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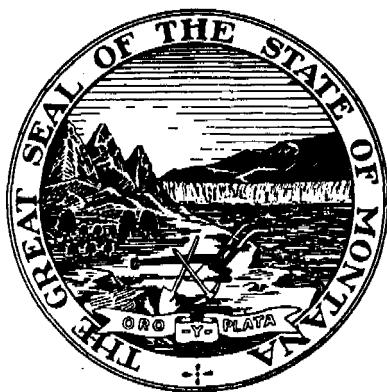
MONTANA COLLEGE OF
MINERAL SCIENCE AND TECHNOLOGY
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MONTANA ADMINISTRATIVE REGISTER

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MONTANA COLLEGE OF
MINERAL SCIENCE AND TECHNOLOGY
BUTTE

1979 ISSUE NO. 22
PAGES 1454-1499



NOTICE: The July 1977 through June 1979 Montana Administrative Registers have been placed on microfiche. For information, please contact the Secretary of State, Room 202, Capitol Building, Helena, Montana, 59601.

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 22

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BEFORE THE FISH AND GAME COMMISSION
OF THE STATE OF MONTANA

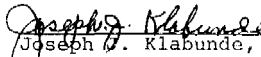
In the matter of the repeal)	NOTICE OF EXTENSION
of Rule 12-2.10(2)-S1060	)	OF TIME FOR COMMENT AND
relating to opening dates of	)	DATE OF ACTION ON
general big game seasons	)	PROPOSED REPEAL

TO: All Interested Persons:

1. The Montana fish and game commission, having given notice at page 1148 of the Montana Administrative Register, issue number 19, of the proposed repeal of Rule No. 12-2.10 (2)-S1060, relating to opening dates of general big game seasons, and having scheduled a hearing, by this notice does extend the period for public comment until the close of business on the 28th of December, 1979.

2. Interested parties may submit data or comments concerning the proposed repeal in writing to F. Woodside Wright, presiding officer, fish, wildlife, and parks building, 1420 East 6 Avenue, Helena, Montana 59601.

3. Copies of the proposed action are available at the department's Helena office at the above address.



Joseph P. Klabunde, Chairman
Montana Fish and Game Commission

Certified to Secretary of State November 14, 1979

BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
OF THE STATE OF MONTANA

In the matter of the repeal	)	NOTICE OF PROPOSED REPEAL
of rule ARM 16-2.14(10)-S14390,	)	OF ARM 16-2.14(10)-S14390
relating to the investigation	)	(Water Supplies
of water supplies of passenger	)	of Passenger Trains)
trains	)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On January 11, 1980, the Board of Health and Environmental Sciences of the State of Montana proposes to repeal rule 16-2.14(10)-S14390, relating to the investigation of water supplies of passenger trains.

2. Rule 16-2.14(10)-S14390 may be found on page 16-346.13 of the Administrative Rules of Montana.

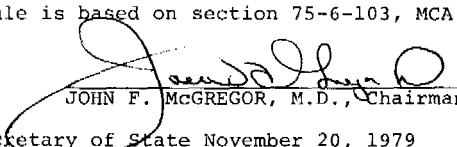
3. The Board of Health and Environmental Sciences proposes to repeal this rule because the rule applies to privately-owned water supplies furnishing drinking water to passenger trains, and, since passenger trains in Montana utilize only public water supply systems, which are governed by the provisions of ARM 16-2.14(10)-S14381, the provisions of rule 16-2.14(10)-S14390 are no longer necessary.

4. Interested persons may submit their data, views or arguments concerning the proposed repeal of this rule in writing no later than December 31, 1979, to C. W. Leaphart, Esq., 1 North Last Chance Gulch, Helena, Montana, 59801.

5. If a person who is directly affected by the proposed repeal of rule 16-2.14(10)-S14390 wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to C. W. Leaphart at the address given in paragraph 4 no later than December 31, 1979.

6. If the Board of Health and Environmental Sciences receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons directly affected; from a governmental subdivision or agency; or from an association having not less than 25 members who are directly affected, a hearing will be held at a later date. Notice of such a hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be in excess of 25 based on users of passenger trains.

7. The authority of the Board of Health and Environmental Sciences to repeal the rule is based on section 75-6-103, MCA.


JOHN F. MCGREGOR, M.D., Chairman

Certified to the Secretary of State November 20, 1979

BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
OF THE STATE OF MONTANA

In the matter of the repeal) NOTICE OF PROPOSED REPEAL
of rule ARM 16-2.14(10)-S14470,) OF ARM 16-2.14(10)-S14470
relating to water pollution) (Water Pollution
grant program) Grant Program)
NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On January 11, 1980, the Board of Health and Environmental Sciences of the State of Montana proposes to repeal rule 16-2.14(10)-S14470 relating to water pollution grant program.

2. Rule 16-2.14(10)-S14470 may be found on page 16-371 of the Administrative Rules of Montana.

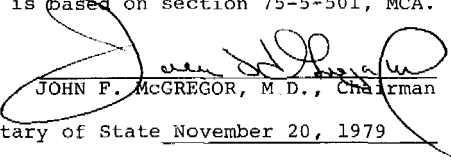
3. The Board of Health and Environmental Sciences proposes to repeal this rule because (a) federal participation has changed from 50% to 75% so there is no longer a need for state assistance, and (b) state funds are no longer available for this program.

4. Interested persons may submit their data, views or arguments concerning the proposed repeal of this rule in writing no later than December 31, 1979, to C. W. Leaphart, Esq., 1 North Last Chance Gulch, Helena, Montana, 59801.

5. If a person who is directly affected by the proposed repeal of rule 16-2.14(10)-S14470 wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to C. W. Leaphart at the address given in paragraph 4 no later than December 31, 1979.

6. If the Board of Health and Environmental Sciences receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons directly affected; from a governmental subdivision or agency; or from an association having not less than 25 members who are directly affected, a hearing will be held at a later date. Notice of such a hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be in excess of 25 based on population statistics for the State of Montana.

7. The authority of the Board of Health and Environmental Sciences to repeal the rule is based on section 75-5-501, MCA.


JOHN F. MCGREGOR, M.D., Chairman

Certified to the Secretary of State November 20, 1979

BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
OF THE STATE OF MONTANA

In the matter of the repeal	)	NOTICE OF PROPOSED REPEAL
of rule ARM 16-2.14(10)-S14510	)	OF ARM 16-2.14(10)-S14510
relating to refuse from	)	(Refuse from Houses)
houses	)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On January 11, 1980, the Board of Health and Environmental Sciences of the State of Montana proposes to repeal rule 16-2.14(10)-S14510 relating to refuse from houses.

2. Rule 16-2.14(10)-S14510 may be found on page 16-395 of the Administrative Rules of Montana.

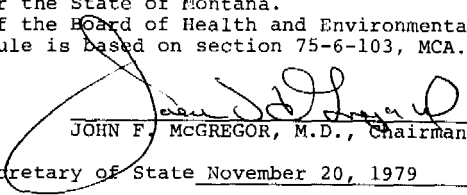
3. The Board of Health and Environmental Sciences proposes to repeal this rule because the subject matter of the rule is covered by the provisions of ARM 16-2.14(10)-S14460; therefore, the proposed repeal would eliminate a superfluous rule.

4. Interested persons may submit their data, views or arguments concerning the proposed repeal of this rule in writing no later than December 31, 1979, to C. W. Leaphart, Esq., 1 North East Chance Gulch, Helena, Montana, 59801.

5. If a person who is directly affected by the proposed repeal of rule 16-2.14(10)-S14510 wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to C. W. Leaphart at the address given in paragraph 4 no later than December 31, 1979.

6. If the Board of Health and Environmental Sciences receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons directly affected; from a governmental subdivision or agency; or from an association having not less than 25 members who are directly affected, a hearing will be held at a later date. Notice of such a hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be in excess of 25 based on population statistics for the State of Montana.

7. The authority of the Board of Health and Environmental Sciences to repeal the rule is based on section 75-6-103, MCA.


JOHN F. MCGREGOR, M.D., Chairman

Certified to the Secretary of State November 20, 1979

BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
OF THE STATE OF MONTANA

In the matter of the repeal) NOTICE OF PROPOSED REPEAL
of rule ARM 16-2.14(10)-S14410) OF ARM 16-2.14(10)-S14410
relating to drinking water in) (Drinking Water in
railway stations) Railway Stations)
NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On January 11, 1980, the Board of Health and Environmental Sciences of the State of Montana proposes to repeal rule 16-2.14(10)-S14410 relating to drinking water in railway stations.

2. Rule 16-2.14(10)-S14410 may be found on page 16-347 of the Administrative Rules of Montana

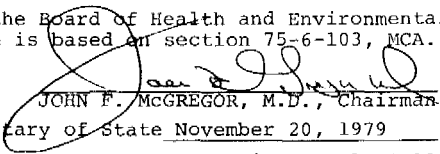
3. The Board of Health and Environmental Sciences proposes to repeal this rule because the provisions of subsections (1) and (2) are now covered by the public water supply rule, ARM 16-2.14(10)-S14381. Furthermore, subsection (1) of the rule refers to MAC 16-2.14(10)-S14350 and S14360, both of which were repealed when the public water supply rule was adopted. Thus, subsection (1) has no force or effect. The reference in subsection (2) to the "requirements of the rules" would likely be interpreted to mean the repealed rules, thus nullifying the provisions of subsection (2). Subsection (3) should be repealed because, to the best of the Board's knowledge, this type of fountain is no longer utilized in railway stations.

4. Interested persons may submit their data, views or arguments concerning the proposed repeal of this rule in writing no later than December 31, 1979, to C. W. Leaphart, Esq., 1 North Last Chance Gulch, Helena, Montana, 59801.

5. If a person who is directly affected by the proposed repeal of rule 16-2.14(10)-S14410 wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to C. W. Leaphart at the address given in paragraph 4 no later than December 31, 1979.

6. If the Board of Health and Environmental Sciences receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons directly affected; from a governmental subdivision or agency; or from an association having not less than 25 members who are directly affected, a hearing will be held at a later date. Notice of such a hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be in excess of 25 based on users of passenger trains.

7. The authority of the Board of Health and Environmental Sciences to repeal the rule is based on section 75-6-103, MCA.


JOHN F. MCGREGOR, M.D., Chairman

Certified to the Secretary of State November 20, 1979

22-11/29/79

MAR Notice No. 16-2-124

BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
OF THE STATE OF MONTANA

In the matter of the repeal) NOTICE OF PROPOSED REPEAL
of rule ARM 16-2.14(10)-S14480) OF ARM 16-2.14(10)-S14480
relating to reimbursement of) (Reimbursement of
state grant money for water) State Grant Money)
pollution control facilities) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On January 11, 1980, the Board of Health and Environmental Sciences of the State of Montana proposes to repeal rule 16-2.14(10)-S14480 relating to reimbursement of state grant money for water pollution control facilities.

2. Rule 16-2.14(10)-S14480 may be found on page 16-375.2 of the Administrative Rules of Montana.

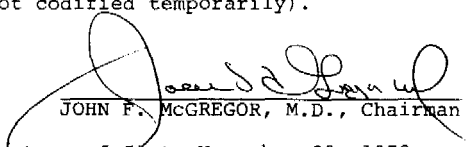
3. The Board of Health and Environmental Sciences proposes to repeal this rule because the state funds for this program have been exhausted and there is no necessity for maintaining the rule.

4. Interested persons may submit their data, views or arguments concerning the proposed repeal of this rule in writing no later than December 31, 1979, to C. W. Leaphart, Esq., 1 North Last Chance Gulch, Helena, Montana, 59801.

5. If a person who is directly affected by the proposed repeal of rule 16-2.14(10)-S14480 wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to C. W. Leaphart at the address given in paragraph 4 no later than December 31, 1979.

6. If the Board of Health and Environmental Sciences receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons directly affected; from a governmental subdivision or agency; or from an association having not less than 25 members who are directly affected, a hearing will be held at a later date. Notice of such a hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be in excess of 25 based on population statistics for the State of Montana.

7. The authority of the Board of Health and Environmental Sciences to repeal the rule is based on section 1, Chapter 122, Laws of Montana (1973) (not codified temporarily).



JOHN F. MCGREGOR, M.D., Chairman

Certified to the Secretary of State November 20, 1979

BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
OF THE STATE OF MONTANA

In the matter of the repeal) NOTICE OF PROPOSED REPEAL
of rule ARM 16-2.14(10)-S14530) OF ARM 16-2.14(10)-S14530
relating to control of pollu-) (Confined Livestock)
tion from confined livestock)
feeding activities) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On January 11, 1980, the Board of Health and Environmental sciences of the State of Montana proposes to repeal rule 16-2.14(10)-S14530 relating to control of pollution from confined livestock feeding activities.

2. Rule 16-2.14(10)-S14530 may be found on page 16-395 of the Administrative Rules of Montana.

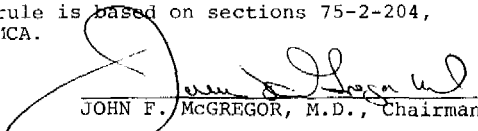
3. The Board of Health and Environmental Sciences proposes to repeal this rule because the portion of rule 16-2.14(10)-S14530 relating to water quality issues is now covered by provisions of ARM 16-2.14(10)-S14460, and the portion of rule 16-2.14(10)-S14530 relating to air quality issues is covered by ARM 16-2.14(1)-S1480. Therefore, repeal of rule 16-2.14(10)-S14530 will eliminate a superfluous rule.

4. Interested persons may submit their data, views or arguments concerning the proposed repeal of this rule in writing no later than December 31, 1979, to C. W. Leaphart, Esq., 1 North Last Chance Gulch, Helena, Montana, 59801.

5. If a person who is directly affected by the proposed repeal of rule 16-2.14(10)-S14530 wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to C. W. Leaphart at the address given in paragraph 4 no later than December 31, 1979.

6. If the Board of Health and Environmental Sciences receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons directly affected; from a governmental subdivision or agency; or from an association having not less than 25 members who are directly affected, a hearing will be held at a later date. Notice of such a hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be in excess of 25 based on the number of confined livestock feeding operations in Montana.

7. The authority of the Board of Health and Environmental Sciences to repeal the rule is based on sections 75-2-204, 75-2-211 and 75-5-401, MCA.


JOHN F. MCGREGOR, M.D., Chairman

Certified to the Secretary of State November 20, 1979

BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
OF THE STATE OF MONTANA

In the matter of the repeal	)	NOTICE OF PROPOSED REPEAL
of ARM 16-2.18(14)-S18060,	)	OF ARM 16-2.18(14)-S18060
relating to functions and	)	(Nursing Bureau)
responsibilities of the)	
nursing bureau	)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On December 31, 1979, the Department of Health and Environmental Sciences proposes to repeal rule 16-2.18(14)-S18060 relating to the functions and responsibilities of the Department's nursing bureau.

2. Rule 16-2.18(14)-S18060 may be found on page 16-446.1 of the Administrative Rules of Montana.

3. The Department proposes to repeal this rule for the following reasons:

a. Subsections (1) and (2) of this rule are also found in the Department's organizational rule, 16-2.1-0100, and are therefore repetitive and unnecessary;

b. Subsection (3) is no longer necessary due to a change in Department policy; and

c. Subsection (4) has been impliedly repealed by the 1979 Legislature's action which amended section 50-1-202(11), MCA, to change the role of the Department from supervising school and local community health nurses to providing consultation with them.

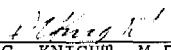
4. Interested persons may submit their data, views or arguments concerning the proposed repeal of this rule in writing no later than December 30, 1979 to Robert L. Solomon, Hearings Officer, Director's Office, Department of Health and Environmental Sciences, Cogswell Building, Helena, MT., 59601.

5. If a person who is directly affected by the proposed repeal of rule 16-2.18(14)-S18060 wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to Robert L. Solomon at the address given in paragraph 4 no later than December 30, 1979.

6. If the Department receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons directly affected: from a governmental subdivision or agency, or from an association having not less than 25 members who are directly affected, a hearing will be held at a later date. The Department has determined that 28 public health nurses constitute 10% of those persons that would be affected by the proposed action. Notice of such a hearing will be published in the Montana Administrative Register.

7. The authority of the Department to repeal this rule

is based on section 50-1-202(11), MCA.


A. C. KNIGHT, M.D., Director

Certified to the Secretary of State November 20, 1979

22-11/29/79

MAR Notice No. 16-2-127

BEFORE THE DEPARTMENT OF JUSTICE
FIRE MARSHAL BUREAU
OF THE
STATE OF MONTANA

In the matter of amendment of	)	NOTICE OF PUBLIC HEARING
Rule ARM 23-2.10B(1)-S1030	)	ON AMENDMENT OF RULE
concerning the adoption of the	)	Uniform Fire Code
Uniform Fire Code by reference)	

To: All Interested Persons:

1. On December 21, 1979, at 9:30 a.m., a public hearing will be held in Room 165, Scott-Hart Building, 303 Roberts, Helena, Montana, to consider the amendment of Rule ARM 23-2.10B(1)-S1030, titled "Incorporation By Reference of Uniform Fire Code."

2. The proposed amendment replaces present Rule 23-2.10B(1)-S1030 found in the Administrative Rules of Montana. The proposed amendment adopts the 1979 Edition of the Uniform Fire Code by reference along with listed appendix chapters.

3. The rule as proposed to be amended reads as follows:
23-2.10B(1)-S1030 INCORPORATION BY REFERENCE OF UNIFORM FIRE CODE (1) The Fire Marshal Bureau of the Department of Justice adopts and incorporates by reference herein the Uniform Fire Code, 1976 1979 edition, together with the Appendix A (Recommended Safeguards and Safe Practices for the Protection of Tanks Containing Flammable or Combustible Liquids in Locations that may be Flooded), Appendix B (Recommended Guide to Safe Practice Protection From Corrosion For Underground Pipe, Fittings and Tanks Containing Flammable Liquids), Appendix C (Rifle Ranges), Appendix D (Standards and Publications Representing Nationally Recognized Good Practice), Appendix E (Suppression and Control of Hazardous Fire Areas), Appendix G (Test Proceedings For Fire Extinguishing Systems), Appendix H (Stairway Identification), as amended with the following amendments thereto:

(a) Delete the following paragraphs from Section 10.301(c):
~~An-approved-water-supply-capable-of-supplying-required-fire flow-for-fire-protection-shall-be-provided-to-all-premises upon-which-buildings-or-portions-of-buildings-are-hereafter constructed.--When-any-portion-of-the-building-protected-is in-excess-of-150-feet-from-a-water-supply-on-a-public-street, there-shall-be-provided, when-required-by-the-chief, on-site fire-hydrants-and-mains-capable-of-supplying-the-required fire-flow.~~

~~Water-supply-may-consist-of-reservoirs,-pressure-tanks,-ele-
water-tanks,-water-mains-or-other-fixed-systems-capable-of
supplying-their-required-fire-flow--in-setting-the-require-
ments-for-fire-flow-the-chief-may-be-guided-by-the-standard
published-by-the-insurance-services-office,--"Guide-for-Deter-
mination-of-Required-Fire-Flow."~~

4. For the purpose of this regulation the following provisions shall apply:

(a) As used in the Uniform Fire Code, the terms chief, fire chief, fire marshal, and fire prevention engineer shall mean the head of the State Fire Marshal Bureau, Department of Justice.

(b) As used in the Uniform Fire Code, the terms fire department and bureau of fire prevention shall mean the State Fire Marshal Bureau.

(c) As used in the Uniform Fire Code, the term building official shall mean the head of the Montana State Building Codes Division, Department of Administration.

(d) As used in the Uniform Fire Code, the term city shall mean the State of Montana.

5. No provision of the Uniform Fire Code shall be construed contrary to the provisions of Chapter 3, Title 50, MCA, and in all cases where conflict arises between the Uniform Fire Code and Chapter 3, Title 50, MCA, the latter shall prevail.

6. All sections of the Uniform Fire Code pertaining to permits and certificates shall be considered void and are not adopted as part of these regulations. See Rule ARM 23-2.10B(10).

7. It is the intent of the Fire Marshal Bureau that the Uniform Fire Code shall be used in conjunction with the Uniform Building Code as adopted by Rule ARM 2-2.11(1)-S1100 by the Department of Administration.

8. Interested persons may present their data, views, or arguments, whether orally or in writing at the hearing. Written data, views or arguments may also be submitted to Robert E. Kelly, Chief, Fire Marshal Bureau, 1409 Helena Avenue, Helena, Montana 59601 no later than December 27, 1979.

9. Mike McGrath, Assistant Attorney General, Capitol Building, Helena, Montana 59601 has been designated by the Department of Justice to preside over and conduct the hearing.

10. The authority of the Department to make the proposed amendments is based on Section 50-3-102 MCA, Imp. Section 50-3-102 MCA.


MIKE GREER
Attorney General

Certified to the Secretary of State November 8, 1979

22-11/29/79

MAR Notice No. 23-2-36

BEFORE THE DEPARTMENT OF JUSTICE
FIRE MARSHAL BUREAU
OF THE
STATE OF MONTANA

In the matter of the repeal	)	NOTICE OF PROPOSED REPEAL OF
of rules pertaining to fire	)	RULES pertaining to fire and
and life safety protection	)	life safety protection
	)	NO PUBLIC HEARING CONTEMPLATED

To: All Interested Persons:

1. On December 29, 1979, the Department of Justice, Fire Marshal Bureau proposes to repeal Rule ARM 23-2.10B(1)-S1010 as amended.

2. The rules proposed to be repealed are on page 23-76.2 of the Administrative Rules of Montana.

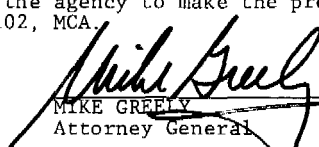
3. The agency proposes to repeal these rules because the above rules have been adopted by reference as part of the Uniform Fire Code, therefore no longer needed.

4. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to Robert E. Kelly, Chief, Fire Marshal Bureau, 1409 Helena Avenue, Helena, Montana 59601, no later than December 27, 1979.

5. If a person who is directly affected by the proposed repeal of the rules wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to Robert E. Kelly, Chief, Fire Marshal Bureau, 1409 Helena Avenue, Helena, Montana 59601 no later than December 27, 1979.

6. If the agency receives requests for a public hearing on the proposed repeal from more than 10% or 25 or more persons directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

7. The authority of the agency to make the proposed rule is based on Section 50-3-102, MCA.


MIKE GREELY
Attorney General

Certified to the Secretary of State November 21, 1979

STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF PHARMACISTS

IN THE MATTER of the Proposed	)	NOTICE OF PROPOSED AMENDMENT
Amendments of 40-3.78(6)-S7820	)	OF ARM 40-3.78(6)-S7820 BOARD
concerning definitions; 40-	)	DEFINITION; 40-3.78(6)-S7830
3.78(6)-S7830 concerning equip-	)	SET AND APPROVE REQUIREMENTS
ment and requirements; 40-	)	AND STANDARDS - EQUIPMENT &
3.78(6)-S7840 concerning in-	)	REQUIREMENTS; 40-3.78(6)-
spections and prescriptions;	)	S7840 SET AND APPROVE
40-3.78(6)-S7870 concerning	)	REQUIREMENTS AND STANDARDS -
requirements and standards for	)	INSPECTIONS AND PRESCRIPTIONS;
vending machines; 40-3.78(6)-	)	40-3.78(6)-S7870 SET AND
S7880 concerning explosive	)	APPROVE REQUIREMENTS AND
chemicals; 40-3.78(6)-S78010	)	STANDARDS - VENDING MACHINES;
concerning copies of prescrip-	)	40-3.78(6)-S7880 SET AND
tions; 40-3.78(6)-S78020 con-	)	APPROVE REQUIREMENTS AND
cerning labeling; 40-3.78(6)-	)	STANDARDS - EXPLOSIVE CHEM-
S78040 concerning internship	)	ICALS; 40-3.78(6)-S78010 SET
regulations, subsections (2)	)	AND APPROVE REQUIREMENTS AND
(a), (e), (h), (4) (b), (5) (j),	)	STANDARDS - COPY OF PRESCRIP-
(6) (a), (i), (7) (a), (8) (b),	)	TION; 40-3.78(6)-S78020 SET
(d), and (f); 40-3.78(6)-S	)	AND APPROVE REQUIREMENTS AND
78050 concerning hospital re-	)	STANDARDS - LABELING; 40-
quirements and standards sub-	)	3.78(6)-S78040 SET AND
sections (2) (a) (i) & (ii), (3)	)	APPROVE REQUIREMENTS AND
(a), (b) (i), (ii), (iii), (4), (a)	)	STANDARDS - INTERNSHIP
(i) & (iii), (b) (ii) & (v), (c)	)	REGULATIONS; 40-3.78(6)-S78050
(ii) (ab) & (ad), (d) (i) (ab), (d)	)	SET AND APPROVE REQUIREMENTS
(iii), (e) (i) & (ii), (f) includ-	)	AND STANDARDS - HOSPITAL;
ing subsections under (f),	)	40-3.78(6)-S78070 LICENSING -
(g) (i) & (ii), (h) (ii) & (iii),	)	GRANT AND ISSUE LICENSES; 40-
(i) in its entirety, (5) (i)	)	3.78(6)-S78090 LEGAL SUSPEN-
(ab), (6) (i) (ii) & (iii); 40-	)	SION AND REVOCATION; 40-
3.78(6)-S78070 subsections (2),	)	3.78(6)-S78100 AMENDMENTS TO
(4), (5), (6), (7), (8), (9), (10),	)	DANGEROUS DRUG ACT; and
(11), (12), (13), (b), (c), (d), (e)	)	PROPOSED ADOPTION OF A NEW
concerning granting and issuing	)	RULE 40-3.78(6)-S78065 FEE
licenses, 40-3.78(6)-S78090 con-	)	SCHEDULE
cerning suspension and revoca-)	
tion; 40-3.78(6)-S78100, sub-)	
section (4) (iii) (ad), (5) (a) and)	
(9) (a) concerning amendments to)	
the Dangerous Drug Act and)	
registration; and adoption of a	)	NO PUBLIC HEARING
new rule setting a fee schedule.)	)	CONTEMPLATED

TO: All Interested Persons:

1. On December 29, 1979, the Board of Pharmacists proposes to amend 40-3.78(6)-S7820 concerning definitions; 40-3.78(6)-S7830 concerning equipment requirements; 40-3.78(6)-S7840 concerning inspections and prescriptions; 40-3.78(6)-S7870 con-

cerning requirements and standards for vending machines; 40-3.78(6)-S7880 concerning explosive chemicals; 40-3.78(6)-S78010 concerning copies of prescriptions; 40-3.78(6)-S78020 concerning labeling; 40-3.78(6)-S78040 subsections (2) (a), (e), (h), (4) (b), (5) (j), (6) (a), (i), (7) (a), (8) (b), (d) and (f), concerning internship regulations; 40-3.78(6)-S78050 subsections (2) (a) (i) & (ii), (3) (a), (b) (i), (ii) & (iii), (4), (a) (i) & (iii), (b) (ii) & (v), (c) (ii) (ab) and (ad), (d) (i) (ab), (d) (iii), (e) (i) and (ii), (f) and all subsections under it, (g) (i) and (ii), (h) (ii) and (iii), (i) and all subsections under it, (5) (i) (ab), (6) (i), (ii) and (iii) concerning hospital requirements and standards; 40-3.78(6)-S78070 subsections (2), (4), (5), (6), (7), (8), (9), (10), (11), (12), and (13), (b), (c), (d) and (e) concerning granting and issuing of licenses; 40-3.78(6)-S78090 concerning suspension and revocation; 40-3.78(6)-S78100 subsections (4) (iii) (ad), (5) (a) and (9) (a) concerning amendments to the Dangerous Drug Act and registration; and adoption of a new rule 40-3.78(6)-S78065 setting a fee schedule.

2. The proposed amendment to 40-3.78(6)-S7820 amends subsection (1)(a) ~~(b)~~ and will read as follows: (new matter underlined, deleted matter interlined)

"40-3.78(6)-S7820 BOARD DEFINITION (1) Part I:

(a) The practice of Ppharmacy is that profession, which is concerned with the art and science of preparing from natural and synthetic sources suitable and convenient materials for distribution and use in the treatment and prevention of disease. It embraces a knowledge of the identification, selection, pharmacologic action, preservation, combination, analysis, and standardization of drugs and medicines. It also includes their proper and safe distribution and use whether dispensed on the prescription of a licensed physician, dentist, or dispensed or sold directly to the customer.

(b) In the art of compounding and dispensing a prescription the following procedures are necessary. To compound, prepare or mix the ingredients, weigh, measure or count the ingredients, package and label the contents of the prescription. Under Chapter No-~~15-7~~, Section 66-~~1501(b)~~-37-7-301(2) MCA these are the duties of a registered pharmacist or an Intern Pharmacist-, under the direct supervision of a registered pharmacist."

3. The amendment is proposed to clarify that an intern is not allowed to work alone. The authority of the board to amend the rule is based on section 37-7-201(2) (g) & (f) and implements sections 37-7-102, 201 (2) (f) and 301 MCA.

4. The proposed amendment to 40-3.78(6)-S7830 will read as follows: (new matter underlined, deleted matter interlined)

"40-3.78(6)-S7830 SET AND APPROVE REQUIREMENTS AND STANDARDS - EQUIPMENT & REQUIREMENTS (1) Pharmacies shall at all times be operated by registered pharmacists in a sanitary manner. There must be in use a safe and pure water supply, facilities for the proper storage and handling of supplies and stocks.

(2) ~~Pharmacies shall occupy space (approximately 400 sq. ft.) (3) Pharmacies shall have a compounding room~~ adequate space where prescriptions are filled or drugs compounded, of sufficient floor area and containing suitable equipment in order to provide for an efficient compounding operation ~~with due consideration for the public health, safety and welfare.~~

(a) with an entrance which affords the public ~~direct access from the street and can be locked when a registered pharmacist is not present.~~

~~(b) Which is separate from the remainder of the building in which it is located by walls extended from the floor to the ceiling, but such walls may contain doors or windows to the building interior which may be closed and locked when the pharmacy is not in charge of a registered pharmacist.~~

~~(4)~~ (3) Pharmacies shall contain and have ready for use all up to date items which are necessarily used in the filling of prescriptions, the compounding of drugs and the efficient operation of pharmacies the pharmacy, including at least the following:

(a) Latest revision, including supplements, of the United States Pharmacopoeia ~~and~~ National Formulary.

(b) One prescription scale balance capable of weighing one grain 65 mg. or less.

~~(c) One set of accurate Apothecary weights 1/2- grain to two drams.~~

~~(d)~~ (c) One set of accurate Metric weights from 50 30 mg. to 20 gm.

~~(e) Counter scale and weights.~~

~~(f)~~ (d) Graduates - capable of accurately measuring volumes ~~from one minim to at least one pint; and from 1cc to at least 500 cc.~~

~~(g)~~ (e) Mortars and pestles - at least one glass 2-oz. 60 mls.; at least one glass 8-oz. 240 mls. and ~~at least one wedgewood one pint size.~~

~~(h)~~ (f) Spatulas - stainless steel, at least three assorted sizes; and one nonmetallic medium size.

~~(i)~~ (g) Funnels - Glass, ~~one 2-oz., one 8-oz., and one 16-oz.~~

~~(j)~~ (h) Stirring Rods ~~--at least one each, glass and rubber.~~

~~(k)~~ (i) Pill tile, or Ointment Slab, or ointment papers--regulation size, at least one.

~~(l) Heating apparatus---Tripod and Bunsen burner,~~

~~or-alcohol-lamp; or-gas-or-electric-hot-plate;~~

~~(m) (j)~~ One prescription counter with sufficient drawers and/or storage space.

~~(n) (k)~~ Suitable refrigeration (if biologicals are stocked)

~~(e)-Drug-locker-or-other-suitable-means-to-safeguard
Schedule-II-drugs. "~~

5. The amendments are proposed to correct wording, convert to the metric system, remove articles which are no longer needed or available and in the case of the deletion of (o) above, no longer required under federal regulations. The authority of the board to make the amendments to the above rule is based on section 37-7-201(2)(g) and the rule and proposed changes implements section 37-7-201 (2)(b) MCA.

6. The proposed amendment to 40-3.78(6)-S7840 will amend only subsection (2) as the federal agency name has been changed.

"40-3.78(6)-S7840 SET AND APPROVE REQUIREMENTS AND STANDARDS - INSPECTIONS AND PRESCRIPTIONS.....

(2) It shall be mandatory that all Schedule II prescriptions be kept in a separate file according to BNBB DEA Regulations."

7. The reason for the proposed amendment is as stated above. The authority of the board to make the proposed change is based on section 37-7-201(2)(g) MCA and implements section 37-7-201(2)(a) MCA.

8. The proposed amendment to 40-3.78(6)-S7870 will read as follows: (new matter underlined, deleted matter interlined)

"40-3.78(6)-S7870 SET AND APPROVE REQUIREMENTS AND STANDARDS - VENDING MACHINES (1) In the best interest, safety, and protection of Public Health, it shall be deemed unlawful to distribute, dispense or vend any legend drugs or medicine by automatic or vending machines in public access areas."

9. The change is proposed because this was the original intent of the rule. The authority of the board to make the proposed change is based on section 37-7-201(2)(g) and the rule and change implement sections 37-7-201(2)(c) and 37-7-301 MCA.

10. The proposed amendment to 40-3.78(6)-S7880 will read as follows: (new matter underlined, deleted matter interlined)

"40-3.78(6)-S7880 SET AND APPROVE REQUIREMENTS AND STANDARDS - EXPLOSIVE CHEMICALS (1) The sale of the following potentially explosive chemicals and others of the same type are prohibited to minors, unless accompanied by their parents or have written authorized permission. All such sales to be recorded in the Poison Register. Ammonium nitrate, ammonium dichromate, chromic acid, chromates, metallic peroxides, metallic potassium, metallic sodium, potassium chlorate, potassium nitrate, potassium permanganate, powdered aluminum,

powdered iron, powdered magnesium, powdered zinc, sulfuric acid, nitric acid, tannic acid, and others of the same type."

11. The proposed amendment is to include all possible explosive chemicals. The authority of the board to make the proposed amendment is based on section 37-7-403 MCA and the rule and proposed change implements sections 37-7-201 (2) (c) and 37-7-403 MCA.

12. The proposed amendment to 40-3.78(6)-S78010 will read as follows: (new matter underlined, deleted matter interlined)

"40-3.78(6)-S78010 SET AND APPROVE REQUIREMENTS AND STANDARDS - COPY OF PRESCRIPTION (1) A Pharmacist giving a copy of a prescription, must issue the same on a prescription blank showing the name and address of the pharmacy. It must be an accurate and correct copy and have the original number and date of the prescription on it."

13. The proposed amendment is to make the rule more specific and implements section 37-7-101 (12) MCA. The authority of the board to make the proposed change is based on section 37-7-201 (2) (g) MCA.

14. The proposed amendment to 40-3.78(6)-S78020 amends subsection (2) and will read as follows: (new matter underlined, deleted matter interlined)

"40-3.78(6)-S78020 SET AND APPROVE REQUIREMENTS AND STANDARDS - LABELING

(2) The prescription label must be securely attached to the outside of the container in which the prescription is dispensed."

15. The proposed amendment is being made to clarify the rule. The rule and change implements section 37-7-201(2)(c) MCA. The authority of the board to make the proposed change is based on section 37-7-201(2)(g) MCA.

16. The proposed amendments to 40-3.78(6)-S78040 amends subsections (2)(a) by deleting it and renumbering those subsections following, amends (2)(e), (h), amends (4)(b), amends (5)(j), amends (6)(a), and (i), amends (7)(a), amends (8)(b), deletes (8)(d) and amends (8)(c) and deletes (8)(f). The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

"40-3.78(6)-S78040 SET AND APPROVE REQUIREMENTS AND STANDARDS - INTERNSHIP REGULATIONS....

(2)...

~~(a)-Apprentice-as-used-in-prior-regulations-means the-same-as-intern-~~

...

(e) 'Intern' means a qualified [under (6)(h)] pharmacy student or a graduate from an accredited college of pharmacy and registered in an approved program of supervised training.

..(h) 'The Internship Period' means 1500 hours of

of practical experience in an approved pharmacy, hospital or other facility. The Intern must acquire a minimum of 20 hours experience per calendar week in not less than five (5) days per calendar week, and may acquire a maximum of 48 hours experience per calendar week. However, the student may acquire up to 500 hours concurrently with school attendance in courses, clinical pharmacy programs or demonstration projects which have been approved by the Tri-Partite Committee and/or the State Board of Pharmacists.

.....

(4).....

(b) A preceptor will be in direct supervision of all repackaging, labeling, and dispensing of drugs for distribution ~~in-state-and-county-approved-areas.~~

.....

(5) Requirements for Preceptor. Each preceptor shall:
..(j) Not be permitted to leave intern work alone to assume the responsibility of a pharmacist.

.....

(6) Requirements for Intern.

(a) The experience required for licensure shall be that instruction period composed of computed time obtained under the supervision of the preceptor in an approved pharmacy. ~~Supervision-of-an-intern-does-not-permit-leaving-the-intern-alone-to-assume-the-responsibility-of-a-pharmacist.-~~ An intern may not work alone and assume the responsibility of a pharmacist.

.....

(i) In order to accomodate those interns who complete their internship requirements at various times throughout the year the Practical Examination will be administered at the University of Montana, School of Pharmacy in June and January by the State Board of Pharmacists and ~~in-December-by-a-member-of-the-State-Board-of-Pharmacists-and-a-faculty-member-of-the-School-of-Pharmacy-~~ If warranted, additional examinations may be given at the discretion of the Board. An intern who expects to complete his internship within 45 days after a scheduled Practical Examination will be allowed to take the examination, but will not become registered and licensed until he has completed the-required-hours all internship requirements.

.....

(7) Revocation or suspension of certification-or certificate.

(a) A ~~certification-or-certificate~~ may be revoked by violation of statute ~~or~~rules or failure to comply with the approved program, after due notice.

....

(8) Out-of-state internship

....

(b) The intern must comply with the regulations relating to internship and the approved program ~~or the equivalent thereof.~~

...

~~{d}--Computed time, under equivalent approved programs, submitted to the Board by out-of-state applicants for licensure, will be evaluated by the Board and the Tri-Partite Committee.~~

.....

~~{f}--Any graduate of the school of pharmacy of the University of Montana, who, after taking the theoretical examination, acquires registration by examination in another state, may not submit internship completed in that other state in order to take the practical examination and receive registration by examination in Montana, unless that internship was also supervised by the Montana State Board of Pharmacists."~~

17. The proposed amendments delete reference to terms which are not used (2) (a), add wording which further clarifies (2) (e), (h), removes wording which no board member knows what the wording means (4) (b), further clarifies (5), (j) and (6) (a), changes the examination date (6) (i), removes unnecessary wording - adds rules to (7) (a), removes a reference to equivalents which are not available (8) (b), (d) and (f). The rule and proposed changes implements section 37-7-201 (2) (f) and the authority of the board to make the proposed changes is based on section 37-7-201 (2) (g).

18. The proposed amendments to 40-3-78(6)-S78050 amends (2) (a) (i), (ii), deletes subsection (3) in its entirety, amends (4) (a) (i) and (iii), (4) (b) (ii) and (v), (4) (c) (ii) (ab) and (ad), deletes (4) (d) (i) (ab), amends (4) (d) (iii), deletes (4) (e) in its entirety, amends (4) (f), deletes (4) (f) (i), (ii) and (iii) (aa) (ab), amends (4) (f) (iii) (ac), deletes (4) (f) (iii) (ad) through (af), (4) (f) (iv), and (4) (g) in its entirety, amends (4) (h), (h) (ii) and (iii), deletes (4) (i) in its entirety, amends (5), deletes (5) (i) (ab), amends (6) in its entirety, and the changes will read as follows:

"40-3-78(6)-S78050 SET AND APPROVE REQUIREMENTS AND STANDARDS - HOSPITAL

..(2) Definitions:

(a)....

(i) 'Class I hospital facility; means a facility which maintains a certified pharmacy registered and licensed by the State Board of Pharmacists and operated by a registered pharmacist who provides pharmaceutical services for said facility for not less than 40 hours per week and provides for emergency services at all other times.

(ii) "Class II hospital or long-term facility" means a facility ~~of less than 75 beds~~ which maintains a certified pharmacy registered and licensed by the State Board of Pharmacists and operated by a registered pharmacist who provides pharmaceutical services in said facility daily at least 5 days each week and provides for emergency pharmaceutical services at all other times.

~~... (3) -- New Construction and Equipment: -- These general standards of construction are only minimum and are considered necessary to provide pharmaceutical facilities which can be efficiently maintained and operated to furnish services. -- They are not intended in any way to restrict design initiative or construction techniques.~~

~~(a) -- The drug room shall be adequate for the storage of pharmaceuticals and for record-keeping.~~

~~(b) -- Where a pharmacy is provided, the minimum size shall be 80 square feet, or 7 square feet per bed up to 400 square feet, whichever is larger. -- The pharmacy shall include:~~

~~(i) -- Space for safe storage of narcotics and other dangerous drugs.~~

~~(ii) -- Space for compounding or similar work.~~

~~(iii) -- Refrigeration facilities for storage of biologicals.~~

(4) Class I Facility. A hospital facility ~~of 75 or more beds~~ shall have that maintains a pharmacy operated by a registered pharmacist and administered in accordance with accepted professional standards.

(a) Standard pharmacy supervision. The pharmacy is directed by a registered pharmacist. The factors explaining the standard are as follows:

(i) The pharmacist is ~~trained in the specialized functions of hospital pharmacy~~ and licensed as a pharmacist in the State of Montana.

~~....~~
(iii) ~~Wherever possible~~ the pharmacist shall, in dispensing drugs, works from the prescriber's original order or a direct copy.

(b) Standard: physical facilities. Facilities are provided for the storage, safeguarding, preparation and dispensing of drugs. The factors explaining the standards are as follows:

~~....~~
(ii) Drug ~~cabinets on the nursing units~~ storage areas in the facility are ~~routinely~~ checked monthly by the pharmacist. All floor stocks are properly controlled. Records are to be made available upon request.

~~....~~
(v) Special locked storage space is provided to meet

the-existing legal requirements for storage-narcotics,
alcohol-and-other-prescribed-drugs.

(c)....

(ii) The pharmacy, depending upon the size and scope
of its operations is staffed by the following categories
of personnel:

....

(ab)-One-or-more-assistant-chief-pharmacists--

.....

(ad) Interns or pharmacy residents (where a program
has been activated.)

.....

(d).....

(i) The pharmacy establishes and maintains, in
cooperation with the accounting department, a satisfactory
system of records and bookkeeping in accordance with
the policies of the facility for:

....

(ab)-Charging-patients-for-drugs-and-pharmaceutical
supplies:

....

(iii) Records for prescription drugs dispensed to each
patient are maintained in the facility pharmacy contain-
ing-the-full-name-of-the-patient-and-the-prescribing
physician,-the-prescription-number,-the-name-and-strength
of-the-drug,-the-date-of-issue,-the-expiration-date-for
all-time-dated-medicines,-the-lot-and-control-number
of-the-drug,-the-name-of-the-manufacturer,-and-the
name-of-the-medication-dispensed-

....

(e)-Standard;-control-of-toxic-or-dangerous-drugs;
Policies-are-established-to-control-the-administration
of-toxic-or-dangerous-drugs-with-specific-reference-to
the-duration-of-the-order-and-the-dosage--The-factors
explaining-the-standard-are-as-follows:

(i)--The-medical-staff-has-established-a-written-policy
that-all-toxic-or-dangerous-medication,-not-specifically-
prescribed-as-to-time-or-number-of-doses-will-be-auto-
matically-stopped-after-a-reasonable-time-limit-set-by
the-staff--

(ii)--The-classifications-ordinarily-thought-of-as-
toxic-or-dangerous-drugs-are-narcotics,-sedatives,-anti-
coagulants,-antibiotics,-oxytocics,-depressants,
stimulants,-and-cortisone-products-

(f) Standard; committee. There is a pharmacy and
therapeutics committee composed of members of the
medical, and-nursing staff and pharmacy staffs to
confer-with-the-pharmacist-in for the formulation of
policies. The-factors-explaining-the-standard-are-as
follows-- The committee will meet at least quarterly

and report to the medical staff.

{i}--A pharmacy and therapeutics committee composed of physicians, a nurse with no vote and pharmacists, is established in the hospital--it represents the organizational line of communication and liaison between the medical staff and the pharmacist.

{ii}--The committee assists in the formulation of broad professional policies regarding the evaluation, appraisal, selection, procurement, storage, distribution, use and safety procedures, and all other matters relating to drugs in the facility.

{iii}--The committee performs the following specific functions:-

{aa}--Serves as an advisory group to the facility medical staff and the pharmacist on matters pertaining to the choice of drugs:-

{ab}--Develops and reviews periodically a formulary or drug list for use in the facility;-

{ac} {i} The committee will establish standards concerning the use and control of investigational drugs and research in the use of recognized drugs;

{ad}--Evaluates clinical data concerning new drugs or preparations requested for use in the facility;-

{ae}--Makes recommendations concerning drugs to be stocked on the nursing unit floors and by other services;- and-

{af}--Prevents unnecessary duplication in stocking drugs and drugs in combination having identical amounts of the same therapeutic ingredients;

{iv}--The committee meets at least quarterly and reports to the medical staff;-

{g}--Standard drugs to be dispensed--Therapeutic ingredients of medications dispensed are included (or approved for inclusion) in the United States Pharmacopoeia, National Formulary, United States Homeopathic Pharmacopoeia, New Drugs, or Accepted Botanical Remedies (except for any drugs unfavorably evaluated therein);--or are approved for use by the pharmacy and therapeutics committee of the facility staff;--The factors explaining the standards are as follows:

{aa}{i} The pharmacist, with the advice and guidance of the pharmacy and therapeutics committee, is responsible for specifications as to quality, quantity, and source of supply of all drugs.

{ii}--There is available a formulary or list of drugs accepted for use in the facility which is developed and amended at regular intervals by the pharmacy and therapeutics committee with the cooperation of the pharmacists and the administration:-

~~(iii)--The pharmacy is adequately supplied with preparations so approved:~~

(h) Standard; access to pharmacy. Only a pharmacist may have access to the pharmacy stock of drugs except that in a pharmacist's absence from the facility the supervising registered nurse or specified registered nurse on each shift may obtain from a the pharmacy stock of drugs such drugs as are needed in an emergency, until the registered pharmacist is available, not available in floor stocks (excepting narcotics, depressants, and stimulants-Schedule II drugs), and the nurse, not the pharmacist, become accountable for her actions. ~~A registered nurse is not permitted to compound or dispense drugs.~~ The factors explaining the standard are as follows:

.....

(ii) The nurse may remove drugs and shall leave in the pharmacy on a suitable form a record of any drugs removed and showing;

(aa) The name of the patient.

~~(aa)~~ (ab) etc.....

(iii) The nurse shall leave with the record the container from which the single-unit-dose drug was taken for drug administration purpose in order that it may be properly checked by a pharmacist. Such records shall be kept for at least three (3) years.

~~(i)--Standard; emergency-medication-kit;--Each facility must maintain a medication kit for emergency use;--The factors explaining the standard are as follows:~~

~~(i)--The kit shall contain a limited dosage and range of drugs as determined by the pharmacy and therapeutics committee;--~~

~~(ii)--The kit shall contain a list of its contents on the outside cover and within the box;~~

~~(iii)--Th kit must be prepared, packaged and sealed by a pharmacist upon the written order of a physician; said order to be handled as a legal prescription by the pharmacy;~~

~~(iv)--Emergency supplies may only be removed by a physician or upon his orders by a person who is licensed to administer drugs;~~

~~(v)--After the kit has been opened, a proper record shall be kept of all medication that is removed, a new prescription issued for replacement and again sealed by a pharmacist;~~

~~(vi)--Narcotic drugs (Schedule II and III) may not be included as a part of the emergency kit;--~~

(5) Class II Facility. A hospital or long-term care facility of less than 75 beds may have a pharmacy operated by a registered pharmacist and administered

in accordance with accepted professional standards.

(i) All standards which are applicable to a Class I Facility shall be required of a Class II Facility except as follows:

....
~~(ab)--Compounding drugs, medicines, chemicals, or poisons shall not be permitted.~~

....
(6) Class III Facility. A hospital or long-term care facility which has ~~no~~ a certified pharmacy license ~~registered and licensed by the Montana State Board of Pharmacists~~ shall comply with the following standards:

(i) The pharmacist is ~~trained in the specialized functions of hospital pharmacy and~~ licensed as a pharmacist in the State of Montana.

(ii) The pharmacist is responsible to the administrator of the facility for developing, supervising and coordinating the activities of the drug storage room.

(iii) Prescribed medications shall be dispensed by a qualified registered pharmacist in a certified pharmacy elsewhere and only storing and distributing of prescribed medications are done in the facility."

19. The amendments are proposed to clarify, remove portions of the rule which are covered by other state regulations, removes areas where the requirements of the rules are not required by the board, makes several portions less restrictive, removes requirements that are up to the individual hospitals to set, not the board, and removes portions which are not relevant. The implementing sections are 37-7-102, 321 (2) MCA. The authority of the board to make the proposed changes is based on section 37-7-201(2)(g) MCA.

20. The proposed amendments to 40-3.78(6)-S78070 amend subsections (2), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (13)(b), (c), (d) & (e) and will read as follows: (new matter underlined, deleted matter interlined)

" 40-3.78(6)-S78070 LICENSING - GRANT AND ISSUE LICENSES

...
(2) In the case where a pharmacy is owned and operated by a person who is a registered pharmacist and is in active charge of same, the license will be issued in his or her name ~~on his or his widow's affidavit~~ and that the pharmacy will be operated in accordance with the provisions of the law. A corporation or unregistered owner, ~~whose store was in operation prior to December 29, 1950,~~ may secure a license on the affidavit of the registered pharmacist charged with the management and supervision of the pharmacy.

....
(4) When the registered pharmacist charged with the management of a pharmacy, for any reason ceases to

be actually the registered pharmacist who has responsible supervision over said pharmacy, a new affidavit must be filed, the same to be executed by the new pharmacist in charge. ~~The license should be returned for proper entering--of-- then be updated to indicate the name of the new pharmacist in charge.~~

(5) When a pharmacy changes ownership the original license becomes void and must be surrendered to the Board, and a new license secured by the new owner or owners. This is required even in case there is no change in the name of the pharmacy or in the registered pharmacist in charge of the pharmacy. An established pharmacy, operating under new ownership is regarded as a new enterprise and the fee ~~of-\$20.00~~ required by section 37-7-321 (2) MCA must be paid by the new owner for a new license.

(6) A pharmacy opening for business must first secure a license and be registered with the Board of Pharmacists before it may be lawfully conducted. A fee required by section 37-7-321(2) MCA ~~of-\$20.00~~ is charged for issuing such original license. Application for license to operate a new pharmacy should be made at least thirty days before such pharmacy is to be opened for business so that the same can be reviewed by the Board of Pharmacists.

(7) All pharmacies must re-register renew their license annually with the board. ~~and-secure-an-annual license--~~ Pharmacy licenses expire June 30th each year. No pharmacy is allowed to operate without a currently renewed license.

(8) All licenses must be posted in a conspicuous place in the pharmacy for which it is issued. ~~-This requirement--is-not-met-when-a-license-is-locked-in-a safe,-placed-in-a-desk-drawer-or-otherwise-hidden-away.~~

(9) All registered pharmacists ~~and-registered-intern pharmacists~~ must notify the board within 10 days immediately of any change in location of their employment, together with the change of address.

~~(10)--All-pharmacies,-as-defined,-must-have-on-file the-latest-revision-(including-supplements)-of-the United-States-Pharmacopoeia,-the-latest-edition-of-the National-Formulary,-and-must-also-have-the-minimum equipment-specified-in-the-application-for-a-license-~~

(11) Whenever a pharmacy changes its location, ~~it-shall-apply-to-the-Board-of-Pharmacists-for-amendment-of-its-annual-license-to-cover-the-new-location. There-shall-be-no-charge-for-such-amendment-(affidavit forms-for-change-of-location-may-be-secured-from-the Secretary's-office)-~~ the original license becomes void and must be surrendered to the Board and a new license

secured for the new location. An established pharmacy, operating in a new location is regarded as a new enterprise and a fee required by section 37-7-321(2) MCA must be paid for a new license.

(12) No license shall be issued for a pharmacy which is kept open more than 56 hours per week, unless at least two registered pharmacists are employed in such pharmacy or drug store on a schedule that will assure the presence of registered pharmacists at all times. This regulation shall not apply where the owner of a pharmacy is a registered pharmacist and is continuously and personally in charge of such pharmacy. When a pharmacy changes its name (but not its ownership or location) the original license becomes void and must be surrendered to the Board, and a new license will be issued to the pharmacy in its new name, upon payment of a fee of \$20.00.

(13) The Montana State Board of Pharmacists shall after March 21st, 1957, refuse to grant a license for the operation of a pharmacy or drug store in the State of Montana unless when it is plainly shown that:

.....

(b) The manager or supervisor of the pharmacy or drug store is a registered pharmacist in good standing in the State of Montana;

(c) If the applicant be a partnership, the active member must be a registered pharmacist in good standing in the State of Montana; or--

(d) If the applicant be a corporation, its president and one other of its officers must be registered pharmacists in good standing in the State of Montana and that they he/she will be actively and regularly engaged and employed in, and responsible for the management, supervision and operation of each of such pharmacy or drug store.

(e) Nothing contained in this regulation shall affect pharmacies or drug stores for which licenses have been issued and which are in actual operation at the time of the adoption of this regulation."

21. The proposed amendments remove fees which are set by statute and no longer correct, makes parts of the rules less restrictive (10)(13), removes an obsolete grandfather clause(2)(13), defines a change in location as a new enterprise (11), sets a fee commensurate with costs for name change (12), removes a repetitive rule (10) covered in 40-3.78(6)-S7830. The rule and proposed changes implements sections 37-7-321(2) and 303 MCA. The authority of the board to make the proposed amendments is based on section 37-7-201(2)(g) MCA.

22. The proposed amendments to 40-3.78(6)-S78090 will read as follows: (new matter underlined, deleted matter interlined)

"40-3.78(6)-S78090 LEGAL SUSPENSION AND REVOCATION

(1) All licensed pharmacists and operators of pharmacies ~~and drug stores~~ in the State of Montana must adhere to all the laws of the State of Montana and the ~~regulations~~ rules of the Montana State Board of Pharmacists pertaining to pharmacists and operators of pharmacies ~~and drug stores~~ and any violation thereof ~~will~~ may constitute a cause for the revocation of such licenses.

(2) If an Intern Pharmacists is found or allowed to work in a pharmacy without the supervision of a registered pharmacist, this means that the intern is allowed to work a shift by himself/herself. It ~~shall~~ may be cause for the Board to cancel his or her internship is said pharmacy and even may be cause for suspension or revocation of his or her Intern Pharmacist License. The Board may in its discretion ask for surrender, suspension or revocation of the Pharmacy License of the Pharmacy in which the Intern has violated this section of the Pharmacy Law.

(3) ~~if any registered pharmacists or any intern pharmacist, as defined under the pharmacy laws of the State of Montana, shall be employed in any store or establishment required by the pharmacy laws of the State of Montana to have a pharmacy license, and which does not have such a license, or if any registered pharmacist or intern pharmacist, as defined under the pharmacy laws of the State of Montana, is employed in any store or establishment, which is not qualified to be registered as a pharmacy, but which engages in the sale of drugs and medicines contrary to the pharmacy laws of the State of Montana or the rules and regulations of the Montana State Board of Pharmacists, such The Montana State Board of Pharmacists may, upon notice and after a hearing, temporarily suspend or permanently revoke or refuse to renew any license of any registered pharmacist, or intern pharmacist, found to have been employed as above set forth, provided that any action by said Board shall be subject to review by the District Court on any question of law or fact in any establishment which:~~

(a) does not have a license required by the pharmacy laws of the State of Montana,"

23. The proposed amendments to (1) and (2) give the Board discretion in revocation and suspension proceedings. The proposed amendment to (3) rearranges the wording without changing the meaning. The rule and amendments implements section 37-7-311 MCA. The authority of the board to make the proposed amendments is based on section 37-7-201(2)(g) MCA.

24. The proposed amendments to 40-3.78(6)-S78100 amends subsection (4)(iii)(ad) removes an obsolete grandfather clause, the amendment to (5)(a) removes a fee which the statutes removed, the proposed amendment of (9)(a) deletes this subsection as it is redundant. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

"40-3.78(6)-S78100 AMENDMENTS TO DANGEROUS DRUG ACT,
REGISTRATION

.....

(4)...

(iii)....

~~(ad)-Applications-for-registration-submitted-in-the
year-1974, will-be-assessed-a-pro-rated-fee---Such-fee
will-be-determined-by-taking-the-fraction-of-months
remaining-in-the-year,-times-the-fee-for-the-full-year-~~

.....

(5) FEES FOR REGISTRATION AND RE-REGISTRATION

(a) The fees to be assessed for registration to manufacture, distribute, dispense, conduct research or analyze a dangerous drug shall be assessed according to the following schedule:

REGISTRATION	ANNUAL FEE
1. Manufacture	\$100.00
2. Distribute	100.00
3. Dispense	
a. Pharmacies	10.00
b---Individual-practi-	
tioners	10.00
4. Conduct Research	10.00
5. Analyze	10.00

.....

(9)-PENALTIES

~~(a)-Section-54-327-R.C.M.-1947-provides-that--~~

~~"Practitioners-who-fail-or-refuse-to-register-as
required-by-this-act-shall-be-guilty-of-a-misdemeanor
and-upon-conviction-therefore,-may-be-fined-not-to-
exceed-one-thousand-dollars-(\$1,000)-or-imprisoned
in-the-county-jail-not-to-exceed-one-(1)-year-or-both."~~

25. The reasons for the proposed amendments are stated in the beginning of paragraph 24. The proposed amendments and rule implements sections 50-32-103(2) and 303 MCA. The authority of the Board to make the proposed change is based on section 50-32-103 (2) MCA.

26. The proposed new rule establishes a fee schedule and will read as follows:

"40-3.78(6)-S78065 FEE SCHEDULE

(1) * Reciprocity	\$200.00
(2) Pharmacist	
(a) * Renewal	15.00
(b) * Late Renewal	30.00

- (3) Certified Pharmacy
 - (a) * Original certification 100.00
 - (b) Change in ownership 100.00
 - (c) Change in location 100.00
 - (d) Change in name of Pharmacy 20.00
 - (e) Annual renewal fee \$ 35.00
 - (f) * Late Renewal fee 100.00
- (4) * Stores (other than Pharmacies) 10.00
- (5) Interm registration fee 15.00
- (6) Examination fee 35.00
- (7) Certification of grades 5.00
- (8) Documents & Copies
 - (a) Copy of statute and rule book
 - (i) First copy to applicants & licensees free of charge
 - (ii) Additional copies 5.00
 - (b) Duplicate renewal license 2.00
 - (c) Replacement of original certificate 10.00

* Indicates those fees which are set by statute.

26. The Board is proposing this rule to establish a fee schedule which includes the fees which the board has the authority to set and those which are set by statute. The Board has determined the administrative costs and set the fees to adequately cover those costs. The proposed new rule implements sections 37-7-201 (2)(f) and (i), 302 (2), (3) & (6), 303, 321 (1) and (2) MCA. The authority of the Board to make the proposed rule is based on section 37-7-201 (2)(g) MCA.

27. Interested parties may submit their data, views or arguments concerning the proposed amendments and rule in writing to the Board of Pharmacists, Lalonde Building, Helena, Montana 59601 no later than December 27, 1979.

28. If a person who is directly affected by the proposed amendments or rule wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Board of Pharmacists, Lalonde Building, Helena, Montana 59601 no later than December 27, 1979.

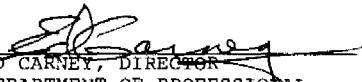
29. If the board receives requests for a public hearing on the proposed amendments and rule from 10% or 25 or more of those persons directly affected by the proposed amendments or rule or the Administrative Code Committee of the Legislature, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

30. The implementing and authority sections for each

-1483-

proposed amendment and the proposed rule are listed after each proposed change.

BOARD OF PHARMACISTS
JAMES CARLSON, R.Ph., PRESIDENT

BY: 
ED CARNEY, DIRECTOR
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, November 20, 1979.

STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF PUBLIC ACCOUNTANTS

IN THE MATTER of the proposed)
amendment of 40-3.94(6)-S9420)
subsections (9) and (10) con-
cerning rules of professional
conduct)

NOTICE OF PROPOSED AMENDMENT
OF ARM 40-3.94(6)-S9420
RULES OF PROFESSIONAL CONDUCT
,
NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On December 29, 1979, the Board of Public Accountants proposes to amend subsection (9) and (10) of ARM 40-3.94(6)-S9420 concerning rules of professional conduct.

2. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

"40-3.94(6)-S9420 RULES OF PROFESSIONAL CONDUCT

.....

(9) ~~A-C-P-A-or-B-P-A-shall-not-advertise-his-professional-attainments-or-services-~~ A member shall not seek to obtain clients by advertising or other forms of solicitation in a manner that is false, misleading, or deceptive.

~~(a)--Publications-in-a-newspaper,-magazine-or-similar-medium-of-an-announcement-or-what-is-technically-known-as-a-card-is-prohibited-~~

~~(b)--A-listing-in-a-directory-is-restricted-to-the-name,-title,-address-and-telephone-number-of-the-person-or-firm;-and-it-shall-not-appear-in-a-box,-or-other-form-of-display-or-in-a-type-or-style-which-differentiates-it-from-other-listings-in-the-same-directory--Listing-of-the-same-in-more-than-one-place-in-a-classified-directory-is-prohibited-~~

~~(10)--A-C-P-A-or-B-P-A-shall-not-endeavor,-directly-or-indirectly,-to-obtain-clients-by-solicitation-~~

....."

3. AICPA, which is the National Association, has deleted and changed these subsections in their rules, therefore the Board is proposing these changes for uniformity in rules.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Public Accountants, Lalonde Building, Helena, Montana 59601 no later than December 27, 1979.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Board of Public Accountants, Lalonde Building, Helena, Montana 59601 no later than December 27, 1979.


6. If the Board receives requests for a public hearing on the proposed amendment from 10% or 25 or more of those persons directly affected by the proposed amendment or the Administrative Code Committee of the Legislature, a hearing

will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

7. The authority of the Board to make the proposed amendment is based on section 37-50-203 MCA and implements section 37-50-203 (2) (a) MCA.

BOARD OF PUBLIC ACCOUNTANTS
SHERMAN VELTKAMP, C.P.A.
CHAIRMAN

BY:


ED CARNEY, DIRECTOR
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, November 20, 1979.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF THE PROPOSED
incorporation by reference	)	ADOPTION OF A NEW RULE PER-
of certain model rules as	)	TAINING TO CITIZEN'S PARTICI-
set forth by the attorney	)	PATION, NOTICING AND HEARING
general.	)	PROCEDURES AND DECLARATORY
	)	RULINGS.
)	
	)	NO PUBLIC HEARING CONTEMPLATED.

TO: All Interested Persons:

1. On December 31, 1979, the office of the Secretary of State proposes to adopt by incorporation by reference certain model rules as set forth by the Attorney General.

2. The proposed rule provides as follows:

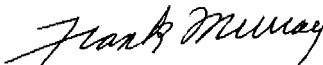
RULE 1 INCORPORATION OF MODEL RULES (1) The office of the secretary of state adopts certain attorney general's model procedural rules and all subsequent amendments to the model procedural rules and incorporates herein those rules by reference. The model rules adopted are as follows: ARM 1.3.101, 1.3.102, 1.3.202 through 1.3.211, 1.3.227 through 1.3.231, 1.3.233, 1.3.234, relating to citizen's participation, noticing and hearing procedures, and declaratory rulings.

3. The above rule is proposed for adoption in compliance with the Montana Administrative Procedure Act.

4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to Leonard Larson, Office of the Secretary of State, Room 202, Capitol Building, by December 27, 1979.

5. The authority of the Office of the Secretary of State to make the proposed rule is based on Sec. 2-4-201, MCA, IMP, 2-4-202, MCA.

Dated this 20th day of November 1979.



FRANK MURRAY
Secretary of State

By: 
Leonard C. Larson, Chief Deputy

BEFORE THE FISH AND GAME COMMISSION
OF THE STATE OF MONTANA

In the matter of the amend-) NOTICE OF AMENDMENT
ment of Rule 12-2.18(1)-S1805) OF RULE 12-2.18(1)-S1805
relating to commercial) COMMERCIAL FISHING
fishing permits) PERMITS

TO: All Interested Persons:

1. On August 30, 1979, the fish and game commission published notice of a proposed amendment of a rule relating to commercial fishing permits at page 875 of the 1979 Montana Administrative Register, issue number 16.

2. The agency has amended the rule as proposed.

3. No comment or testimony was received. The rule was amended to allow the issuance of permits for taking any of the state's nongame fish species. The Class X permit was designed to allow experimental fishing for any fish species not normally on the commercial market.

BEFORE THE FISH AND GAME COMMISSION
OF THE STATE OF MONTANA

In the matter of the amend-) RENOTICE OF AMENDMENT
ment of Rule 12-2.6(1)-S650) OF RULE 12-2.6(1)-S650
relating to priorities for) SPECIAL PERMITS -
special permits) PRIORITIES

TO: All Interested Persons:

1. On August 30, 1979, the fish and game commission published notice of a proposed amendment of a rule relating to priorities for special permits at page 872 of the 1979 Montana Administrative Register, issue number 16.

2. The agency has amended the rule as proposed except for the following modifications (added language is capitalized and underlined):

12-2.6(1)-S650 SPECIAL PERMITS - PRIORITIES

(1) There is hereby established a priority system for hunters applying for limited special moose, sheep, and goat permits. ~~Hunters who have received five or more annual consecutive unsuccessful notices for the same species are eligible to apply for priority status for that species by enclosing the five or more annual consecutive unsuccessful application notices in the current year's application envelope, marking the number of years priority claimed on the outside of the envelope and mailing to the department of fish, wildlife, and parks, Helena, Montana 59601.~~ HUNTERS WHO HAVE APPLIED

UNSUCCESSFULLY FOR FIVE OR MORE CONSECUTIVE YEARS FOR A LIMITED SPECIAL MOOSE, SHEEP, OR GOAT PERMIT FOR THE SAME SPECIES ARE ELIGIBLE TO APPLY FOR PRIORITY STATUS FOR THAT SPECIES BY ENCLOSING THE NOTICE OF SUCH UNSUCCESSFUL APPLICATION, ON A FORM AS PROVIDED BY THE DEPARTMENT, IN THE CURRENT YEAR'S APPLICATION ENVELOPE AND MAILING THE NOTICE AND APPLICATION TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS, HELENA, MONTANA 59601.

(2) Notices must be for the same species in consecutive years and all issued to the person applying. Unsuccessful notices are not transferable.

(3) Priority applications will be given first consideration in the order of number of unsuccessful notices submitted. When the number of priority applications exceeds the number of permits to be issued, a drawing will be held to determine successful priority applicants.

(4) For the license year beginning May 1, 1980 and each succeeding year thereafter, the number of special licenses to be made available for hunting moose, mountain sheep, and mountain goat under this rule shall be allocated as follows:

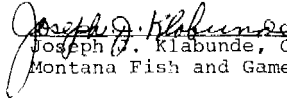
(a) AT LEAST 75% of the number of licenses available for a species in each hunting district shall be allocated to applicants with preference for that species under this rule or building such preference under this rule.

(b) ~~25% of the number of licenses~~ THE REMAINING NUMBER OF LICENSES (APPROXIMATELY 25%) available for a species in each hunting district shall be allocated to applicants who do not hold preference for that species under this rule. Applicants for a special license for a species under this subsection by electing to apply for a special license from the ~~25%~~ REMAINING LICENSES available under the provisions of this subsection forfeit any and all preference previously obtained under provisions of this rule; and further, failure to obtain a license under this subsection may not be counted toward building preference under this rule.

(c) The 10% limitation applicable to nonresidents shall be determined from the total number of special licenses available for a species in a hunting district.

3. No comment or testimony was received except comments from department personnel which resulted in the above modification. The rule was amended to provide for a group of licenses from which nonpreference persons might obtain a license; to minimize high costs of operating the preference

system; to discontinue the present system for recording preference; and to require applicants to retain their own record of preference.


Joseph D. Klabunde, Chairman
Montana Fish and Game Commission

Certified to the Secretary of State November 14, 1979.

BEFORE THE BOARD AND THE DEPARTMENT OF HEALTH AND
ENVIRONMENTAL SCIENCES OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF THE AMENDMENT
of rule 16-2.2(1)-P200, Model) OF RULE 16-2.2(1)-P200
Procedural Rules) (Model Procedural Rules)

TO: All Interested Persons

1. On October 11, 1979, the department and the board published notice of a proposed amendment of rule 16-2.2(1)-P200 concerning model procedural rules, at page 1161 of the 1979 Montana Administrative Register, issue number 19.

2. The department and the board amended the rule as noticed, with the following changes in the noticed version:

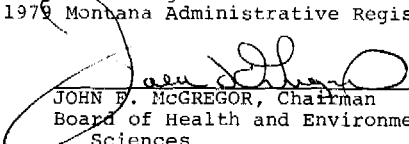
16-2.2(1)-P200 MODEL PROCEDURAL RULES (1) The attorney general's model procedural rules, as ~~noticed on pages 882 through 921~~ published on pages 1199 through 1238 of the 1979 Montana Administrative Register, issue number 19, are hereby adopted by reference, with the exception of 1.3.207 ~~(corrected from 1-6-2077, which appears in the notice)~~, which is modified by ~~changing the number of paragraph (3) to (4)~~, and adding a new paragraph (3) (4) as follows:

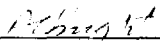
(3) (4) Additional requirements:

- (a) same text as original rule
- (b) same text as original rule
- (c) same text as original rule
- (d) same text as original rule
- (e) same text as original rule.

3. The only comment received was from the staff of the Legislative Code Committee, which felt that the text of the rule was a bit too complicated for easy comprehension. Accordingly, the switch in numbering of paragraphs in one of the model rules is eliminated.

In addition, the model rules were finally adopted by the attorney general, with minor editorial changes from their noticed version, after notice of proposed amendment of this rule was published. Therefore, the reference to the model rules has been changed from the "text as noticed" to the "text as finally adopted," including the changes in those rules noted on page 1198 of the 1979 Montana Administrative Register, issue number 19.


JOHN F. MCGREGOR, Chairman
Board of Health and Environmental
Sciences


A. C. KNIGHT, Director
Department of Health and Environ-
mental Sciences

Certified to the Secretary of State November 20, 1979

22-11/29/79

Montana Administrative Register

BEFORE THE DEPARTMENT OF INSTITUTIONS
OF THE STATE OF MONTANA
ALCOHOL & DRUG DIVISION

In the Matter of the	)	NOTICE OF THE ADOPTION OF
Adoption of New ARM Rules	)	RULES REGARDING GUIDELINES
20.3.201, 20.3.205, and	)	FOR COUNTY DRUG AND ALCOHOL
20.3.210	)	PLANS FOR FY 1981.

TO: All Interested Persons

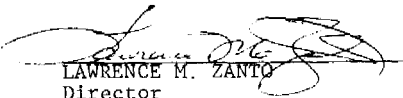
1. On October 11, 1979, the Department of Institutions published notice pursuant to Notice Number 20-3-3 of their proposed intention to adopt new rules regarding guidelines to county commissioners or county drug and alcohol plans. This notice was found on page 1163 through 1165 of the Montana Administrative Register, issue number 19.

2. A public hearing was conducted by the Department on November 1, 1979 and written comments were accepted up to November 8, 1979.

3. At the public hearing there were favorable comments received and as an exhibit the minutes of the Montana Advisory Council on Alcohol and Drug Dependency supporting the proposed rules. There were several questions by other interested persons and one person had several comments Jackie Trotchie of Butte, Montana on behalf of the Butte Indian Alcoholism Program and that entity also filed a written response to the proposed guidelines in opposition. The hearings officer has summarized these criticisms and accepted explanations explaining or clarifying the criticisms. It is the hearings officer's recommendation and the Department accepts that Rule 3(20.3.210) be amended to require that counties must give written reasons to approved programs who are not funded explaining their reasons why funding was not granted.

The agency has adopted the rules as proposed with the one change as noted.

4. The authority for the Department to make these rules is based upon Sections 53-24-211, 53-24-204, 53-24-207 and 53-24-208 MCA.


LAWRENCE M. ZANTO
Director
Department of Institutions

Certified to the Secretary of State November 20, 1979.

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

Adoption of Rules 24.25.101, DIVISION ADDRESS; 24.25.102, SERVICE OF PROCESS; 24.25.103, INTERVENTION; 24.25.104, AMENDING PETITIONS; 24.25.105, CONTESTED CASES, DEFAULT ORDER WHEN PARTY FAILS TO APPEAR AT HEARING; 24.25.106, MOTIONS; 24.25.107, HEARINGS; 24.25.108, EXTENSION OR WAIVER OF TIME LIMITS; 24.25.109, SUSPENSION; 24.25.120, SEVERABILITY; 24.25.201, DEFINITIONS; 24.25.202, FILING OF NEGOTIATED AGREEMENTS; 24.25.203, FILING OF LABOR ORGANIZATION'S BYLAWS; 24.25.204, PROOF OF INTEREST CONFIDENTIAL; 24.25.206, NOTICE OF STRIKE; 24.25.301, COMPOSITION OF UNIT; 24.25.302, APPROPRIATE UNIT; 24.25.303, PROFESSIONAL EMPLOYEES; 24.25.304, PETITIONS FOR NEW UNIT DETERMINATION AND ELECTION; 24.25.305, EMPLOYER COUNTER PETITION; 24.25.306, NOTICE OF UNIT DETERMINATION PROCEEDINGS; 24.25.307, PETITION TO INTERVENE; 24.25.308, PROCEDURE FOLLOWING FILING OF PETITION FOR NEW UNIT DETERMINATION AND ELECTION; 24.25.308, PROCEDURE FOLLOWING FILING OF PETITION FOR NEW UNIT DETERMINATION AND ELECTION; 24.25.401, PETITION FOR UNIT CLARIFICATION OF BARGAINING UNIT; 24.25.501, PETITIONS FOR DECERTIFICATION; 24.25.502, ANSWER; 24.25.503, NOTICE OF DECERTIFICATION PROCEEDINGS; 24.25.504, PETITION TO INTERVENE; 24.25.505, PROCEDURE FOLLOWING FILING OF PETITION FOR DECERTIFICATION; 24.25.601, ELECTIONS DIRECTED; 24.25.602, CONDITIONS; 24.25.603, SECRET BALLOT; 24.25.604, ELIGIBLE VOTERS; 24.25.605, NOTICE; 24.25.606, BALLOTS; 24.25.607, POLL WATCHERS; 24.25.608, POLLING AREA, ELECTIONEERING PROHIBITED; 24.25.609, CHALLENGES; 24.25.610, MAJORITY; 24.25.611, OBJECTIONS; 24.25.612, CERTIFICATION; 24.25.701, COMPLAINT; 24.25.702, ANSWER; 24.25.703, NOTICE OF HEARING; 24.25.704, PROPOSED FINDINGS; 24.25.801, PETITION; 24.25.802, MEDIATIONS; 24.25.803, FACT FINDING; and 24.25.804, ARBITRATION.

1. The Department of Labor and Industry published Notice No. 24-26-3 on September 27, 1979, at page 927, Montana Administrative Register, 1979, Issue Number 16, proposing new rules for the implementation of title 39, chapter 32, Montana Codes Annotated.

2. The Department has adopted the proposed rules as noticed. The testimony elicited at the hearing conducted by the Department and the Department's action on the testimony is as follows: Cordell Brown representing the Montana Federation of Teachers suggested that one major deficiency in the proposed rules is that there is no provision for an employer petition. The Department believes that sections 39-32-107 and 39-32-108, MCA are broad enough to include an employer petition for representation matters. The Department will therefore notice an employer petition for representation matters in the near future. Mr. Brown requested that a rule be adopted further explaining the requirement for a notice of any strike as provided for in 39-32-110,

MCA. The Department believes that 39-32-110 is self-explanatory and will not propose any further clarifying rule. Mr. Brown alleged that 24.25.701 calling for an investigation of complaints alleging improper employment practices and possible dismissal by the department is improper. The purpose of the proposed investigation is to determine jurisdiction. It is not the intent of the Department to dismiss the complaint on the merits of the charge prior to an opportunity for hearing. Further challenges of 24.25.701 through 24.25.704 were raised by Chadwick Smith representing the Montana Hospital Association. Mr. Smith alleges that conducting a hearing on improper employment practice complaints would be ultra vires. The Department believes that section 39-32-111 is broad enough to allow the Department to conduct a hearing to determine if an improper employment practice has been committed. The Department will adopt 24.25.701 through 24.25.704 as noticed.

Mr. Brown suggested that the Department not adopt 24.25.303, requiring an election to be conducted of the professional employees before they are included in a unit with nonprofessional employees. Section 39-32-106, MCA is quite explicit in requiring that a majority of professional employees must agree to be included in a unit with nonprofessional employees before such a unit may be determined. The Department will use the election called for in 24.25.303 to ascertain the desires of the professional employees before they are included in a unit of professional and nonprofessional employees.

Mr. Smith on behalf of the Montana Hospital Association suggested that the Department adopt a rule explicitly setting out whether licensed practical nurses would come under the jurisdiction of the Nurses' Act or the Public Employee Collective Bargaining Act. Since there are two separate agencies administering the two acts, i.e., the Department of Labor administering the Nurses' Act and the Board of Personnel Appeals administering the Public Employees' Collective Bargaining Act, a rule drafted by one agency limiting the jurisdiction of the other would be inappropriate. The Department therefore declines to adopt any such rule.

3. The rules have been adopted as proposed and become effective on the date of publication.

APPROVED AND ADOPTED 11/20/79
CERTIFIED TO THE SECRETARY OF STATE 11/20/79

BY 
DAVE FULLER, COMMISSIONER OF LABOR AND INDUSTRY

BEFORE THE DEPARTMENT OF LABOR
AND INDUSTRY, BOARD OF PERSONNEL APPEALS
OF THE STATE OF MONTANA

Adoption of Amendment to rule ARM 24.26.106 MOTIONS.

1. The Board of Personnel Appeals published notice no. 24-26-4 on September 27, 1979, at page 945, Montana Administrative Register, 1979, Issue Number 16 noticing a proposed amendment of rule 24.26.106 concerning motions for postponement of hearings or conferences scheduled.

2. The Board has adopted the proposed amendment to limit last minute postponement of hearing so this Board may better consolidate its trips and conserve energy.

No testimony or comments were received.

3. The amendment to this rule has been adopted as proposed and becomes effective on the day after publication.

Adoption of Amendment to Rule 24.26.107(2), EXCEPTIONS TO RECOMMENDED ORDERS.

1. The Board of Personnel Appeals published notice no. 24-26-5 on September 27, 1979, at page 947, Montana Administrative Register, 1979, Issue Number 16 noticing a proposed amendment of Rule 24.26.107(2) concerning the filing of exceptions to hearing examiners' decisions.

2. The Board has adopted the proposed amendment to clarify that exceptions to hearing examiners' decisions must be made in writing and must state specifically to which part of the recommended order exception is being taken. Before, this requirement was not specifically spelled-out in this Board's rules.

No testimony or comments were received.

3. The amendment to this rule has been adopted as proposed and becomes effective on the day after publication.

Adoption of Amendment to Rule 24.26.520, EMPLOYER PETITION.

1. The Board of Personnel Appeals published notice no. 24-26-1 on September 27, 1979, at page 922, Montana Administrative register 1979, Issue Number 16 noticing a proposed amendment of rule 24.26.520 clarifying when an employer petition may be filed with this board.

2. The Board has adopted the proposed amendment to clarify that this Board will entertain an employer's representation petition only during the normal "window period" or when the incumbent bargaining agent gives notice that it desires to begin negotiations on a successor contract. The Board believes that these limitations are necessary to preserve peace and harmony to labor relations by not subjecting the bargaining representatives to constant challenges to its representation.

No testimony or comments were received.

3. The amendment to this rule has been adopted as proposed and becomes effective on the day after publication.

Adoption of Amendment to rule 24.26.544, ANSWER.

1. The Board of Personnel Appeals published notice no. 24-26-2 on September 27, 1979, at page 925, Montana Administrative Register, 1979, Issue Number 16 noticing a proposed amendment to rule 24.26.544, clarifying that the composition of a unit is not a proper matter to be considered in a decertification proceeding.

2. The Board has adopted the proposed amendment to clarify that the composition of a bargaining unit is not a proper matter to be considered in a decertification proceeding. If either the employer or the bargaining representative has an objection to the bargaining unit, those objections are better raised by a unit clarification petition provided for in ARM 24.26.534.

No testimony or comments were received.

3. The amendment to this rule has been adopted as proposed and becomes effective on the day after publication.

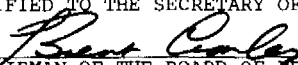
Adoption of Rule 24.24.648, DISAFFIRMANCE OF REPRESENTATION BY BARGAINING REPRESENTATIVE.

1. The Board of Personnel Appeals published Notice no. 24-26-6 on September 27, 1979, at page 949, Montana Administrative Register, 1979, Issue Number 16, a proposed new rule to allow a bargaining representative to disaffirm its representation without an election.

2. The Board has adopted the proposed rule to allow for a procedure in the situation where a decertification petition is filed by employees of a bargaining unit and the bargaining representative mutually desires not to represent the unit in question. The procedure negates the necessity of conducting a perfunctory election by this board.

No testimony or comments were received.

3. The rule has been adopted as proposed and becomes effective on the day after publication.

APPROVED AND ADOPTED	10-18-79
CERTIFIED TO THE SECRETARY OF STATE	11-13-79
BY 	
CHAIRMAN OF THE BOARD OF PERSONNEL APPEALS	

STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF BARBERS

In the matter of the Amendment)	NOTICE OF AMENDMENT OF ARM
of ARM 40-3.18(6)-S18030 sub-)	40-3.18(6)-S18030 CONDUCT OF
sections (2)(c) and (e) con-)	BARBER COLLEGES
cerning Conduct of Barber)	
Colleges)	

TO: All Interested Persons:

1. On October 11, 1979, the Board of Barbers published a notice of proposed amendment of ARM 40-3.18(6)-S18030 subsections (2)(c) and (e) concerning conduct of barber colleges at page 1173, Montana Administrative Register, issue number 19.
2. The Board has amended the rule exactly as proposed.
3. No comments or testimony were received.


DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF PHYSICAL THERAPY EXAMINERS

In the matter of the Adoption)	NOTICE OF ADOPTION OF ARM
of a new rule regarding)	40.40.406 RECIPROCITY LICENSES
reciprocity licenses)	

TO: All Interested Persons:

1. On October 11, 1979, the Board of Physical Therapy Examiners published a notice of proposed adoption of a new rule regarding reciprocity licenses at page 1174, Montana Administrative Register, issue number 19.
2. The Board has amended the rule exactly as proposed.
3. No comments or testimony were received.

BY:


ED CARNEY, DIRECTOR
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, November 20, 1979.

STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF DENTISTRY

In the Matter of the Amendment)	NOTICE OF AMENDMENT OF ARM
of ARM 40-3.34(10)-S3470 sub-)	40-3.34(10)-S3470 ALLOWABLE
sections (3),(4) and (5))	FUNCTIONS FOR DENTAL AUXIL-
	IARIES

TO: All Interested Persons:

1. Notice of public hearing on the proposed amendments in the above entitled matter was published on pages 533 and 534, 1979 Montana Administrative Register, issue number 11, on June 14, 1979.

2. On July 13, 1979 at 2:00 p.m., the public hearing was held in the House Chambers of the State Capitol Building, Helena, Montana. Approximately 8 persons presented testimony, and approximately 6 more persons submitted written statements in lieu thereof. Of the speakers, 3 were dental hygienists, 2 were dental auxiliary educators, and 2 were dentists. One hygienist spoke as a representative of the Montana Dental Hygienists Association and one dentist spoke as a representative of the Montana Dental Association. Written statements were submitted by 3 certified dental assistants, 2 dentists, and 1 dental hygienist. With the exception of the dentist representative of the Montana Dental Association, who transmitted the approval of the rules as proposed by the Executive Council of the Montana Dental Association, all other testimony and statements objected to the wording of the rule for various reasons stated.

The objection was primarily centered around the Board's proposed removal of all expanded duty functions except the making of radiograph exposures and placing them under traditional functions for which no expanded duty training or examination would be required. The witnesses generally felt that the functions which were being removed from expanded duty recognition in many respects were serious enough to warrant their retention in that category. More specifically, the witnesses felt that said functions did in fact require some kind of formal training and examination to assure competency.


3. For the reasons stated in paragraph 3. of its notice, the Board overrules the objections stated and adopts subsections (3) and (4) as proposed.

4. The Board further received a letter from the Administrative Code Committee dated August 6, 1979 which reminded the Board that the statutes regarding dental assistants specifically mentioned that they are categorized as "unlicensed auxiliary personnel", and therefore that the statute did not contemplate a certification process. That letter further mentioned that in connection with a certification process which the proposed rule apparently anticipated, that the imposition of a fee by the Board or anyone else was not authorized by statute. The Board views these objections as having merit in certain respects and finds them relevant to the proposed subsection (5) of the rule.

At the request of the Code Committee, the Board therefore intends to revise the scheme for determining qualifications for dental assistants, and will therefore not adopt subsection (5) at this time, but rather will publish another notice with the Board's intended revision. The Board intends to avoid any scheme which involves the Board acting as a licensing or certifying body, but rather will simply impose what the Board determines to be necessary qualifications.

BOARD OF DENTISTRY
DOUGLAS WOOD, D.D.S., PRESIDENT

BY:


ED CARNEY, DIRECTOR
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, November 20, 1979.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF ADOPTION OF RULES
ADOPTION OF RULES	)	implementing the Montana
implementing the Montana	)	Property and Income Tax
Property and Income Tax	)	Relief Act.
Relief Act.)	

TO: All Interested Persons:

1. On October 11, 1979, the Department of Revenue published notice of a proposed adoption of rules concerning the Montana Property and Income Tax Relief Act at pages 1176 and 1177 of the 1979 Montana Administrative Register, issue no. 19.

2. The Department has adopted the rules with the following changes (deletions interlined and additions capitalized and underlined):


Rule II. APPLICATION DEADLINE (1) ~~At~~ (A) EXCEPT AS PROVIDED IN SUBSECTION (2), ALL completed applications for relief under Chapter 698, Laws of 1979, must be returned not later than the second Friday in December of the year for which relief is sought to the county assessor of the county wherein the property to which the relief is granted is located.

~~(2)~~ (B) Applications that are mailed to the county assessor must be postmarked not later than the second Friday in December.

(2) IN THOSE CASES WHERE TAX NOTICES ARE RELEASED LATER THAN NOVEMBER 15, THE DEPARTMENT MAY EXTEND THE DEADLINE FOR APPLICATIONS FOR UP TO 30 DAYS AFTER THE DATE OF RELEASE IF THE DEPARTMENT DETERMINES THAT AN EXTENSION IS NEEDED TO PROVIDE A REASONABLE OPPORTUNITY FOR TAXPAYERS TO APPLY FOR RELIEF.

3. No comments or testimony were received. However, the Department, in reviewing the rule and examining the projected dates on which tax notices are to be released, determined that the December 14 deadline (second Friday in December) might prove unfair to taxpayers in counties where the release occurred late in November. Accordingly the Department has modified the rule to permit an extension of no more than 30 days. Such extensions would be handled on a case-by-case basis and should not be considered automatic.

4. Authority to make the rules is given by 15-1-201, MCA. The rules implement sections 2 and 4, Chapter 698, Laws of 1979.


MARY L. CRAIG, Director
Department of Revenue

Certified to the Secretary of State 11-19-79