rule is not voluntary, concern that the rule may detract individuals from choosing to become a personal assistant, increased administrative burden for provider agencies, and the department should not single out self-direct providers. Some commenters were also concerned that the statement of reasonable necessity regarding the department's involvement in reporting and training of the workforce was contrary to the philosophy of the self-directed program.

RESPONSE #15: The information required for quarterly reports of workers that deliver self-directed services does not include protected health information; therefore, it is not considered a HIPAA breach of information. The PAS program is funded with Medicaid dollars and the need to gather information regarding the delivery of services and the accountability and sustainability of services is

appropriate and necessary in order to manage this joint state and federal program. The information required will be used to evaluate this work force for quality, stability, and sustainability. The department may create a voluntary online directory that could assist a member in choosing a personal assistant.

The department will work with self-direct provider agencies to create a streamlined process for providing the information required with quarterly reports to have the least amount of administrative burden possible. The department will also work with provider agencies and consumers, within the framework of the self-directed model, to make decisions on identifying and responding to workforce training needs that may be identified through the reports.

Finally, the department recognizes the differences in the expectations of the agency-based and self-directed options of the PAS program and has determined that the self-direct option would benefit from having the information from quarterly reports and a voluntary online directory. Based on the results of the quarterly reporting for self-directed programs, the department may make a decision in the future that this reporting requirement would be beneficial for agency-based programs and may adopt rules to expand the reporting requirement to agency-based providers.

6. The department intends to apply these rule adoptions and repeals retroactively to July 1, 2014. A retroactive application of the proposed rule adoptions does not result in a negative impact to any affected party.

/s/ Valerie Bashor
Valerie Bashor, Attorney
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State December 15, 2014

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.81.304 pertaining to Big Sky)
Rx prescription drug premium)
changes)

TO: All Concerned Persons

1. On October 23, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-695 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 2573 of the 2014 Montana Administrative Register, Issue Number 20.

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

3. No comments or testimony were received.

4. This rule amendment is effective January 1, 2015.

/s/ Geralyn Driscoll
Geralyn Driscoll, Attorney
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State December 15, 2014.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.86.1103 pertaining to the)
addition of definitions to the)
outpatient drugs, fraud, waste, and)
abuse rules)

TO: All Concerned Persons

1. On October 23, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-696 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 2576 of the 2014 Montana Administrative Register, Issue Number 20.

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

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

COMMENT #1: A commenter affirmatively said that adding a definition of "Drug Not Covered" and a description of "Case Management" to ARM 37.86.1103 could serve to strengthen the program.

RESPONSE #1: The department appreciates the comment submitted.

4. This rule amendment is effective January 1, 2015.

/s/ Cary B. Lund
Cary B. Lund, Attorney
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State December 15, 2014.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.86.1802 pertaining to the)
coverage codes for durable medical)
equipment)

TO: All Concerned Persons

1. On October 23, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-697 pertaining to the proposed amendment of the above-stated rule at page 2579 of the 2014 Montana Administrative Register, Issue Number 20.
2. The department has amended the above-stated rule as proposed.
3. No comments or testimony were received.
4. This rule amendment is effective January 1, 2015.

/s/ Cary B. Lund
Cary B. Lund, Attorney
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State December 15, 2014.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.86.2901, 37.86.2905, and)
37.86.2918 pertaining to changes to)
Medicaid inpatient hospital services)

TO: All Concerned Persons

1. On November 6, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-699 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 2742 of the 2014 Montana Administrative Register, Issue Number 21.

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

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

COMMENT #1: One comment expressed support for the proposed amendments to the inpatient hospital rule changes regarding the unbundling of long acting reversible contraception from the APR-DRG inpatient birth payment for PPS hospitals.

RESPONSE #1: The department thanks the commenter for their support of the rule.

4. These rule amendments are effective January 1, 2015.

/s/ GERALYN DRISCOLL
GERALYN DRISCOLL, Attorney
Rule Reviewer

/s/ RICHARD H. OPPER
RICHARD H. OPPER, Director
Public Health and Human Services

Certified to the Secretary of State December 15, 2014.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I pertaining to the value before reappraisal for agricultural land) NOTICE OF ADOPTION
)
)

TO: All Concerned Persons

1. On November 6, 2014, the Department of Revenue published MAR Notice No. 42-2-925 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 2768 of the 2014 Montana Administrative Register, Issue Number 21.

2. On December 2, 2014, a public hearing was held to consider the proposed new rule. No members of the public attended the hearing. The department received written comments from Robert Story, Executive Director of the Montana Taxpayers Association.

3. The department has adopted New Rule I (42.20.621) as proposed.

4. The department has thoroughly considered the comments received. A summary of the comments received and the department's response is as follows:

COMMENT 1: Robert Story, Executive Director, Montana Taxpayers Association (Montax), commented that Montax appreciates the director and the department staff's efforts to address some of the assessment issues that arise with changes to agricultural land use. He explained that the calculation of value before reappraisal (VBR) was a contentious issue in the 2009 reappraisal cycle because many parcels had new VBRs calculated, in part due to the change in the assessment procedures implemented in that cycle. He stated that the number of potentially impacted parcels for the new cycle appears to be significantly lower this time.

Mr. Story further commented that the main concern with the implementation of the old VBR rules was the lack of allowance for inadvertent or small changes in use that had little impact on the assessed value of the parcel or unit. There is still some concern with present procedures that rely on aerial mapping to delineate boundaries because the technology employed does not always generate the same acreage of a given field or parcel, which can cause the generation of a VBR. He thought that the department's proposed rules allow some flexibility in dealing with small or inadvertent changes and the variances that occur in the GPS data that would not result in a calculated VBR, which he supports.

Mr. Story stated that the average taxpayer who has a calculated VBR on a parcel of their property does not even realize a new baseline value has been created. They compare their old assessment to their new one and they don't see the impact of reappraisal. They do not realize how much of their new value is not

phased-in. They are surprised when the new tax bill arrives and it is higher than expected.

There also remains a concern about the impact of creating a VBR on a whole parcel when there is an intentional change to a small portion of that parcel only and no new land is created. The calculation of a VBR and loss of phase in may increase the tax liability for that parcel significantly. Mr. Story further stated that it would make sense that the VBR should be the original value of the total parcel, plus the net change in the value of portion of the parcel on which the use was changed. He provided an example and stated he thinks the VBR will be the same for the parcel if the department revalues the whole parcel, or if the department revalues only the reallocated portion of the parcel, but asked the department to confirm this for him.

RESPONSE 1: The department appreciates Mr. Story's comments. The proposed rule requires a dedicated agricultural land use change before a classification change will occur. Inadvertent changes to land use or boundary changes due to the department's use of Geographic Information System (GIS) technology are not considered dedicated agricultural land use changes and a value before reappraisal (VBR) will not be calculated.

Mr. Story is correct. The 2009 assessment notice did not have a VBR column. The assessment notice only contained the market/productivity value as of January 1, 2002 and July 1, 2008, respectively. The assessment notices have since been revised and now include a column detailing the VBR for each property classification. The property taxpayer will be able to see if the VBR has changed and how much it has changed, due to reappraisal.

In response to calculating a VBR for the whole parcel versus calculating a VBR for only the portion of the parcel that has changed, there are many moving parts in the valuation formula that could impact a calculated VBR. Depending upon the agricultural sub-classification, there are several changes that are occurring in 2015, that would show a difference in a calculated VBR, for instance: a regional adjustment for summer fallow land; the change in the size of the animal unit from 1,000 to a 1,200 pound cow/calf pair will show some difference in grazing fees; updated costs for irrigated land; the change in using air dried herbage for non-irrigated hay land; productivity updates; and GIS updates. Generally speaking, however, there should not be a substantial difference in a calculated VBR for the whole parcel versus a calculated VBR for only the portion of the parcel that has changed its agricultural sub-classification.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State December 15, 2014.

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 P.O. Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions: **Administrative Rules of Montana (ARM)** is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

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

Use of the Administrative Rules of Montana (ARM):

- | | |
|---------------|---|
| Known Subject | 1. Consult ARM Topical Index.
Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute | 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, 2014. This table includes those rules adopted during the period October 1, 2014, through December 31, 2014, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through September 30, 2014, 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 2014 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.

ADMINISTRATION, Department of, Title 2

I	Annual Report by Consumer Loan Licensees, p. 2061, 2827
I-VII	Requiring Deferred Deposit Loan Applicants to Use the Nationwide Multistate Licensing System for All Future Licensing, p. 1654, 2449
I-VIII	Transitioning Existing Sales Finance Company Licenses to the Nationwide Multistate Licensing System - Use of the System for All Future Licensing, p. 1633, 2446
I-VIII	Transitioning Existing Consumer Loan Company Licenses to the Nationwide Multistate Licensing System - Use of the System for All Future Licensing, p. 1640, 2447
I-VIII	Transitioning Existing Escrow Business Company Licenses to the Nationwide Multistate Licensing System - Use of the System for All Future Licensing, p. 1647, 2448
2.5.603	State Procurement of Supplies and Services, p. 1854, 2442
2.59.104	Semiannual Assessment for Banks, p. 1309, 1918
2.59.111	Retention of Bank Records, p. 1305, 1917
2.59.402	and other rules - Limited Income Persons - Credit Union Records Retention - Credit Union Debt Cancellation Contracts, p. 1856, 2445
2.59.1502	and other rule - Annual Report by Deferred Deposit Loan Licensees, p. 2058, 2826
2.59.1738	Renewal Fees for Mortgage Licensees, p. 2064, 2771

(Public Employees' Retirement Board)

- 2.43.3501 and other rule - Adoption by Reference - State of Montana Public Employee Defined Contribution Plan Document - State of Montana Public Employee Deferred Compensation (457) Plan Document, p. 1302, 1999
- 2.43.3502 Investment Policy Statement for the Defined Contribution Retirement Plan, p. 1299, 2443

(State Compensation Insurance Fund)

- 2.55.320 Classifications of Employments, p. 2904
- 2.55.502 Individual Loss Sensitive Dividend Distribution Plan, p. 1457, 2444

(State Lottery Commission)

- 2.63.201 and other rules - Procedural Rules - Definitions - Retailer Commissions - Business Changes - Prizes - License Requirements and Endorsements - Sale of Scratch Tickets, p. 528, 1387

(Board of County Printing)

- 2.67.303 Maximum Pricing and Printing Standards, p. 642, 1216, 1389
- 2.67.303 Minimum Font Size in Printing Standards, p. 1544, 2097

AGRICULTURE, Department of, Title 4

- I Phytosanitary Certificate Fees, p. 264, 1390
- 4.12.1224 and other rule - Alfalfa Leaf Cutter Bees, p. 1144, 1591
- 4.12.3009 and other rule - Seed Licensing Fees - Reporting and Assessment of Seed Sales, p. 534, 1217
- 4.13.1001A Grain Fee Schedule, p. 894, 1590

STATE AUDITOR, Office of, Title 6

(Commissioner of Securities and Insurance)

- I Patient-Centered Medical Homes, p. 1863
- 6.6.4902 and other rules - Patient-Centered Medical Homes, p. 2702

COMMERCE, Department of, Title 8

- 8.94.3727 Administration of the 2013-2014 Federal Community Development Block Grant (CDBG) Program, p. 1312, 1796
- 8.112.101 and other rules - Montana Heritage Preservation and Development Commission, p. 1147, 1797

EDUCATION, Department of, Title 10

(Superintendent of Public Instruction)

- 10.7.111 Bus Drivers, p. 1005, 1799

(Board of Public Education)

- I-XV Preschool Programming for Public Schools, p. 2318, 2943
- 10.57.101 and other rules - K-12 Educator/Specialist Licensing, p. 2211, 2930
- 10.58.102 and other rules - Educator Preparation Programs, p. 2250, 2936
- 10.59.103 Montana School for the Deaf and Blind Foundation, p. 1660, 2450
- 10.64.201 School Bus Drivers, p. 1009, 1801

FISH, WILDLIFE AND PARKS, Department of, Title 12

- I Hunters Against Hunger Program, p. 1315, 2002
- I Wolf Management Stamps, p. 1318, 1546, 2454
- 12.7.502 and other rules - Fish Importation, p. 1158, 1922
- 12.10.103 and other rule - Shooting Range Grants, p. 1462, 2453

(Fish and Wildlife Commission)

- I-V Unauthorized Placement of Fish Into Public Waters, p. 177, 1592
- 12.6.2208 and other rule - Exotic Species Classification, p. 703, 1919, 2451
- 12.9.206 McLean Game Preserve, p. 2907
- 12.9.1301 and other rules - Gray Wolf Management, p. 1886, 843, 2000
- 12.11.645 Whitefish River, p. 434, 1460
- 12.14.101 and other rules - Commercial Use Rules, p. 897, 2648

(State Parks and Recreation Board)

- 12.14.120 Payment of Fees for Outfitting Services, p. 2707

ENVIRONMENTAL QUALITY, Department of, Title 17

- I Nutrient Standards Variances, p. 275, 1805
- 17.36.101 and other rules - Subdivision Applications and Review - Subdivision Requirements - Subdivision Waivers and Exclusions - Subdivision Review Fees - On-Site Subsurface Wastewater Treatment Systems, p. 706, 2098, 2772
- 17.36.326 and other rule - Sewage Systems: Operation and Maintenance, Ownership, Easements, and Agreements - Sewage Systems: Existing Systems, p. 1334, 1504
- 17.53.105 and other rule - Incorporation by Reference - No State Waste Delisting--Federal Petition Required, p. 1331, 1835
- 17.55.109 Incorporation by Reference, p. 436, 2003
- 17.56.607 Release Categorization, p. 1663, 1957, 2774
- 17.74.504 and other rules - Definitions - Decontamination Standards - Performance - Assessment - Inspection - Performance Standards - Contractor Certification and Renewal - Initial Training Course Content - Refresher Training Course - Reciprocity - Training Provider Certification - Certified Training Provider Responsibilities - Denial, Suspension, and Revocation of Certification - Fees - Incorporation by Reference--Publication Dates - Incorporation by

Reference - Worker and Supervisor Certification - Worker and Supervisor Certification Renewal, p. 1866, 2651

(Board of Environmental Review)

- 17.8.102 Incorporation by Reference--Publication Dates, p. 353, 1256
- 17.8.501 and other rule - Definitions - Air Quality Permit Application Fees, p. 1321, 2455
- 17.8.818 and other rule - Review of Major Stationary Sources and Major Modifications--Source Applicability and Exemptions - Source Impact Analysis, p. 1327, 2457
- 17.30.201 and other rules - Permit Application, Degradation Authorization, and Annual Permit Fees - Specific Restrictions for Surface Water Mixing Zones - Standard Mixing Zones for Surface Water - Definitions - Incorporations by Reference - A-1 Classification Standards - B-1 Classification Standards - B-2 Classification Standards - B-3 Classification Standards - C-1 Classification Standards - C-2 Classification Standards - I Classification Standards - C-3 Classification Standards - General Treatment Standards - Criteria for Determining Nonsignificant Changes in Water Quality, p. 280, 1815
- 17.30.1101 and other rules - Montana Pollutant Discharge Elimination System (MPDES) Permits - Purpose and Scope - Definitions - Permit Requirements - Exclusions - Designation Procedures: Small Municipal Separate Storm Sewer Systems (MS4s) - Application Procedures - General Permits - Conditions Applicable to All Permits - Application Procedures: General - Notice of Intent Procedures - Transfer of Permit Coverage Pertaining to Storm Water Discharges, p. 1667
- 17.36.320 and other rules - Sewage Systems - Definitions - Horizontal Setbacks - Floodplains - Plans for Public Sewage System - Fees, p. 747, 1824
- 17.36.345 and other rule - Adoption by Reference - Plans for Public Water Supply or Public Sewage System, p. 267, 1802

TRANSPORTATION, Department of, Title 18

- 18.2.261 Montana Environmental Policy Act Categorical Exclusions, p. 2492, 2950
- 18.6.101 and other rules - Junkyard Regulations, p. 1465, 2011
- 18.6.202 and other rules - Outdoor Advertising Control, p. 2909
- 18.7.102 and other rules - Highway Right-of-Way Encroachment Permits, p. 2329, 2828
- 18.8.202 and other rules - Motor Carrier Services Housekeeping, p. 1468, 2012
- 18.13.404 and other rules - Board of Aeronautics Grant and Loan Program, p. 1878, 2458

JUSTICE, Department of, Title 23

- I-III School Crossing Guards, p. 773, 1392

23.16.101 and other rules - Electronic Submission of Documents and Electronic Signatures - Definitions - Records - Devices - Changes in Managers, Officers, and Directors - Charitable Card Game Tournaments - Types of Card Games Authorized - House Players - Authorized Sports Pools - Repairing Machines—Approval - Department Approval of Promotional Games of Chance, Devices, or Enterprises - Review of Carnival Games, p. 1012, 1505

(Public Safety Officer Standards and Training Council)

23.13.101 and other rules - Certification of Public Safety Officers, p. 1698, 2951

LABOR AND INDUSTRY, Department of, Title 24

Boards under the Business Standards Division are listed in alphabetical order following the department rules.

- 24.17.101 and other rules - Prevailing Wage Rates for Public Works Projects, p. 2499
- 24.17.127 Prevailing Wage Rates for Public Works Projects, p. 912, 1506, 1598
- 24.21.415 and other rule - Apprenticeship Training Ratios, p. 2920
- 24.29.1401A and other rules - Definitions - Facility Service Rules and Rates - Professional Fee Schedule for Services Provided - Conversion Factors for Services Provided - Utilization and Treatment Guidelines, p. 776, 1055, 1513
- 24.117.101 and other rules - Board Organization - General Information - Club Boxing - Kickboxing - Wrestling - Australian Tag Team Wrestling - Mixed Martial Arts - License Suspension and Revocation, p. 2339, 2954
- 24.131.301 and other rules - Construction Blasters - Crane and Hoisting Operating Engineers - Elevator Licensing Program Renewals, p. 2924
- 24.301.109 and other rules - Definitions - Incorporation by Reference - Fees - Modifications to the International Building Code - Plumbing Permits - Plumbing Inspections, p. 1549, 2776
- 24.301.401 and other rule - Incorporation by Reference of National Electrical Code - Electrical Inspections Fees, p. 1769, 2655
- 24.301.603 and other rules - Definitions - Plan Review and Permit Fee - Inspections - Certificates - Fees, p. 1973, 2780

(Workers' Compensation Court)

24.5.301 and other rules - Amended Petition - Computation of Time - Joinder and Service of Alleged Uninsured Employers - Recusal, p. 1021, 2829

(Human Rights Commission)

24.9.203A and other rules - Obsolete Rules, p. 1164, 1836

(Alternative Health Care Board)

24.111.511 and other rule - Naturopathic Physician Formulary - Military Training or Experience, p. 645, 2120

(Board of Architects and Landscape Architects)

24.114.301 and other rules - Definitions - Licensure of Applicants From Other States - Renewals - Unprofessional Conduct - Architect Continuing Education, p. 443, 2013

(Board of Athletic Trainers)

I Military Training or Experience, p. 915, 1393

(Board of Clinical Laboratory Science Practitioners)

I Military Training or Experience, p. 455, 1258

(Board of Dentistry)

24.138.402 and other rules - Fee Schedule - Mandatory Certification - Dental Auxiliary Functions - Limited Access Permits - Dentist Licensure by Exam - Dental Hygienist Licensure by Exam - Dental Hygienist Licensure by Credentials - Continuing Education Definition - Continuing Education Requirements - Military Training or Experience - Dental Hygienist Committee - Denturist Committee, p. 458, 1837, 2139

24.138.402 Fee Schedule, p. 2346, 2710

(Board of Funeral Service)

24.147.1101 and other rules - Crematory Operation Standards - Casket/Containers - Integrity of Identification Process - Cremation Procedures - Crematory Prohibitions - Transportation and Custody of Human Remains - Crematory Records - Cremation Authorizations - Military Training or Experience - Shipping Cremated Human Remains, p. 543, 2017

(Board of Hearing Aid Dispensers)

24.150.401 and other rule - Fees - Military Training or Experience, p. 13, 1394

(Board of Massage Therapy)

24.155.301 and other rules - Definitions - Fee Schedule - Licensure by Examination - Licensure by Endorsement - Military Training or Experience - Anonymous Complaints - Nonroutine Applications - Inactive License, p. 466, 1397

(Board of Medical Examiners)

I Military Training or Experience, p. 559, 1259

24.156.508 and other rules - Approved Residency - Examination - Graduate Training Requirements - Occasional Case Exemption - Unprofessional Conduct - Definitions - Initial License - Professional Conduct and

Standards - Physician Assistant License Renewal - Podiatry
Postgraduate Training, p. 1474, 2833

(Board of Nursing)

I Military Training or Experience, p. 649, 2037

(Board of Occupational Therapy Practice)

24.165.401 and other rules - Fees - Applications for Licensure - Examinations -
Supervision—General Statement - Supervision—Methods - Standards of
Practice - Documentation of Instruction and Training - Qualifications to
Apply Topical Medications—Clinician Defined - Inactive Status -
Continuing Education - Continuing Education—Waiver - Definitions -
Deep Modality Endorsement, p. 1883

(Board of Optometry)

24.168.2301 and other rules - Unprofessional Conduct - Nonroutine Applications -
Renewals, p. 2350

(Board of Outfitters)

I Military Training or Experience, p. 562, 918, 2653

24.171.401 and other rules - Fees - Inspection - Outfitter Records - Safety
Provisions - Watercraft Identification - Application for Outfitter License
- Outfitter Qualifications - Successorship - Outfitter Examination -
Amendment to Operations Plan - Guide Qualifications - Guide License
- NCHU Categories, Transfers, and Records - Renewals -
Unprofessional Conduct - Booking Agents and Advertising - Outfitter
Assistants - Nonroutine Applications - Effect of Fee for Expansion of
Net Client Hunter Use - Outfitter Application, p. 2354

(Board of Pharmacy)

I Military Training or Experience, p. 565, 1261

24.174.301 and other rules - Definitions - Pharmacist Meal/Rest Breaks -
Internship Requirements - Registration Requirements - Patient
Counseling - Personnel - Drug Distribution and Control - Use of
Contingency Kits - Requirements for Submitting Prescription Registry
Information - Legal Suspension or Revocation - Prescription
Requirements - Sterile Products - Quality Assurance Program
Requirements, p. 2508

(Board of Physical Therapy Examiners)

I Military Training or Experience, p. 476, 1086

24.177.2105 Continuing Education, p. 1057, 2835

(Board of Professional Engineers and Professional Land Surveyors)

24.101.413 and other rules - Renewal Dates and Requirements - Definition of
Responsible Charge - Board Meetings - Fee Schedule - Approval of
Schools - Application References - Examination Procedures - Grant

and Issue Licenses - Comity - Classification of Experience - Form of Corner Records - Uniform Standards for Monumentation - Uniform Standards for Final Subdivision Plats - Remonumentation and Rehabilitation - Architectural Services Incidental to Engineering - Exhibits of Land Surveying Projects - Unprofessional Conduct - Introduction - Performance of Services - Conflicts of Interest - Avoidance of Improper Solicitation - Issuance of Public Statements, p. 1339, 2840

(Board of Psychologists)

24.189.401 and other rules - Fee Schedule - Application Procedures - Minimum Standards - Required Supervised Experience - Licensees From Other States or Canadian Jurisdictions - Licensure as a Psychologist by Experience - Temporary Permit - Continuing Education - Continuing Education Program Options - Continuing Education Implementation - Exemptions - Military Training or Experience, p. 652, 2459

(Board of Public Accountants)

24.101.413 and other rules - Renewal Dates and Requirements - Public Participation - Definitions - Board Meetings - Fee Schedule - Use of CPA/LPA Designation - Licensing and Examinations - Acts - Professional Conduct Rules - Peer Review Enrollment - Alternatives and Exemptions - Renewal and Continuing Education - Anonymous Complaints - Exercise of Practice Privilege - Enforcement Against Licensees - Applicant by Exam - Examination Credits - Requirements for Previously Held Certificates - Who Must Comply - Nonresident Holders - Standards for CPE Program Development - Enforcement Procedures, p. 1734, 2849

(Board of Radiologic Technologists)

24.204.408 and other rule - Radiologic Technologists Applications - Military Training or Experience, p. 375, 1262

(Board of Real Estate Appraisers)

24.207.401 and other rules - Fees - Regulatory Reviews - Appraisal Review - Definitions - Military Training or Experience - Examination - Application Requirements - Experience—Number of Hours Required - Qualifying Education Course Requirements - Ad Valorem Tax Appraisal Experience - Qualifying Experience - Scope of Practice - Trainee Requirements - Mentor Requirements - Appraisal Management Record Keeping - AMC Audit Requirements - Continuing Education - Continuing Education Noncompliance - Unprofessional Conduct, p. 2714

(Board of Realty Regulation)

- 24.210.401 and other rules - Fee Schedule - Course Provider - Continuing Real Estate Education - Continuing Property Management Education, p. 921, 2775
- 24.210.825 and other rule - Renewals - Military Training or Experience, p. 664, 2469

(Board of Respiratory Care Practitioners)

- I Military Training or Experience, p. 571, 1264
- 24.213.301 and other rules - Definitions - Application for Licensure - Examination - Inactive Status - Authorization to Perform Testing - Continuing Education Requirements - Traditional Education by Organizations - Teaching—Category III - Papers, Publications, Journals, and Course Work - Unprofessional Conduct - Training—Conscious Sedation - Institutional Guidelines Concerning Education and Certification, p. 1960

(Board of Social Work Examiners and Professional Counselors)

- 24.219.501 and other rules - Application Procedures - Licensure of Out-of-State Applicants - Complaint Procedure - Military Training or Experience, p. 783, 2471

(Board of Speech-Language Pathologists and Audiologists)

- I-VIII Telepractice of Speech-Language Pathology and Audiology - Military Training or Experience, p. 379, 1266
- 24.222.401 Fees, p. 2736

(Board of Veterinary Medicine)

- I Military Training or Experience, p. 574, 1273

LIVESTOCK, Department of, Title 32

- 32.2.403 Diagnostic Laboratory Fees, p. 2071, 2783
- 32.2.405 and other rule - Department of Livestock Miscellaneous Fees - Recording and Transferring of Brands, p. 1892, 2472
- 32.2.405 Department of Livestock Miscellaneous Fees, p. 1976, 2781
- 32.2.405 Miscellaneous Fees, p. 2739
- 32.3.141 Revocation or Suspension of Appointment of Deputy State Veterinarian, p. 1175, 2146
- 32.3.212 and other rule - Additional Requirements for Cattle - Brucellosis Vaccination of Imported Cattle Under Four Months of Age, p. 2067
- 32.3.221 and other rules - Special Requirements for Alternative Livestock as Defined in 87-4-406, MCA - Elephants - Change of Ownership Test - Handling of Live Animals - Handling of Carcasses and Carcass Parts of Anthrax-Infected Animals, p. 2376, 2955
- 32.3.433 Designated Surveillance Area, p. 1171, 2141

- 32.3.502 Official Trichomoniasis Testing and Certification Requirements, p. 2928
- 32.3.1201 and other rules - Reporting Rabies - Rabies Quarantine - Isolation of Rabid or Suspected Rabid Animals - Isolation of Biting Animals - Stray or Ownerless Animals, p. 1167, 2140
- 32.6.712 Food Safety and Inspection Service - Meat and Poultry, p. 668, 1275
- 32.6.712 Food Safety and Inspection Service (Meat and Poultry), p. 1896, 2473
- 32.18.102 and other rules - Age Tally Marks - Numeral Marks - Placement of Digits - Import Transportation Permits - Hides to be Marked, p. 671, 1276

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

- 36.12.101 and other rules - Definitions - Procedural Rules for Hearings, p. 2525, 2956

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

- I-XVI Implementing the New Program Community First Choice Services, p. 2381
- I-XXVIII The Supports for Community Working and Living 1037 Home and Community Services Waiver Program, p. 2746
- 37.34.901 and other rules - Medicaid Home and Community-Based Services Program, p. 1906, 220, 1599
- 37.34.3005 and other rule - Update of Developmental Disabilities Program Home and Community-Based Waiver - Case Management Reimbursement, p. 933, 1408
- 37.36.604 Updating to 2014 Levels the Federal Poverty Index for the Montana Telecommunications Access Program, p. 790, 1400
- 37.40.307 and other rules - Nursing Facility Reimbursement, p. 811, 1517
- 37.40.402 and other rules - Updating the Hospital Swing-Bed Direct Care Wage to the Current Fiscal Year, p. 2548
- 37.40.830 Updating Hospice Reimbursement Fee Schedules to Reflect New Federal Rates, p. 2812
- 37.40.1101 and other rules - Establishment of Regulations for the Personal Assistance Services Program, p. 2552
- 37.50.315 Addition of a New Supervision Level Within the Foster Care Classification Model System, p. 1772
- 37.57.301 and other rules - Newborn Screening and Follow-up of Failed Screenings, p. 939, 1411
- 37.79.102 and other rules - Medicaid Allied Health Services Program Reimbursement and Rates, p. 816, 1405, 2474
- 37.81.304 Big Sky Rx Prescription Drug Premium Changes, p. 2573
- 37.82.701 Update of Federal Poverty Level and Health Coverage Status When Determining Plan First Eligibility, p. 1575, 2166
- 37.85.104 and other rule - Revision of Fee Schedules for Medicaid Provider Rates, p. 797, 1402

- 37.85.105 Fee Schedule Revisions for the Durable Medical Equipment Program, Home and Community Based Services, and Personal Assistance and Self-Directed Personal Assistance Services, p. 1579, 2168
- 37.85.105 Revision of Fee Schedules for Medicaid Provider Rates, p. 2544
- 37.85.212 and other rules - Revision of By Report Reimbursement, p. 828, 1407
- 37.85.403 and other rule - Date Changes to ICD CM and PCS Services-ICD-10, p. 1778
- 37.85.406 and other rules - Early Elective Delivery - Ancillary Services Clarification, p. 1583, 2171
- 37.86.1103 Addition of Definitions to the Outpatient Drugs, Fraud, Waste, and Abuse Rules, p. 2576
- 37.86.1401 and other rules - Medicaid Reimbursement for Ambulatory Surgery Centers (ASC), p. 835, 1409
- 37.86.1802 Coverage Codes for Durable Medical Equipment, p. 2579
- 37.86.2801 and other rules - Medicaid Outpatient and Inpatient Hospital Services, p. 950, 1415
- 37.86.2901 and other rules - Changes to Medicaid Inpatient Hospital Services, p. 2742
- 37.86.3006 and other rules - Revision of the Rules for Serious Emotional Disturbance for Youth - Mental Health Outpatient Partial Hospital Services - Medicaid Mental Health Authorization Requirements, p. 1491, 2147
- 37.86.4202 and other rule - Dialysis Clinic Method of Reimbursement, p. 840, 1410
- 37.87.807 and other rule - Revision of Fee Schedules for Medicaid Provider Rates, p. 1911, 2858
- 37.87.1803 and other rules - Mental Health Center: Comprehensive School and Community Treatment Program (CSCT) Endorsement Requirements, p. 793, 1401
- 37.88.205 and other rules - Updating the Date of the Current Procedural Terminology (CPT) Codes, p. 1906, 2857
- 37.104.3001 and other rules - Updating the State Trauma Plan to Reflect Current Dates, Terminology, and Medical Practice, p. 1899, 2792
- 37.106.514 Removal of References to Anesthesiologist Assistants in Outpatient Centers for Surgical Services, p. 1572, 2974
- 37.110.201 and other rules - Updating the Montana Retail Food Establishment Rules, p. 1364, 2957

REVENUE, Department of, Title 42

- I Filing Requirements for Pass-Through Entities With More Than 100 Partners, p. 2410, 2979
- I Value Before Reappraisal for Agricultural Land, p. 2768
- I-III Claiming the Unlocking State Lands Tax Credit, p. 1989, 2659
- I-IV The Electronic Service of Levies and Writs, p. 2087, 2794
- 42.2.302 and other rules - Department's General Rules and Definitions, p. 1061, 1527

- 42.2.613 and other rules - Dispute Resolution, p. 1177, 1421
- 42.4.104 and other rules - Revision of the Names Corporation License Tax and Corporation Income Tax, p. 1782, 2178
- 42.4.204 and other rules - Tax Credits Regarding Energy Conservation Installation, Temporary Emergency Lodging, and Health Insurance Claims, p. 1789, 2657
- 42.4.302 Montana Elderly Homeowner/Renter Tax Credit Calculation, p. 1787, 2475
- 42.4.2701 and other rules - Qualified Endowment Credit, p. 1191, 2039
- 42.11.104 and other rules - Liquor Vendors, p. 1979, 2793
- 42.12.101 and other rules - Liquor Licenses, p. 2406, 1277
- 42.12.101 and other rules - Liquor Licenses and Permits - Fees - Regulation of Licensees, p. 2413, 2980
- 42.15.109 and other rules - Montana Family Education Savings Program - Income Tax General Provisions - Tax Returns, p. 2403, 2976
- 42.17.101 and other rules - Withholding and Estimated Tax Payments—General Withholding and Mineral Royalty Withholding, p. 2815
- 42.18.121 and other rules - The Montana Reappraisal Plan, p. 2582, 2990
- 42.19.401 and other rules - Property Classification - Property Tax Assistance Programs, p. 2091, 2795
- 42.20.102 and other rules - Valuation and Classification of Real Property, p. 2612, 2994
- 42.21.113 and other rules - Trended Depreciation Schedules for Valuing Property, p. 2589, 2991
- 42.22.101 and other rule - Implementing a Montana Supreme Court Decision Pertaining to Centrally Assessed Property, p. 1212, 2175

(Board of Review)

- 42.8.101 and other rules - Revision of the Name of the One-Stop Business Licensing Program, p. 1914, 2658

SECRETARY OF STATE, Office of, Title 44

- I Returned Check Service Fees, p. 1793, 2179
- 1.2.419 Scheduled Dates for the 2015 Montana Administrative Register, p. 1996, 2663
- 44.5.114 and other rules - Fees Charged by the Business Services Division, p. 489, 856, 2476
- 44.5.121 Miscellaneous Fees Charged by the Business Services Division, p. 1074, 1528
- 44.5.121 and other rule - Fees Charged by the Business Services Division, p. 1993, 2660

(Commissioner of Political Practices)

- 44.12.204 Payment Threshold--Inflation Adjustment for Lobbyists, p. 2823

BOARD APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in November 2014 appear. Vacancies scheduled to appear from January 1, 2015 through March 31, 2015, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

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

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of December 1, 2014.

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

BOARD AND COUNCIL APPOINTEES FROM NOVEMBER 2014

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Public Accountants (Labor and Industry) Mr. Mike Huotte Anaconda Qualifications (if required): Certified Public Accountant	Governor	Johns	11/20/2014 7/1/2018
Board of Radiologic Technologists (Labor and Industry) Ms. Janet Fuller Anaconda Qualifications (if required): Radiologic Technologist	Governor	reappointed	11/14/2014 7/1/2017
Burial Preservation Board (Administration) Councilman Richard Parenteau Great Falls Qualifications (if required): Representative of Little Shell Band of Chippewa Indians	Governor	Tinsley	11/21/2014 9/1/2016
Commission on Community Service (Governor) Ms. Julie Seedhouse Billings Qualifications (if required): Public Representative	Governor	Van Son	11/14/2014 7/1/2017
Information Technology Board (Administration) Mr. Jason Wiener Missoula Qualifications (if required): representative of the private sector	Governor	Philip	11/21/2014 1/1/2017

BOARD AND COUNCIL APPOINTEES FROM NOVEMBER 2014

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Interstate Oil and Gas Compact Commission (Governor)			
Mr. Jim Halvorson Billings	Governor	Richmond	11/21/2014 1/1/2017
Qualifications (if required): Associate Official Representative			
Labor-Management Advisory Council on Workers' Compensation (LMAC) (Labor and Industry)			
Mr. Marvin Jordan Great Falls	Governor	Johnson	11/21/2014 6/1/2015
Qualifications (if required): representative of employers			
Mental Health Ombudsman (Governor)			
Mr. Dennis Nyland Helena	Governor	Hensley	11/19/2014 8/2/2015
Qualifications (if required): Mental Health Ombudsman			
Montana Agriculture Development Council (Agriculture)			
Mr. Lars Wesley Hanson Edgar	Governor	Koenig	11/14/2014 7/1/2017
Qualifications (if required): Agriculture Experience			
Ms. Patricia Quisno Harlem	Governor	reappointed	11/14/2014 7/1/2017
Qualifications (if required): Agriculture Experience			
Mr. Jim Stone Ovando	Governor	Tyler	11/14/2014 7/1/2017
Qualifications (if required): Agriculture Experience			

BOARD AND COUNCIL APPOINTEES FROM NOVEMBER 2014

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Noxious Weed Management Advisory Council (Agriculture)			
Ms. Jennifer Anderson Vermillion Livingston Qualifications (if required): Recreationist or Wildlife Group	Governor	reappointed	11/14/2014 7/1/2016
Mr. Jack Eddie Dillon Qualifications (if required): Montana Weed Control Association	Governor	reappointed	11/14/2014 7/1/2016
Mr. Jim Olivarez Missoula Qualifications (if required): consumer group	Governor	reappointed	11/14/2014 7/1/2016
Mr. Dick Zoanni Sidney Qualifications (if required): Eastern Montana Weed District Representative	Governor	reappointed	11/14/2014 7/1/2016
State Emergency Response Commission (Military Affairs)			
General Bradley A. Livingston Fort Harrison Qualifications (if required): Disaster and Emergency Services Division Representative	Governor	Tinsley	11/18/2014 10/1/2015
State Workforce Investment Board (Labor and Industry)			
Mr. Eric Smith Helena Qualifications (if required): Private Sector	Governor	not listed	11/14/2014 7/1/2017

BOARD AND COUNCIL APPOINTEES FROM NOVEMBER 2014

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State-Tribal Economic Development Commission (Commerce)			
Mr. Tracy Robinson Lame Deer	Governor	reappointed	11/21/2014 7/1/2017
Qualifications (if required): Northern Cheyenne Tribal Representative			
Councilman Merlin Sioux Lame Deer	Governor	Lafranier	11/21/2014 7/1/2017
Qualifications (if required): Northern Cheyenne Tribal Representative			
Water and Wastewater Operators' Advisory Council (Environmental Quality)			
Ms. Starr Sullivan Florence	Governor	Burroughs	11/14/2014 10/1/2020
Qualifications (if required): treatment plant operator holding the highest class certification			

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Aeronautics (Transportation) Mr. Fred Lark, Lewistown Qualifications (if required): public representative	Governor	1/1/2015
Mr. Charles Manning, Lakeside Qualifications (if required): aviation education representative	Governor	1/1/2015
Mr. Alexander C. Edwards, Billings Qualifications (if required): official of a fixed base operator	Governor	1/1/2015
Mr. Robert Buckles, Bozeman Qualifications (if required): commercial airlines representative	Governor	1/1/2015
Board of Chiropractors (Labor and Industry) Ms. Alice Whiteman, Missoula Qualifications (if required): public representative	Governor	1/1/2015
Dr. Lee Hudson, Great Falls Qualifications (if required): practicing chiropractor with at least one year experience	Governor	1/1/2015
Board of Crime Control (Justice) Mr. Mike Batista, Helena Qualifications (if required): Law Enforcement Representative	Governor	1/1/2015
Rep. Angela Russell, Lodge Grass Qualifications (if required): public representative	Governor	1/1/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Crime Control (Justice) cont. Ms. Randi Hood, Helena Qualifications (if required): representative of a criminal justice agency	Governor	1/1/2015
Director Mike Ferriter, Helena Qualifications (if required): state law enforcement representative	Governor	1/1/2015
Mr. Richard Kirn, Poplar Qualifications (if required): tribal government representative	Governor	1/1/2015
Ms. Beth McLaughlin, Helena Qualifications (if required): judge/judiciary representative	Governor	1/1/2015
Mr. Godfrey Saunders, Bozeman Qualifications (if required): educator of the judiciary	Governor	1/1/2015
Ms. Tara Jensen, Helena Qualifications (if required): public representative	Governor	1/1/2015
Ms. Sherry Matteucci, Billings Qualifications (if required): public representative	Governor	1/1/2015
Ms. Brenda C. Desmond, Missoula Qualifications (if required): representative of the judiciary	Governor	1/1/2015
Mr. William Hooks, Helena Qualifications (if required): Criminal Justice Agency Representative	Governor	1/1/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Dentistry (Labor and Industry) Dr. George Johnston, Dillon Qualifications (if required): dentist</p>	Governor	3/29/2015
<p>Board of Environmental Review (Environmental Quality) Mr. Joseph Russell, Kalispell Qualifications (if required): county health officer</p>	Governor	1/1/2015
<p>Ms. Heidi Kaiser, Park City Qualifications (if required): public member</p>	Governor	1/1/2015
<p>Mr. Larry Mires, Glasgow Qualifications (if required): public member</p>	Governor	1/1/2015
<p>Board of Horse Racing (Commerce) Mr. Allen Fisher, Ashland Qualifications (if required): resident of District 1</p>	Governor	1/20/2015
<p>Mr. John Hayes, Great Falls Qualifications (if required): resident of District 3</p>	Governor	1/20/2015
<p>Board of Housing (Commerce) Rep. Sheila Rice, Great Falls Qualifications (if required): public representative</p>	Governor	1/1/2015
<p>Rep. Jeanette S. McKee, Hamilton Qualifications (if required): public representative</p>	Governor	1/1/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Housing (Commerce) cont. Mr. Robert Gauthier, Ronan Qualifications (if required): public representative</p>	Governor	1/1/2015
<p>Board of Investments (Commerce) Mr. Gary Buchanan, Billings Qualifications (if required): financial representative</p>	Governor	1/1/2015
<p>Mr. Karl Englund, Missoula Qualifications (if required): attorney</p>	Governor	1/1/2015
<p>Mr. Jon Satre, Helena Qualifications (if required): business person</p>	Governor	1/1/2015
<p>Mr. Quinton Nyman, Helena Qualifications (if required): labor representative</p>	Governor	1/1/2015
<p>Board of Labor Appeals (Labor and Industry) Rep. Jerry L. Driscoll, Billings Qualifications (if required): Public Representative</p>	Governor	1/1/2015
<p>Rep. Jennifer "JP" Pomnichowski, Bozeman Qualifications (if required): public representative</p>	Governor	1/1/2015
<p>Board of Landscape Architects (Labor and Industry) Mr. Dale Nelson, Ronan Qualifications (if required): registered architect with three years continuous practice</p>	Governor	3/27/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Livestock (Livestock) Ms. Janice French, Hobson Qualifications (if required): cattle producer	Governor	3/1/2015
Mr. Brett DeBruycker, Dutton Qualifications (if required): cattle producer	Governor	3/1/2015
Board of Oil and Gas Conservation (Natural Resources and Conservation) Mr. Jack King, Billings Qualifications (if required): industry representative	Governor	1/1/2015
Mr. Ronald Efta, Wibaux Qualifications (if required): public member/attorney	Governor	1/1/2015
Mr. Bret Smelser, Sidney Qualifications (if required): landowner without minerals	Governor	1/1/2015
Board of Pardons and Parole (Corrections) Mr. Michael E. McKee, Hamilton Qualifications (if required): education or experience in criminology, psychiatry, psychology, law, social work	Governor	1/1/2015
Mr. John Rex, Miles City Qualifications (if required): education or experience in criminology, psychiatry, psychology, law, social work	Governor	1/1/2015
Board of Personnel Appeals (Labor and Industry) Mr. Jim Soumas, Joliet Qualifications (if required): Labor Unions, Substitute Member	Governor	1/1/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Personnel Appeals (Labor and Industry) cont.		
Mr. Steve Johnson, Missoula Qualifications (if required): management representative with collective bargaining experience	Governor	1/1/2015
Mr. Jerry Rukavina, Great Falls Qualifications (if required): officer of a labor union or an association recognized by the board (substitute member)	Governor	1/1/2015
Commissioner Dave Gallik, Helena Qualifications (if required): an attorney with labor-management experience	Governor	1/1/2015
Ms. Amy Verlanic, Anaconda Qualifications (if required): management representative with collective bargaining experience	Governor	1/1/2015
Mr. Richard Parish, Helena Qualifications (if required): individual with general labor-management experience	Governor	1/1/2015
Mr. Max Hallfrisch, Great Falls Qualifications (if required): officer of a labor union or an association recognized by the board	Governor	1/1/2015
Board of Public Assistance (Public Health and Human Services)		
Ms. Helen Barta Schmitt, Sidney Qualifications (if required): public representative	Governor	1/1/2015
Board of Public Education (Education)		
Rep. Bernard Olson, Lakeside Qualifications (if required): resident of District 1 and identifies himself as a Republican	Governor	2/1/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Regents (Higher Education) Mr. Clayton Christian, Missoula Qualifications (if required): resident of District 1 and identifies himself as an Independent	Governor	2/1/2015
Mr. Jeffrey K. Krauss, Bozeman Qualifications (if required): resident of District 1 (Republican)	Governor	2/1/2015
Board of Respiratory Care Practitioners (Labor and Industry) Mr. William Carmichael, Great Falls Qualifications (if required): Respiratory Care Practitioner	Governor	1/1/2015
Board of Social Work Examiners and Professional Counselors (Labor and Industry) Ms. Rosemary Hertel, Deer Lodge Qualifications (if required): licensed counselor	Governor	1/1/2015
Ms. Carol Stratemeyer, Hamilton Qualifications (if required): licensed counselor	Governor	1/1/2015
Mr. Peter Degel, Helena Qualifications (if required): licensed counselor	Governor	1/1/2015
Ms. Beverley McCurry, Columbus Qualifications (if required): public representative	Governor	1/1/2015
Mr. B.A. "Doc" Tweedy, Helena Qualifications (if required): public representative	Governor	1/1/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Children's Trust Fund (Public Health and Human Services) Ms. Roberta Kipp, Browning Qualifications (if required): public representative</p>	Governor	1/1/2015
<p>Ms. Lisa Stroh, Chinook Qualifications (if required): public representative</p>	Governor	1/1/2015
<p>Coal Board (Commerce) Rep. Ralph L. Lenhart, Glendive Qualifications (if required): expertise in education and a resident of District 2</p>	Governor	1/1/2015
<p>Ms. Marcia Brown, Butte Qualifications (if required): representative from business and a resident of District 1</p>	Governor	1/1/2015
<p>Mr. Loren W. Acton, Bozeman Qualifications (if required): expertise in education and a resident of District 1</p>	Governor	1/1/2015
<p>Electronic Government Advisory Council (Administration) Rep. Dan Villa, Anaconda Qualifications (if required): agency representative</p>	Governor	1/1/2015
<p>Ms. Karen Harrison, Lolo Qualifications (if required): public representative</p>	Governor	1/1/2015
<p>Director Pam Bucy, Helena Qualifications (if required): agency representative</p>	Governor	1/1/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Electronic Government Advisory Council (Administration) cont. Ms. Sherri Davidoff, Missoula Qualifications (if required): public representative</p>	Governor	1/1/2015
<p>Ms. Jane Weber, Great Falls Qualifications (if required): local government</p>	Governor	1/1/2015
<p>Facility Finance Authority (Commerce) Rep. Joe Quilici, Butte Qualifications (if required): public member</p>	Governor	1/1/2015
<p>Mr. Matthew B. Thiel, Missoula Qualifications (if required): an attorney</p>	Governor	1/1/2015
<p>Ms. Kimberly Rickard, Helena Qualifications (if required): public member</p>	Governor	1/1/2015
<p>Fish and Wildlife Commission (Fish, Wildlife and Parks) Mr. Dan Vermillion, Livingston Qualifications (if required): District 2</p>	Governor	1/1/2015
<p>Mr. A.T. Stafne, Wolf Point Qualifications (if required): District 4 and experience with domestic livestock</p>	Governor	1/1/2015
<p>Mr. Lawrence Wetsit, Wolf Point Qualifications (if required): District 4 Representative</p>	Governor	1/1/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Hard Rock Mining Impact Board (Commerce) Commissioner Marianne Roose, Eureka Qualifications (if required): elected county commissioner and resident of district 1/impact area</p>	Governor	1/1/2015
<p>Ms. Donna von Nieda, Nye Qualifications (if required): elected school trustee and resident of district 1/impact area</p>	Governor	1/1/2015
<p>Human Rights Commission (Labor and Industry) Ms. Cynthia Wolken, Missoula Qualifications (if required): public representative</p>	Governor	1/1/2015
<p>Ms. Lucy Simpson, Helena Qualifications (if required): public representative</p>	Governor	1/1/2015
<p>Intersate Oil and Gas Compact Commission (Natural Resources and Conservation) Mr. Thomas P. Richmond, Billings Qualifications (if required): associate official representative</p>	Governor	1/1/2015
<p>Mr. Ronald Efta, Wibaux Qualifications (if required): official representative</p>	Governor	1/1/2015
<p>Judicial Nomination Commission (Judiciary) Ms. Shirley Ball, Nashua Qualifications (if required): public representative</p>	Governor	1/1/2015
<p>Livestock Loss Board (Livestock) Ms. Elaine Allestad, Big Timber Qualifications (if required): Livestock Industry</p>	Governor	1/1/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Livestock Loss Board (Livestock) cont. Mr. Larry Trexler, Hamilton Qualifications (if required): Livestock Industry</p>	Governor	1/1/2015
<p>Lottery Commission (Administration) Mr. Leo Prigge, Butte Qualifications (if required): public accountant</p>	Governor	1/1/2015
<p>Mental Disabilities Board of Visitors (Governor) Mr. Jonathan Angel, Billings Qualifications (if required): Consumer or Family of Consumer of Mental Health Services</p>	Governor	1/1/2015
<p>Milk Control Board (Livestock) Mr. Jerrold A. Weissman, Great Falls Qualifications (if required): public representative that identifies himself as a Republican</p>	Governor	1/1/2015
<p>Mr. W. Scott Mitchell, Billings Qualifications (if required): attorney that identifies himself as a Democrat</p>	Governor	1/1/2015
<p>Montana Arts Council (Education) Mr. Rob Quist, Kalispell Qualifications (if required): public representative</p>	Governor	2/1/2015
<p>Mr. Wilbur Wood, Roundup Qualifications (if required): public representative</p>	Governor	2/1/2015
<p>Ms. Youpa Stein, Arlee Qualifications (if required): public representative</p>	Governor	2/1/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Montana Arts Council (Education) cont. Mr. Mark Kuipers, Missoula Qualifications (if required): public representative</p>	Governor	2/1/2015
<p>Ms. Jean Steele, Hamilton Qualifications (if required): public representative</p>	Governor	2/1/2015
<p>Montana Children's Trust Fund Board (Public Health and Human Services) Mrs. Clementine Lindley, Billings Qualifications (if required): general public representative</p>	Governor	1/1/2015
<p>Ms. Leslie Caye, Pablo Qualifications (if required): public representative</p>	Governor	1/1/2015
<p>Montana Council on Developmental Disabilities (Commerce) Mr. Jason Billehus, Missoula Qualifications (if required): primary consumer representative</p>	Governor	1/1/2015
<p>Mr. Darwin Nelson, Helena Qualifications (if required): primary consumer representative</p>	Governor	1/1/2015
<p>Ms. Connie Wethern, Glasgow Qualifications (if required): secondary consumer representative</p>	Governor	1/1/2015
<p>Ms. Janet Carlson, Malta Qualifications (if required): primary consumer representative</p>	Governor	1/1/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Montana Council on Developmental Disabilities (Commerce) cont. Ms. Tarra Thomas, Billings Qualifications (if required): secondary consumer representative</p>	Governor	1/1/2015
<p>Montana Grass Conservation Commission (Natural Resources and Conservation) Mr. Alvin Windy Boy Sr., Box Elder Qualifications (if required): public representative</p>	Governor	1/1/2015
<p>Mr. William F. Kennedy, Ekalaka Qualifications (if required): gazing district director</p>	Governor	1/1/2015
<p>Public Safety Officer Standards and Training Council (Justice) Rep. Hal Harper, Helena Qualifications (if required): public representative</p>	Governor	1/1/2015
<p>Ms. Winnie Ore, Helena Qualifications (if required): public representative</p>	Governor	1/1/2015
<p>Commissioner Mike Anderson, Havre Qualifications (if required): Board of Crime Control representative</p>	Governor	1/1/2015
<p>Ms. Georgette Hogan Boggio, Hardin Qualifications (if required): county attorney</p>	Governor	1/1/2015
<p>Mr. John Schaffer, Great Falls Qualifications (if required): local law enforcement officer (nonadministrative)</p>	Governor	1/1/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Public Safety Officer Standards and Training Council (Justice) cont. Mr. Lewis Matthews, Wolf Point Qualifications (if required): certified tribal law enforcement representative</p>	Governor	1/1/2015
<p>Mr. James Smith, Libby Qualifications (if required): chief of police</p>	Governor	1/1/2015
<p>Mr. Jesse Slaughter, Great Falls Qualifications (if required): local law enforcement</p>	Governor	1/1/2015
<p>Ms. Tia Robbin, Kalispell Qualifications (if required): public representative</p>	Governor	1/1/2015
<p>Ms. Gina Dahl, Havre Qualifications (if required): county attorney</p>	Governor	1/1/2015
<p>Chief William Dial, Whitefish Qualifications (if required): Board of Crime Control representative</p>	Governor	1/1/2015
<p>Pulse Crop Advisory Committee (Agriculture) Mr. Grant Zerbe, Frazer Qualifications (if required): actively involved in the pulse crop industry</p>	Governor	2/13/2015
<p>Ms. Leta Campbell, Harlem Qualifications (if required): actively involved in the pulse crop industry</p>	Governor	2/13/2015
<p>Ms. Kim Murray, Froid Qualifications (if required): actively involved in the pulse crop industry</p>	Governor	2/13/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Pulse Crop Advisory Committee (Agriculture) cont.		
Mr. Michael Ehlers, Oilmont	Governor	2/13/2015
Qualifications (if required): actively involved in the pulse crop industry		
Mr. Jon Stoner, Havre	Governor	2/13/2015
Qualifications (if required): actively involved in the pulse crop industry		
Mr. Brian Kae, Dagmar	Governor	2/13/2015
Qualifications (if required): actively involved in the pulse crop industry		
Mr. Dustin Kreger, Great Falls	Governor	2/13/2015
Qualifications (if required): producer		
Rail Service Competition Council (Transportation)		
Ms. Carla Allen, Denton	Governor	1/1/2015
Qualifications (if required): having knowledge of class II railroads		
Mr. Russell Hobbs, Columbia Falls	Governor	1/1/2015
Qualifications (if required): having knowledge of transportation for the wood products industry		
Mr. Walt Ainsworth, Helena	Governor	1/1/2015
Qualifications (if required): having knowledge of the trucking industry		
Resource Conservation Advisory Council (Natural Resources and Conservation)		
Mr. Bob Breipohl, Saco	Director	3/20/2015
Qualifications (if required): Eastern Montana		

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Resource Conservation Advisory Council (Natural Resources and Conservation) cont. Ms. Lauraine Johnson, Plains Qualifications (if required): Western Montana	Director	3/20/2015
Mr. O. Ramsey Offerdal, Conrad Qualifications (if required): North Central Montana	Director	3/20/2015
Mr. Pete Dallaserra, Butte Qualifications (if required): General Public	Director	3/20/2015
Ms. Judi Knapp, Hysham Qualifications (if required): South Central Montana	Director	3/20/2015
Respiratory Care Practitioners (Labor and Industry) Mr. Thomas Fallang, Butte Qualifications (if required): respiratory care practitioner	Governor	1/1/2015
Small Business Health Insurance Pool Board (Auditor's Office) Mr. John Thomas, Helena Qualifications (if required): management-level individual with knowledge of state employee health benefits plans	Governor	1/1/2015
State Employee Charitable Giving Campaign Advisory Council (Administration) Mr. Jack Lynch, Butte Qualifications (if required): representing state employees	Governor	2/13/2015
Mr. Matthew Dale, Helena Qualifications (if required): representing state employees	Governor	2/13/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Employee Charitable Giving Campaign Advisory Council (Administration) cont. Ms. Mary Wright, Helena Qualifications (if required): representing state employees	Governor	2/13/2015
Ms. Marcia Armstrong, Helena Qualifications (if required): representing state employees	Governor	2/13/2015
Ms. Kathy Miller, Helena Qualifications (if required): federal representative	Governor	2/13/2015
Mr. Gary Owen, Great Falls Qualifications (if required): federal representative	Governor	2/13/2015
Mr. Rob Mayer, Helena Qualifications (if required): representing state employees	Governor	2/13/2015
Ms. Marie Matthews, Helena Qualifications (if required): representing state employees	Governor	2/13/2015
Mr. Dave Paton, Helena Qualifications (if required): representing state employees	Governor	2/13/2015
Ms. Kristen Wrzensinski, Helena Qualifications (if required): representing state employees	Governor	2/13/2015
Ms. Gloria Soja, Helena Qualifications (if required): representing state employees	Governor	2/13/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Employee Charitable Giving Campaign Advisory Council (Administration) cont. Mr. Bill Crane, Helena Qualifications (if required): federal representative	Governor	2/13/2015
Ms. Shelly Clinch, Helena Qualifications (if required): employee representative	Governor	2/18/2015
Ms. Donna Hanson, Helena Qualifications (if required): employee representative	Governor	2/18/2015
Ms. Diane Larson, Helena Qualifications (if required): employee representative	Governor	2/18/2015
Mr. Mike Manion, Helena Qualifications (if required): employee representative	Governor	2/18/2015
Ms. Pamela Carlson, Helena Qualifications (if required): federation representative	Governor	2/18/2015
State Employee Group Benefits (Administration) Ms. Mary Dalton, Helena Qualifications (if required): representing state employees	Governor	2/13/2015
Mr. Russ Hill, Helena Qualifications (if required): ex-officio member	Governor	2/13/2015
Mr. John McEwen, Helena Qualifications (if required): representing retired state employees	Governor	2/13/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Employee Group Benefits (Administration) cont. Mr. Richard Cooley, Helena Qualifications (if required): representing state employees	Governor	2/13/2015
Sen. Jim Keane, Butte Qualifications (if required): representing the legislature	Governor	2/13/2015
Ms. Amy Sassano, Helena Qualifications (if required): representing state employees	Governor	2/13/2015
Ms. Beth McLaughlin, Helena Qualifications (if required): representing state employees	Governor	2/13/2015
Ms. Kelly DaSilva, Helena Qualifications (if required): representing legislative branch agencies	Governor	2/13/2015
Mr. Quinton Nyman, Helena Qualifications (if required): representing state employee and labor organizations	Governor	2/13/2015
Mr. Brian Ehli, Missoula Qualifications (if required): representing state employee and labor organizations	Governor	2/13/2015
Ms. Erin Ricci, Helena Qualifications (if required): representing state employee and labor organizations	Governor	2/13/2015
Mr. Christopher Abbott, Helena Qualifications (if required): representing state employees	Governor	2/13/2015

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2015 THROUGH MARCH 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>State Parks and Recreation Commission (Fish, Wildlife and Parks) Sen. Thomas E. "Tom" Towe, Billings Qualifications (if required): District 5</p>	Governor	1/1/2015
<p>Director Mary Sexton, Helena Qualifications (if required): District 3</p>	Governor	1/1/2015
<p>State Tax Appeal Board (Administration) Ms. Karen Powell, Helena Qualifications (if required): public representative</p>	Governor	1/2/2015
<p>Transportation Commission (Transportation) Rep. Carol Lambert, Broadus Qualifications (if required): resident of District 4 (Republican)</p>	Governor	1/1/2015
<p>Mr. S. Kevin Howlett, Arlee Qualifications (if required): resident of District 1 (Democrat)</p>	Governor	1/1/2015
<p>Traumatic Brain Injury Advisory Council (Public Health and Human Services) Ms. Julia Hammerquist, Kalispell Qualifications (if required): a survivor</p>	Governor	1/1/2015
<p>Mr. Darcy Merchant, Billings Qualifications (if required): injury control or prevention</p>	Governor	1/1/2015
<p>Mrs. Teresa McKeon, Malta Qualifications (if required): survivor or family member of a survivor of traumatic brain injury</p>	Governor	1/1/2015