

# MONTANA ADMINISTRATIVE REGISTER

## ISSUE NO. 6

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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BEFORE THE BOARD OF REALTY REGULATION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.210.641 unprofessional	)	PROPOSED AMENDMENT,
conduct, 24.210.661 new licensee	)	ADOPTION, AND REPEAL
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for determination of equivalent	)	
experience for broker licensing	)	

TO: All Concerned Persons

1. On April 18, 2017, at 10:00 a.m., a public hearing will be held in the basement conference room #B-07, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Realty Regulation no later than 5:00 p.m., on April 11, 2017, to advise us of the nature of the accommodation that you need. Please contact Rhonda Morgan, Board of Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2320; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdrre@mt.gov (board's e-mail).

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

24.210.641 UNPROFESSIONAL CONDUCT (1) through (4) remain the same.

(5) In addition to all other provisions contained in the statutes and rules administered by the board, the following are considered unprofessional conduct:

(a) through (af) remain the same.

(ag) failing to disclose in advertising the licensee's name and identifying that the advertisement is made by a real estate licensee or that the advertising is made by a brokerage company;

(ah) through (av) remain the same.

(aw) when applying for a broker license, claiming more credit for transactional experience than actually earned; or

(ax) as a supervising broker, failing to immediately inform the broker's supervised salespersons that the supervising broker's license or endorsement has expired; or

(ay) failing as a supervising broker to adequately supervise his or her salespeople. A supervising broker endorsement may be limited or revoked as a consequence of violating this subsection.

(6) and (7) remain the same.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-51-203, MCA

IMP: 37-1-137, 37-1-141, 37-1-306, 37-1-307, 37-1-312, 37-1-316, 37-1-319, 37-51-102, 37-51-202, 37-51-301, 37-51-302, 37-51-306, 37-51-309, 37-51-313, 37-51-314, 37-51-321, 37-51-324, 37-51-503, 37-51-508, 37-51-512, MCA

REASON: The Legislative Audit Division conducted a performance audit of the Board of Realty Regulation, Licensing Real Estate Professionals, in January 2016. The audit results included a recommendation that the board establish a limit on the number of salespersons a supervising broker may supervise. As an alternative solution to the audit recommendation, the board is adding (5)(ay) after concluding that stronger enforcement within the complaint process will improve the supervision of salespersons.

24.210.661 NEW LICENSEE MANDATORY CONTINUING EDUCATION -- SALESPERSONS (1) All new sales licensees are required to complete the board-mandated new licensee mandatory continuing education requirement, commonly known as the 12-hour rookie course, ~~by the first renewal date as set by ARM 24.101.413,~~ within 120 days following their original license issue date. If no rookie course is offered within the 120-day period, the new licensee must complete the class when the class is next offered after the 120-day period unless, at the board's discretion, it is extended for good cause. Only live in-person presentations of the rookie course will be approved by the board. No online or webinar rookie courses are appropriate.

(2) and (3) remain the same.

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

REASON: The Legislative Audit Division conducted a performance audit of the Board of Realty Regulation, Licensing Real Estate Professionals, in January 2016. The board is amending the rule as an alternative solution to an audit recommendation to allow first-year salespersons 12 months following initial licensure

to complete the rookie course. The board determined a 120-day period would prepare the licensees sooner for work they are actually performing on the job.

24.210.666 COURSE PROVIDER (1) through (3) remain the same.

(4) A course provider which is approved to administer the approved 12-hour rookie course for new salesperson licensees may seek reimbursement for up to \$2,000 of demonstrated losses incurred in providing and administering the rookie course. Compensation will be limited to reasonable expenses. Application for reimbursement must be made on board-approved forms which detail the nature and amount of losses.

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-51-204, 37-51-302, MCA

REASON: Noting that local associations of the Montana Association of Realtors are hosting and administering the rookie courses, the board is adding (4) to provide a reimbursement option for losses incurred while hosting the course. The board believes this option will help ensure courses are available throughout the year and better serve first-year salesperson licensees who are required to take the course.

24.210.674 CONTINUING REAL ESTATE EDUCATION -- COURSE APPROVAL (1) remains the same.

(2) Approved courses must have a specific approved instructor although additional speakers may assist in the instruction pursuant to ARM 24.210.677(6). An instructor does not need to make new application for a course that is already approved. The initial approval of a course will be in effect for the remainder of that calendar year, and the next calendar year in its entirety, expiring on December 31. Course approval may be revoked for cause. If the application for course approval is granted less than three months before the end of the calendar year, the approval shall be in effect until the end of the two calendar years following the year in which the approval is granted.

(3) through (7) remain the same.

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

REASON: It is reasonably necessary to amend this rule to specify that approved continuing education courses must be paired with specific approved instructors. The board has long intended that when a course is considered for approval, there be a specific approved instructor to teach it. Courses must be approved under a specific topic, while the content of each of the various topics can be very diverse. Having approval to teach a particular course under a particular topic does not mean that the instructor is qualified to teach any other course approved under that topic. The instructor must be able to teach the specific course as it was presented to the board for approval. In determining whether an instructor can teach a specific course, the board examines the instructor's qualifications, including the instructor's education, practice experience, and any experience in previously teaching the topic.

The board also discovered that the current rules seem to require new instructors to reapply for course approval, even when the course has prior approval. The board determined that if a course has already been approved, a new instructor merely needs approval to teach the previously approved course. Once approved, an instructor may utilize assistants to teach portions of the course under the instructor's supervision. The board is amending the rule to clarify these provisions.

The board does not permanently approve courses and instructors, but currently for the rest of the year in which they were approved and one calendar year thereafter. The board notes that many courses and instructors are submitted for approval late in the calendar year, to ensure authorization to teach the class as soon as the calendar year begins. Submitting courses and instructors in this manner benefits both the board and the submitters as it avoids a concentrated workload at the beginning of the calendar year. The current rules result in approval of the late-submitted courses and instructors for a much shorter period of time than those approved immediately after the beginning of the year. Noting the benefits of submitting courses and instructors for late-year approval, the board wishes to encourage the practice without penalizing applicants for doing so. The board is amending this rule and ARM 24.210.677 to approve late-year submitted courses and instructors for the last part of the calendar year as well as the two following calendar years. Courses and instructors submitted before the last three months of a calendar year will only be approved for the rest of the year in which the application was made and the single calendar year that follows.

24.210.677 CONTINUING REAL ESTATE EDUCATION -- INSTRUCTOR APPROVAL (1) remains the same.

(2) The initial approval of an instructor will be in effect for the remainder of that calendar year, and the next calendar year in its entirety, expiring on December 31. Approval may be revoked for cause. If the application for instructor approval is granted less than three months before the end of the calendar year, the approval shall be in effect until the end of the two calendar years following the year in which the approval is granted.

(3) remains the same.

(4) In addition to the requirements of (3), instructors who wish to teach the board-mandated new licensee mandatory continuing education course, commonly known as the 12-hour rookie course, shall have five years of active licensed experience as a broker or five years of experience as an instructor of real estate education. The experience necessary to instruct the rookie course may be achieved through a combination of practice or instruction experience.

(5) In addition to the requirements of (3), instructors who wish to teach the board-approved supervising broker prelicensing or the supervising broker continuing education course shall have seven years of active licensed experience as a supervising broker.

(4) remains the same but is renumbered (6).

~~(5)~~ (7) Instructor approval will be for specific courses and topics and will not carry over to other courses or topics of education. An instructor must make application for each course and topic and may not be deemed approved for other courses or topics without approval from the board or its designee. An instructor

need only be approved for a specific topic one time in an approved period. However, except as provided in (6), an instructor must be approved for each course which the instructor wishes to teach.

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-51-202, 37-51-204, MCA

REASON: See REASON for ARM 24.210.674 regarding amendments to (2) and (7).

The board is also adding (4) and (5) to strengthen and clarify the experience requirements for instructors who teach the new licensee mandatory continuing education (rookie) classes, the supervising broker prelicensing classes, and the supervising broker continuing education classes. Because the board demands that these classes teach correct information and cover vital topics, the board concluded that qualified and experienced persons are better suited to accomplish these goals.

In the past, the board has contracted with two highly qualified individuals to teach these courses. However, the contracts have expired and no request for proposal has been completed to contract with the previous instructors or find a new contractor. In the meantime, numerous other people have stepped in to teach the classes which prompted the board to closely examine these courses and instructors.

The board intends that all education and instructors are paired and that instructors are qualified to teach the subject matter. The rookie and supervising broker education courses are fundamentally important to real estate practitioners and thus require instructors with a heightened expertise above what is required to teach other continuing education. In this way, the board can be more assured that knowledgeable instructors with relevant experience are teaching these fundamental courses.

24.210.825 RENEWALS (1) ~~Except for new licensees as provided in ARM 24.210.829, all~~ All active and inactive licensees will be required to renew as set by ARM 24.101.413.

~~(2) Renewal notices will be sent as specified in ARM 24.101.414. Each licensee is required to renew.~~

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

AUTH: 37-1-131, ~~37-1-141, 37-51-203~~, MCA

IMP: 37-1-101, 37-1-131, 37-1-141, ~~37-51-601~~, MCA

REASON: It is reasonably necessary to amend (1) to correct an error and avoid licensee confusion. ARM 24.210.829 provides that new licensees are not required to have continuing education until their second renewal. The board determined that by referencing ARM 24.210.829 in this rule, licensees may be misled to believe that new property manager licensees do not need to renew the first year, which is not the case. All licensees still need to renew upon their first renewal date.

The board is striking (2) because ARM 24.101.414 has been repealed.

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

24.210.829 NEW LICENSEE MANDATORY CONTINUING EDUCATION -- PROPERTY MANAGER (1) All new property management licensees are required to complete 12 hours of property management continuing education by the second renewal date as set by ARM 24.101.413, following their original license issue date. ~~Two~~ Four of the hours must consist of courses in property management trust accounts and must be taken before the first renewal date following original issuance of the license. After satisfactorily completing their first renewal, property manager licensees may satisfy their continuing education obligations for subsequent years by choosing any continuing education courses approved by the board, whether designated as property management education or not.

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA

IMP: 37-1-306, 37-1-319, 37-51-603, MCA

REASON: The board is amending this rule to increase the required course length for the required trust account course for a newly licensed property manager. The board concluded that, with additional hours of instruction, more material can be covered that is important to the management and requirements of trust accounts. The board determined this amendment will provide a better education for new licensees, and therefore, will better serve the public.

4. The proposed new rules are as follows:

NEW RULE I NONROUTINE APPLICATIONS (1) The board shall review an application containing any of the following criteria:

(a) criminal convictions and charges:

(i) a felony conviction of any nature if the sentence imposed for any such conviction has not been fully discharged or if the sentencing order was entered within the past ten years;

(ii) any conviction involving use or sale of drugs, fraud, deceit, or theft, pursuant to 37-1-316(1), MCA, if the sentence imposed for any such conviction has not been fully discharged or if the sentencing order was entered within the past five years;

(iii) a misdemeanor conviction relating to sex or violence;

(iv) three or more misdemeanor convictions;

(v) a pending criminal charge if, as a conviction, it would cause the application to be nonroutine under (i) through (iv); or

(vi) a criminal charge resulting in a deferred sentence that has not been discharged as of the date of application.

(vii) For the purposes of this rule, a criminal charge resulting in a deferred sentence that has not been discharged as of the date of application is considered a conviction for purposes of determining whether the application is nonroutine. Misdemeanor traffic convictions not involving alcohol or drugs will not cause an application to be considered nonroutine.

(b) other unprofessional conduct:



(i) an investigation, complaint, consent agreement, or disciplinary action involving the applicant that either:

(A) resulted in a license or license application that was revoked, suspended, denied, withdrawn, placed on probation, or subjected to any condition or restriction in the past five years; or

(B) resulted in a license or license application that is currently encumbered by a disciplinary sanction. "Encumbered by a disciplinary sanction" means conditions imposed on the license have not been satisfied or are ongoing if the action was based upon the applicant's underlying conduct and not based on another state's or jurisdiction's disciplinary action;

(ii) the applicant was diagnosed with an addiction or participated in a chemical dependency or other addiction treatment program within three years of submitting the application. However, if treatment has been successfully completed and any recommended follow-up is being complied with, the department may consider the application routine; or

(iii) the applicant answered "yes" on the application regarding a diagnosis for a physical condition or mental health disorder involving a potential health risk to the public.

(c) application discrepancies:

(i) failure to accurately and completely respond to a question on the application form. The department may treat an application as routine under this subsection if the department receives an adequate explanation for such a failure;

(ii) the department may, but is not required to, submit an otherwise routine application for board review if:

(A) questions arise whether the applicant meets all requirements for licensure, including, but not limited to, the demonstration of good moral character; or

(B) inconsistencies, irregularities, or other matters of concern, including but not limited to allegations of unlicensed practice, exist in the application or related documentation.

(d) any application which staff believes warrants board review.

(2) An application which would otherwise be nonroutine under this rule will nevertheless be deemed routine if the application is based solely on information previously considered by the board, but which resulted in the issuance of an unencumbered license or if it resulted in a complaint that was resolved without discipline.

AUTH: 37-1-131, 37-1-319, 37-51-203, MCA

IMP: 37-1-101, 37-1-105, 37-1-131, 37-1-136, 37-1-137, 37-1-203, 37-1-307, 37-1-308, 37-51-202, 37-51-302, 37-51-603, MCA

REASON: The Legislative Audit Division conducted a performance audit of the Board of Realty Regulation, Licensing Real Estate Professionals, in January 2016. The board is adopting this rule in response to an audit recommendation that the board clearly define criteria for treating applications as nonroutine, including classification of criminal convictions.

NEW RULE II TRUST ACCOUNT COURSE REQUIREMENT (1) Except for new licensees as provided in ARM 24.210.829, all active licensees must complete a four-hour property management trust account course as approved by the board within 12 months of the effective date of this rule.

(2) Inactive licensees returning to active status who have not taken this course must take it by the next renewal date after they become active.

AUTH: 37-1-131, MCA

IMP: 37-1-131, MCA

REASON: The board is adopting this new rule due to the number of violations through board audits on trust accounts, and therefore the number of board-generated complaints to address these issues as seen and reported by the screening panel. The board determined that requiring all active property management licensees to attend a trust account course within 12 months of the effective date of this rule will increase licensee knowledge of trust account management and requirements, and reduce audit deficiencies and complaints.

5. The board proposes to repeal the following rule:

24.210.615 APPLICATION FOR DETERMINATION OF EQUIVALENT EXPERIENCE FOR BROKER LICENSING

AUTH: 37-1-131, 37-51-203, MCA

IMP: 37-51-202, 37-51-302, MCA

REASON: The Legislative Audit Division conducted a performance audit of the Board of Realty Regulation, Licensing Real Estate Professionals, in January 2016. The board is repealing this rule to eliminate the equivalency application, which the audit concluded was used rarely, but added unnecessary costs to the license process.

6. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdrre@mt.gov](mailto:dlibsdrre@mt.gov), and must be received no later than 5:00 p.m., April 21, 2017.

7. An electronic copy of this notice of public hearing is available at [www.realestate.mt.gov](http://www.realestate.mt.gov) (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical

problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

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

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

10. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.210.641, 24.210.661, 24.210.666, 24.210.674, 24.210.677, 24.210.825, and 24.210.829 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of NEW RULES I and II will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.210.615 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2320; facsimile (406) 841-2305; or to [dlibsdrre@mt.gov](mailto:dlibsdrre@mt.gov).

11. Rhonda Morgan, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF REALTY REGULATION  
RIC SMITH  
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 March 13, 2017.

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

In the matter of the amendment of ) NOTICE OF PROPOSED  
ARM 37.108.507 pertaining to ) AMENDMENT  
healthcare effectiveness data and )  
information set (HEDIS) measures ) NO PUBLIC HEARING  
) CONTEMPLATED

TO: All Concerned Persons

1. The Department of Public Health and Human Services proposes to amend the above-stated rule.

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 April 19, 2017, 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 MT 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.108.507 COMPONENTS OF QUALITY ASSESSMENT ACTIVITIES

(1) Annually, the health carrier shall evaluate its quality assessment activities by using the following HEDIS ~~2014~~ 2017 measures:

(a) through (3) remain the same.

(4) The department adopts and incorporates by reference the HEDIS ~~2014~~ 2017 measures for the categories listed in (1)(a) through (e). The HEDIS ~~2014~~ 2017 measures are developed by the National Committee for Quality Assurance and provide a standardized mechanism for measuring and comparing the quality of services offered by managed care health plans. Copies of HEDIS ~~2014~~ 2017 measures are available from the National Committee for Quality Assurance, 1100 13th St. NW, Suite 1000, Washington, D.C. 20005 or ~~on the~~ Internet at www.ncqa.org.

AUTH: 33-36-105, MCA  
IMP: 33-36-105, 33-36-302, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Managed Care Plan Network Adequacy and Quality Assurance Act (Title 33, chapter 36, MCA) establishes standards for health carriers offering managed care plans and for the implementation of quality assurance standards in administrative rules. ARM 37.108.501 through 37.108.521 were adopted in 2001 to establish mechanisms for the department to evaluate quality assurance activities of health carriers providing managed care plans in Montana. ARM 37.108.507 requires health carriers to report their quality assessment activities to the department using healthcare effectiveness data and information set (HEDIS) measures, nationally utilized measures that are updated annually. Since the HEDIS standards change somewhat every year, the rule must also be updated annually to reflect the current year's measures and ensure that national comparisons are possible, since the other states will also be using the same updated measures.

The option of not updating the HEDIS measure was considered and rejected because these are national quality measures which allow comparison among health plans. If the measures are not kept current, this function is lost.

The changes from adopted 2014 measures to the proposed measures are quoted below:

Changes to HEDIS 2017, Volume 2

- (1) Childhood Immunization Status:
  - (a) added CVX codes to the measure;
  - (b) added HIV Type 2 Value Set to the optional exclusions; and
  - (c) added optional exclusions for the rotavirus vaccine.
- (2) Breast Cancer Screening:
  - (a) clarified that diagnostic screenings are not included in the measure.
- (3) Cervical Cancer Screening:
  - (a) clarified that reflex testing does not meet criteria in step 2 of the hybrid specification.
- (4) Comprehensive Diabetes Care:
  - (a) added an administrative method and new value set to identify negative eye exams in the year prior to the measurement year;
  - (b) added glycohemoglobin, glycated hemoglobin and glycosylated hemoglobin as acceptable HbA1c tests;
  - (c) clarified documentation requirements for a negative eye exam; and
  - (d) replaced "Each of the 7 rates" with a "checkmark" for the "Measurement year" row in Table CDC-1/2/3.
- (5) HEDIS/Consumer Assessment of Health Plan Survey (CAHPS) for Adults:
  - (a) This measure is collected using survey methodology. Detailed specifications and summary of changes are contained in HEDIS 2017, Volume 3: Specifications for Survey Measures.

Corrections, policy changes, and clarifications to HEDIS 2017, Volume 2, Technical Specifications

- (1) Breast Cancer Screening Exclusion (optional)
  - (a) Replaced the second bullet with the following text:  
Unilateral mastectomy (Unilateral Mastectomy Value Set) with a bilateral modifier (Bilateral Modifier Value Set). Codes must be on the same claim;
  - (b) in the first row of bullets in the table, replace both references to "(same date of service)" with "(same claim)."
  - (c) replace the Note with the following text:  
"This measure evaluates primary screening. Do not count biopsies, breast ultrasounds, MRIs, or tomosynthesis (3D mammography), because they are not appropriate methods for primary breast cancer screening."
- (2) Comprehensive Diabetes Care Hybrid Specification - Denominator
  - (a) Add the following text as the second sentence in the third paragraph:
    - (i) "Members from the oversample should be added to the denominator for all measure indicators."

5. The department intends the proposed rule amendments to be applied retroactively to January 1, 2017. There is no negative impact to the affected health insurance company by applying the rule amendment retroactively.

6. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Kenneth Mordan, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210, no later than 5:00 p.m. on April 21, 2017. Comments may also be faxed to (406) 444-9744 or e-mailed to [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

7. 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 Kenneth Mordan at the above address no later than 5:00 p.m., April 21, 2017.

8. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 1 person based on there being only one health insurance provider affected by this proposed rule amendment.

9. 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.

10. 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.

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

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

/s/ Flint Murfitt  
Flint Murfitt, Attorney  
Rule Reviewer

/s/ Sheila Hogan  
Sheila Hogan, Director  
Public Health and Human Services

Certified to the Secretary of State March 13, 2017.

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

In the matter of the adoption of NEW ) NOTICE OF PUBLIC HEARING ON  
RULES I through XII pertaining to ) PROPOSED ADOPTION  
minimum filing requirements for rate )  
adjustments for taxes and fees )

TO: All Concerned Persons:

1. On April 18, 2017, at 1:30 p.m., the Department of Public Service Regulation will hold a public hearing in the Bollinger Room, 1701 Prospect Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The Department of Public Service Regulation will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Service Regulation no later than 5:00 p.m. on April 13, 2017, to advise us of the nature of the accommodation that you need. Please contact Sandy Scherer, Department of Public Service Regulation, 1701 Prospect Avenue, Helena, Montana, 59620-2601; telephone (406) 444-6199; fax (406) 444-7618; TDD/Montana Relay Service (406) 444-4212; or e-mail sscherer@mt.gov.

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

NEW RULE I APPLICABILITY (1) This subchapter is applicable to electric and natural gas public utilities.

(2) Except where otherwise provided, a utility shall comply with the minimum filing standards of this subchapter whenever it files for a rate schedule change pursuant to 69-3-302 or 69-3-308, MCA which incorporates changes in Montana state and local tax expense, except that this subchapter does not apply to rate schedules filed to adjust for the Public Service Commission tax or the Montana Consumer Counsel tax.

(3) Filings made pursuant to 69-3-308, MCA are exempt from the filing requirements of ARM 38.5.101 to 38.5.195.

AUTH: 69-3-103, 69-3-310, MCA  
IMP: 69-3-302, 69-3-308, MCA

REASON: Adoption of New Rule I is necessary to allow the department to establish minimum filing requirements for a utility application that is filed pursuant to 69-3-308, MCA for the automatic rate adjustment and tracking for taxes and fees. The statute currently provides the commission forty-five days to review and address any errors with the application. In administering the statutory requirements the commission has found that a comprehensive review of a utility's application in this time frame is challenging especially without certain information filed as part of the utility's



application. Therefore it is necessary for the commission to implement rulemaking to establish minimum filing requirements for these applications pursuant to the authority granted to it by 69-3-310, MCA. The commission currently has minimum filing requirements for other utility applications that under statute allow the commission up to nine months to review. This new rule will also make clear that the more expansive minimum filing requirements of ARM 38.5.101 to 38.5.195, which apply to rate applications of over \$100,000 in size, do not apply to applications under 69-3-308, MCA. The commission has not historically enforced these existing administrative requirements to applications under 69-3-308, MCA, but will consider doing so as an alternative to this proposed rule, if it is not adopted.

NEW RULE II ELECTRONIC INFORMATION – LETTER OF TRANSMITTAL

(1) The utility shall include with the request for a rate adjustment all files in an easily readable electronic format, which, if applicable, shall have all digital links intact.

(2) The letter of transmittal with respect to a filing for a new or existing tariff to provide for an adjustment of state and local taxes and fees under 69-3-308, MCA shall:

- (a) List the documents submitted with the filing;
- (b) State the names and addresses of those to whom copies of the rate schedule have been mailed;
- (c) Include a brief description of the proposed changes in service or rate and charge;
- (d) State the reasons for the proposed changes;
- (e) State the estimated number of customers whose cost of service will be affected and annual amounts of either increases or decreases, or both, in cost of service to such customers;
- (f) Name an employee of the utility who shall be responsible for answering questions concerning the application, or for referring inquiries to appropriate members of the utility staff;
- (g) Include a clear statement of the relief requested;
- (h) Include a table or spreadsheet showing each rate affected by the rate adjustment, including the rate as it currently exists, the incremental change due to the tracker, the proposed total rate, and the portion of the rate attributable to tax; and
- (i) Propose revised tariffs that would be affected by the rate adjustment, including both clean and red-lined copies.

AUTH: 69-3-103, 69-3-310, MCA

IMP: 69-3-302, 69-3-308, MCA

REASON: Adoption of New Rule II is necessary to allow the department to obtain necessary initial information with a utility application under 69-3-308, MCA, in a manner which largely conforms with the transmittal letter requirement that other utility rate applications are subject to in ARM 38.5.101. In previous applications under 69-3-308, MCA, utilities have submitted ambiguous information about consumer impacts, or have not submitted revised tariff editions encapsulating the rate changes sought, or have been unclear about the time period of the

effectiveness of the rate changes being proposed. This new rule is necessary to clarify the practice that governs the filings made under 69-3-308, MCA. Additionally, the requirement to include electronic files including spreadsheets with intact digital links under 69-3-302 and 69-3-308, MCA, will allow the commission to review the utility's analysis upon the utility's filing. For applications made under 69-3-308, MCA, the timely receipt of this information is important to ensure no errors are contained and that there are no omissions within the application, which by statute the commission must do within forty-five days.

NEW RULE III PRE-FILED TESTIMONY (1) The application made under 69-3-308, MCA, by a utility shall include the pre-filed testimony of a witness or witnesses. If the testimony of more than one witness is presented, the utility will identify one witness who is responsible for certifying by affidavit, and if necessary under oath at hearing, the accuracy and completeness of the statements contained in the filing.

AUTH: 69-3-103, 69-3-310, MCA  
IMP: 69-3-202, 69-3-205, 69-3-308, MCA

REASON: Adoption of New Rule III is necessary to allow the department to obtain necessary initial pre-filed testimony with the utility application. The inclusion of testimony will allow the commission to review the utility's analysis in a timely manner to make sure no errors exist in its application and a decision can be reached within the forty-five-day time period set out in statute. It will also ensure that the utility identifies an employee or officer responsible for verifying the accuracy of the statements required by the commission in the other new rules proposed in this notice.

NEW RULE IV EXPENSE AND REVENUE ADJUSTMENT WORK PAPERS

(1) The application for automatic adjustment for Montana state and local taxes and fees, excluding income taxation, provided for under 69-3-308, MCA shall include:

- (a) The projected changes in taxes from the prior year;
- (b) The true-up of the prior year's actual revenue attributable to taxes versus actual taxes;
- (c) The extinguishment of deferred balances.

(2) Revenues attributable to the component of existing rates attributable to Montana state and local taxes and fees shall be calculated, including the revenues earned and projected to be earned by:

- (a) rates authorized by the Montana Public Service Commission;
- (b) rates authorized by the Federal Energy Regulatory Commission (FERC);
- (c) rates authorized by other state utility commissions, to the extent that Montana state and local taxes and fees are allocated to those jurisdictions;
- (d) charges made by the utility, its affiliates, or its parent for services which are not regulated but on which the utility is assessed Montana state and local taxes and fees, including but not limited to non-regulated gas gathering and production activities.

(3) The adjustment shall reflect the impact from the deductibility of incremental or decremental expense of Montana state and local taxes and fees on a utility's income taxation.

AUTH: 69-3-103, 69-3-310, MCA

IMP: 69-3-201, 69-3-202, 69-3-308, MCA

REASON: Adoption of New Rule IV is necessary to allow the department to establish minimum filing requirements for the information which will allow the commission to ascertain whether actual revenues and expenses and projected revenues and expenses will affect the adjustment for taxes contemplated in 69-3-308, MCA, and result in just and reasonable rates pursuant to 69-3-201, MCA. Some of this information has traditionally been submitted together with a utility's initial application, while other parts have been obtained only during the discovery process, which imposes a burden on the commission and others because of the proceeding's forty-five-day time period provided for in statute. To the degree this new rule provides for new bookkeeping and accounting requirements, it implements 69-3-202, MCA.

#### NEW RULE V JURISDICTIONAL FERC ALLOCATIONS FOR TAXES

(1) For Montana state and local taxes and fees, excluding income taxation, allocated to rates collected under FERC tariffs:

(a) The utility shall disclose and explain the present allocation methodology of the expense to retail and wholesale customers.

(b) The utility will identify in a table a list of all property which is subject to a jurisdictional allocation between retail and wholesale customers by:

(i) plant type and location;

(ii) value in rate base, on an original cost less depreciation basis;

(iii) value as part of property-tax valuation, as allocated to taxing jurisdictions, derived from the Montana Department of Revenue's unit valuation and the allocation to local taxing jurisdictions; and

(iv) the total amount of tax expense for each property listed.

(c) If the taxing jurisdiction does not disclose or specifically identify the amount of tax expense allocated or assessed to property by type, the utility will disclose as such and will use an appropriate allocator consistent with prior commission orders or with its own internal practice.

(d) The utility will indicate the last time it has filed at FERC a general rate case or a case specific to a service offered under its open access transmission tariff, and describe how tax expense was incorporated into its rate proposal and, if specified, the FERC's final determination of rates.

(e) The utility will present information for allocation methodologies, regardless of which is proposed or adopted for current use. These shall include at a minimum:

(i) the revenue produced under FERC rates which is attributable to Montana state and local tax and fee expense, calculated on the basis of the percentage of the last-approved revenue requirement which was attributable to this expense; and

(ii) a calculation of the usage of the assets subject to state and local taxes and fees by retail customers and by wholesale customers, with an allocation of the associated tax expense to the wholesale and retail customers of the utility on a basis consistent with that usage, employing:

- (A) a twelve-coincident-peak methodology; and
- (B) an energy-and-demand methodology.

(f) The commission may request an additional study to allocate this expense on another basis.

(g) A utility that does not collect any revenues under FERC tariffs will file a statement certifying accordingly.

AUTH: 69-3-103, 69-3-310, MCA

IMP: 69-3-201, 69-3-202, 69-3-302, 69-3-308, MCA

REASON: Adoption of New Rule V is necessary to allow the department to evaluate a utility's allocation of Montana state and local taxes and fees, excluding income taxation, to properties which are paid for under both rates established by the department and by the FERC, such as electric transmission lines. The inclusion of this minimum filing requirement is necessary for the commission to verify that no errors exist in the utility's application under 69-3-308, MCA, and that there is a sufficient evidentiary basis for the commission to approve rates that are applied for under 69-3-302, MCA.

NEW RULE VI JURISDICTIONAL ALLOCATIONS FOR TAXES (1) For Montana state and local taxes and fees and for other state taxes, excluding income taxation, which are allocated to rates authorized by the commission and by other state utility commissions:

(a) The utility shall disclose and explain the allocation methodology of these expenses to Montana customers and to customers of other states;

(b) The utility shall provide a statement including data for the last three years and for the coming year, which:

(i) discloses the amount of revenue attributable to tax expense collected in each jurisdiction under existing rates;

(ii) discloses the actual tax expense attributable to each jurisdiction under the last approved allocation methodology of the commission; and

(iii) provides an estimate of the amount of revenue attributable to these taxes the utility had projected to earn based on the tax expense in rates of its last general rate case filings in those jurisdictions, inflated or deflated by the projected growth in sales volumes of units whose rates include tax-related expense.

(2) For the purposes of making findings on questions of jurisdictional separations for the purposes of including tax expense into rates, the commission, upon evaluating the information provided pursuant to this section and other information which it may possess, may find errors that lead to adjustments in rates for reasons including, but not limited to, the following:

(a) that an allocation methodology inaccurately allocates the expense or the revenue, or both, to customers of different jurisdictions; or

(b) that revenues from other jurisdictions' customers are sufficient to satisfy the utility's liability for Montana state and local taxes and fees.

AUTH: 69-3-103, 69-3-310, MCA

IMP: 69-3-201, 69-3-202, 69-3-302, 69-3-308, MCA

REASON: Adoption of New Rule VI is necessary to allow the department to verify the amount of tax expense collected and projected to be collected in each jurisdiction under existing allocations and rates for property of a multi-jurisdictional utility which is used to serve customers in multiple states, such as an electric generating unit which serves customers on a multi-state integrated grid. The inclusion of this minimum filing requirement is necessary for the commission to verify that no errors exist in the utility's application under 69-3-308, MCA, and that there is sufficient evidentiary basis for the commission to approve rates that are applied for under 69-3-302, MCA.

NEW RULE VII INCOME TAXATION (1) To account for the deductibility of tax expense from the utility's income tax liability when filing for an automatic rate adjustment for Montana state and local taxes and fees, the utility will multiply the statutory income tax rate by the incremental change in Montana state and local tax expense. The product of this multiplication is the amount of the income tax benefit, positive or negative, that results from the automatic rate adjustment for Montana state and local taxes and fees.

(2) Together with an application for automatic adjustment for Montana state and local taxes and fees filed pursuant to 69-3-308, MCA or with a change in rate schedules filed pursuant to 69-3-302, MCA the utility shall:

(a) provide its last three annual income tax filings for both the federal and Montana jurisdictions;

(b) file a request for a protective order no later than three weeks before such a rate filing is made, if the utility desires to exercise its right under federal law to keep its income tax filing confidential; and

(c) file a statement which:

(i) discloses the amount of revenue attributable to the component of existing commission rates attributable to federal and state income taxes;

(ii) identifies the total income tax expense associated with or allocated to the customers paying those commission rates;

(iii) indicates any amount of tax benefit or liability which is normalized pursuant to federal or state laws or regulations;

(iv) indicates any amount of tax benefit or liability which is normalized voluntarily, at the utility's option, and not because it is required pursuant to federal or state laws or regulations; and

(v) provides a spreadsheet or other information documenting a cost-benefit analysis for customers regarding the utility's election for a tax treatment that prohibits flow-through and requires normalization.

AUTH: 69-3-103, 69-3-310, MCA

IMP: 69-3-201, 69-3-202, 69-3-302, 69-3-308, MCA

REASON: Adoption of New Rule VII is necessary to allow the department to verify that the utility appropriately accounted for the deductibility of tax expense from the utility's income tax liability when filing an application pursuant to 69-3-308, MCA. Additionally, it is necessary because it establishes a requirement for the pre-filing of a request for protective order for income tax return information which is statutorily protected from public disclosure in order to streamline the processing of utility rate cases under 69-3-302 and 69-3-308, MCA, which implicate income taxes. Finally, the rule imposes an ongoing bookkeeping requirement to track the total expense collected from consumers to offset income taxes versus the total present-day and deferred actual income tax liability of the regulated firm. This requirement is necessary because federal policy allows utilities to claim tax benefits which cannot be flowed through to customers, and it is necessary to keep a record of the accounts so that the information can be used in rate cases where adjustments to utility rate base and income tax expense are proposed.

NEW RULE VIII ATTRIBUTION OF TAX TO PLANT (1) Together with an application for an automatic rate adjustment for Montana state and local taxes and fees under 69-3-308, MCA, a utility will identify the allocation of Montana state and local taxes and fees to plant by:

(a) identifying the total amount of plant additions, by plant type and location, where the commission approved a revenue requirement which included, as part of that requirement, a specified amount of return of and on capital investment in this plant;

(b) identifying the total amount of plant additions, by plant type and location, where a utility has proposed such plant in a general rate case held pursuant to 69-3-302, but which had a stipulated result which did not result in a commission determination of the total rate base value of company plant, the utility will indicate this plant in the statement;

(c) identifying the total amount of plant additions, by plant type and location, where a utility has added such plant after the twelve months following the test year pursuant to ARM 38.5.106 and 38.5.124;

(d) identifying the total amount of construction work in progress which is taxed;

(e) identifying any property that the utility considers to be not used and useful pursuant to ARM 38.5.128 which is taxed.

(2) In making the allocation of taxes to plant type, the utility will identify and explain its methodology, which may be informed by both the books and records of the utility company's capital investments and by the allocation of value to taxing jurisdictions by governmental authorities and by other factors the utility and the commission consider reasonable.

(3) For the purpose of this rule, a utility may aggregate plant entries that are individually less than \$10,000 into categories, so long as the plant entries which are aggregated resemble each other in function and use.

AUTH: 69-3-103, 69-3-310, MCA

IMP: 69-3-109, 69-3-201, 69-3-202, 69-3-308, MCA

REASON: Adoption of New Rule VIII is necessary to allow the department to review and verify the inclusion of state and local taxes included in the application that a utility allocates to various plant. The rule is necessary to provide the commission visibility into how a utility takes its valuation from the Montana Department of Revenue and its assessments from various taxing entities and then proceeds to allocate those taxes for internal bookkeeping and public utility ratemaking purposes to particular plant. Additionally, the submission of this information is necessary for the commission to determine whether the utility's application appropriately includes the taxes for specific utility plant based on whether the plant has or has not been actually used and useful to customers and has been approved as part of the utility's rate base at a declared value pursuant to 69-3-109, MCA, in a proceeding establishing rates that collect for return and expenses associated with such property.

NEW RULE IX VALUATION AND PROTESTS (1) A utility will file the past five years' tax valuations from the Montana Department of Revenue.

(2) A utility will pre-file direct testimony explaining how the valuation methodology of the Montana Department of Revenue has changed from the last time a rate schedule change incorporating tax expense was filed.

(3) A utility for which other governmental authorities responsible for taxation make an appraisal of the utility's value will submit the latest appraisal of all entities that make such a valuation together with their submission of the Montana Department of Revenue valuation.

(4) The utility will describe any informal or formal protests for its valuation or its tax expense that it has filed with any jurisdiction.

(5) For the purposes of complying with 69-3-308(2)(a)(i)(C), MCA a utility will provide a statement or table of adjustments made for the resolution of property taxes paid under protest. If there are none, it will file a statement indicating as such.

AUTH: 69-3-103, 69-3-310, MCA

IMP: 69-3-106, 69-3-109, 69-3-302, 69-3-308, MCA

REASON: Adoption of New Rule IX is necessary to allow the department to obtain information that can be used to compare or reconcile the tax valuation the Montana Department of Revenue undertakes to the process the commission undertakes for purposes of utility ratemaking. Additionally, it is necessary for the commission to possess information involving the resolution of property taxes paid under protest for the purposes of the commission's review under 69-3-308, MCA.

NEW RULE X ALLOCATION OF TAXES AND FEES – RATE DESIGN

(1) A utility's application under 69-3-308, MCA, must include testimony and work papers showing the allocation of an adjustment to Montana state and local taxes and fees to each of the utility's customer classes. Testimony must include a thorough description of and justification for the allocation method(s).

(2) A utility's application must include testimony and work papers showing the derivation of rate adjustments provided for in [NEW RULE II(2)(i)]. Testimony must include a thorough description and justification for the requested rate design. Work

papers must include an analysis showing customer bill impacts, by customer class, for various usage levels typical for the customer class.

AUTH: 69-3-103, 69-3-310, MCA

IMP: 69-3-201, 69-3-308, MCA

REASON: Adoption of New Rule X is necessary to allow the department to establish minimum filing requirements which include testimony and the associated work papers necessary for the commission to verify errors, if any, in the utility's allocation of state and local taxes and fees to the utility's customer classes. The submission of bill impacts is necessary for the commission to ensure that the allocation methodology results in just and reasonable rates and will not disproportionately impact one customer class.

NEW RULE XI TAXES EXCLUDED (1) A utility will disclose any taxes or fees assessed by taxing jurisdictions within the state of Montana which are not Montana state or local taxes or fees under the statutory definition included within 69-3-308, MCA.

AUTH: 69-3-103, 69-3-310, MCA

IMP: 69-3-201, 69-3-202, 69-3-308, MCA

REASON: Adoption of New Rule XI is necessary to allow the department to verify that all taxes and fees included in a utility's application meet the statutory requirements for inclusion pursuant to 69-3-308, MCA and there are no errors in the application.

NEW RULE XII REQUIREMENTS FOR THE SUBMISSION OF OMITTED INFORMATION (1) For utility applications made pursuant to 69-3-308, MCA if a utility has not complied with the minimum filing standards of this subchapter or has otherwise failed to provide information as provided for in the proceeding to consider the filing, the commission may order within forty-five days of receipt of the utility's application that the utility address these omissions and continue the proceeding until they are addressed.

(2) For utility applications made pursuant to 69-3-302, MCA, a filing made by a utility which does not include the information required by this subchapter, the remedies provided for in ARM 38.5.184 apply.

(3) This rule does not affect the commission's ability to pursue the remedies provided for in 69-3-206 and 69-3-208, MCA.

AUTH: 69-3-103, 69-3-310, MCA

IMP: 69-3-202, 69-3-302, 69-3-206, 69-3-208, 69-3-308, MCA

REASON: Adoption of New Rule XII is necessary to allow the department to enforce the minimum filing requirements set out in the above-proposed rules. If the utility has not complied with the minimum filing requirements or does not provide sufficient information during the proceeding, the commission may order within forty-five days



of the receipt of the application that the utility address these omissions. Such an order would not impact the automatic rate implementation of interim rates on January 1st of each year, but would allow the commission to make findings relative to the rate proposal after the information is finally submitted. For applications under 69-3-302, MCA, with its longer timeline, the new rule cross-references the rule addressing deficient filings within the existing subchapter governing the minimum information standards for such applications.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Sandy Scherer, Department of Public Service Regulation, 1701 Prospect Avenue, Helena, Montana, 59620-2601; telephone (406) 444-6170; fax (406) 444-7618; or e-mail [sscherer@mt.gov](mailto:sscherer@mt.gov), and must be received no later than 5:00 p.m., April 25, 2017.

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

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in paragraph 2 above or may be made by completing a request form at any rules hearing held by the department.

7. 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.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and the primary sponsor of the bill has been contacted by phone.

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

/s/ JUSTIN KRASKE  
Justin Kraske  
Rule Reviewer

/s/ BRAD JOHNSON  
Brad Johnson  
Chairman  
Department of Public Service Regulation

Certified to the Secretary of State March 13, 2017.

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 III, the amendment of	)	AMENDMENT, AND REPEAL
ARM 37.114.101, 37.114.105,	)	
37.114.201, 37.114.203, 37.114.204,	)	
37.114.301, 37.114.313, 37.114.314,	)	
37.114.315, 37.114.501, 37.114.512,	)	
37.114.515, 37.114.530, 37.114.531,	)	
37.114.546, 37.114.552, 37.114.571,	)	
37.114.583, 37.114.1001,	)	
37.114.1002, 37.114.1005,	)	
37.114.1006, 37.114.1015, and	)	
37.114.1016, and the repeal of ARM	)	
37.114.527 and 37.114.1010	)	
pertaining to the periodic update of	)	
administrative rules related to the	)	
reporting and control of	)	
communicable disease	)	

TO: All Concerned Persons

1. On February 3, 2017, the Department of Public Health and Human Services published MAR Notice No. 37-775 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 161 of the 2017 Montana Administrative Register, Issue Number 3.

2. The department has adopted the following rules as proposed: New Rules I (37.114.316), II (37.114.526), and III (37.114.590).

3. The department has amended the following rules as proposed: ARM 37.114.101, 37.114.201, 37.114.313, 37.114.314, 37.114.315, 37.114.501, 37.114.512, 37.114.515, 37.114.530, 37.114.531, 37.114.546, 37.114.552, 37.114.571, 37.114.583, 37.114.1001, 37.114.1002, 37.114.1005, 37.114.1006, 37.114.1015, and 37.114.1016.

4. The department has repealed the following rules as proposed: ARM 37.114.527 and 37.114.1010.

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

37.114.105 INCORPORATION BY REFERENCE (1) The department adopts and incorporates by reference the following publications:

(a) and (b) remain as proposed.

(c) The "Sexually Transmitted Diseases Treatment Guidelines, ~~2010~~ 2015" are published by the U.S. Centers for Disease Control and Prevention in the ~~December 17, 2010~~ June 5, 2015, Morbidity and Mortality Weekly Report, volume ~~54~~ 64, hereafter referred to as "Sexually Transmitted Diseases Treatment Guidelines, 2015," and specify the most currently accepted effective treatments for sexually transmitted diseases.

(d) through (2) remain as proposed.

AUTH: 50-1-202, MCA

IMP: 50-1-202, MCA

37.114.203 REPORTABLE DISEASES AND CONDITIONS (1) The following communicable diseases and conditions are reportable:

(a) through (s) remain as proposed.

(t) Gastroenteritis outbreak;

(t) through (bo) remain as proposed, but are renumbered (u) through (bp).

(2) remains as proposed.

AUTH: 50-1-202, 50-17-103, 50-18-105, 50-18-106, MCA

IMP: 50-1-202, 50-2-118, 50-17-103, 50-18-102, 50-18-106, MCA

37.114.204 REPORTS AND REPORT DEADLINES (1) through (2)(a)(iv) remain as proposed.

(v) Gastroenteritis outbreak;

(v) through (x) remain as proposed, but are renumbered (vi) through (xi).

(b) through (5) remain as proposed.

AUTH: 50-1-202, 50-17-103, 50-18-105, MCA

IMP: 50-1-202, 50-17-103, 50-18-102, 50-18-106, MCA

37.114.301 SENSITIVE OCCUPATIONS AND SETTINGS (1) through (4) remain as proposed.

AUTH: 50-1-202, MCA

IMP: 50-1-202, MCA

6. 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: Two comments stated that the "Sexually Transmitted Treatment Guidelines" under ARM 37.114.105(1)(c) reference the 2010 guidelines rather than the 2015 guidelines. Every other reference to the guidelines refers to the 2015 guidelines and it seems that the reference should also be to the 2015 guidelines rather than the 2010 guidelines.

RESPONSE #1: The department appreciates your comments and has addressed this by amending the reference to the most recent 2015 "Sexually Transmitted Treatment Guidelines" in ARM 37.114.105.

COMMENT #2: A commenter stated that they like the expanded definition found in ARM 37.114.301(4) but they are not sure it is in the right place. The clause refers to participants and residents, not workers in sensitive occupations. The commenter did not think they would look here for guidance on participants in congregate settings.

RESPONSE #2: The department has noted this discrepancy and has addressed it by adding "AND SETTINGS" to the catchphrase of ARM 37.114.301. This will address the issue identified by the commenter.

COMMENT #3: A commenter noted that "gastroenteritis outbreaks" are not reportable within the "Control of Communicable Diseases Manual, an Official Report of the American Public Health Association" (20th edition, 2015)." The commenter asked whether the department intended to remove this term from ARM 37.114.203 and 37.114.204.

RESPONSE #3: The department thanks the commenter for pointing out this oversight. The department has withdrawn the proposed deletion of the term "gastroenteritis outbreak" and has added the term back into these administrative rules.

7. The department intends to apply these rule adoptions, amendments, and repeals retroactively to July 1, 2016. A retroactive application of the proposed rule adoptions, amendments, and repeals does not result in a negative impact to any affected party.

/s/ Nicholas Domitrovich  
Nicholas Domitrovich, Attorney  
Rule Reviewer

/s/ Sheila Hogan  
Sheila Hogan, Director  
Public Health and Human Services

Certified to the Secretary of State March 13, 2017.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 42.12.132, 42.13.101, )  
42.13.210, and 42.13.1003 pertaining )  
to alcoholic beverage establishment )  
location managers, compliance with )  
laws and rules, the penalty schedule, )  
consumer promotions, and contract )  
manufacturing )

TO: All Concerned Persons

1. On November 25, 2016, the Department of Revenue published MAR Notice No. 42-2-968 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 2170 of the 2016 Montana Administrative Register, Issue Number 22.

2. On December 15, 2016, a public hearing was held to consider the proposed amendment. Dax Cetraro, Montana Tavern Association; Jim Harris, Montana Distillers Guild; Sam Hoffman, Red Lodge Ales; John Iverson, Montana Tavern Association; Matt Leow, Montana Brewers Association; Neil Peterson, Gaming Industry Association of Montana; Melissa Shannon, Montana Beer and Wine Distributors Association; and Joel Silverman, Liquor Store Owners Association of Montana, appeared and testified at the hearing. Several of those who testified at the hearing also provided supplemental written comments. Other members of the public attended the hearing, but did not testify. Kristi Blazer, Montana Beer and Wine Distributors Association; and Michael Lawlor, Goodrich and Reely, PLLC provided written comments.

3. The department amends ARM 42.13.210 and 42.13.1003 as proposed.

4. After consideration of the comments received, the department amends ARM 42.12.132 and 42.13.101 as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

42.12.132 LOCATION MANAGER (1) and (2) remain as proposed.

(3) A location manager is an employee who provides general oversight of the alcoholic beverage operations and ensures compliance with alcoholic beverage laws and regulations. The location manager designation is based upon the duties performed rather than the job title assigned. ~~Location manager duties may include, but are not limited to, the following services related to the alcoholic beverage business operations:~~

- ~~(a) hiring, firing, training, or supervising employees;~~
- ~~(b) signing applications or agreements on behalf of the licensee;~~
- ~~(c) determining the hours of operation and employee work schedules;~~

~~(d) managing inventory;~~  
~~(e) signing checks or overseeing bank deposits or financial reconciliations;~~  
and

~~(f) ensuring payment of taxes or filing tax reports.~~

(4) and (5) remain as proposed.

(6) The licensee shall:

(a) and (b) remain as proposed.

(c) except for an owner acting as a location manager, provide the location manager compensation as a fixed amount that is commensurate with the duties performed. Compensation shall not be based on a percentage of gross sales or net profits.

(7) remains as proposed.

42.13.101 COMPLIANCE WITH LAWS AND RULES (1) through (10) remain as proposed.

(11) Aggravating circumstances include, but are not limited to:

(a) through (e) remain as proposed.

(f) lack of cooperation by the licensee, ~~licensee's employees, or licensee's agent~~ in an investigation; and

(g) ~~conducting business operations that have the potential to negatively impact or has negatively impacted~~ a violation's significant negative effect on the health and welfare of the community in which the licensee operates.

(12) remains 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 1: Mr. Smith requested further amendment of ARM 42.12.132, to include a prohibition against retail licensees having location managers with any affiliation to a manufacturer, importer, bottler, or distributor. He stated that such an amendment is consistent with 16-4-401(2)(a)(iii), MCA, which specifies that "the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages."

RESPONSE 1: Although the department will consider the inclusion of such a prohibition in future rulemaking, such an amendment cannot occur at this stage of this current rulemaking process, as it would be implementing new content that the public did not have an opportunity to comment on.

COMMENT 2: Mr. Silverman requested clarification whether agency liquor stores are subject to ARM 42.12.132, and whether agency liquor stores must verify if a person placing an order is an approved location manager.

RESPONSE 2: Agency liquor stores are not subject to the location manager provisions and the rule does not impose any duties on an agency liquor store.

ARM 42.12.132 is located in ARM Title 42, chapter 12, which contains rules related to liquor licenses and permits. Administrative rules relating to agency liquor stores are located in ARM Title 42, chapter 11.

COMMENT 3: Mr. Cetraro, Mr. Hoffman, Mr. Iverson, Mr. Peterson, and Mr. Silverman all commented in opposition to the proposed requirement for a licensee to seek the department's approval for each location manager performing location manager duties. The parties requested that the licensees be required to designate only one location manager per location.

RESPONSE 3: The department must be able to screen all persons who are performing location manager duties to ensure the person is likely to operate the business in compliance with all federal and state alcoholic beverage regulations. As proposed, the rule allows a licensee flexibility in establishing the management structure that works for its business. This may mean having a single location manager or multiple location managers. The department declines to amend this rule to require a licensee to vest all location manager duties in one person.

COMMENT 4: Mr. Hoffman, Mr. Iverson, Mr. Peterson, and Mr. Silverman requested removal of the proposed language in ARM 42.12.132(3)(a) through (f), which lists examples of location manager duties. The parties stated that confusion would be reduced by having only the language at the beginning of proposed (3), which refers to providing general oversight of the alcoholic beverage operation and ensuring compliance with alcohol beverage laws and regulations.

RESPONSE 4: The department has further amended ARM 42.12.132 to remove the proposed language in (3)(a) through (f), which lists examples of location manager duties.

COMMENT 5: Mr. Lawlor, Mr. Peterson, and Mr. Silverman commented that it was redundant for ARM 42.12.132 to require an owner to seek approval as a manager when the owner has already been screened and approved under 16-4-401, MCA. Mr. Lawlor stated that when such an owner performs location manager duties, the department should only require a written statement, such as resolutions or minutes, designating the owner who will exercise management duties.

RESPONSE 5: The department agrees that an owner screened and approved under 16-4-401, MCA, does not need to resubmit a personal history statement and fingerprint cards. This is reflected in proposed ARM 42.13.132(1), which requires only persons who were not previously screened and approved as owners under 16-4-401, MCA, to submit a personal history statement and fingerprint cards. While such owners performing location manager duties do not need to be screened again, the department does need to know who will be performing location manager duties, whether that be a previously screened owner or another person. Also, disclosing who will perform these services to the department is different than who has the authority to perform these services for the business entity and, therefore, the department will require completion of a location manager form rather



than submission of resolutions or minutes. Furthermore, submission of this information on a department form will enable the department to ensure consistent processing.

COMMENT 6: Mr. Lawlor stated that the requirement in ARM 42.12.132(1) for off-premises retail licensees to be subjected to background checks and fingerprinting requirements is contrary to 16-4-414(3), MCA, which expressly states that managers for off-premises licensees are not subject to this screening.

RESPONSE 6: Section 16-4-414(2)(ii), MCA, states that a person designated by the off-premises applicant as being responsible for operating the licensed establishment on behalf of the applicant is subject to fingerprint and background checks. ARM 42.12.132 is consistent with this requirement, as it requires background checks and fingerprinting of only those individuals who provide general oversight of the alcoholic beverage operations and ensure compliance with alcoholic beverage laws and regulations. Because the department is seeking by rule to screen the same parties authorized under statute, the department amends the language in ARM 42.12.132(1) as initially proposed.

COMMENT 7: Mr. Lawlor stated that the department's small business impact statement understates the additional compliance costs of requiring manager application forms in situations where a management agreement is not currently required.

RESPONSE 7: The proposed amendment to ARM 42.12.132 requires applicants and licensees to submit a location manager application when there is a change in location manager. Under the previous administrative rule, the applicants and licensees were required to submit management agreements. The small business impact statement accurately reflects that this change should be small and administratively feasible as the department's proposal is less burdensome on applicants and licensees.

COMMENT 8: Mr. Silverman requested that the department define "control," which is used in ARM 42.12.132(6)(a), and "active participation," which is used in ARM 42.12.132(6)(b). Mr. Silverman did not provide any proposed definitions.

RESPONSE 8: ARM 42.12.132(6) sets out requirements for the licensee, including that the licensee must retain ultimate control over the license and premises, and maintain an active participation in the alcoholic beverage operation sufficient to ensure the proper and lawful conduct of the business. The subparagraphs in which these terms are used provide sufficient context for determining their meaning. Accordingly, the department declines to further define these terms.

COMMENT 9: Mr. Hoffman, Mr. Iverson, and Mr. Peterson requested that the department remove the proposed requirement in ARM 42.12.132(6)(c), that location manager compensation be a fixed amount. The parties generally stated that this

provision would eliminate the payment of bonuses to location managers, which are used in the industry to incentivize managers.

RESPONSE 9: The department was not seeking to eliminate bonuses provided to location managers that are not based upon gross or net sales. Accordingly, it has further amended ARM 42.12.132(6)(c) by striking the language requiring that location manager compensation be a fixed amount.

COMMENT 10: Mr. Lawlor and Mr. Silverman requested that the department remove the proposed prohibition in ARM 42.12.132(6)(c) stating that location managers' compensation cannot be based on a percentage of gross sales. Mr. Lawlor further commented that if the department would not remove the prohibition in its entirety, that it should amend the restriction to allow compensation based on the gross sales from non-alcoholic and non-gaming revenue. Mr. Silverman further commented that this change would require the amendment of many current management agreements where compensation is based upon gross sales. Mr. Leow requested clarification on how the proposed changes to ARM 42.12.132(6)(c) would impact the compensation allowed for current location managers.

RESPONSE 10: The existing language in ARM 42.12.132(3)(g) requires manager compensation to be "a fixed amount, percentage of gross sales, or a combination of a fixed amount and percentage of gross sales." The proposed amendment to prohibit licensees from tying location manager compensation to sales is needed to prevent the creation of undisclosed ownership interests by location managers. Such interests are created when a non-owner shares in any portion of the business profits, whether it be from the sale of alcoholic beverages or otherwise. Accordingly, the department declines to remove the proposed prohibition. Due to this change, existing manager agreements basing compensation on gross sales would require amendment or termination. Because the proposed rule no longer requires department approval of these contracts, however, the amended contracts do not need to be submitted to the department.

COMMENT 11: Mr. Lawlor requested clarification with regard to undisclosed ownership violations. He questioned whether the department has concluded that undisclosed ownership violations cannot occur with respect to an individual who is already an approved owner of a licensee entity based upon the department's stated reasons for the proposed changes to ARM 42.12.132(6)(c). Mr. Lawlor further requested that the department not consider situations where licensees transfer funds from one business they own to another business they own as undisclosed ownership violations.

RESPONSE 11: The department's proposal in ARM 42.12.132(6)(c) allows an owner who is also acting as a location manager to receive compensation beyond what is commensurate with location manager duties because owners are entitled to share in the profits of the business. Without the exception in ARM 42.12.132(6)(c), the restriction would have created an unnecessary prohibition on an owner's ability to share in the profits of the business.

COMMENT 12: Mr. Lawlor stated that 16-4-406(3), MCA, requires the department to consider mitigating circumstances in determining the proposed penalty and, therefore, the department cannot strike the language from ARM 42.13.101(3) stating that the department will do so.

RESPONSE 12: The department is proposing to strike that language from ARM 42.13.101(3) specifically because it is already set forth in 16-4-406(3), MCA, and it is unnecessary to reiterate statutory language in rule. The department amends this section as initially proposed.

COMMENT 13: Mr. Lawlor asked the department to reconsider the proposed amendment to ARM 42.13.101 changing the proposed penalty for undisclosed ownership interests from "Monetary Penalty, Suspension, or Revocation" to "\$1,500/Revocation." Mr. Silverman echoed this comment and also raised the same request for the proposed penalty for denial of a premises inspection, which had the same proposed amendment from "Monetary Penalty, Suspension, or Revocation" to "\$1,500/Revocation."

RESPONSE 13: Undisclosed ownership interests and premises inspection denials are some of the most serious violations committed by a licensee. Such violations go to the very core of a licensee's suitability. When a licensee allows an individual to obtain an undisclosed ownership interest, the department has not screened the individual to determine suitability, including whether the individual is likely to operate the establishment in compliance with the law. Furthermore, a licensee's prohibition of a premises inspection could allow the licensee to conceal the occurrence of other violations on the premises. Heavier penalties are needed to deter and punish those who engage in such actions. Accordingly, the department adopts these amendments to ARM 42.13.101 as proposed.

COMMENT 14: Mr. Lawlor requested that the department reinstate its prior policy, not expressly stated in rule, whereby "self-disclosed" undisclosed ownership violations would result in a lesser penalty of \$250.

RESPONSE 14: Section 16-4-406(3), MCA, requires the department to consider mitigating circumstances. For undisclosed ownership violations, the department may adjust penalties after evaluating any mitigating circumstances presented by the licensee. Accordingly, the department adopts the proposed amendment to ARM 42.13.101 as proposed.

COMMENT 15: Mr. Lawlor and Mr. Silverman requested amendments to ARM 42.13.101(3), which proposed to set the violation date for violations occurring over time as the date the department issues its notice of proposed department action. Mr. Lawlor asked that for "self-disclosed ownership interest violations," the violation date be set as the date a licensee contacts the department to inform it that the licensee has allowed someone to obtain an undisclosed ownership interest. Mr.

Silverman asked that the violation date be set as the date the undisclosed ownership interest violation occurs.

RESPONSE 15: There are violations that occur on a certain date, such as selling after hours or to an underage person, and those that occur over time, such as an undisclosed ownership interest. For violations that occur over time, the violation date is set at the date the department issues its notice. Setting the violation date at the first possible date the interest was transferred would incentivize licensees to hide undisclosed ownerships until at least three years have passed. Setting the violation date as the date the licensee notifies the department that a violation has occurred is similarly unacceptable. It is the screening and approval of the undisclosed owner, not notice of the violation, which cures such undisclosed ownership interests. Accordingly, the department amends the language in ARM 42.13.101(3) as proposed.

COMMENT 16: Mr. Lawlor requested clarification regarding the import of the proposed amendment to the progressive penalty schedule in ARM 42.13.101 changing the violation previously titled "Sale after Hours" to "Sales or Consumption after Hours."

RESPONSE 16: Section 16-3-304, MCA, generally prohibits a retail licensee from being open to the public between 2 a.m. and 8 a.m. The proposed penalty for being open after hours was addressed as a specific violation type in the previous version of ARM 42.13.101. Section 16-3-305, MCA, prohibits a retail licensee from selling, offering for sale, or giving away alcohol between 2 a.m. and 8 a.m. The proposed amendment to the progressive penalty in ARM 42.13.101 clarifies the proposed penalties for this violation.

COMMENT 17: Mr. Harris requested clarification whether the proposed amendment to ARM 42.13.101(3), which changed the violation title from "Re-pouring" to "Refilling of Bottles," had any impact on a manufacturer's ability to reuse bottles as allowed by the Alcohol and Tobacco Tax and Trade Bureau.

RESPONSE 17: The refilling of liquor bottles is prohibited by 16-3-308, MCA. However, this statute specifically allows liquor bottles to be reused as permitted under federal laws or regulations. The department's proposed change to the violation's name is to more accurately reflect the statutory title and does not supersede the statutory provisions. Accordingly, the department adopts this amendment to ARM 42.13.101(3) as initially proposed.

COMMENT 18: Mr. Lawlor requested clarification whether the proposed insertion of "lapsed" in ARM 42.13.101(4) referred only to the situation where the department lapses a license due to nonuse under 16-3-310, MCA.

RESPONSE 18: The department confirms that "lapsed" in ARM 42.13.101(4) refers to the lapse of a license due to nonuse under 16-3-310, MCA. The department amends this section as initially proposed.

COMMENT 19: Mr. Harris requested that the department leave ARM 42.13.101(11) as written and not adopt its proposed amendments. Mr. Iverson and Mr. Peterson requested that the department repeal the aggravating circumstances listed in ARM 42.13.101(11). Absent repeal, they requested the following four changes to this section: 1) leave (11)(c) as currently written to account for situations where a licensee inadvertently commits a violation; 2) remove the proposed insertion of (11)(e) because the statute for an underage sale does not differentiate between selling to someone who is under 18 years of age and someone who is under 21 years of age; 3) leave (11)(f) as currently written because employers should not be held responsible for the lack of cooperation of employees or agents, especially those who may be exercising constitutional rights in a criminal action stemming from the underlying violation; and 4) remove (11)(g) entirely, as it is unclear what it means.

RESPONSE 19: The department declines to repeal the aggravating circumstances set forth in ARM 42.13.101(11). Section 16-4-406(4), MCA, requires the department to consider aggravating circumstances and further states that the department may adjust penalties based upon these considerations. The statute sets out a non-exhaustive list of aggravating circumstances. The department lists additional aggravating circumstances considered for penalty determination in administrative rule to increase transparency. With regard to the additional comments above, the department responds as follows: 1) the department is amending (11)(c) as proposed because the prior wording is already set forth in 16-4-406(4), MCA, and the proposed amendment is necessary to address situations where the licensee is involved in the violation; 2) the department is amending (11)(e) as proposed because selling to a person under 18 years of age is considered a more egregious violation than selling to a person over 18 years of age; 3) the department is further amending (11)(f) to remove the wording that would hold an employer responsible for the lack of cooperation of employees or agents; and 4) the department is reverting to the previous wording in (11)(g) based upon the comments received.

COMMENT 20: Ms. Blazer and Ms. Shannon requested that the department not adopt its proposed removal of ARM 42.13.210(4)(e). They contend that without prior department approval, there is no procedure for harmed industry members to object to consumer promotions.

RESPONSE 20: ARM 42.13.210(4)(e) requires approval from the department prior to a consumer promotion being undertaken. Under the existing rule, there is no mechanism for another industry member to contest the department's approval of a third party's consumer promotion. Additionally, violation of consumer promotion regulations in ARM 42.13.210 and section 6.96 of Title 27 of the Code of Federal Regulations, such as not offering the promotion to all retailers within the market or reimbursement in excess of the coupon plus handling fee, would not occur until after the promotion is implemented. An industry member concerned that a consumer promotion violates state or federal regulations can submit a written, verified

complaint to the department. Once the department has sufficient information, the complaint will be forwarded to the Montana Department of Justice (DOJ) for investigation. If, based on the DOJ's investigation, the department has reasonable cause to believe the promoter violated the law, the department can initiate administrative action against the promoter. Accordingly, the department amends this rule as proposed.

/s/ Laurie Logan  
Laurie Logan  
Rule Reviewer

/s/ Mike Kadas  
Mike Kadas  
Director of Revenue

Certified to the Secretary of State March 13, 2017.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the transfer and ) NOTICE OF TRANSFER AND  
amendment of ARM 42.2.705 ) AMENDMENT  
pertaining to alternative business )  
office hours in qualified county )  
offices, to remove Pondera County )

TO: All Concerned Persons

1. On February 3, 2017, the Department of Revenue published MAR Notice No. 42-2-969 pertaining to the proposed transfer and amendment of the above-stated rule at page 182 of the 2017 Montana Administrative Register, Issue Number 3.
2. The department has transferred and amended ARM 42.2.705 (42.2.316) as proposed.
3. No comments or testimony were received.

/s/ Laurie Logan  
Laurie Logan  
Rule Reviewer

/s/ Mike Kadas  
Mike Kadas  
Director of Revenue

Certified to the Secretary of State March 13, 2017.

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

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

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

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

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

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

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

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

- Department of Public Health and Human Services.

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

- Department of Corrections; and
- Department of Justice.

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

- Department of Public Service Regulation.



**Revenue and Transportation Interim Committee:**

- Department of Revenue; and
- Department of Transportation.

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

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

**Environmental Quality Council:**

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

**Water Policy Interim Committee (where the primary concern is the quality or quantity of water):**

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

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

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

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

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

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

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

## ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 2016. This table includes those rules adopted during the period September 30, 2016, through December 31, 2016, 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 December 31, 2016, this table, and the table of contents of this issue of the Register.

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 either the 2016 or 2017 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.

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- 24.121.301 and other rules - Definitions - Nonroutine Applications - Licensure by Examination - Licensure by Credentialing With an Out-of-State License - Licensure Equivalency for Professional Education - Application for Postsecondary School Licensure - Inspection—School Layout - School Curricula - Teacher-Training Curriculum - Teaching Methodology Coursework - Salons/Booth Rental - Implements, Instruments, Supplies, and Equipment - Anonymous Complaints, p. 2396, 221

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Approved Curricula - Applications - Exhibits of Land Surveying -  
Examination Procedures - Grant and Issue Licenses - License Seal -

Comity - Classification of Experience - Uniform Standards - Inactive Status - Complaints - Teaching of Land Surveying Subjects - Definitions - Direct Supervision - Application for Emeritus Status - Renewals - Late Renewals, p. 1117, 2424

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## BOARD APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in February 2017 appear. Vacancies scheduled to appear from April 1, 2017 through June 30, 2017, 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 March 1, 2017.

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 FEBRUARY 2017**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Public Assistance (Public Health and Human Services)</b>			
Ms. Amy D. Christensen Helena Qualifications (if required): Attorney	Governor	reappointed	2/10/2017 1/1/2021
Commissioner Marianne Roose Eureka Qualifications (if required): Public Representative	Governor	reappointed	2/10/2017 1/1/2021
<b>Economic Development Advisory Council (Commerce)</b>			
Mr. Ken Fichtler Helena Qualifications (if required): Chief Business Development Officer	Governor	Rogers	2/3/2017 1/1/2021
Ms. Shalon Hastings Helena Qualifications (if required): Montana Business Assistance Connection Region Representative	Governor	Warner	2/3/2017 1/1/2019
Ms. Pam Haxby-Cote Butte Qualifications (if required): Headwaters Resource Conservation and Development Region Representative	Governor	reappointed	2/3/2017 7/1/2019
Mr. Mike Henning Fairfield Qualifications (if required): Sweetgrass Development Region Representative	Governor	reappointed	2/3/2017 7/1/2019

## BOARD AND COUNCIL APPOINTEES FROM FEBRUARY 2017

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Economic Development Advisory Council (Commerce) cont.</b>			
Mr. Paul Tuss Havre	Governor	reappointed	2/3/2017 7/1/2019
Qualifications (if required): Bear Paw Development Corporation Region Representative			
<b>Montana Council on Developmental Disabilities (Commerce)</b>			
Mr. Don Berryman Anaconda	Governor	reappointed	2/3/2017 1/1/2021
Qualifications (if required): Parent/Family Advocate			
Mr. Marty Blair Missoula	Governor	reappointed	2/3/2017 1/1/2021
Qualifications (if required): Sister Program			
Ms. Virjeana Brown Belgrade	Governor	reappointed	2/3/2017 1/1/2021
Qualifications (if required): Parent/Family Advocate			
Ms. Erin Butts Helena	Governor	reappointed	2/3/2017 1/1/2021
Qualifications (if required): State Agency Representative			
Ms. Melissa Clark Great Falls	Governor	Lefthand-Irvine	2/3/2017 1/1/2021
Qualifications (if required): Self-Advocate			

**BOARD AND COUNCIL APPOINTEES FROM FEBRUARY 2017**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana Council on Developmental Disabilities</b> (Commerce) cont.			
Ms. Dianna Crawford Valier	Governor	Bowman-Lyons	2/3/2017 1/1/2021
Qualifications (if required): Parent/Family Advocate			
Ms. Rebecca de Camara Helena	Governor	reappointed	2/3/2017 1/1/2021
Qualifications (if required): State Agency Representative			
Mr. Bob Desjardins Dillon	Governor	reappointed	2/3/2017 1/1/2021
Qualifications (if required): Parent/Family Advocate			
Mr. Isaiah Devereaux Glasgow	Governor	reappointed	2/3/2017 1/1/2021
Qualifications (if required): Self-Advocate			
Ms. Kim Evermann Helena	Governor	reappointed	2/3/2017 1/1/2021
Qualifications (if required): State Agency Representative			
Mr. Bob Maffit Helena	Governor	Kuntz	2/3/2017 1/1/2021
Qualifications (if required): local non-government entity interested in services			
Mr. Jim Marks Helena	Governor	reappointed	2/3/2017 1/1/2021
Qualifications (if required): State Agency Representative			

**BOARD AND COUNCIL APPOINTEES FROM FEBRUARY 2017**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana Council on Developmental Disabilities</b> (Commerce) cont.			
Ms. Lorrie Merrill Big Sandy	Governor	Tavary	2/3/2017 1/1/2021
Qualifications (if required): Local Nongovernmental entity interested in services			
Ms. Jan Wenaas Great Falls	Governor	Ekblom	2/3/2017 1/1/2021
Qualifications (if required): Parent/Family Advocate			
Ms. Nanette Whitman-Holmes Helena	Governor	reappointed	2/3/2017 1/1/2021
Qualifications (if required): Parent/Family Advocate			
<b>Montana Facility Finance Authority</b> (Commerce)			
Mr. Kent Burgess Billings	Governor	King	2/3/2017 1/1/2021
Qualifications (if required): Public Representative			
Mr. James W. (Bill) Kearns Townsend	Governor	reappointed	2/3/2017 1/1/2021
Qualifications (if required): Public Representative			
Mr. Paul James Komlosi Helena	Governor	Quilici	2/3/2017 1/1/2019
Qualifications (if required): Public Representative			

**BOARD AND COUNCIL APPOINTEES FROM FEBRUARY 2017**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana Facility Finance Authority</b> (Commerce) cont.			
Mr. Larry Putnam Helena	Governor	reappointed	2/3/2017 1/1/2021
Qualifications (if required): Public Representative			
Mr. John Rogers Helena	Governor	Marchi	2/3/2017 1/1/2021
Qualifications (if required): Public Representative			
<b>Phillips County Transportation Improvement Authority</b> (Local Government)			
Mr. Duane Murray Malta	Governor	reappointed	2/10/2017 1/1/2021
Qualifications (if required): Public member			
<b>Statewide Independent Living Council</b> (Public Health and Human Services)			
Ms. Barbara Louise Davis Missoula	Governor	Idol	2/10/2017 12/1/2018
Qualifications (if required): Public Representative			
Mr. Mitchell Ray McCabe Missoula	Governor	Hermanson	2/10/2017 12/1/2018
Qualifications (if required): person with a disability employed by state agency or Center for Independent Living			
<b>Transportation Commission</b> (Transportation)			
Commissioner Greg Jergeson Chinook	Governor	Cobb	2/10/2017 1/1/2021
Qualifications (if required): District 3			



## BOARD AND COUNCIL APPOINTEES FROM FEBRUARY 2017

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Transportation Commission</b> (Transportation) cont. Commissioner Dave Schulz Virginia City Qualifications (if required): District 2	Governor	Griffith	2/10/2017 1/1/2021
Ms. Barb Skelton Billings Qualifications (if required): District 5	Governor	Griffith	2/10/2017 1/1/2021

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2017 THROUGH JUNE 30, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Board of Architects and Landscape Architects</b> (Labor and Industry)                      Mr. Bayliss Ward, Bozeman                      Qualifications (if required): Architect</p>	Governor	4/1/2017
<p><b>Board of Clinical Laboratory Science Practitioners</b> (Labor and Industry)                      Ms. Alison Mizner, Kalispell                      Qualifications (if required): Clinical Laboratory Practitioner</p>	Governor	4/16/2017
<p><b>Board of County Printing</b> (Administration)                      Commissioner Carol Brooker, Plains                      Qualifications (if required): County Commissioner</p>	Governor	4/1/2017
<p>Commissioner Laura Obert, Townsend                      Qualifications (if required): County Commissioner</p>	Governor	4/1/2017
<p>Mr. Scott Turner, Worden                      Qualifications (if required): printing industry</p>	Governor	4/1/2017
<p>Mr. Roger Wagner, Nashua                      Qualifications (if required): general public</p>	Governor	4/1/2017
<p>Mr. Jim Strauss, Great Falls                      Qualifications (if required): printing industry</p>	Governor	4/1/2017
<p><b>Board of Directors of the State Compensation Insurance Fund</b> (Administration)                      Sen. Lynda Moss, Billings                      Qualifications (if required): Public Representative</p>	Governor	4/28/2017

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2017 THROUGH JUNE 30, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Directors of the State Compensation Insurance Fund</b> (Administration) cont. Mr. Roger Wagner, Nashua Qualifications (if required): Policy Holder	Governor	4/28/2017
Mr. Bruce Mihelish, Lolo Qualifications (if required): Private Enterprise and Executive Management experience in an Insurance Company	Governor	4/28/2017
Mr. Richard Miltenberger, Helena Qualifications (if required): Private Enterprise and Executive Management experience in an Insurance Company	Governor	4/28/2017
<b>Board of Hail Insurance</b> (Agriculture) Mr. Gary Gollehon, Brady Qualifications (if required): Public Representative	Governor	5/1/2017
<b>Board of Massage Therapy</b> (Labor and Industry) Mrs. Anne Gergen, Broadus Qualifications (if required): Massage Therapist	Governor	5/6/2017
<b>Board of Nursing Home Administrators</b> (Labor and Industry) Ms. Carla Neiman, Plains Qualifications (if required): representative of an institution caring for chronically ill or aged	Governor	5/28/2017
Mr. Joshua Brown, Bozeman Qualifications (if required): nursing home administrator	Governor	5/28/2017
<b>Board of Optometry</b> (Labor and Industry) Dr. Marcus Kelley, Helena Qualifications (if required): optometrist	Governor	4/3/2017

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2017 THROUGH JUNE 30, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Board of Plumbers</b> (Labor and Industry)                      Ms. Donna L. Paulson, Great Falls                      Qualifications (if required): Public Representative</p>	Governor	5/4/2017
<p><b>Board of Real Estate Appraisers</b> (Labor and Industry)                      Mr. Thomas G. Stevens, Missoula                      Qualifications (if required): Real Estate Appraiser</p>	Governor	5/1/2017
<p>Mr. George Simek, Billings                      Qualifications (if required): Real Estate Appraiser</p>	Governor	5/1/2017
<p><b>Board of Realty Regulation</b> (Labor and Industry)                      Ms. Jessie Lundberg, Missoula                      Qualifications (if required): Public Representative</p>	Governor	5/1/2017
<p><b>Board of Water Well Contractors</b> (Natural Resources and Conservation)                      Mr. Kirk Waren, Butte                      Qualifications (if required): Hydrogeologist</p>	Director	6/30/2017
<p><b>Commission on Sentencing</b> (Legislative Branch)                      Mr Derek W Gibbs, Lewistown                      Qualifications (if required): member of the public from the list provided</p>	Governor	6/30/2017
<p>Reverend Roxanne P. Klingensmith, Bozeman                      Qualifications (if required): member of the public from the list provided</p>	Governor	6/30/2017
<p>Ms. LeeAnn Montes, Box Elder                      Qualifications (if required): member of the public from the list provided</p>	Governor	6/30/2017

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2017 THROUGH JUNE 30, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Community First Choice Development and Implementation Council</b> (Public Health and Human Services)		
Ms. Diana Tavary, Helena Qualifications (if required): none specified	Director	5/1/2017
Ms. Claudia Clifford, Helena Qualifications (if required): none specified	Director	5/1/2017
Mr. Quentin Schroeter, Helena Qualifications (if required): none specified	Director	5/1/2017
Mr. Travis Hoffman, Missoula Qualifications (if required): none specified	Director	5/1/2017
Ms. Glenna Dreese, Florence Qualifications (if required): none specified	Director	5/1/2017
Ms. Ashli Gross, Missoula Qualifications (if required): none specified	Director	5/1/2017
Ms. Meg Traci, Missoula Qualifications (if required): none specified	Director	5/1/2017
Ms. Dawna Brinkel, Bozeman Qualifications (if required): none specified	Director	5/1/2017
Ms. Kris Carlson, Kalispell Qualifications (if required): none specified	Director	5/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2017 THROUGH JUNE 30, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Community First Choice Development and Implementation Council</b> (Public Health and Human Services) cont.		
Ms. Kelly Reynolds, Missoula Qualifications (if required): none specified	Director	5/1/2017
Ms. Sue Neff, Butte Qualifications (if required): none specified	Director	5/1/2017
Ms. Tiffany Metzler, Billings Qualifications (if required): none specified	Director	5/1/2017
Mr. Randy Morigeau, Polson Qualifications (if required): none specified	Director	5/1/2017
Ms. Kimberly Schwartz, Great Falls Qualifications (if required): none specified	Director	5/1/2017
Mr. John Stevenson, Great Falls Qualifications (if required): none specified	Director	5/1/2017
Ms. Sheila Thompson, Missoula Qualifications (if required): none specified	Director	5/1/2017
Ms. Jerilee Wilkerson, Helena Qualifications (if required): none specified	Director	5/1/2017
<b>District Court Council</b> (Judicial Branch)		
Ms Glenda Travitz, Qualifications (if required): none specified	elected	6/30/2017

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2017 THROUGH JUNE 30, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Flathead Basin Commission</b> (Natural Resources and Conservation) Ms. Jan Metzmaker, Whitefish Qualifications (if required): Public Representative	Governor	6/30/2017
Mr. Thompson Smith, Charlo Qualifications (if required): Public Representative	Governor	6/30/2017
Mr. Chas Cartwright, Columbia Falls Qualifications (if required): Public Representative	Governor	6/30/2017
<b>Judicial Standards Commission</b> (Judicial Branch) Mr. Victor F. Valgenti, Missoula Qualifications (if required): Attorney	Supreme Court	6/30/2017
Judge Blair Jones, Columbus Qualifications (if required): District Court Judge	elected	6/30/2017
<b>Land Information Advisory Council</b> (State Library) Mr. Art Pembroke, Helena Qualifications (if required): Local Government	Governor	6/30/2017
Ms. Catherine Maynard, Bozeman Qualifications (if required): USDA Representative	Governor	6/30/2017
Mr. Rudy Cicon, Chester Qualifications (if required): Land Surveyor	Governor	6/30/2017

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2017 THROUGH JUNE 30, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Land Information Advisory Council</b> (State Library) cont. Mr. Warren Fahner, Polson Qualifications (if required): Represents county or municipal government	Governor	6/30/2017
Director John Tubbs, Helena Qualifications (if required): Agency Representative or designee	Governor	6/30/2017
Mrs. Elaina Graham, Great Falls Qualifications (if required): Federal USDA Representative	Governor	6/30/2017
Ms. Molly Hirschi, Bozeman Qualifications (if required): GIS Professional	Governor	6/30/2017
Mr. Ryan Leland, Helena Qualifications (if required): Private Sector or Public Utilities	Governor	6/30/2017
Ms. Leslie Zolman, Helena Qualifications (if required): GIS Professional	Governor	6/30/2017
<b>Mental Disabilities Board of Visitors</b> (Governor)		
Ms. Tracy Perez, Ronan Qualifications (if required): professional person in the field of mental health treatment	Governor	6/30/2017
Ms. Miriam Hertz, Seeley Lake Qualifications (if required): consumer or family member of a consumer with developmental disabilities	Governor	6/30/2017
Mr. James Henry Hajny, Livingston Qualifications (if required): consumer or family member of a consumer of mental health services	Governor	6/30/2017



**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2017 THROUGH JUNE 30, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana Cherry Commodity Advisory Committee</b> (Agriculture) Ms Tanya Campbell, Qualifications (if required): Cherry Producer	Director	6/1/2017
Mr. Cody Herring, Big Fork Qualifications (if required): Cherry Producer	Director	6/1/2017
Mr. Bruce Johnson, Big Fork Qualifications (if required): Cherry Producer	Director	6/1/2017
Mr. John Nasgovitz, Missoula Qualifications (if required): Cherry Producer	Director	6/1/2017
Mr. Mark St. Sauver, Big Fork Qualifications (if required): Cherry Producer	Director	6/1/2017
<b>Montana Developmental Center Transition Planning Advisory Committee</b> (Public Health and Human Services) Mr. Charlie Briggs, Helena Qualifications (if required): Representative of the State Protection and Advisory Program	Governor	6/30/2017
Mr. Bob Mullen, Helena Qualifications (if required): Jefferson County Commissioner	Governor	6/30/2017
Ms. Mary Dalton, Helena Qualifications (if required): Representative of the Department of Public Health and Human Services	Governor	6/30/2017
Ms. Tara Veazey, Helena Qualifications (if required): Governor's Health Policy Advisor	Governor	6/30/2017

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2017 THROUGH JUNE 30, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana Developmental Center Transition Planning Advisory Committee</b> (Public Health and Human Services) cont.		
Ms. Dianna Crawford, Valier Qualifications (if required): Family member or Guardian of an individual who is or was committed to the MDC	Governor	6/30/2017
Ms. Carol Dailey, Bozeman Qualifications (if required): Family member or Guardian of an individual who is or was committed to the MDC	Governor	6/30/2017
Ms. Francine Sadowski, Missoula Qualifications (if required): Provider of Community-Based Services	Governor	6/30/2017
Mr. Carl Seilstad, Lewistown Qualifications (if required): Representative of Community Mental Health Centers	Governor	6/30/2017
Ms. Deborah Swingley, Helena Qualifications (if required): Member of the Montana Council on Developmental Disabilities	Governor	6/30/2017
Mr. Erik Burke, Helena Qualifications (if required): Representative of the Montana Developmental Center Workforce	Governor	6/30/2017
Rep. Dan Villa, Anaconda Qualifications (if required): Representative of the Office of Budget and Program Planning	Governor	6/30/2017
<b>Montana Health Coalition</b> (Public Health and Human Services) Ms. Mary Dalton, Helena Qualifications (if required): none specified	Director	6/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2017 THROUGH JUNE 30, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana Health Coalition</b> (Public Health and Human Services) cont. Rep. Edith J. Clark, Sweet Grass Qualifications (if required): none specified	Director	6/1/2017
Mr. S. Kevin Howlett, Arlee Qualifications (if required): none specified	Director	6/1/2017
Dr. Gary Mihelish, Helena Qualifications (if required): none specified	Director	6/1/2017
Mr. Travis Hoffman, Missoula Qualifications (if required): none specified	Director	6/1/2017
Mr. Bob Marsalli, Helena Qualifications (if required): none specified	Director	6/1/2017
Mr. Eric Shields, Missoula Qualifications (if required): none specified	Director	6/1/2017
Mr. Steve Todd, Ronan Qualifications (if required): none specified	Director	6/1/2017
Mr. Todd Harwell, Helena Qualifications (if required): none specified	Director	6/1/2017
Mr. Roger Holt, Billings Qualifications (if required): none specified	Director	6/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2017 THROUGH JUNE 30, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Montana Health Coalition</b> (Public Health and Human Services) cont.                      Dr. Greg Holzman, Helena                      Qualifications (if required): none specified</p>	Director	6/1/2017
<p><b>Montana Heritage Preservation and Development Commission</b> (Commerce)                      Mr. Andy Poole, Helena                      Qualifications (if required): Public At-Large</p>	Governor	5/1/2017
<p>Ms. Cynthia Andrus, Bozeman                      Qualifications (if required): Member of Tourism Advisory Council</p>	Governor	5/1/2017
<p>Dr. Timothy Lehman, Billings                      Qualifications (if required): Montana Historian</p>	Governor	5/1/2017
<p><b>Montana Information Security Advisory Council</b> (Administration)                      Ms. Margaret Kauska, Helena                      Qualifications (if required): State Government Agency</p>	Administration	6/30/2017
<p>Rep. Mark W. Blasdel, Somers                      Qualifications (if required): State Legislature</p>	Administration	6/30/2017
<p>Major General Matthew T. Quinn, Helena                      Qualifications (if required): State Homeland Security Advisor</p>	Administration	6/30/2017
<p>Ms. Sherri Davidoff, Missoula                      Qualifications (if required): General Public</p>	Administration	6/30/2017

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2017 THROUGH JUNE 30, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana Information Security Advisory Council</b> (Administration) cont. Mr. Ron Baldwin, Helena Qualifications (if required): State Chief Information Officer	Administration	6/30/2017
Rep. Kelly McCarthy, Billings Qualifications (if required): State Legislature	Administration	6/30/2017
Ms. Erika Billiet, Kalispell Qualifications (if required): Local Governments	Administration	6/30/2017
Mr. Joe Chapman, Helena Qualifications (if required): State Government Agency	Administration	6/30/2017
Mr. Bryan Costigan, Helena Qualifications (if required): Montana Analysis and Technical Information Center Representative	Administration	6/30/2017
Mr. John Daugherty, Helena Qualifications (if required): State Government Agency	Administration	6/30/2017
Mr. Stuart Fuller, Helena Qualifications (if required): State Government Agency	Administration	6/30/2017
Mr. Kreh Germaine, Helena Qualifications (if required): State Government Agency	Administration	6/30/2017
Mr. Jim Gietzen, Helena Qualifications (if required): State Government Agency	Administration	6/30/2017

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2017 THROUGH JUNE 30, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Montana Information Security Advisory Council</b> (Administration) cont.            Mr. Adrian Irish, Missoula            Qualifications (if required): University Representative</p>	Administration	6/30/2017
<p>Ms. Lynne Pizzini, Helena            Qualifications (if required): State Government Agency</p>	Administration	6/30/2017
<p><b>Montana Wheat and Barley Committee</b> (Agriculture)            Mr. Leonard Schock, Vida            Qualifications (if required): District 7 Representative and an Independent</p>	Governor	6/1/2017
<p>Mr. Michael V. O'Hara, Fort Benton            Qualifications (if required): District 4 Representative and a Democrat</p>	Governor	6/1/2017
<p><b>Public Employees' Retirement Board</b> (Administration)            Ms. Melissa Strecker, Missoula            Qualifications (if required): public employee/active in retirement system</p>	Governor	4/1/2017
<p><b>State Library Commission</b> (Education)            Ms. Anne Kish, Twin Bridges            Qualifications (if required): Public Representative</p>	Governor	6/1/2017
<p>Ms. Aaron LaFromboise, Browning            Qualifications (if required): Public Representative</p>	Governor	6/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2017 THROUGH JUNE 30, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>State-Tribal Economic Development Commission</b> (Commerce) Mr. Richard Sangrey, Box Elder Qualifications (if required): Chippewa Cree Tribe Representative	Governor	6/30/2017
Mr. Terry Pitts, Pablo Qualifications (if required): Confederated Salish and Kootenai Tribes Representative	Governor	6/30/2017
Mr. Leonard Gray, Pablo Qualifications (if required): Confederated Salish and Kootenai Tribes Alternate	Governor	6/30/2017
Ms. Jody Walker, Deer Lodge Qualifications (if required): Confederated Salish and Kootenai Tribe	Governor	6/30/2017
Chairman Len Two Teeth, Pablo Qualifications (if required): Confederated Salish and Kootenai Tribe alternate	Governor	6/30/2017