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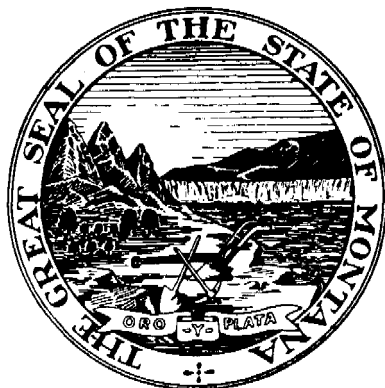
MONTANA ADMINISTRATIVE REGISTER

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APR 30 1980

OF MONTANA

1980 ISSUE NO. 8
PAGES 1194-1286



APR 30 1980

OF MONTANA

NOTICE OF FUNCTIONS OF ADMINISTRATIVE CODE COMMITTEE

The Administrative Code Committee reviews all proposals for adoption of new rules or amendment or repeal of existing rules filed with the Secretary of State. Proposals of the Department of Revenue are reviewed only in regard to the procedural requirements of the Montana Administrative Procedure Act. The Committee has the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. In addition the Committee may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a Joint Resolution directing an agency to adopt, amend, or repeal a rule.

The Committee welcomes comments from the public and invites members of the public to appear before it or to send it written statements in order to bring to the Committee's attention any difficulties with existing or proposed rules. The address is Room 138, State Capitol, Helena, Montana 59601.

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, 19601.

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 8

TABLE OF CONTENTS

NOTICE SECTION

	<u>Page Number(s)</u>
<u>AGRICULTURE, Department of, Title 4</u>	
4-2-58 Notice of Public Hearing on Proposed Amendment of rules - Licensing of Grain Merchandisers - Fees - Exemptions; Charges of Public Warehousemen for Handling, Cleaning, and Storage of Grain; Agricultural Seed Licensing Fees	1194-1195
4-2-59 Notice of Public Hearing on Amendment - Inspection of All Fruits, Vegetables- Collection of Fees and Repeal of Overtime Inspection Fee Charge.	1196-1197
<u>FISH, WILDLIFE AND PARKS, Department of, Title 12</u>	
12-2-93 Notice of a Proposed Amendment of a Rule Relating to Regulations for Outfitters and Guides. No Public Hearing Contemplated.	1198-1199
<u>HEALTH AND ENVIRONMENTAL SCIENCES, Department of, Title 16</u>	
16-2-138 Notice of Public Hearing on the Repeal and Adoption of Rules Relating to Communicable Diseases and Dead Human Bodies	1200-1224

16-2-139 Notice of Public Hearing for Repeal
of Rules Relating to Licensing and Construction
of Hospitals and Related Medical Facilities
and Adoption of Rules Relating to Licensing
and Construction of Health Care Facilities. 1225-1241

16-2-140 Notice of Vacation of MAR Notice
No. 16-2-136 Relating to Solid Waste
Management. 1242

COMMUNITY AFFAIRS, Department of, Title 22

22-3-10-6 Notice of Proposed Amendment of
Rule - Schedule of Prices (Board of County
Printing) No Further Public Hearing
Contemplated. 1243

LABOR AND INDUSTRY, Department of, Title 24

24-16-1 Notice of Proposed Amendment of
Rules Relating to Payment of Back Wages.
No Public Hearing Contemplated. 1244-1246

24-16-2 Notice of Proposed Repeal of Rule
Relating to Functions of the Standards Bureau 1247-1248

24-3-18-36 Notice of Public Hearing on Pro-
posed Amendment of Rule Relating to Fired
Pressure Vessels. 1249

PROFESSIONAL AND OCCUPATIONAL LICENSING, Department of, Title 40

40-40-3 (Board of Physical Therapy Examiners)
Notice of Proposed Amendment of Rules Relating to Fees,
Examinations and Reciprocity Licenses. No
Public Hearing Contemplated. 1250-1251

SOCIAL AND REHABILITATION SERVICES, Department of, Title 46

46-2-230 Notice of Proposed Adoption of a Rule
Relating to Establishing a Fee Schedule for
Attorneys' Services in Third Party Recovery Cases.
No Public Hearing Contemplated. 1252-1253

46-2-232 Notice of Proposed Repeal of Rule
Relating to Emergency Assistance, Food Stamps.
No Public Hearing Contemplated. 1254-1255

46-2-233 Notice of Public Hearing for Adoption
of a Rule Relating to Reimbursement for Physician
Services. 1256-1257

Page Number(s)

46-2-234 Notice of Proposed Amendment and
Adoption of Rules Relating to Physician
Services. No Public Hearing Contemplated. 1258-1261

RULE SECTION

AGRICULTURE, Department of, Title 4

NEW Relating to Aquatic Herbicide Rules 1262-1263

HEALTH AND ENVIRONMENTAL SCIENCES, Department of, Title 16

REP Relating to Eligibility Aid, Local Health
Services; Confidential Information; Imple-
mentation of Executive Reorganization Act;
Definitions 1264

NEW Relating to Distribution of Funds for
Local Health Services 1264

NEW Relating to Establishing Immunization
Requirements for Public and Private
Schools 1265-1276

PROFESSIONAL AND OCCUPATIONAL LICENSING, Department of, Title 40

AMD (Board of Horse Racing) Definitions;
Licenses; Racing Officials; General Conduct
of Racing; Corrupt Practices and Penalties;
Pari-Mutuel Operations 1277-1278

AMD (Board of Pharmacists) Fee Schedule 1279

AMD (Board of Physical Therapy Examiners)
Fees; Renewal of Licenses 1279

AMD (Board of Realty Regulation) Renewal -
Inactive List - Register 1280

INTERPRETATION SECTION

Opinions of the Attorney General

Opinion No.

74 Elections - Conservations Districts -
Water and Sewer Districts - Hospital
Districts - Fire Districts - Drainage
Districts - Irrigation Districts -
Revised Dates of Election of Officers 1281-1286
-iii- 8-4/24/80

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amend-) NOTICE OF PROPOSED AMEND-
ment of Rule 4.14.370(1)(d);) MENT OF ARM RULES: 4.14.370(1)
4.14.390(1)(2)(3) and (4);) (d); 4.14.390(1)(2)(3) and (4);
and 4.14.806(1) and (2) ARM) and 4.14.806(1) and (2);
)
) AND
) NOTICE OF PUBLIC HEARING

TO: All Interested Persons:

1. On May 16, 1980, at 10:00 a.m., a public hearing will be held in Room 151 of the Scott Hart Building, 6th and Roberts Streets, Helena, Montana 59601, to consider the amendment of the Administrative Rules of Montana, all as set forth herein.

2. The proposed amendments relate only to the various fees amounts to be changed, and are necessary to meet the increased administrative costs. The rules proposed to be amended, as they presently exist, may be viewed in the current version of ARM, or a complete copy may be obtained from Mr. Oran Roy Bjornson, Administrator, Plant Industry Division, Montana Department of Agriculture, Room 110, Agriculture/Livestock Building, Capitol Station, Helena, Montana 59601.

3. The rules proposed to be amended will provide as follows:

4.14.370 (After re-codification to bear number 4.12.1008)
LICENSING OF GRAIN MERCHANDISERS - FEES - EXEMPTIONS (1) "Grain merchandiser License Categories" and fees:

(d) Grain merchandisers owning, leasing, or controlling any truck or tractor trailer unit used in the merchandising of grains other than activities directly related to public storage shall pay a license fee of \$20.00 for each year or part of year before July 1. A separate license is required for each truck or tractor unit. A decal, provided by the department, indicating the license number shall be securely placed on the windshield of each truck or tractor trailer unit. The decal license is not transferable from one vehicle to another. If the truck or trailer unit is sold or otherwise disposed of, a duplicate decal may be issued by the department upon receiving satisfactory evidence that the original decal was destroyed. The licensee shall notify the Department of Agriculture.

(Amount of fee underlined reflects increase from previous fee of \$15.00)

4.14.390 (After re-codification to bear number 4.12.1010)
CHARGES OF PUBLIC WAREHOUSEMEN FOR HANDLING, CLEANING, AND STORAGE OF GRAIN (1) Not more than a total of twelve cents (12¢) per bushel for receiving, elevating, weighing, and immediate delivery on a car of the identical grain without mixing. Immediate delivery means that the total period of assemblage and delivery does not exceed seventy-two (72) hours.

(2) Not more than a total of twelve cents (12¢) per bushel, for all grains, for receiving, grading, weighing, elevating,

insuring, and delivery to the owner.

(3) Not more than one tenth (1/10) of one cent (.01) per bushel for each day in storage after the period of free storage has elapsed. The first fifteen (15) days of storage shall be without charge.

(4) Not more than ten cents (10¢) per bushel for cleaning grain where there are cleaning facilities. All screenings shall be handled in accordance with Section 80-5-204 MCA.

(Previous handling fee of 10¢ increased to 12¢ as shown.

Previous storage fee of 1/12 of one cent increased to 1/10 of one cent.)

4.14.860 (After re-codification to bear number 4.12.3007)
AGRICULTURAL SEED LICENSING FEES (1) All seed processing plants, seed labelers, seed buyers, and public agricultural seed warehouses shall obtain a license at a cost of \$35 per year from the department before doing business in this state.

(2) No person may distribute seed without obtaining a dealer's license at the cost of \$15 per year for each place of business.

(\$25.00 per year license fee increased to \$35.00 with place of business license increased from \$10.00 to \$15.00)

4. The amendments proposed to be made are to implement Sections: 80-4-202, 80-4-222, 80-5-202 and 80-5-203 MCA.

5. Interested persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Raymond W. Brault, hearing officer, Montana Department of Agriculture, Agriculture/Livestock Building, Capitol Station, Helena, Montana 59601, no later than 5:00 p.m. on Friday, May 16, 1980.

6. Raymond W. Brault, Department Attorney, Montana Department of Agriculture, Agriculture/Livestock Building, Capitol Station, Helena, Montana 59601, has been designated to preside over and conduct the hearing.

7. The authority of the agency to enact the rules and the amendments is Sections: 80-4-202, 80-4-222, 80-5-202 and 80-5-203 MCA.


W. Gordon McOmber, Director

Montana Department of Agriculture

Certified to the Secretary of State, April 15 , 1980

8-4/24/80

MAR Notice No. 4-2-58

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amend-) NOTICE OF PROPOSED AMENDMENTS
ments of Rule 4.14.550 ARM;) OF ARM RULE: 4.14.550; AND
and the repeal of Rule 4.14.) PROPOSED REPEAL OF RULE 4.14.
560 ARM.) 560 ARM.
)
)
) AND
) NOTICE OF PUBLIC HEARING

TO: All Interested Persons:

1. On May 19, 1980, at 10:00 a.m., a public hearing will be held in Room 151 of the Scott Hart Building, 6th and Roberts Streets, Helena, Montana 59601, to consider the amendments of the Administrative Rules of Montana, all as set forth herein.

2. The proposed amendments relate only to the various fees amounts to be charged, and are necessary to meet the increased administrative costs. The rule proposed to be repealed is to reduce costs to the industry. The rules proposed to be amended and repealed, as they presently exist, may be viewed in the current version of ARM, pages 4-183, 184 and 185; or a complete copy may be obtained from Mr. Oran Roy Bjornson, Administrator, Plant Industry Division, Montana Department of Agriculture, Room 110, Agriculture/Livestock Building, Capitol Station, Helena, Montana 59601.

3. The rules proposed to be amended will provide as follows:

4.14.550 (After re-codification to bear number 4.14.1806)
INSPECTION OF ALL FRUITS, VEGETABLES--COLLECTION OF FEES (1)
All fruits and/or vegetables (with exception of cherries, potatoes, and watermelons) - ~~2¢~~ 2.5¢ per unit up to a maximum fee charge of ~~\$15.00~~ \$20.00.

Potatoes: Fresh shipments or lots, seed or tablestock (shipping point) ~~3¢~~ 3.5¢ per cwt up to a maximum of ~~\$45.00~~ \$55.00.

Cherries: Fresh shipments ~~2¢~~ 2.5¢ per package or lug up to a maximum of ~~\$25.00~~ \$30.00.

Watermelon: ~~3¢~~ 3.5¢ per hundred weight up to a maximum fee of ~~\$15.00~~ \$20.00.

Additional inspection fee charges include:

Potato Tags - Minimum 3¢/tag (commercial or tablestock).

Phytosanitary Certificate - Minimum of ~~\$1.50~~ \$3.00 and not to exceed ~~\$10.00~~ \$15.00.

State Lot Certificate - Minimum of ~~\$1.50~~ \$3.00 and not to exceed ~~\$15.00~~ \$20.00.


4. The rule proposed to be repealed is found on page 4-185 of the Administrative Rules of Montana. 4.14.560

5. The amendments proposed to be made are to implement Section 80-3-110 MCA.

6. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Raymond W. Brault, hearing officer, Montana Department of Agriculture, Agriculture/Livestock Building, Capitol Station, Helena, Montana 59601, no later than 5:00 p.m. on Monday, May 19, 1980.

7. Raymond W. Brault, Department Attorney, Montana Department of Agriculture, Agriculture/Livestock Building, Capitol Station, Helena, Montana 59601, has been designated to preside over and conduct the hearing.

8. The authority of the agency to enact the rules and the amendments is Section 80-3-110 MCA.



W. Gordon McOmber, Director
Montana Department of Agriculture

Certified to the Secretary of State, April 15, 1980.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS
OF THE STATE OF MONTANA

In the matter of the amend-) NOTICE OF A PROPOSED AMENDMENT
ment of Rule 12-2.10(6)-S1080) OF A RULE RELATING TO REGU-
Regulations for Outfitters) LATIONS FOR OUTFITTERS AND
and Guides) GUIDES - NO PUBLIC HEARING
) CONTEMPLATED

TO: All Interested Persons.

1. On May 24, 1980, the Montana Department of Fish, Wildlife, and Parks proposes to amend Rule 12-2.10(6)-S1080 relating to regulations for outfitters and guides.

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

12-2.10(6)-S1080 REGULATIONS FOR OUTFITTERS AND GUIDES

(1) through (3) (g) remain the same.

(h) Current hunting or fishing licenses must be obtained by, and must at all times be in the possession of, every outfitter and guide during the times that he is engaging in outfitting or guiding, as hereinafter provided:

((i) (ii) remain the same)

(iii) Any nonresident person who is a guide or outfitter and is guiding or outfitting for deer or antelope hunting parties in those areas or districts of the eastern portion of the state of Montana where there are only deer and antelope seasons available -- a Class B-5(~~nonresident~~)-~~deer~~-license, B-7 (nonresident) deer license, if available, and/or a B-8 (nonresident) deer B license and/or a ~~Class B-6 special~~ (nonresident) antelope license, or a B-10 (nonresident) big game combination license.

(remainder of the rule remains the same)

3. The rule is proposed to be amended because the B-5 license was repealed in the past legislative session and the B-6 license was replaced with a special nonresident antelope license.

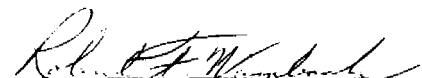
4. Interested parties may submit their data, views, or arguments concerning the proposed amendment in writing to Robert F. Wambach, Director, Department of Fish, Wildlife, and Parks, 1420 E. 6 Avenue, Helena, Montana 59601. Written comments in order to be considered must be received no later than May 22, 1980.

5. If a person who is directly affected wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make a written request for a hearing and submit this request along with any written comments to Dr. Wambach at the above-stated address no later than May 22, 1980.

6. If the department receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected

by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 25.

7. The authority of the agency to make the proposed amendment is based on Sec. 87-4-106, MCA, and implements Sec. 87-4-106, MCA.


Robert F. Wambach, Director
Dept. of Fish, Wildlife & Parks

Certified to Secretary of State April 14, _____, 1980.

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

In the matter of the repeal	)	NOTICE OF PUBLIC HEARING
of ARM 16-2.18(10)-S1840,	)	ON REPEAL OF CERTAIN RULES
16-2.18(10)-S1850,	)	PERTAINING TO
16-2.18(10)-S1860,	)	COMMUNICABLE DISEASES AND
16-2.18(10)-S1870,	)	DEAD BODIES
16-2.18(10)-S1880,)	
16-2.18(10)-S1890,)	
16-2.18(10)-S18000,)	
16-2.18(10)-S18010,)	
16-2.18(10)-S18020,)	
16-2.18(10)-S18040,)	
and 16-2.18(10)-S18055)	
relating to communicable)	
diseases and dead bodies)	

TO: All Interested Persons

1. On May 27, 1980, at 10:00 a.m., a public hearing will be held in the Hospital-Medical Facilities Conference Room at 836 Front Street, Helena, Montana, to consider the repeal of rules 16-2.18(10)-S1840--Communicable and Reportable Diseases, Definitions; 16-2.18(10)-S1850--Reportable Diseases; 16-2.18(10)-S1860--Forms and Procedures for Reporting; 16-2.18(10)-S1870--Quarantine Disease Measures; 16-2.18(10)-S1880--Diseases Requiring Warning Placard; 16-2.18(10)-S1890--Isolation Procedures; 16-2.18(10)-S18000--Release, Quarantine or Isolation; 16-2.18(10)-S18010--Funerals; 16-2.18(10)-S18020--Specific Disease Control Measures; 16-2.18(10)-S18040--Transportation of Dead Human Bodies; and 16-2.18(10)-S18055--Measles Quarantine.

2. The rules proposed to be repealed can be found on pages 16-415 to 16-446C of the Administrative Rules of Montana.

3. The rules are proposed to be repealed because the department of health and environmental sciences is proposing new rules in the following notice in place of these rules proposed for repeal.

4. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Robert L. Solomon, presiding officer, Department of Health and Environmental Sciences, Cogswell Building, Room A206, Helena, Montana, 59601, no later than May 27, 1980.

5. Robert L. Solomon, address noted above, has been designated to preside over and conduct the hearing.

6. The authority of the department to repeal these rules is based on section 50-1-202, MCA.

In the matter of the adoption)	NOTICE OF PUBLIC HEARING
of rules relating to)	ON PROPOSED ADOPTION OF RULES
communicable diseases,)	RELATING TO COMMUNICABLE
and transportation of dead)	DISEASES AND DEAD HUMAN BODIES
human bodies)	

TO: All Interested Persons

1. On May 27, 1980, at 10:00 a.m. a public hearing will be held in the Hospital-Medical Facilities Conference Room at 836 Front Street, Helena, Montana, to consider the adoption of rules relating to communicable diseases and dead human bodies.

2. The proposed rules will replace the rules proposed for repeal in the preceding notice.

3. The proposed rules provide as follows:

Chapter 19
Communicable Diseases

Sub-Chapter 1
General Provisions

RULE I DEFINITIONS Unless otherwise indicated, the following definitions apply throughout this chapter.

(1) "Approved vaccine" means an immunizing agent approved by the Bureau of Biologics, Food and Drug Administration, U.S. Public Health Service.

(2) "Carrier" means a person or animal who harbors a specific infectious agent without discernible illness and serves as a potential source of infection. A carrier may be "incubatory" (just before onset), "convalescent" (after clinical recovery), or "healthy" (no apparent illness at any time). The carrier state may be temporary or permanent.

(3) "Case" means a person who has a reportable disease.

(4) "Cleaning" means the removal from surfaces, by scrubbing and washing, as with hot water and soap or detergent, of infectious agents and of organic matter on which and in which infectious agents may be able to live and remain virulent.

(5) "Communicable disease" means an illness due or suspected to be due to a specific infectious agent or its toxic products, which results from transmission of that agent or its products to a susceptible host, directly or indirectly.

(6) "Concurrent disinfection" means the use of disinfecting methods immediately after the discharge of infectious material from the body of an infected person, or after the soiling of articles with such infectious discharges before there is opportunity for any other contact with them.

(7) "Contact" means a person or animal that has been in such association with an infected person or animal or a contaminated environment as to have had opportunity to acquire the infection.

(8) "Department" means the department of health and environmental sciences.

(9) "Disinfection" means the destruction of infectious organisms outside of a human or animal body by chemical or physical means directly applied.

(10) "Disinfection" is the destruction by chemical or physical means of undesired animal forms present upon the person or the clothing or in the environment of an individual, or on domestic animals.

(11) "Epidemic" is an incidence of a disease or infection significantly exceeding the incidence normally observed in a specified population of people over a specific period of time. An "outbreak" is the same as an "epidemic".

(12) "Health care facility" is a facility defined in section 50-5-101, MCA.

(13) "Household contact" is a person or animal living within the household of an infected person.

(14) "Infected" means diagnosed or believed to have a communicable disease.

(15) "Infected person" means a person who harbors an infectious agent and who has either manifest disease or inapparent infection. An infectious person is one from whom the infectious agent can be naturally acquired.

(16) "Infection" means the entry and development or multiplication of an infectious agent in the body of man or animals. Infection is not synonymous with infectious disease; the result may be inapparent or manifest. The presence of living infectious agents on exterior surface of the body or upon articles of apparel or soiled articles is not infection, but contamination of such surfaces and articles.

(17) "Infectious agent" means an organism, chiefly a microorganism, but including helminths, that is capable of producing an infection or infectious disease.

(18) "Isolation" means separation during the period of communicability of infected or probably infected persons from other persons, in such places and under such conditions as will prevent the direct or indirect conveyance of the infectious agent to persons who are susceptible or who may convey the infection to others to the satisfaction of the department or the local health officer.

(19) "Local health officer" means the city, county, or district health officer or department as defined in Title 50, Chapter 2, Montana Code Annotated.

(20) "Nosocomial outbreak" means an epidemic or suspected epidemic of nosocomial infections. A "nosocomial infection" means an infection originating in a health care facility.

(21) "Physician" means a person licensed to practice medicine in any jurisdiction in the United States or Canada.

(22) "Potential epidemic" means the presence or suspected presence of a communicable disease in a population where the number of susceptibles and the mode of transmission may cause further spread of that disease.

(23) "Quarantine" means limitation of freedom of movement for a period of time equal to the longest usual incubation period of the disease, specified in such a manner as to prevent effective contact with an unexposed person or animal.

(a) "Modified quarantine" means partial limitation of freedom of movement of exposed persons.

(24) "Reportable disease" means any communicable disease, the occurrence or suspected occurrence of which is required to be reported.

(25) "Surveillance" means review of person or animal to determine whether such person or animal has contracted a communicable disease.

(26) "Susceptible" means having no resistance against a disease and consequently liable to contract the disease if exposed.

(27) "Suspected case" means a person whose medical history and symptoms suggest that he may have or may be developing a communicable disease.

(28) "Terminal cleaning" means the cleaning of the personal clothing and immediate physical environment of the patient after the patient is no longer a source of infection.

(29) "Venereal disease" means syphilis, gonorrhea, chancroid, lymphogranuloma venereum, or granuloma inguinale.

RULE II LOCAL BOARD RULES A local board of health may adopt rules for the control of communicable diseases, if such rules are as stringent as and do not conflict with the requirements of this chapter.

Sub-Chapter 2 Reporting Requirements

RULE I REPORTERS (1) A person, including but not limited to a physician, dentist, nurse, medical examiner, other practitioner, administrator of a health care facility, public school superintendent, or headmaster or administrator of a private school, who knows or has reason to believe that a reportable disease exists shall report as required in

Rule II of this sub-chapter to a local health officer or the department.

(2) A person administering a clinical laboratory in which a laboratory examination of any specimen derived from the human body yields microscopic, cultural, immunological, serological, or other evidence indicative of a disease listed in subsection (2)(c) of this rule shall notify the local health department or the department.

(a) A notification must include the name, date and result of the test performed; the name and age of the person from whom the specimen was obtained; and the name and address of the physician for whom the test was performed. Notification may be by telephone, submission of a legible copy of the laboratory report, or submission of a department reporting form which may be obtained from the Preventive Health Services Bureau.

(b) A laboratory notification submitted in accordance with this rule is confidential and is not open to public inspection.

(c) The diseases subject to notification under subsection (2) of this rule are:

- Brucella
- Chancroid
- Diphtheria
- Gonorrhea
- Granuloma inguinale
- Hepatitis A or B
- Leptospirosis
- Lymphogranuloma venereum
- Rubella (non-immune persons only)
- Salmonellosis
- Shigellosis
- Syphilis
- Tuberculosis
- Typhoid or Paratyphoid Fever

or any other disease in Rule II, subsection(1), of this sub-chapter.

RULE II REPORTABLE DISEASES Reportable communicable diseases include:

(1) Category A diseases:

- Botulism, including Infant Botulism
- Cholera
- Diphtheria
- Measles
- Plague
- Poliomyelitis, paralytic
- Poliomyelitis, non-paralytic
- Rabies, Human
- Relapsing Fever (louse-borne)

Smallpox
Typhus (louse-borne)
Yellow Fever

Category A diseases also include an undiagnosed febrile illness in a person recently returning from a foreign country such as Ebola Hemorrhagic Fever, Lassa Fever, or Marburg Virus disease.

(a) A Category A disease must be reported within 6 hours of diagnosis to a local health officer followed by a written report submitted within 48 hours. The report must include the name, address, and telephone number of the infected person; the name, address, and telephone number of the reporter; and the name of the disease.

(2) Category B diseases:

Anthrax
Amebiasis
Brucellosis (Undulant Fever)
Encephalitis or Encephalomyelitis (post-infectious,
arthropod-borne, other or unspecified)
Giardiasis
Hepatitis, Type A (Infectious, Type B (Serum), Unspecified
Legionnaires' Disease
Leprosy
Leptospirosis
Malaria
Meningitis, Aseptic (viral)
Meningococcal Disease (Meningococcemia, Meningococcal
meningitis, or other illness)
Mumps
Ornithosis (Psittacosis)
Rabies, animal (species, county, date)
Rocky Mountain Spotted Fever (Tick-borne Typhus)
Rubella (German Measles)
Rubella, Congenital
Salmonellosis
Shigellosis (bacillary dysentery)
Tetanus
Trichinosis
Tuberculosis (including non-pulmonary and atypical)
Tularemia
Typhoid and Paratyphoid Fever
Whooping Cough-like illness (Pertussis)

(a) A Category B disease must be reported within 24 hours of diagnosis to a local health officer. The report must include the name of the infected person, the reporter, and the disease.

(3) Category C diseases:

Chickenpox
Epidemic Gastroenteritis
Epidemic Kerato-conjunctivitis

Food-borne
Influenza
Nosocomial
Pediculosis (lice)
Ringworm (Dermatophytosis)
Scabies
Streptococcal Infections (including Scarlet Fever and
"Strep Throat")
Suspected non-polio enteroviral infections
Swimmer's Itch (cutaneous larva migrans)
Water-borne
(a) Only an epidemic of a Category C disease must be
reported to a local health officer. A report may be made by
mail or telephone without identification of an infected
person. The department may request further information.
(4) Category D diseases:
Animal Bites
Bacterial Meningitis (other than meningococcal)
Colorado Tick Fever
Guillain-Barre Syndrome
Heavy metal poisoning (lead, cadmium, arsenic, phosphorus,
mercury, other)
Helminth infestations
Q-Fever
Reye's Syndrome
Rheumatic Fever (acute)
Subacute Sclerosing Panencephalitis (SSPE)
Typhus, murine
Viral exanthum in pregnant women
Exotic diseases (including but not limited to meliodosis,
histoplasmosis, echinococcosis, coccidioidomycosis, and
cryptococcus)
(a) An exotic disease must be reported within 24 hours
of diagnosis to a local health officer. The report must in-
clude the name of the infected person, the reporter, and the
disease.

Sub-Chapter 3
General Prohibitions

Rule I PUBLIC FOOD HANDLERS No infected person may
engage in any occupation involving the preparation, serving
or handling of food, including milk, to be consumed by
others than his immediate family, until a local health
officer determines him to be free of the infectious agent or
incapable of transmitting the infectious agent.

RULE II FUNERALS (1) A funeral service for a person
who died of a communicable disease listed in sub-chapter (2),
Rule II, subsections (1) and (2), must be conducted in accord-

ance with instructions of a local health officer.

(2) In a disease requiring quarantine of contacts, a funeral service open to the public may be permitted only if the casket remains closed and those contacts subject to quarantine who attend the funeral are segregated from the public, unless those contacts have been determined by a local health officer to be incapable of transmitting that infection or disease which caused the death.

RULE III TRANSPORTATION OF COMMUNICABLE DISEASE CASES

Neither an infected person with a communicable disease subject to isolation nor a contact subject to quarantine may travel or be transported from one location to another without the permission of a local health officer of the departure location and a local health officer of the arrival location, except when an infected person is to be admitted directly to a hospital for the treatment of the communicable disease, provided that a local health officer is satisfied that adequate precautions are taken to prevent dissemination of the disease by the infected person en route to the hospital.

RULE IV IMPORTATION OF DISEASE

No infected person liable to disseminate a communicable disease may be brought within the boundaries of the state without the permission of the department, and whenever a person knows or has reason to believe that an infected person has been brought within such boundaries, he shall report the name and location of such infected person to the department.

Sub-Chapter 4 Local Health Officer

RULE I DISEASE REPORTING

(1) A local health officer or his authorized representative shall report Category A diseases to the department in the manner required by Rule II, subsection (1)(a) of sub-chapter 2 of this chapter.

(2) A local health officer or his authorized representative shall report to the department once a week the number of cases or epidemics of each communicable disease reported to or observed by him and other information required by forms provided by the department.

(a) Each weekly report must be submitted to the department on the Monday following the week reported.

(b) Tuberculosis and venereal disease must be reported separately on forms provided by the department.

RULE II QUARTERLY REPORT

(1) The quarterly report required by section 50-2-118(1) (e), MCA, must contain the following information:

- (a) Total number of cases of each communicable disease reported during the quarter;
 - (b) Total number of case investigations for each disease (suspects plus diagnosed cases);
 - (c) Brief summary description of each epidemic investigation including the number of cases, source and mode of transmission, and all control measures implemented;
 - (d) One copy of each communicable disease rule or quarantine enacted by the local board of health during that quarter;
 - (e) Any recommendations for alteration of local or state policy, procedures, strategy, resources, or future action.
- (2) A quarterly report must be submitted to the department's preventive health services bureau on forms provided by the bureau.

RULE III INVESTIGATION OF A CASE (1) Upon being notified of a case, suspected case, or an epidemic of a communicable disease, a local health officer shall take whatever steps deemed appropriate and necessary for the investigation and control of the disease occurring within his jurisdiction. If he finds that the nature of the disease and the circumstances of the case or epidemic warrant such action, he shall make or cause to be made an examination of an infected person in order to verify the diagnosis, make an epidemiologic investigation to determine the source and possible spread of infection, and take appropriate steps to prevent or control the spread of disease.

(2) When a local health officer identifies the source of a communicable disease or a person who should be quarantined or placed under surveillance and the source or person is outside of his jurisdiction but within the state of Montana, he shall notify the department or the local health officer in whose jurisdiction the source or person is located. If the location of the source or person who should be quarantined or placed under surveillance is in another state or foreign country, the local health officer shall notify the department.

RULE IV POTENTIAL EPIDEMICS When a disease listed in sub-chapter 2, Rule II, subsection (4), exists or when any other communicable disease becomes so prevalent as to endanger a significant portion of the state, a local health officer shall notify the department and cooperate with the department's epidemiologist or his representative.

Sub-Chapter 5
Isolation, Quarantine, and Disinfection

RULE I STRICT ISOLATION (1) If a communicable disease requires strict isolation, a local health officer or the department shall issue appropriate instructions to an infected person and members of his household, defining the area of isolation and the measures to be taken to prevent the spread of the disease.

(2) Strict isolation shall include the following measures:

(a) An infected person must be isolated in a separate bed in a room protected against flies; and

(b) A person caring for an infected person must avoid coming in contact with any other person until every precaution required has been taken to prevent the spread of infectious material from the room of an infected person.

(c) A person caring for an infected person must wear a washable outer garment and must thoroughly wash his hands with soap and hot water after handling an infected person or any object an infected person may have contaminated. Before leaving the room of an infected person, a person caring for an infected person must remove the washable outer garment and hang it in the infected person's room until the garment or room is disinfected.

(d) All discharges from the nose and mouth must be burned or disinfected. These discharges should be received in pieces of soft tissue or cloth and dropped into a paper bag which must be burned.

(e) An object which may have been contaminated by an infected person must be thoroughly cleaned before it is removed from the infected person's room.

(f) Disposal of feces and urine of an infected person must be performed in accordance with the instructions of a local health officer.

RULE II MODIFIED ISOLATION (1) If a communicable disease requires modified isolation, a local health officer or the department shall issue appropriate instructions to the infected person and members of his household, defining the area of isolation and the measures to be taken to prevent the spread of disease.

(2) Modified isolation may include enteric precautions, respiratory isolation, wound and skin precautions, and discharge precautions.

RULE III QUARANTINE OF CONTACTS (1) If a communicable disease requires quarantine or modified quarantine of contacts, a local health officer or the department shall institute such quarantine measures necessary to prevent transmission,

specifying in writing the person or animal to be quarantined, the place to which it is quarantined, the frequency of observation, and the duration of the quarantine.

(2) A local health officer or the department shall provide for the medical observation of such contacts as frequently as necessary during the quarantine period.

RULE IV QUARANTINE OF PATIENT (1) If necessary to protect public health, a local health officer or the department may declare a specific area in which an infected person is located a place of quarantine. No person may enter or leave a place of quarantine during the period of quarantine without permission of the local health officer who declared the quarantine or the department.

(2) When a local health officer or the department declares a place of quarantine, an infected person must receive in writing a description of the place of quarantine, the length of the quarantine period, and the name and title of the person declaring the quarantine.

(3) A local health officer or the department may inspect the place of quarantine during the period of quarantine to determine compliance with the quarantine.

RULE V TERMINAL CLEANING A person released from quarantine or isolation shall bathe, wash his hair with soap and hot water, and use clean clothing. The area of isolation or quarantine must be disinfected in accordance with instructions of a local health officer.

Sub-Chapter 6 Specific Control Measures

RULE I MINIMAL CONTROL MEASURES This sub-chapter contains minimal control measures which must be employed by a local health officer or an attending physician.

RULE II AMEBIASIS (1) No isolation or quarantine is required for a case of amebiasis.

(2) A person excreting *Entamoeba histolytica* in the feces is subject to the prohibition in sub-chapter 3, Rule I, until 3 feces specimens, taken at intervals of not less than 3 days, are negative for the infectious agent.

RULE III ANTHRAX (1) For a case of anthrax, the attending physician or local health officer shall impose modified isolation until lesions are bacteriologically free of anthrax bacilli.

(2) Strict isolation, in accordance with sub-chapter 5, Rule I, must be imposed for an inhalation anthrax case.

(3) No quarantine of contacts is required.

RULE IV BOTULISM -- INFANT BOTULISM (1) No isolation or quarantine is required for a case of botulism.

(2) A local health officer shall make an immediate investigation of every case or suspected case of botulism in an effort to establish the diagnosis and determine the source. In the event that a commercial food product is suspected as the source, special instructions will be given by the department. The local health officer shall prevent distribution and consumption of the suspected food.

RULE V BRUCELLOSIS No isolation or quarantine is required for a case of brucellosis.

RULE VI CHOLERA Isolation through hospitalization may be required for a case of cholera, but strict isolation or quarantine is not mandatory.

RULE VII DIPHTHERIA (1) For a case of diphtheria, the attending physician or local health officer shall impose strict isolation of an infected person until 2 cultures, taken not less than 24 hours apart and not less than 24 hours after cessation of antimicrobial therapy, from nose and throat fail to show diphtheria bacilli except, that upon clinical recovery and when antibiotics have been used as therapy, modified isolation may be imposed instead of strict isolation.

(2) All household contacts must be placed under modified quarantine until nose and throat cultures are negative. All carriers must be treated unless medically contraindicated.

RULE VIII ENCEPHALITIS (1) No isolation or quarantine is required for a case of encephalitis.

RULE IX GIARDIASIS (1) No isolation or quarantine is required for a case of giardiasis.

RULE X GONOCOCCAL OPHTHALMIA NEONATORUM (1) For a case of gonococcal ophthalmia neonatorum, the attending physician or local health officer shall impose modified isolation until clinical recovery.

(2) The physician or other person attending the birth of a child shall administer a prophylactic solution into each conjunctival sac of the newborn within 4 hours of delivery. A 1.0 percent solution of silver nitrate, or another equally effective prophylactic solution must be used.

RULE XI HEPATITIS TYPE A (INFECTIOUS) (1) For a case of type A hepatitis, the attending physician or local health officer shall impose modified isolation until 3 days after the onset of jaundice.

(2) No quarantine of contacts is required.

RULE XII HEPATITIS TYPE B (SERUM) (1) For a case of type B hepatitis, the attending physician or local health officer shall impose modified quarantine for the duration of acute symptoms.

(2) No quarantine of contacts is required.

RULE XIII LASSA FEVER (1) The following measures are required for Lassa Fever, ebola hemorrhagic fever, Marburg virus disease.

(2) For a case of a disease listed in subsection (1) of this rule, the attending physician or the local health officer shall impose strict isolation in a hospital for not less than 3 weeks or until free from virus.

(3) Further instructions on isolation, collection, handling, and transport of laboratory specimens and management of exposed hospital and laboratory personnel shall be provided by the department in cooperation with the U.S. Public Health Service.

(4) A local health officer shall quarantine a contact according to instructions from the department in cooperation with the U.S. Public Health Service.

RULE XIV LEGIONNAIRES' DISEASE (1) No isolation or quarantine is required for a case of legionnaires' disease.

RULE XV LEPROSY (HANSEN'S DISEASE) (1) For a case of leprosy, the attending physician or local health officer shall impose modified isolation if he determines that the infected person is infectious. The degree of isolation must be determined by the local health officer, who must be advised by a physician specially qualified to manage this disease.

RULE XVI LEPTOSPIROSIS (1) No isolation or quarantine is required for a case of leptospirosis.

RULE XVII MALARIA (1) No isolation or quarantine is required for a case of malaria.

RULE XVIII MEASLES -- RUBEOLA (1) The provisions of this rule apply to measles, exclusive of quarantine measures contained in other rules for control of communicable diseases.

(2) Unless otherwise specified, for the purposes of this rule the following definitions apply:

(a) "Immunity" means immunity to measles, as demonstrated by:

(i) a school health record showing approved measles vaccine was administered:

(A) either in 1968 or later, or between 1966 and 1968

if the vaccine was a documented live virus vaccine; and

(B) after the first birthday, documented by the month, day and year of administration of the vaccine, except that only the month and year are necessary if the person was enrolled in any Montana school prior to August 1, 1980, or is a transferee into a Montana school from out-of-state.

(ii) a signed statement from a physician or his designee that the person has had measles disease, indicating the month, day, and year of diagnosis, except that only the month and year are necessary if the person was enrolled in any Montana school prior to August 1, 1980, or is a transferee into a Montana school from out-of-state.

(b) "Measles case" means a person suffering from measles, from 5 days before the onset of rash to 5 days after the onset of rash.

(c) "Susceptible contact" means any person not able to demonstrate immunity who is less than 21 years of age, and who has been exposed face-to-face to a measles case, or attends the same school as a case or rides the same school bus as a case.

(3) A local health officer or the department may impose isolation or quarantine based on the diagnosis of measles in one or more persons as confirmed by a physician. If isolation or quarantine is imposed, the local health officer shall post public notice of the effective date of the isolation or quarantine and make immunizations available, free of charge to extent of his resources, upon request.

(a) A measles case must be isolated to his residence for no less than 5 days following the onset of rash. The movements of other household contacts in or out of the residence are not restricted unless they are susceptible contacts. The local health officer shall advise the household contacts where the measles case is isolated to warn a person who is not immune against measles against entering the residence.

(b) A susceptible contact must be quarantined in his residence for no less than 14 calendar days after his last exposure to measles, whether face-to-face with a measles case or by attendance at school or school-sponsored activities. The movements of any other person in or out of the residence is not restricted.

(c) A susceptible contact may be released from quarantine to receive immunization against measles, and may return to school and school-sponsored activities after having received measles immunization from a physician or local health officer and having submitted written documentation of such immunization to the school in accordance with the provisions of ARM 16-2.18(10)-S18070 through 16-2.18(10)-S18082.

(4) If a school with a measles case allows a susceptible contact who receives immunization to attend classes, no

(2) Hand cleansing soap or detergent and individual towels must be available at each lavatory in the facility. A waste receptacle must be located near each lavatory.

(3) A health care facility shall develop and follow a written infection control surveillance program describing the procedures to be utilized by the entire facility and staff in the identification, investigation and mitigation of infections acquired in the facility.

RULE XI MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES -- DISASTER PLAN (1) A health care facility shall develop a disaster plan in conjunction with other emergency services in the community which must include a procedure to be followed in the event of a natural or man-caused disaster.

(2) A health care facility shall conduct a drill of such procedure at least once a year. After a drill, a health care facility shall prepare and retain on file a written report including, but not limited to, the following:

- (a) Date and time of the drill;
- (b) The names of staff involved in the drill;
- (c) The names of other health care facilities, if any, which were involved in the drill;
- (d) The names of other persons involved in the drill;
- (e) A description of all phases of the drill procedure and suggestions for improvement; and
- (f) The signature of the person conducting the drill.

RULE XII MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES -- WRITTEN POLICY AND PROCEDURE (1) A written policy and procedure for all services provided in a health care facility must be available to all personnel.

RULE XIII MINIMUM STANDARDS FOR A HOSPITAL -- GENERAL REQUIREMENTS A hospital shall comply with the Conditions of Participation for Hospitals as set forth in 42 CFR 405, Subpart J. A copy of the cited rule is available at the department.

RULE XIV MINIMUM STANDARDS FOR A HOSPITAL -- CORONARY CARE UNIT If a hospital provides a coronary care unit, the unit shall comply with the following requirements:

- (1) When a patient is cared for in a coronary care unit, a licensed registered nurse shall be on duty.
- (2) At a minimum, the following equipment and supplies must be available in a coronary care unit:
 - (a) Oxygen, oxygen and suction apparatus
 - (b) Defibrillator, resuscitator and respirator
 - (c) Emergency drugs
 - (d) Oscilloscope
 - (e) Heart-rate meter with an alarm system

RULE VI MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES -- BLOOD BANK AND TRANSFUSION SERVICES (1) A health care facility shall comply with the requirements set forth in "Standards for Blood Banks and Transfusion Services," Ninth Edition (1978), published by the American Association of Blood Banks, and subsequent editions. A copy of the cited edition is available at the department.

RULE VII MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES -- COMMUNICABLE DISEASE CONTROL (1) Each employee of a health care facility shall provide documentation by a physician that he is free from communicable disease prior to the time of employment and annually thereafter.

(2) At time of admission and annually thereafter, a patient admitted to or residing in a long-term care facility shall provide documentation by a physician that he is free from communicable disease.

RULE VIII MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES -- MEDICAL RECORDS (1) A health care facility shall initiate and maintain by storing in a safe manner and in a safe location a medical record for each patient and resident.

(2) A health care facility, excluding a hospital, shall retain a patient's or resident's medical records for no less than 5 years following the date of the patient's or resident's discharge or death.

(3) A medical record may be microfilmed if the health care facility has the equipment to reproduce records on the premises.

(4) A signature of a physician may not be stamped on a medical record unless there is a statement in the facility administrator's or manager's file signed by the physician stating that the physician is responsible for the content of any document signed with his rubber stamp.

RULE IX MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES -- PHYSICAL PLANT AND EQUIPMENT MAINTENANCE (1) Each facility shall have a written maintenance program describing the procedures to be utilized by maintenance personnel to keep the building and equipment in repair and free from hazards.

(2) A health care facility shall provide housekeeping services on a daily basis.

(3) All electrical, mechanical, plumbing, fire protection, heating and sewage disposal systems must be kept in operational condition.

RULE X MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES -- ENVIRONMENTAL CONTROL (1) A health care facility shall take protective measures against the presence of insects and rodents.

ship, or association; or the name and address of each officer if a corporation;

(ii) The location of the facility;

(iii) The name of the person or persons who will administer, manage or supervise the facility;

(iv) The number and type of patients or residents for which care is provided;

(v) The number, experience and training of employees in the health care facility;

(vi) A copy of the contract, lease agreement or other document indicating the person legally responsible for the operation of the health care facility if the health care facility is operated by a person other than the owner; and

(vii) Designated name of health care facility to be licensed.

(A) The designated name of the health care facility may not be changed without first notifying the department in writing.

(c) Each application form must be accompanied by the applicable license fee:

(i) \$20 license fee for a health care facility with 20 beds or less;

(ii) \$1 per bed for a health care facility with 21 beds or more.

(d) The owner or operator of a health care facility shall sign the completed license application form.

(2) On receipt of a new or renewal license application, the department or its authorized agent shall inspect the health care facility to determine if the proposed staff is qualified and the facility meets the minimum standards set forth in this sub-chapter. If minimum standards are met and the proposed staff is qualified, the department shall issue a license for one year.

(a) A patient or resident may not be admitted or cared for in a health care facility unless the facility is licensed.

(b) Licensed premises must be open to inspection by the department or its authorized agent and access to all records must be granted to the department at all reasonable times.

(c) The department may issue a provisional license for a period less than one year if continued operation of the health care facility will not result in undue hazard to patients or residents or if demand for the accommodations offered is not met in the community.

RULE V MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES--
FOOD SERVICE ESTABLISHMENTS (1) A health care facility which serves food or beverage to patients or residents shall comply with the food service establishment act, Title 50, Chapter 50, MCA, and food service establishments rule, ARM 16-2.14(2)-514215.

(B) Structural drawings must include plans for foundations, floors, roofs and all intermediate levels with sizes, sections and the relative location of the various structural members.

(C) Mechanical drawings must include plans for plumbing, heating, ventilation, air conditioning and refrigeration.

(D) Electrical drawings must include the complete power and lighting layout of all electrical systems to be included in the construction and must include telephone layouts, nurse call system, fire alarm system and the emergency electrical system.

(c) Specifications must supplement the working drawings to fully describe types, sizes, capacities, workmanship, finishes and other characteristics of all materials and equipment.

(d) All plans and specifications must be certified by an engineer or architect licensed to practice in Montana and the certification must state that the plans and specifications are prepared in accordance with the requirements of this subchapter.

(2) A person who contemplates an alteration or addition to a health care facility which does not qualify as a new institutional health service shall submit plans to the department for preliminary inspection and approval prior to commencing construction and shall comply with the following procedures.

(a) A person who contemplates an addition to an existing health care facility shall comply with the requirements set forth in section (1) of this rule.

(b) If an alteration to a health care facility is contemplated, a program and schematic plans shall be submitted to the department at least 6 months prior to commencing construction of the alteration. Within 30 days after this submittal, the department may request a person to comply with the requirements set forth in Rule III (1)(b).

(c) The department's approval of an alteration or addition shall terminate one year after issuance.

RULE IV LICENSING -- PROCEDURE FOR OBTAINING A LICENSE --
ISSUANCE AND RENEWAL OF A LICENSE (1) A person shall comply with the following procedures when applying to the department for a license:

(a) A person shall submit a completed license application form to the department, at least 30 days prior to the opening of a facility and annually thereafter. A person can obtain a license application form from the department.

(b) A completed license application form must contain the following information.

(i) The name and address of the applicant if an individual; the name and address of each member of a firm, partner-

RULE III SUBMISSION OF PLANS AND SPECIFICATIONS -- A NEW INSTITUTIONAL HEALTH SERVICE -- ALTERATION OR ADDITION TO A HEALTH CARE FACILITY

(1) A person who contemplates construction of a new institutional health service shall submit plans and specifications to the department for preliminary inspection and approval prior to commencing construction and shall comply with the following procedures.

(a) At least 9 months prior to the time a person commences construction, he shall submit a program and schematic plans to the department.

(i) The program must include the following:

(A) A narrative description of the rooms or spaces to be included in each department, explaining the functions or services to be provided in each, indicating the size, the number of personnel and the kind of equipment or furniture it will contain.

(B) For inpatient facilities, a schedule showing total number of beds and number of bedrooms.

(ii) The schematic plans must include the following.

(A) Single line drawings of each floor which must show the relationship of the various departments or services to each other and the room arrangement in each department. The name of each room must be noted.

(B) The proposed roads and walks, service and entrance courts, and parking must be shown on the plot plan.

(C) Total floor area and number of beds must be noted on the plans.

(b) At least 3 months prior to the time a person commences construction, he shall submit working drawings and specifications to the department.

(i) The working drawings must be complete and adequate for bid, contract and construction purposes and must be prepared for each of the following branches of the work: architectural, structural, mechanical and electrical.

(A) Architectural drawings must include a plot plan showing all new topography, newly established levels and grades, any existing structures on the site, new buildings and structures, roadways, walks and the extent of the areas to be seeded. Any structures and improvements which are to be removed as part of the work must be shown. A print of the site survey drawing must be included with the working drawings. The architectural drawings must also include the following:

(I) Plan of each basement, floor and roof.

(II) Elevations of each facade.

(III) Sections through building.

(IV) Required scale and full-size details.

(V) Schedule of doors and finishes.

(VI) Location of all fixed equipment.

(VII) Adequate details of any conveying system.

(2) "Communicable disease" means an illness due or suspected to be due to a specific infectious agent or its toxic products, which results from transmission of that agent or its products to a susceptible host directly or indirectly, and includes a dangerous communicable disease.

(3) "Coronary care unit" means an area within the hospital where there is a concentration of physicians, nurses, and other staff who have special skills and experience in providing care for critically ill cardiac patients.

(4) "Diagnostic" means the art, science or method of distinguishing signs or symptoms of a diseased condition.

(5) "Hospitalization" means being hospitalized or admitted to a hospital.

(6) "Hospital record" means written records of admissions, discharges, total patient days, register of operations performed and outpatients treated.

(7) "Inpatient" means a patient lodged and fed in a facility while receiving treatment.

(8) "Intensive care unit" means an area within the hospital where there is a concentration of physicians, nurses, and other staff who have specialized skills and experience in providing care for critically ill medical and surgical patients.

(9) "Manager" means the individual responsible for the day-to-day operation of a health care facility, excluding a hospital, skilled or intermediate care facility.

(10) "Medical record" means a written document which is complete, current and contains sufficient information for planning a patient's or resident's care, reviewing and evaluating care rendered, evaluating a patient's or resident's condition, and for providing a means of communication among all persons providing care.

(11) "Obstetrical service" means an area within the hospital which provides care for a maternity patient including but not limited to labor, delivery and postpartum care.

(12) "Outpatient" means a patient receiving treatment at a facility without being an inmate.

(13) "Supervise" means to oversee and direct staff by being present in the health care facility.

RULE II MINIMUM STANDARDS OF CONSTRUCTION FOR A LICENSED HEALTH CARE FACILITY -- ADDITION, ALTERATION OR NEW CONSTRUCTION -- GENERAL REQUIREMENTS

(1) A health care facility licensed as of the effective date of this rule, and the construction of, alteration or addition to a facility shall comply with all standards set forth in "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" Publication No. (HRA) 79-14500 and subsequent editions, except that a facility already licensed under the "Life Safety Code 1967" published by the National Fire Protection Association (21st edition), is not required to comply with later editions of the Life Safety Code. Copies of the cited editions are available at the department.

(2) A patient or resident may not be admitted, housed, treated or cared for in an addition or altered area until inspected or in new construction until licensed.

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

In the matter of the repeal	)	NOTICE OF PUBLIC HEARING
of rules relating to	)	FOR REPEAL OF RULES
licensing and construction	)	RELATING TO LICENSING AND
of hospitals and related	)	CONSTRUCTION OF HOSPITALS
facilities (ARM 16-2.22(1)-	)	AND RELATED MEDICAL
S2200 through ARM 16-2.22(2)-	)	FACILITIES AND ADOPTION OF
S2261) and the adoption of	)	RULES RELATING TO
rules relating to licensing	)	LICENSING AND CONSTRUCTION
and construction of health	)	OF HEALTH CARE FACILITIES
care facilities)	

TO: All Interested Persons

1. On May 15, 1980, at 9:00 a.m., a public hearing will be held at the Hospital-Medical Facilities Conference Room, 836 Front Street, Helena, Montana, to consider the repeal of rules relating to licensing and construction of hospitals and related medical facilities and the adoption of new, more concise rules on licensing and construction, alteration and addition to health care facilities.

2. The rules the department proposes to repeal are set forth in paragraph 3 below and can be found on pages 16-448 through and including 16-671.5 of the Administrative Rules of Montana.

3. The department proposes to repeal rules 16-2.22(1)-S2200--Hospitals, Licensing and Certification; 16-2.22(1)-S2210--Mental Health and Retardation Facilities, Licensing and Certification; 16-2.22(1)-S2220--Long-Term Care Facilities, Licensing and Certification; 16-2.22(1)-S2221--Community homes for the Developmentally Disabled, Licensing; 16-2.22(1)-S2222--Licensure of Infirmary; 16-2.22(1)-S2223--Licensure of Out-patient Facilities; 16-2.22(1)-S2230--Facility Pharmacy Rule; 16-2.22(2)-S2235--State Plan; 16-2.22(2)-S2240--Hospitals, Construction; 16-2.22(2)-S2250--Mental Health and Retardation Facilities, Construction; 16-2.22(2)-S2260--Long-Term Care Facilities, Construction; 16-2.22(2)-S2261--Outpatient Facilities and Infirmarys, Construction, because the department is proposing to adopt by reference federal regulations governing maintenance, operation and construction for many health care facilities in new and shorter rules. The proposed rules provide as follows:

RULE I DEFINITIONS

(1) "Administrator" means the individual responsible for the day-to-day operation of a hospital, skilled or intermediate care facility.

RULE IV PROHIBITIONS (1) A dead human body may not be transported unless it is accompanied by a burial-transit permit. The permit must be enclosed in a strong envelope and attached to the shipping container containing the body.

(2) A disinterred human body may not be accepted for transportation unless the remains are enclosed in an air-tight container.


RULE V DUTY OF LOCAL REGISTRAR (1) A local registrar may not issue a burial-transit permit for transport of a dead human body unless the rules of this chapter have been satisfied.

4. The department of health and environmental sciences is proposing these rules to protect public health by providing for reporting and methods of control of communicable diseases that meet the standards of current, preferred medical and public health practice, and for embalming and transportation precautions in relation to dead human bodies.

5. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Robert L. Solomon, presiding officer, Department of Health and Environmental Sciences, Cogswell Building, Room A206, Helena, Montana, 59601, no later than May 27, 1980.

6. Robert L. Solomon, address noted above, has been designated to preside over and conduct the hearing.

7. The authority of the department to make the proposed rules is based on sections 50-1-202, 50-2-116, 50-2-118, 50-17-103, 50-17-105, and 50-18-705, MCA, and the rules implement sections 50-1-202, 50-2-116, 50-2-118, 50-17-103, 50-17-105, 50-18-102, 50-18-106, 50-18-107, and 50-18-108, MCA.


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

Certified to the Secretary of State April 15, 1980

and any other undiagnosable febrile disease occurring shortly after returning from international travel;

(e) communicable pulmonary tuberculosis, as determined by a local health officer.

(7) "Transport" means to carry a dead human body from one location to another.

RULE II DEATH FROM A SPECIFIED COMMUNICABLE DISEASE

(1) When a person dies or is suspected of dying of a specified communicable disease, the attending physician must notify a local health officer and the department of the death. The local health officer or the department must determine whether or not further examination of the body is necessary to establish the cause of death within reasonable medical certainty.

(2) As soon as reasonably possible following death or further examination required by a local health officer or the department, a human body dead of specified communicable disease must be embalmed. If embalming cannot be performed at the place of death, a local health officer or the department must be contacted for instructions on precautions to be observed in transporting the body to the place of embalming.

RULE III TRANSPORTATION OF DEAD HUMAN BODIES (1) No embalmed human body dead of a specified communicable disease may be transported unless enclosed in a casket or equivalent suitable container.

(2) A human body dead of a cause other than a specified communicable disease, being transported by common carrier, must be placed in a casket or equivalent suitable container. If such body is en route more than 8 hours, or if the termination of common carrier transport occurs more than 36 hours after the time of death, the body must be embalmed, refrigerated at 35 degrees F. or colder, or otherwise treated prior to transport so as to prevent or substantially retard decomposition and the resultant effluents and odors.

(3) When a human body dead of a cause other than a specified communicable disease is being transported by a private conveyer and the body will not reach its destination within 48 hours, the body must be embalmed, refrigerated at 35 degrees F. or colder, or otherwise treated so as to prevent or substantially retard decomposition and the resultant effluents and odors.

(a) Minimum requirements for transport under subsection (3) of this rule shall be a transporting cot or stretcher and a proper covering.

Sub-Chapter 11
Venereal Diseases

RULE I CHANCROID (SOFT CHANCER) (1) No isolation or quarantine is required for a case of chancroid.

RULE II GONOCOCCAL DISEASE (1) These measures are required for genital and non-genital disease including pelvic inflammatory disease.

(2) Modified isolation must be imposed for the first 24 hours after administration of an antibiotic. No quarantine is required.

RULE III GRANULOMA INGUINALE (1) No isolation or quarantine is required for a case of granuloma inguinale. Contact with lesions must be avoided until after lesions are healed.

RULE IV LYMPHOGRANULOMA VENEREUM (1) No isolation or quarantine is required for a case of lymphogranuloma venereum. Sexual contact must be avoided until after lesions are healed.

RULE V SYPHILIS (1) The attending physician or local health officer shall impose modified isolation for a case of infectious syphilis. No quarantine is required.

CHAPTER 20

DEAD HUMAN BODIES -- EMBALMING AND TRANSPORTATION

RULE I DEFINITIONS For the purpose of this chapter, the following definitions apply:

(1) "Common carrier" means a person or legal entity transporting a dead human body for compensation, including railroads, airlines, or other public transportation.

(2) "Department" means the department of health and environmental sciences.

(3) "Destination" means a cemetery, or a crematorium, or other place of ultimate disposition.

(4) "Local health officer" means a county, city, city-county, or district health officer appointed by a local board of health.

(5) "Private conveyer" means one who transports a dead human body, including but not limited to, a mortuary or ambulance service.

(6) "Specified communicable disease" means one of the following diseases:

- (a) smallpox
- (b) cholera
- (c) pneumonic plague
- (d) lassa fever, ebola fever, Marburg virus disease,

and an evaluation within 4 weeks of commencing employment to ascertain whether or not he has any of the following conditions:

- (i) evidence of current or inadequately treated healed tuberculosis disease,
- (ii) history of close exposure to a case of communicable pulmonary tuberculosis within the previous 2 years,
- (iii) history of a negative tuberculin test within the previous 2 years,
- (iv) severe or poorly controlled diabetes mellitus,
- (v) disease associated with severe immunologic deficiencies (i.e., cancer, Reticuloendothelial disease),
- (vi) immunosuppressive therapy (i.e., corticosteroids, ACTH, cytotoxins),
- (vii) silicosis, gastrectomy or heavy alcohol intake.

(b) If any of the conditions listed in subsection (3)(a) of this rule except current disease are present, the employee must be counseled that he is at relatively high risk of developing tuberculosis disease and that he should complete one year of isoniazid chemoprophylaxis if he has not already done so, unless medically contraindicated. If the employee has current tuberculosis disease, he must complete a course of chemotherapy with at least 2 anti-tuberculosis drugs as prescribed by a physician.

(c) Further surveillance is not required of a tuberculin positive employee with any condition listed in subsection (3)

(a) of this rule who completes one year of isoniazid chemoprophylaxis or adequate anti-tuberculosis chemotherapy if indicated.

(d) A tuberculin positive employee with any of the conditions listed in subsection (3)(a) of this rule who does not complete one year of isoniazid chemoprophylaxis, with the exceptions mentioned in subsection (3)(c) of this rule, must have a chest X-ray annually during this period of employment.

(e) A tuberculin positive employee with none of the conditions listed in subsection (3)(a) of this rule or with a history of close exposure to a case of communicable pulmonary tuberculosis within the previous 2 years or a history of a negative tuberculin test within the previous 2 years may be released from further routine tuberculosis surveillance activities following completion of one year of isoniazid chemoprophylaxis or following 3 negative yearly chest X-rays.

(4) An employee subject to the provisions of this rule with a positive tuberculin test should be referred to his physician immediately if he develops symptoms of pulmonary tuberculosis.

(5) A contact investigation must be conducted by a local health officer of employees of an institution or day care facility as defined in subsection (1) of this rule if such employees have been exposed to a case of communicable tuberculosis.

- (a) a tuberculin skin test,
 - (b) a chest X-ray, and
 - (c) history and physical examination by a physician.
- (4) A tuberculin skin test shall be conducted as follows:

(a) an intra-dermal injection of 0.0001 milligrams (5 tuberculin units) in 0.10 cubic centimeters (cc) of sterile diluent, and

(b) a recordation of the size of the palpable induration in millimeters (mm) no less than 48 nor more than 72 hours following injection.

(i) A positive reaction is one in which the induration is not less than 10 mm.

(ii) A negative reaction is one in which the induration is not present or, if present, less than 5 mm.

(5) A variation of the test described in subsection (4) of this rule may be used to satisfy the requirements of subsection (3) of this rule if the variation is approved by a local health officer or the department.

RULE IV ATTAINMENT OF NONCOMMUNICABILITY (1) An infected person is noncommunicable to the public when 3 consecutive negative smears of sputum are obtained following reduction in the number of acid-fast organisms in smears which were collected on separate days in accordance with current laboratory standards.

(2) Extrapulmonary tuberculosis is generally considered noncommunicable to the public if drainage from the extrapulmonary site is being disposed of in a sanitary manner and chemotherapy is being supervised by a physician.

RULE V EMPLOYEE -- SCHOOLS -- DAY CARE FACILITY

(1) A person employed in a public or private institution for the teaching of individuals, the curriculum of which is comprised of the work of any combination of kindergarten through grade 12, or in a day care facility as defined in section 53-4-401, MCA, must receive tuberculin testing within 2 weeks of commencing employment unless the person is a known tuberculin reactor.

(2) If the employee's tuberculin test is negative, he must receive another test within no less than 2 nor more than 3 months following the initial tuberculin test. If both tuberculin tests are negative, the employee need not receive further routine tuberculin testing unless he has frequent or close exposure to a person with a communicable pulmonary tuberculosis.

(3) (a) If the tuberculin test is positive or if the employee is a known positive tuberculin reactor and has not had adequate chemotherapy, he must have a chest X-ray

Sub-Chapter 10
Tuberculosis Control

RULE I ISOLATION (1) For a case of communicable tuberculosis, the attending physician or local health officer shall impose modified isolation as indicated by Rule II of sub-chapter 5 of this chapter until the infected person is noncommunicable. No quarantine of contacts is required.

RULE II TUBERCULOSIS -- COMMUNICABLE STATE A person has communicable tuberculosis if one of the following conditions exist:

(1) The diagnosis of pulmonary tuberculosis has been established by the demonstration of M. tuberculosis in sputum, gastric washings, bronchial washings or pulmonary tissue by culture.

(2) When a positive smear for acid-fast-bacilli has been demonstrated in body tissues or secretion and clinical findings are consistent with the diagnosis of tuberculosis until such time that the physician of the infected person presents evidence acceptable to the department that no growth was obtained by culture of the specimen which was positive on the smear or that the organisms cultured are mycobacteria other than M. tuberculosis.

(3) A chest X-ray shows changes characteristic of tuberculosis until proven not to be tuberculosis by a negative tuberculin test or by bacteriologic or other appropriate studies.

(4) Anti-tuberculosis drugs are being administered and the infected person has not as yet achieved bacteriologic negativity.

(5) Anti-tuberculosis drugs have been discontinued or taken irregularly during the prescribed period of therapy for active tuberculosis.

RULE III DIAGNOSIS (1) Examination of body tissues or secretions by microscopy and culture by a laboratory is required to establish the diagnosis of tuberculosis. It is recommended that at least 3 sputa or gastrics, or urines be negative for M. tuberculosis to rule out active disease. The growth of a single colony of M. tuberculosis is diagnostic.

(2) A person being treated, or recommended for treatment, with 2 or more anti-tuberculosis drugs by a physician, is considered a case of communicable tuberculosis for the purposes of this sub-chapter.

(3) A minimal examination for communicable tuberculosis shall include:

(b) It has bitten a person but is not known to be satisfactorily vaccinated against rabies, as specified in ARM 32-2.6A-S6490 and belongs to a species shown to have a significant rate of rabies infection in surveillance specimens.

(2) An animal is considered in close contact or to have been in close contact with an animal suspected of having rabies when it has:

(a) within the past 180 days, been bitten by an animal known to be rabid, belonging to a species shown to have a significant rate of rabies infection in surveillance specimens, or suspected of rabies as described in subsection (1) of this rule.

RULE II ISOLATION OR DISPOSITION OF ANIMALS (1) After biting a person, any dog or cat, except for one that is satisfactorily vaccinated, which is suspected of rabies or having been in close contact with a rabid animal, shall be isolated under the observation of a licensed veterinarian, or by a person designated by the local health officer, for a minimum of 10 days, following the infliction of the bite.

(2) The head of an animal, in one of the following categories, except a dog or cat, must be submitted immediately to the veterinary diagnostic laboratory for examination rather than maintaining the animal alive for a period of observation:

(a) An animal suspected of rabies or having been in close contact with an animal suspected of rabies which is known not to be satisfactorily vaccinated for rabies and has bitten any person.

(b) A bat, coyote, fox, raccoon, skunk or any wild animal that has bitten a person.

(3) Notwithstanding subsection (1) of this rule, when an animal that has not been satisfactorily vaccinated against rabies has inflicted a severe, unprovoked bite to the face, head, or neck of a person, the local health officer must be notified immediately and after the health officer's consultation with the department, a health officer may require the animal to be destroyed immediately in a manner that will preserve the whole head intact. In the event the animal is not destroyed, the department may require the local health officer to quarantine the animal.

RULE III ANIMAL CONTACTS Any animal subject to rabies which has been bitten by a known rabid or suspected rabid animal shall be quarantined in accordance with ARM 32-2.6A (102)-S6490.

RULE XXXV TULAREMIA (1) No isolation or quarantine is required for a case of tularemia.

RULE XXXVI TYPHOID FEVER (1) The provisions of this rule apply to all forms of typhoid fever including paratyphoid fever.

(2) The attending physician or local health officer shall impose modified quarantine until no fewer than 2 successive authentic specimens of feces taken at an interval of at least one week, and no less than one week after discontinuation of specific therapy, have been found negative for typhoid organisms.

(3) The local health officer may not allow an infected person to engage in any occupation involving the preparation, serving or handling of food, including milk, for consumption by individuals other than his immediate family until modified isolation has been terminated in accordance with subsection (2) of this rule.

(4) No quarantine is required.

RULE XXXVII TYPHUS FEVER -- FLEA-BORNE -- LOUSE-BORNE

(1) For a case of typhus fever, the attending physician or local health officer shall impose modified quarantine for the duration of the illness.

(2) For flea-borne typhus fever, quarantine is not required.

(3) For louse-borne typhus fever, a local health officer shall impose modified quarantine of household contacts until each person is free of lice and louse eggs.

RULE XXXVIII YELLOW FEVER (1) No isolation or quarantine is required for a case of yellow fever.

Sub-Chapter 9
Rabies Control

RULE I SUSPECTED RABIES -- CLOSE CONTACT (1) An animal is suspected of having rabies when:

(a) It is not known to be satisfactorily vaccinated against rabies as specified in ARM 32-2.6A-S6490 and exhibits one or more of the following:

(i) Unprovoked biting of a person or another animal (including others than defined herein);

(ii) Paralysis or partial paralysis of the limbs;

(iii) Marked excitation, muscle spasms, difficulty swallowing, apprehensiveness, delirium, or convulsions;

(iv) Unusual aggressive or unnatural behavior toward a person, animal (including others than defined herein), or inanimate object.

negative for Salmonella organisms.

(4) Any person continuing to harbor Salmonella organisms one year after onset of illness is a chronic carrier. Any person who gives no history of having had Salmonellosis or who had the illness more than one year previously, who is found to harbor Salmonella organisms on 2 successive authentic specimens taken at least 48 hours apart is also a chronic carrier.

(5) Chronic carriers of Salmonella, other than the typhoid bacillus, must be restricted at the discretion of the local health officer.

(6) No quarantine of contacts is required.

RULE XXXI SHIGELLOSIS -- BACILLARY DYSENTERY (1) For a case of shigellosis or bacillary dysentery, the attending physician or local health officer shall impose modified isolation for the duration of the illness.

(2) A local health officer must not allow an infected person to engage in any occupation involving the preparation, serving, or handling of food, including milk, to be consumed by individuals other than his immediate family, nor to engage in any occupation involving the care of children until 2 successive authentic specimens of feces taken at an interval of not less than one week, beginning at least one week after cessation of specific therapy, have been determined to be free of Shigella organisms.

(3) No quarantine is required.

RULE XXXII SMALLPOX (1) For a case of smallpox, the attending physician or local health officer shall impose strict isolation in a hospital, until the scabs have separated and the scars completely healed.

(2) A local health officer shall quarantine a household or casual contact for at least 16 days after last exposure, except that the local health officer may, when the infected person is properly isolated, release from quarantine a person who shall submit to vaccination against smallpox and prove to the satisfaction of the local health officer that the vaccination is successful, or provides other evidence of protection against smallpox which satisfies the local health officer. Persons shall remain in quarantine until released by the local health officer.

RULE XXXIII TETANUS (1) No isolation or quarantine is required for a case of tetanus.

RULE XXXIV TRICHINOSIS (1) No isolation or quarantine is required for a case of trichinosis.

RULE XXV POLIOMYELITIS (1) For a case of poliomyelitis, the attending physician or local health officer shall impose modified isolation for 7 days from the onset of illness, or for the duration of fever, if longer.

(2) No quarantine is required.

RULE XXVI RABIES--HUMAN (1) For a case of human rabies, the attending physician or local health officer shall impose strict isolation for the duration of the illness.

(2) no quarantine is required.

RULE XXVII RELAPSING FEVER -- TICK-BORNE -- LOUSE-BORNE

(1) No isolation or quarantine is required for tick-borne relapsing fever.

(2) For louse-borne relapsing fever, the attending physician or local health officer shall impose modified isolation, until the infected person's hair, body and clothes are free of lice and louse eggs.

(3) For louse-borne relapsing fever, a local health officer shall impose modified quarantine on the household contacts until each household contact is free of lice and louse eggs.

RULE XXVIII ROCKY MOUNTAIN SPOTTED FEVER (1) No isolation or quarantine is required for a case of rocky mountain spotted fever.

RULE XXIX RUBELLA -- CONGENITAL RUBELLA (1) For a case of rubella, the attending physician or local health officer shall impose modified isolation for congenitally infected persons for the duration of hospitalization.

(2) No quarantine is required.

RULE XXX SALMONELLOSIS (OTHER THAN TYPHOID FEVER)

(1) Any illness in which organisms of the genus *Salmonella*, except the typhoid bacillus, have been isolated from feces, blood, urine, or pathological material shall be reported as a *Salmonella* infection.

(2) The attending physician or local health officer shall impose modified isolation for the duration of the illness.

(3) A local health officer may not allow an infected person to engage in any occupation involving the preparation, serving or handling of food, including milk, to be consumed by others than his immediate family, nor to engage in any occupation involving the care of children, until 2 successive authentic specimens of feces taken at an interval of not less than one week, beginning at least one week after cessation of specific therapy, have been determined by a laboratory to be

student of that school may participate in an interscholastic event for 14 calendar days following the date of immunization of the susceptible-contact student.

RULE XIX ASEPTIC MENINGITIS -- VIRAL MENINGITIS

(1) No isolation or quarantine is required for a case of aseptic or viral meningitis.

RULE XX MENINGOCOCCAL MENINGITIS -- MENINGOCOCCEMIA

(1) For a case of meningococcal meningitis or meningococcemia, the attending physician or local health officer shall impose modified isolation until 24 hours after the initiation of antibiotic chemotherapy.

(2) A local health officer shall impose surveillance on the household and other intimate contacts for a minimum of 3 days from the diagnosis of the case.

RULE XXI MUMPS (1) For a case of mumps, the attending physician or the local health officer shall impose modified isolation until the fever and swelling of the salivary glands have disappeared.

(2) No quarantine is required.

RULE XXII PSITTACOSIS (ORNITHOSIS) (1) For a case of psittacosis, the attending physician or the local health officer shall impose modified isolation as long as the fever lasts.

(2) No quarantine is required.

RULE XXIII PERTUSSIS (WHOOPIING COUGH) (1) For a case of pertussis, the attending physician or local health officer shall impose modified isolation for 7 days after start of antibiotic therapy, or 21 days after diagnosis if no antibiotic therapy is given.

(2) No quarantine is required.

RULE XXIV PLAGUE (1) For a case of plague, the attending physician or local health officer shall impose strict isolation for the pneumonic form of plague for no less than 2 days following commencement of antibiotic therapy, if the infected person responds to treatment.

(2) The attending physician or local health officer shall impose modified isolation for bubonic form of plague until antibiotic therapy has been terminated and the lesion is bacteriologically negative for plague bacilli.

(3) No quarantine is required.

(f) An electrocardiograph which is activated simultaneously with the alarm system and which may also be activated manually or at predetermined intervals

(g) External pacemaker.

RULE XV MINIMUM STANDARDS FOR A HOSPITAL -- INTENSIVE CARE UNIT If a hospital provides an intensive care unit, the unit shall comply with the following requirements:

- (1) When a patient is cared for in an intensive care unit, a licensed registered nurse shall be on duty.
- (2) At a minimum, the following equipment and supplies must be available in an intensive care unit:
 - (a) Oxygen, oxygen and suction apparatus
 - (b) Defibrillator, resuscitator and respirator
 - (c) Emergency drugs.

RULE XVI MINIMUM STANDARDS FOR A HOSPITAL -- OBSTETRICAL SERVICES If a hospital provides obstetrical services, the hospital shall comply with the following requirements:

- (1) Obstetrical services must be under the supervision of a licensed registered nurse on a 24-hour basis.
- (2) A maternity patient shall only be placed in a room with other maternity patients. The use of maternity rooms for other than maternity patients shall be restricted to non-infected gynecological and surgical patients. A maternity patient with infection shall be isolated in a separate room outside of the obstetrical service.
- (3) An equipped room must be provided for each patient in labor.
- (4) At least one delivery room must be provided.
- (5) A delivery record shall be made for a maternity patient delivering and include, but not be limited to, the following information:
 - (a) Starting time of patient's labor
 - (b) Time of birth of patient's newborn
 - (c) Anesthesia used on patient
 - (d) Whether an episiotomy was performed on patient
 - (e) Whether forceps were used in delivery
 - (f) Names of attending physicians
 - (g) Names of attending nurses
 - (h) Names of all other persons attending delivery
 - (i) Sex of the newborn
 - (j) Time of eye prophylactic treatment and name of drug used.
- (6) A newborn must be marked for identification before removal from the delivery area.

RULE XVII MINIMUM STANDARDS FOR A HOSPITAL -- NEWBORN NURSERY If a hospital provides a newborn nursery, the nursery shall comply with the following requirements:

(1) The newborn nursery must be under the supervision of a licensed registered nurse on a 24-hour basis.

(2) An individual bassinet must be provided for each newborn.

(3) Each newborn must have separate equipment and supplies for bathing, dressing and other handling.

(4) At least one incubator must be provided in the nursery.

(5) Oxygen, oxygen and suction equipment must be available and adapted to the size of newborns. When oxygen is administered, the concentration within the incubatory and near the newborn's head shall be determined by means of a reliable oxygen analyzer. These measurements shall be recorded on the newborn's chart.

(6) Formula prepared in the hospital shall be prepared by terminal heat method using separate equipment furnished for formula preparation.

RULE XVIII MINIMUM STANDARDS FOR A HOSPITAL -- PEDIATRIC AND ADOLESCENT SERVICES If a hospital provides pediatric and adolescent services, the hospital shall comply with the following requirements:

(1) Pediatric and adolescent services must be under the supervision of a licensed registered nurse.

(2) At a minimum pediatric and adolescent services shall provide the following:

(a) An examination and treatment room with equipment and supplies designed for the care of children

(b) Oxygen and suction equipment designed for children.

RULE XIX MINIMUM STANDARDS FOR A HOSPITAL -- PSYCHIATRIC SERVICES If a hospital provides psychiatric services, the hospital shall comply with the following requirements:

(1) Psychiatric services must be under the supervision of a licensed psychiatrist on a 24-hour basis.

(2) Psychiatric service staff must include a sufficient number of adjunctive therapists to provide restorative and rehabilitation services for the number of patients accommodated.

(3) A licensed registered nurse or a licensed practical nurse under the supervision of a registered nurse shall be in charge 24 hours a day.

RULE XX MINIMUM STANDARDS FOR A HOSPITAL -- RESPIRATORY THERAPY If a hospital provides respiratory therapy, the hospital shall comply with the following requirements:

(1) Respiratory therapy services must be under the supervision of a licensed physician appointed from the active medical staff.

(2) An internal and external quality control program must be provided for all parameters of acid-base testing.

(3) Written policies and procedures must be developed describing the control measures to be followed in order to eliminate the transfer of infection from the use of respiratory equipment.

RULE XXI MINIMUM STANDARDS FOR A HOSPITAL -- MEDICAL RECORDS Medical records shall comply with the following requirements:

(1) A patient's medical records must be maintained no less than 25 years following the date of a patient's discharge or no less than 5 years following the date of a patient's death.

(2) An obstetrical record shall be developed for each maternity patient and must include the prenatal record, labor notes, obstetrical anesthesia notes and delivery record.

(3) A record must be developed for each newborn, and shall include, in addition to the information in section (2), the following information:

- (a) Observations of newborn after birth
- (b) Delivery room care of newborn
- (c) Physical examinations performed on newborn
- (d) Temperature of newborn
- (e) Weight of newborn
- (f) Time of newborn's first urination
- (g) Number, character and consistency of newborn's stool
- (h) Type of feeding administered to newborn
- (i) Phenylketonuria report for newborn
- (j) Name of person to whom newborn is released.

RULE XXII MINIMUM STANDARDS FOR A HOSPITAL -- HOSPITAL RECORDS Hospital records must be maintained.

RULE XXIII MINIMUM STANDARDS FOR A HOSPITAL -- LABORATORIES A hospital laboratory shall comply with the Conditions for Coverage of Services of Independent Laboratories as set forth in 42 CFR 405.1310, 405.1311, 405.1314, 405.1316, and 405.1317. A copy of the cited rules is available at the department.

RULE XXIV MINIMUM STANDARDS FOR AN INFIRMARY (1) The infirmary shall provide patients with licensed physician care.

(2) The infirmary shall provide skilled nursing services. A licensed registered nurse shall serve as charge

nurse on the day shift, and a licensed registered or practical nurse shall serve as charge nurse on evening and night shifts.

(3) Nurse staffing schedules must be maintained on file in the infirmary for the preceding 6 months.

(4) The infirmary shall maintain a medical record for each patient which includes, but is not limited to the following information:

- (a) Identification data
 - (b) Chief complaint
 - (c) Present illness
 - (d) Medical history
 - (e) Physical examination
 - (f) Laboratory and X-ray reports
 - (g) Treatment administered
 - (h) Tissue report
 - (i) Progress reports
 - (j) Discharge summary
- (5) If a modified diet is ordered by a physician for a patient, facilities must be available for its preparation and service.

RULE XXV MINIMUM STANDARDS FOR A MENTAL HEALTH CENTER

(1) Clinical services must be under the direction of a licensed psychiatrist.

(2) An alcohol or narcotic treatment center shall provide the following services:

- (a) Inpatient
- (b) Outpatient
- (c) Hospitalization
- (d) Diagnostic
- (e) Rehabilitative.

(3) A diagnostic and evaluation center shall provide coordinated medical, psychological, nutritional and social services; special education; audiology, speech, physical and occupational therapy.

(4) A half-way house shall provide room and board, counseling services and group activity for individuals capable of self care in order to assist the resident in the transition from institutional to community life.

RULE XXVI MINIMUM STANDARDS FOR AN OUTPATIENT FACILITY

(1) Nursing services must be provided by or under the supervision of a licensed registered nurse.

(2) Standing orders utilized for emergency or post-operative care shall be recorded in each patient's medical record and dated and signed by his licensed physician.

(3) An outpatient facility shall maintain a medical record for each patient which includes, but is not limited to, the following information:

- (a) Identification data
- (b) Chief complaint
- (c) Present illness
- (d) Medical history
- (e) Physical examination
- (f) Laboratory and X-ray reports
- (g) Treatment administered
- (h) Tissue report
- (i) Progress reports
- (j) Discharge summary.

RULE XXVII MINIMUM STANDARDS FOR A SKILLED AND SKILLED/
INTERMEDIATE CARE FACILITY -- GENERAL REQUIREMENTS A skilled nursing care facility shall comply with the Conditions of Participation for Skilled Nursing Facilities as set forth in 42 CFR 405, Subpart K. An intermediate care facility shall comply with the requirements set forth in 42 CFR 442, Subparts E and F. A copy of the cited rules is available at the department.

RULE XXVIII MINIMUM STANDARDS FOR A SKILLED AND SKILLED/
INTERMEDIATE CARE FACILITY -- STAFFING

(1) The minimum standards for a skilled and skilled/intermediate care facility are set forth in Table I.

TABLE I

SEVEN DAY A WEEK COVERAGE						
No. of Patients - All Skilled or Sk. and Intermediate	Full-time D.O.N.	DAYS		EVENINGS		NIGHTS
		R.N. Hours	L.P.N. Aide Hours	R.N. Hours	L.P.N. Aide Hours	R.N. L.P.N. Aide Hours
4-10		8	8	8	8	8 8
11-20		8	8	8	8	8 8
21-30		8	16	8	8	8 8
31-40		8	24	8	16	8 8
41-50		8	32	8	24	8 16
51-60		8	40	16	28	8 16
61-70	8	8	48	8	32	8 24
71-80	8	8	56	8	40	8 24
81-90	8	8	64	8	48	8 24
91-100	8	8	72	8	48	8 24

(2) Skilled and intermediate care facilities having 100 patients or more require 2.25 hours of nursing care per patient per 24 hours. To calculate hours of nursing care per patient per 24 hours, total the number of hours worked by licensed registered nurses, licensed practical nurses and nurses aides in the 24-hour period and divide by the total number of patients.

(3) On every shift there must be a licensed registered nurse or licensed practical nurse for each nurses station.

RULE XXIX MINIMUM STANDARDS FOR AN INTERMEDIATE CARE FACILITY -- STAFFING (1) A licensed registered or practical nurse must be in charge 16 hours a day, 7 days a week.

(2) Aide staffing must be 1 aide per 15 residents on the day shift; 1 aide per 20 residents on the evening shift; and 1 aide per 30 residents on the night shift.

(3) Two nursing staff must be on duty on a 24-hour basis.

RULE XXX MINIMUM STANDARDS FOR A SKILLED AND SKILLED/ INTERMEDIATE CARE FACILITY -- DRUG SERVICES (1) Medication shall be released to a patient at discharge only on the written authorization of his licensed physician.

(2) Self-administration of medication by a patient is not permitted except on order of his licensed physician.

(3) Any deviation from the prescribed drug dosage, route or frequency of administration and unexpected drug reactions shall be reported immediately to the patient's licensed physician with an entry made on the patient's medical record and on an incident report.

(4) A current medication reference book must be provided at each nurses station.

RULE XXXI MINIMUM STANDARDS FOR A HOME HEALTH AGENCY
A home health agency shall comply with the Conditions of Participation for Home Health Agencies as set forth in 42 CFR 405, Subpart L. A copy of the cited rule is available at the department.

RULE XXXII MINIMUM STANDARDS FOR A HEALTH MAINTENANCE ORGANIZATION A health maintenance organization shall comply with the requirements for a health maintenance organization as set forth in 42 CFR 405.2001 through 405.2007. A copy of the cited rule is available at the department.

RULE XXXIII MINIMUM STANDARDS FOR A PERSONAL CARE FACILITY -- ADMINISTRATION (1) A person employed by the facility having responsibility for residents must be at least 18 years of age.

(2) The person who manages the facility shall not admit or continue to care for residents whose condition indicates the need for a level of service and care that is not available in the facility.

(3) A resident who requires skilled nursing or intermediate care shall not be admitted or allowed to remain in the facility.

(4) Employee daily work schedules must be kept in writing for the previous 3-month period showing the personnel on duty at any given time.

(5) Facility staff must be present in the facility on a 24-hour basis.

(6) The family or other person responsible for a resident must be notified promptly by telephone if the resident is removed from the facility. A notation of the telephone call must be made in the resident's record.

(7) There must be a written agreement with the facility and each resident or other person responsible for a resident pertaining to cost of care, type of care, services to be provided, and manner by which the responsible party will be notified of significant changes in a resident's condition.

(8) A resident shall have access to a telephone at a convenient location within the building.

(9) The individual in charge of each work shift shall have keys to all doors in his possession.

(10) Residents of one sex shall not pass through a bedroom occupied by a member of the opposite sex to reach a bathroom, living room, dining room, corridor or similar area.

(11) A manager shall institute a prompt investigation of the cause of any accident involving a resident. A record must be kept of all accidents and corrective measures taken.

(12) The facility shall provide opportunities for recreational and social activities.

(13) The facility shall make adequate provisions for identification of resident's personal property and for safekeeping of valuables.

(14) A licensed personal care facility may be used only as a personal care facility.

RULE XXXIV MINIMUM STANDARDS FOR A PERSONAL CARE FACILITY -- RESIDENT RECORDS (1) A personal care facility shall prepare a resident record for each resident composed of the following information:

(a) Admission record, including date of admission and discharge

(b) Name and address of resident

(c) Birthdate

(d) Marital status

(e) Financial responsibility

- (f) Religious affiliation
- (g) Telephone number of physician and of person to be notified in an emergency
- (h) Discharge information concerning disposition of a resident's personal belongings
- (i) A care record including date and dosage of each medication
- (j) Date and time of visit to or by his physician. All information contained in a resident's record is confidential and available only to authorized persons.

RULE XXXV MINIMUM STANDARDS FOR A PERSONAL CARE FACILITY -- MEDICATION (1) All residents shall take their own medication. The staff shall remind the resident to take his medication at the proper time and shall observe and record this activity on the resident's record.

(2) The facility shall provide locked storage for all medications.

(3) All pharmaceutical containers having soiled or otherwise damaged or illegible labels shall be returned to the issuing pharmacy for relabeling.

RULE XXXVI MINIMUM STANDARDS FOR A PERSONAL CARE FACILITY -- NUTRITIONAL REQUIREMENTS Foods must be served in amounts and variety to meet the nutritional needs of each resident. At least 3 meals must be served daily and at regular times with not more than a 14-hour span between an evening meal and breakfast.

RULE XXXVII MINIMUM STANDARDS FOR A PERSONAL CARE FACILITY -- FOOD SERVICE (1) Menus must be written at least one week in advance to guide cooks in selecting preparing, and serving food. Records of menus as served must be filed in the facility for 30 days.

(2) Supplies of non-perishable foods for a minimum of a 1-week period and perishable foods for a minimum of a 2-day period must be available on the premises.

(3) Foods must be cut, chopped and ground to meet individual needs.

RULE XXXVIII MINIMUM STANDARDS FOR A PERSONAL CARE FACILITY -- FURNISHINGS, EQUIPMENT AND SUPPLIES (1) Each resident in a personal care facility must be provided the following:

(a) A bed, linen, bedspread, moisture-proof mattress, and blankets.

(i) Clean linen must be supplied on a weekly basis.

(ii) Blankets must be laundered as often as necessary.

(b) Bedside table or its equivalent with a drawer and washable top.

(c) Individual towel rack.

- (d) Chair in each bedroom.
- (e) Separate drawer and wardrobe or closet space for each occupant in a bedroom.
- (f) Reading lamp or equivalent in each bedroom.
- (g) Mirror mounted on the wall at convenient height in each bedroom.
- (h) Clean, flame-resistant shades or equivalent for every bedroom window.
- (i) Call system within reach of each resident bed.
- (j) Clean bath towel and washcloth which must be changed at least 2 times a week.
- (k) Flame-resistant cubicle curtains to insure privacy in each multiple-bed room.
- (2) Living rooms in a personal care facility must be furnished with reading lights, tables, chairs and sofas.
- (3) Dining room furnishings in a personal care facility must be well constructed and tables must be designed to accommodate wheel chairs.
- (4) Towels for common use are not permitted.
- (5) Following the discharge of a resident, all of his equipment and bedding must be cleaned and sanitized.

RULE XXXIX MINIMUM STANDARDS FOR A KIDNEY TREATMENT CENTER A kidney treatment center shall comply with the maintenance and operation requirements set forth in 42 CFR 405, Subpart M. A copy of the cited rule is available at the department.

4. The rationale for the new rules is to update and abbreviate rules implementing parts 2 and 4 of chapter 5, title 50, MCA.

5. Interested persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Mr. Robert L. Solomon, Department of Health and Environmental Sciences, Cogswell Building, Helena, Montana, 59601, by no later than May 23, 1980.

6. Mr. Robert L. Solomon has been designated to preside over and conduct the hearing.

7. The authority of the department to repeal the existing rules and adopt the proposed rules is based on sections 50-5-103 and 50-5-404(1), MCA, and the rules implement parts 2 and 4 of chapter 5, title 50, MCA.


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

Certified to the Secretary of State April 15, 1980

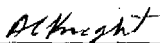
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF VACATION OF
of rule 16-2.14(8)-S14315)	MAR NOTICE NO. 16-2-136
pertaining to solid waste)	
management)	

TO: All Interested Persons

1. On March 13, 1980, the Department of Health and Environmental Sciences published notice of a proposed amendment of rule 16-2.14(8)-S14315 pertaining to solid waste management at pages 680 to 682 of the 1980 Montana Administrative Register, issue no. 5.

2. The Department vacates the above-references notice and no amendment to the rule will occur unless another notice is promulgated in this register.



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

Certified to the Secretary of State April 15, 1980

BEFORE THE BOARD OF COUNTY PRINTING
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF PROPOSED AMEND-
of Rule 22-3.10(6)-S1050 in-)	MENT OF RULE 22-3.10(6) -
creasing fees; deleting certain)	S0105 (Schedule of Prices)
items from the fee schedule;)	NO FURTHER PUBLIC HEARING
and altering the schedule for-)	CONTEMPLATED
mat.)	

TO: All Interested Persons:

1. On August 17, 1979 at 9:00 a.m., a public hearing was held in the Agate Room of the Yogo Inn: in Lewistown, Montana, to consider proposed amendments of Rule 22-3.10(6)-S1050 relating to the fees to be charged for all county printing and legal advertising. The hearing was duly noticed at page 767 of the Montana Administrative Register, issue No. 14

2. The proposed amendments were for the purpose of reviewing and revising maximum printing fees; deleting certain items from the fee schedule; and altering the schedule format.

3. The proposed revisions, deletions, and alterations of the schedule may be obtained by requesting a copy from:

Mark Lindsay, Administrator
Centralized Services Division
Department of Community Affairs
1424 Ninth Avenue
Helena, MT 59601

4. Interested parties may present their view by submitting them in writing to the address provided above in paragraph 3.

5. The authority for the County Printing Board to adopt the proposed schedule is based on and implements Section 7-5-2404, and 7-5-2405, MCA.

BY: Mark B. Lindsay
Mark B. Lindsay
Administrative Officer
Montana Board of County
Printing

Certified to the Secretary of State April 15, 1980.

BEFORE THE COMMISSIONER OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the Amendment)	NOTICE OF PROPOSED
of Rule 24-3.14BII(42)-S14650)	AMENDMENTS OF RULES
Payment of Back Wages)	24-3.14BII(42)-S14650
	(PAYMENT OF BACK WAGES)
	NO PUBLIC HEARING
	CONTEMPLATED

TO: All Interested Persons:

1. On June 13, 1980 the Commissioner of Labor and Industry, State of Montana proposes to amend Rule 24-3.14BII(42)-S14650 which relates to the payment of back wages through the Administrator of the Labor Standards Division.

2. The rule as proposed to be amended, provides as follows (stricken material is interlined, new material is underlined):

24-3.14BII(42)-S14650 PAYMENT OF BACK WAGES
Whenever the Administrator or his authorized representatives find that there has been a violation of the Montana Wage Laws and there are wages due and owing to any employee, the payment of such wages shall be made in the following manner:

(1) When payment is made by check or money order, the check or money order must be issued in the name of the employee who is owed the wages Labor Standards Division.

(2) The payment whether made by check, money order, or cash must be ~~forwarded~~ made to the Labor Standards Division, Helena, Montana within the time period specified by the Administrator. This time period shall be clearly stated in writing to the employer.

(3) The Administrator may at his discretion require the payment to be made by cashiers check, money order, check, or cash.

(4) Upon receiving payment for wages due, the Labor Standards Division will record the payment, deposit the payment into the agency fund, and then forward the wages attempt to make payment of wages to the entitled employee by mail, or the employee may call for it in person at the office of the Labor Standards Division, Wage and Hour Section in Helena.

(5) In cases where the employee cannot be located, the payment will be held for the period of 60 days commene-

ing with the date it is received by the Division or the date on which it is returned by the Post Office as undeliverable, whichever date is the latest.

(5) When the Labor Standards Division receives a check or money order made payable direct to the employee, the Administrator may, at his discretion, return the check or money order to the employer with instructions to comply with paragraphs (1), (2) and (3) or record the payment and forward the check directly to the employee.

(6) Upon the expiration of the 60 day period the check will be returned to the employer. However the return of such check does not release the employer from his obligation to pay the wages if the employee is located at a later date.

3. The reason for these amendments is to bring the rules in conformity with the Montana Code Annotated. Further, the Labor Standards Division frequently receives checks for small amounts of money made payable to an employee. Forwarding the checks directly to the employee eliminates the delay, excessive paper work, and cost associated with the issuance of a state warrant.

4. Interested parties may submit their data, views, arguments and comments which concern the proposed amendments in writing to the Labor Standards Division, 35 South Last Chance Gulch, Helena, Montana 59601. Written comments, in order to be considered, must be received no later than May 28, 1980.

5. Any interested person desiring to express or submit his data, views or arguments at a public hearing must request the opportunity to do so; and if 10% or 25 or more of the persons directly affected, or a governmental subdivision or agency, or an association having not less than 25 members who will be directly affected, or the legislature's Administrative Code Committee request a hearing, a hearing will be held after appropriate notice is given. The number of persons directly affected who constitute 10% is greater than 25 based on the number of persons working in Montana. Requests for a public hearing must be submitted to Dick Kane, Labor Standards Division, Department of Labor and Industry, State of Montana, 35 South Last Chance Gulch, Helena, Montana 59601.

6. The authority of the Commissioner of Labor and Industry to adopt the proposed amendments is found in Section 39-3-202 MCA and Section 39-3-403 MCA. The amendments implement Section 39-3-213 MCA and Section 39-3-407 MCA.

CERTIFIED TO THE SECRETARY OF STATE THIS 8th
DAY OF APRIL, 1980.

By Fred Barrett
FRED BARRETT
Acting Commissioner of
Labor and Industry,
State of Montana

BEFORE THE COMMISSIONER OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the)	
Repeal of Rule	)	NOTICE OF
24-3.14B(1)-S1400	)	PROPOSED REPEAL
Functions of the	)	OF RULES
Standards Bureau)	
	)	ARM 24-3.14B(1)-S1400

TO: All Interested Persons

1. On June 13, 1980, the Commissioner of Labor and Industry, State of Montana proposes to repeal rule 24-3.14 B(1)-S1400, Functions of the Standards Bureau,

2. The foregoing rule may be found on page 24-81, Administrative Rules of Montana.

3. The rule is being repealed because it duplicates other rules and no longer conforms to the Montana Code Annotated. The functions of the Standards Bureau are now set forth in ARM 24.1.101 Organization of Department of Labor and Industry.

4. Interested parties may submit their data, views, arguments and comments which concern the proposed repeal in writing to the Labor Standards Division, 35 South Last Chance Gulch, Helena, Montana 59601. Written comments, in order to be considered, must be received no later than May 28, 1980.

5. Any interested person desiring to express or submit his data, views, or arguments at a public hearing must request the opportunity to do so; and if 10% or 25 or more of the persons directly affected, or a governmental subdivision or agency, or an association having not less than 25 members who will be directly affected, or the legislature's Administrative Code Committee request a hearing, a hearing will be held after appropriate notice is given. The number of persons directly affected who constitute 10% is greater than 25 based on the number of people in Montana. Requests for a public hearing must be submitted to Dick Kane, Labor Standards Division, Department of Labor and Industry, State of Montana, 35 South Last Chance Gulch, Helena, Montana 59601.

6. The authority of the Commissioner to repeal this rule is found in Section 2-4-201 MCA. The repeal implements Section 2-4-201 MCA.

CERTIFIED TO THE SECRETARY OF STATE THIS 8th DAY OF
APRIL, 1980.

By



FRED BARRETT
Acting Commissioner of
Labor and Industry,
State of Montana

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
DIVISION OF WORKERS' COMPENSATION
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF PUBLIC HEARING
of Rule 24-3.18AI(1)-S1800,)	ON PROPOSED AMENDMENT OF
regarding fired pressure)	RULE 24-3.18AI(1)-S1800,
vessels.)	RELATING TO FIRED PRESSURE
	VESSELS

TO: All Interested Persons.

1. On May 23, 1980, at 10:00 a.m., a public hearing will be held in the old Highway Building Auditorium, 6th and Roberts, Helena, Montana, to consider the proposed amendment of Rule 24-3.18AI(1)-S1800.

2. The proposed amendment would replace in its entirety present Rule 24-3.18AI(1)-S1800 found in the Administrative Rules of Montana concerning fired pressure vessels.


3. The division proposes to replace the current rules concerning fired pressure vessels in order to update the rules on this subject. The rule changes will include matters concerning the inspection, repairing, safety valve control, operation, and other matters related to the safe operation of fired pressure vessels. A copy of the proposed rules may be obtained by contacting Mr. Paul Rafferty, Division of Workers' Compensation, Bureau of Safety and Health, 510 Logan Street, Helena, Montana 59601.

4. Rationale: The reason the division is proposing to completely redo the rules concerning fired pressure vessels is that changes in technology have taken place which should be addressed through new rules, and it is believed a more modern and clearly understood set of rules is required for the safe operation of fired pressure vessels in this state.

5. Interested persons may present their data, views and arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Division of Workers' Compensation, 815 Front Street, Helena, Montana 59601, no later than June 6, 1980.

6. Mr. Laury M. Lewis, Administrator of the Division of Workers' Compensation, has been designated to preside over and conduct the hearing.

7. The authority of the division to make the proposed amendment is based on Section 50-74-101, Montana Code Annotated, and implements Section 50-74-101, MCA.


FRED BARRETT, Acting Commissioner
Department of Labor and Industry

Certified to the Secretary of State April 15, 1980.

8-4/24/80

MAR NOTICE NO. 24-3-18-36

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

IN THE MATTER of the proposed) NOTICE OF PROPOSED AMENDMENT
Amendments of ARM 40.40.403) OF ARM 40.40.403 FEES; 40.40.
subsection (1)(b) concerning) 402 EXAMINATIONS; and
fees; 40.40.402 subsection (4)) 40.40.406 RECIPROCITY LICENSES
concerning examinations and)
40.40.406 concerning reciproc-) NO PUBLIC HEARING CONTEMPLATED
ity.)

TO: All Interested Persons:

1. On May 25, 1980, the Board of Physical Therapy Examiners proposes to amend ARM 40.40.403 subsection (1)(b) concerning fees; 40.40.402 subsection (4) concerning examinations and 40.40.406 concerning reciprocity licenses.

2. The text of the present rules is published at pages 1244-1245, 1979 Montana Administrative Register, issue number 19 and copies can also be obtained from the Department of Professional and Occupational Licensing.

3. The proposed amendment of ARM 40.40.403 would delete subsection (1)(b) of the rule and reletter the sections following and will read as follows: (deleted matter interlined)

"40.40.403 FEES (1)...

~~(b)---license-----\$75.00~~

....."

4. The board is proposing the deletion in that the Administrative Code Committee in letters of October 16 and November 26, 1979 questioned the authority of the board to charge a license fee to applicants who take the examination, although there is authority to charge the license fee for those from out-of-state who receive a license without an examination. The rule implements sections 37-11-304, 308 and 309 MCA.

5. The proposed amendment to 40.40.402 amends subsection (4) of that rule and will read as follows: (new matter underlined, deleted matter interlined)

"40.40.402 EXAMINATIONS.....

~~(4) The applicant's raw score passing point shall be--
1.5 standard deviation units below the national average
raw score. The applicant's overall score must meet the
criteria of 1.5 standard deviation below or higher than
the mean."~~

6. The proposed amendment above and the one below for 40.40.406 Reciprocity are proposed because the rules are not consistent. The procedure will be more fair to the applicant when judged on the total raw score rather than on part scores. Rule 40.40.402 implements sections 37-11-201 and 305 MCA.

7. The proposed amendment to 40.40.406 will read as follows: (new matter underlined, deleted matter interlined)

"40.40.406 RECIPROCITY LICENSES (1) Each applicant must have taken the Professional Examination Service

examination in another state to be considered for license by reciprocity. Professional Examination Service scores must be reported through the Interstate Reporting Service. If the overall scores meets the criteria of 1.5 standard deviation below or higher than the mean, or higher on all parts the individual will be licensed by reciprocity."

8. The reason for the change is as shown in paragraph 6. above. The rule implements section 37-11-307 MCA.


9. Interested parties may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Physical Therapy Examiners, Lalonde Building, Helena, Montana 59601 no later than May 23, 1980.

10. If a person who is directly affected by the proposed amendments 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 Physical Therapy Examiners, Lalonde Building, Helena, Montana 59601 no later than May 23, 1980.

11. If the board receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendments; from the Administrative Code Committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected by the proposed amendments has been determined to be 2 based on the 20 applicants per year.

12. The authority of the department to amend the rules is 37-11-201, MCA.

BOARD OF PHYSICAL THERAPY
EXAMINERS
JOE LUCKMAN, CHAIRMAN

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

Certified to the Secretary of State, April 15, 1980.

8-4/24/80

MAR Notice No. 40-40-3

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption of	)	NOTICE OF PROPOSED
a rule pertaining to establishing	)	ADOPTION OF A RULE
a fee schedule for attorneys'	)	PERTAINING TO ESTABLISH-
services in third party recovery	)	ING A FEE SCHEDULE FOR
cases	)	ATTORNEYS' SERVICES IN
	)	THIRD PARTY RECOVERY
	)	CASES. NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On June 3, 1980, the Department of Social and Rehabilitation Services proposes to adopt a rule pertaining to establishing fee schedule for attorneys' services in third party recovery cases.

2. The proposed rule provides as follows:

RULE I ATTORNEYS' FEES SCHEDULE (1) In administering "prior approval of the department" of attorney fees, pursuant to section 53-2-612(4) MCA, as a result of services rendered in legal proceedings or settlement of a third party recovery case, the department sets forth the following schedule for payment from total amount recovered on behalf of the department.

(a) When recovery is made prior to filing of suit, the attorney will receive 25 percent of total amount recovered.

(b) When recovery is made after filing of suit but before trial commencement, the attorney will receive 33 1/3 percent of total amount recovered; however, if clear liability exists as determined by client and attorney, the attorney will receive 25 percent.

(c) When recovery is made after actual trial commencement, the attorney will receive 40 percent of total amount recovered.

(d) When recovery is made from a case tried in an appellate court, the attorney will receive 50 percent of total amount recovered.

(2) The only exception to the above payment schedule is when a written agreement is entered into by the attorney and client before trial commencement and recovery cost is predetermined. In this event, the attorney will be paid the lesser amount between the price set out in agreement and percentage set out in above provisions.

3. The rule is proposed to implement "prior approval of the department" of attorney fees set forth in section 53-2-612(4) MCA. By establishing a fee schedule for attorney fees, the department will be insured of receiving its proper share when recovery is made, as will the attorney according to the schedule.

4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to the Department of Social and Rehabilitation Services, Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601, no later than May 23, 1980.

5. If a person who is directly affected by the proposed adoption 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 its request along with any written comments he has to the Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601, no later than May 23, 1980.

6. If the agency receives requests for a public hearing on the proposed adoption from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed adoption; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 1,118 persons based on a department budget analysis that shows a total of 11,184 Medicaid recipients.

8. The authority of the agency to make the proposed adoption is based on Section 53-2-201 MCA, and the rule implementations Section 53-2-612 MCA.

Keith J. Colby
Director, Social and Rehabilitation Services

Certified to the Secretary of State April 15, _____, 1980.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the repeal of	)	NOTICE OF PROPOSED
Rule 46-2.10(30)-S11880 pertain-	)	REPEAL OF RULE 46-2.10(30)-
ing to emergency assistance, food	)	S11880 PERTAINING TO
stamps	)	EMERGENCY ASSISTANCE, FOOD
	)	STAMPS. NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On June 3, 1980, the Department of Social and Rehabilitation Services proposes to repeal Rule 46-2.10(30)-S11880 pertaining to emergency assistance, food stamps.

2. The rule proposed to be repealed is on page 46-94.37 of the Administrative Rules of Montana.

3. The agency proposes to repeal this rule because its food stamp program has adopted and incorporated the federal food stamp program adopted by the United States Department of Agriculture. Federal Register, Volume 43, No. 201, Part 274, provides the general terms and conditions under which emergency food stamp assistance may be provided for victims of disasters.

4. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to the Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601 no later than May 26, 1980.

5. If a person who is directly affected by the proposed repeal of Rule 46-2.10(30)-S11880 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 the Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601 no later than May 26, 1980.

6. If the agency receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons directly affected; from the Administrative Code Committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana

Administrative Register. Ten percent of those persons directly affected has been determined to be 640 persons based on 6,400 AFDC recipients in Montana.

7. The authority of the agency to make the proposed rule is based on section 53-4-212 MCA, and the rule implements section 53-4-211 MCA.

Keith P. Allen
Director, Social and Rehabilitation Services

Certified to the Secretary of State April 15, 1980.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption of) NOTICE OF PUBLIC HEARING
a rule pertaining to reimbursement) FOR ADOPTION OF A RULE
for physician services) PERTAINING TO REIMBURSE-
) MENT FOR PHYSICIAN
) SERVICES

TO: All Interested Persons

1. On May 15, 1980, at 9:00 a.m., a public hearing will be held in the Auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, MT 59601, to consider the adoption of a rule which pertains to reimbursement for physician services.

2. The proposed rule provides as follows:

RULE 1 PHYSICIAN SERVICES, REIMBURSEMENT (1) Payments for physician services will be the lesser of usual and customary charges which are reasonable or the amounts determined by applying the following conversion factors to the 1974 Montana medicaid association relative value schedule:

Surgery	29.8290
Medicine	0.7781
Radiology	3.8910
Anesthesia	7.7810
Pathology	0.3289
By report codes	94.6000 of the fees which are comparable to the usual and customary charges established by the provider in 1976

(2) The 1974 Montana medical association relative value schedule is hereby incorporated and made a part of this rule.

3. The adoption of the above-mentioned rule is proposed to raise reimbursement rates for physicians services within limits established by the legislature. Comments were solicited and received from the Montana Foundation For Medical Care during the initial drafting of the proposed rule.

4. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to the Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601, no later than May 23, 1980.

5. The Office of Legal Affairs has been designated to preside over and conduct the hearing.

6. The authority of the agency to make the proposed rule is based on Section 53-6-113 MCA, and the rule implements Sections 53-6-113 and 53-6-141 MCA.

Keith P. Celly
Director, Social and Rehabilitation Services

Certified to the Secretary of State April 15, 1980.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the amend-) NOTICE OF PROPOSED AMEND-
ment of Rule 46-2.10(18)-) MENT OF 46-2.10(18)-S11440
S11440 (1)(a)(i)(ii)(iii),) AND THE ADOPTION OF RULES
(b), and (2) and the adoption) PERTAINING TO PHYSICIAN
of rules pertaining to physi-) SERVICES. NO PUBLIC HEARING
cian services) CONTEMPLATED

TO: All Interested Persons

1. On June 3, 1980, the Department of Social and Rehabilitation Services proposes to amend 46-2.10(18)-S11440 (1)(a)(i)(ii)(iii), (b), and (2) and adopt rules pertaining to physician services.

2. The proposed amendment to Rule 46-2.10(18)-S11440, subsections (1)(a)(i)(ii)(iii), (b), and (2) provides as follows:

46-2.10(18)-S11440 MEDICAL ASSISTANCE, SERVICES PROVIDED,
AMOUNT, DURATION

(1)	Remains the same. (ARM 46-91)
(a)	Delete in its entirety. (ARM 46-92)
(i)	Delete in its entirety. (ARM 46-92)
(ii)	Delete in its entirety. (ARM 46-92)
(iii)	Delete in its entirety. (ARM 46-92)
(b)	Delete in its entirety. (ARM 46-92)
(i)	Delete in its entirety. (ARM 46-92)
(ii)	Delete in its entirety. (ARM 46-92)
(iii)	Delete in its entirety. (ARM 46-92.1)
(iv)	Delete in its entirety. (ARM 46-92.1)
(v)	Delete in its entirety. (ARM 46-92.1)
(vi)	Delete in its entirety. (ARM 46-92.1)
(vii)	Delete in its entirety. (ARM 46-92.1)
(viii)	Delete in its entirety. (ARM 46-92.1)
(ix)	Delete in its entirety. (ARM 46-92.1)
(x)	Delete in its entirety. (ARM 46-92.1)
(xi)	Delete in its entirety. (ARM 46-92.1)
(xii)	Delete in its entirety. (ARM 46-92.1)
(xiii)	Delete in its entirety. (ARM 46-92.1)
(xiv)	Delete in its entirety. (ARM 46-92.1)
(xv)	Delete in its entirety. (ARM 46-92.1)
(xvi)	Delete in its entirety. (ARM 46-92.1)
(xvii)	Delete in its entirety. (ARM 46-92.1)
(xviii)	Delete in its entirety. (ARM 46-92.1)
(xix)	Delete in its entirety. (ARM 46-92.2)
(xx)	Delete in its entirety. (ARM 46-92.2)
(xxi)	Delete in its entirety. (ARM 46-92.2)
(xxii)	Delete in its entirety. (ARM 46-92.2)

DIAGNOSTIC-PROCEDURES (ARM 46-92.2)

- (i) Delete in its entirety. (ARM 46-92.2)
 - (ii) Delete in its entirety. (ARM 46-92.2)
 - (iii) Delete in its entirety. (ARM 46-92.2)
 - (iv) Delete in its entirety. (ARM 46-92.2)
 - (v) Delete in its entirety. (ARM 46-92.2)
 - (vi) Delete in its entirety. (ARM 46-92.2)
 - (vii) Delete in its entirety. (ARM 46-92.2)
 - (viii) Delete in its entirety. (ARM 46-92.2)
 - (ix) Delete in its entirety. (ARM 46-92.3)
 - (x) Delete in its entirety. (ARM 46-92.3)
 - (2) Delete in its entirety. (ARM 46-94.7)
- The rest of the rule remains the same.

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

RULE I PHYSICIAN SERVICES, DEFINITION (1) Physician services are those services provided by individuals licensed under the State Medical Practice Act to practice medicine or osteopathy which, as defined by state law, are within the scope of their practice.

RULE II PHYSICIAN SERVICES, REQUIREMENTS (1) Utilization and peer review of physician services shall be conducted by the designated professional review organization.

(2) Physician services for conditions or ailments that are generally considered cosmetic in nature are not a benefit of the medicaid program except in such cases where it can be demonstrated that the physical and psycho-social wellbeing of the recipient is severely affected in a detrimental manner. Such services must be prior authorized by the medical assistance bureau and will be based on recommendations of the designated peer review organization.

(a) The request for authorization shall include all relevant information to justify the need for the service. This information shall include statements from a physician qualified in the area of concern, a potential provider, and a social worker involved with the case.

(b) The information must clearly document the necessity for the service and assurance that the plan will be followed to completion.

(3) Physicians' services provided for sterilization procedures must meet the following requirements in order to receive medicaid reimbursement:

(a) The recipient to be sterilized must not be declared mentally incompetent by a federal, state, or local court of law.

(b) The recipient to be sterilized must be at least 21 years old at the time of informed consent to sterilization.

(c) The recipient to be sterilized must not be institu-

tionalized in a corrective, penal, mental, or rehabilitative facility.

(d) The recipient to be sterilized must give informed consent, in accordance with the medicaid approved informed consent to sterilization form, not less than 30 days nor more than 180 days prior to sterilization except in the case of premature delivery or emergency abdominal surgery. For these exceptions, at least 72 hours must pass between informed consent and the sterilization procedure. In cases of premature delivery, informed consent must have been given at least 30 days before the expected delivery date.

(e) The recipient to be sterilized, the person who obtained the consent, and the interpreter (if required) must sign the informed consent form at least 30 days but not more than 180 days prior to the sterilization. The physician performing the sterilization must sign and date the informed consent form after the sterilization has been performed.

(f) A copy of the informed consent to sterilization form, must be attached to the medicaid claim when billing for sterilization procedures.

(4) Physician services for hysterectomies must meet the following requirements in order to receive medicaid reimbursement:

(a) medicaid reimbursement for hysterectomies which are solely for the purpose of rendering the recipient incapable of reproducing is prohibited;

(b) medicaid reimbursement for a hysterectomy is allowed only when the surgery is medically necessary to treat injury or pathology;

(c) the physician must inform the recipient that the hysterectomy will render her permanently incapable of reproducing;

(d) a completed copy of the approved acknowledgement of receipt of hysterectomy information form must be attached to the medicaid claim when billing for hysterectomy services.

(5) Physician services for abortion procedures must meet the following requirements in order to receive medicaid payment:

(a) The abortion is done in accordance with the Montana Abortion Control Act, sections 50-20-101 through 50-20-112, MCA.

(b) The physician certifies in writing that the abortion is medically necessary and said statement is on or attached to the medicaid claim form.

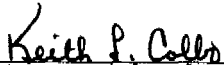
4. The rules to be amended and adopted reflect current medical assistance administrative practice. Obsolete surgical and diagnostic procedures have been eliminated after consultation with the Montana Foundation For Medical Care. The proposed rules specify limits on physicians' services in the areas of sterilization, abortion, hysterectomies, and cosmetic physicians' services.

5. Interested parties may submit their data, views or arguments concerning the proposed rules in writing to the Office of Legal Affairs, P. O. Box 4210, Helena, Montana 59601, no later than May 23, 1980.

6. If a person who is directly affected by the proposed amendment and adoptions 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 this request along with any written comments he has to the Office of Legal Affairs, P. O. Box 4210, Helena, Montana 59601 no later than May 23, 1980.

7. If the agency receives requests for a public hearing on the proposed amendment and adoptions from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment and adoptions; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 1,118 persons based on a department budget analysis that shows a total of 11,184 Medicaid recipients.

8. The authority of the agency to make the proposed amendment and adoptions are based on Section 53-6-113 MCA, and the rule implements Section 53-6-101 MCA.



Director, Social and Rehabilitation Services

Certified to the Secretary of State April 15, 1980.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption) NOTICE OF THE ADOPTION OF
of new aquatic herbicide Rules:) AQUATIC HERBICIDE RULE I
Rule I, (4.10.301); Rule II,) (4.10.301), RULE II(4.10.302),
(4.10.302); Rule III, (4.10.303);) RULE III(4.10.303), RULE IV
Rule IV, (4.10.304); Rule V,) (4.10.304), RULE V(4.10.305),
(4.10.305); Rule VI, (4.10.306);) RULE VI(4.10.306), RULE VII
Rule VII, (4.10.307); Rule VIII,) (4.10.307), RULE VII(4.10.308),
(4.10.308); Rule IX, (4.10.309);) RULE IX(4.10.309), RULE X
and Rule X, (4.10.310).) (4.10.310).

TO: All Interested Persons

1. On March 13, 1980, the Montana Department of Agriculture published notice of its proposed adoption of Rules I through X, inclusive, concerning aquatic herbicides, at page 676, of the 1980 Montana Administrative Register, issue number 5.

2. The agency has adopted the said rules as proposed, with the following changes:

RULE IV (4.10.304) APPLICATION FOR PERMIT. 1. (b) in
the event the applicator already has the aquatic herbicide to
be applied in his possession the applicator may make application
for a permit by sending the completed Application For Aquatic
Herbicide Permit to the department. ~~The department will respond~~
~~by telephone, allowing or denying the chemical application the~~
~~day the completed application is received;--if the chemical~~
~~application is denied, the reason(s) will be given, allowing the~~
~~applicator the opportunity to overcome the denial specifications.~~
The A formal written authorization allowing the aquatic herbicide
application will be mailed to the applicant. within 2 working
days of the departments decision.

(2) For acrylaldehyde (acrolein) and/or aromatic petroleum
distillates (xylene) the licensed or certified aquatic herbicide
applicator shall prior to each purchase and each application,
submit a completed Application For Aquatic Herbicide Permit form
and a preliminary Report of Application form, together with all
copies, to the department. Following evaluation, if the applica-
tion is approved, a permit shall be issued and transmitted to
the dealer and to the certified applicator named in the applica-
tion, allowing sale, delivery and application to be made. The
department will respond to a completed application within 10 days
of its receipt by the department. The department will also
transmit a copy of the Application For Aquatic Herbicide Permit
and the Report of Application to the dealer and to said applica-
tor, for their respective records. Also acceptable, in lieu
of a completed Application for Aquatic Herbicide Permit form and
a preliminary Report of Application form prior to each applica-
tion, is a irrigation management plan. This plan shall detail
the same information contained in the above two forms plus a

projected use and frequency of use of any aquatic herbicide to be used for the following season. The plan must be submitted to the department and approved by them prior to the initial treatment. Approval or disapproval of the plan will be sent to the applicator and to the dealer listed in the plan if chemical needs to be purchased. ~~Only a certified applicator holding an aquatic herbicide credential may purchase, use, and apply acrylaldehyde (acroiein) or any other EPA restricted use aquatic herbicide.~~

3. At the public hearing Carl Davis, Richard Kennedy, Ronald Schofield, Robert Davis, Walter Morris, and Wayne Christianson gave oral testimony, and the Huntley Project Irrigation district, U.S. Department of Interior Bureau of Indian Affairs, Glasgow Irrigation District and Greenfields Irrigation District filed letters of opposition to certain of the rules, the thrust of which objections can be summarized as follows:

- a. That proposed Rule IV (b) did not provide a mechanism for obtaining the chemical to be applied and permission to make application(s) in a short enough time frame to be effective for ditch companies.
- b. That the rules result in excessive governmental regulation.
- c. That the containment requirements set forth on the labels are excessively long for practical useage.
- d. That the misdemeanor provisions should be re-worded to provide for non-applicability when the rules are violated unintentionally.
- e. That a rule that provides that an applicator does not escape from liability for damages even though he follows the pesticide rules exactly seems to be unduly harsh and oppressive.

The agency believes that objection a. has merit, and the change adopted in Rule IV (4.10.304) provides an alternative seasonal application plan.

The agency overrules objection b. in that Montana statute specifically provides for pesticide rules as adopted herein.

The agency overrules objection c. in that it has no authority to change the label prepared by the manufacturer and approved by EPA before sale is allowed.

The agency overrules objection d. in that the section of Montana statute to which the rule relates, 80-8-306 MCA, does not provide for the defense urged.

The agency overrules objection e. in that the rule simply sets forth the rule that is set forth in another rule sub-chapter (4.10.107) as an additional caution to be observed due to the extreme toxic effects of aquatic herbicides on other life in the environment.

Dated this 14th day of April, 1980.


W. Gordon McOmber
Director

Certified to the Secretary of State April 15, 1980.

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

In the matter of the repeal)	NOTICE OF THE REPEAL
of rules 16-2.6(1)-S600,)	OF RULES
eligibility aid, local health)	ARM 16-2.6(1)-S600,
services; 16-2.6(1)-S610,)	ARM 16-2.6(1)-S610,
confidential information;)	ARM 16-2.6(1)-S620,
16-2.6(1)-S620, implementa-)	and ARM 16-2.6(1)-S630
tion of executive reorganiza-)	
tion act; and 16-2.6(1)-S630,)	
definitions	

TO: All Interested Persons

1. On February 28, 1980, the Department of Health and Environmental Sciences published notice of a proposed repeal of rules 16-2.6(1)-S600, 16-2.6(1)-S610, 16-2.6(1)-S620, and 16-2.6(1)-S630 at pages 608 and 609 of the 1980 Montana Administrative Register, issue no. 4.

2. The Department has repealed the rules as proposed.

3. No comments or testimony were received.

In the matter of the adoption)	NOTICE OF THE ADOPTION
of rules for distribution of)	OF RULES FOR
funds for local health)	DISTRIBUTION OF FUNDS
services)	FOR LOCAL HEALTH SERVICES

TO: All Interested Persons

1. On February 28, 1980, the Department of Health and Environmental Sciences published notice of a proposed adoption of rules for distribution of funds for local health services at pages 609 to 613 of the 1980 Montana Administrative Register, issue no. 4.

2. The Department has adopted the rules as proposed. The following new numbers are assigned: RULE I--16-2.6(1)-S601; RULE II--16-2.6(1)-S602; RULE III--16-2.6(1)-S603; RULE IV--16-2.6(1)-S604; RULE V--16-2.6(1)-S605; RULE VI--16-2.6(1)-S606.

3. No comments or testimony were received.

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

Certified to the Secretary of State April 15, 1980

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

In the matter of the adoption)	
of rules establishing)	NOTICE OF ADOPTION
immunization requirements)	OF RULES
for public and private)	16-2.18(10)-S18070
schools)	through
)	16-2.18(10)-S18082

TO: All Interested Persons

1. On February 14, 1980, the Department of Health and Environmental Sciences published notice of proposed adoption of rules establishing reporting and record-keeping requirements for schools regarding the immunization status of their students and standards for adequate immunization of students against diphtheria, pertussis, tetanus, polio, rubella, and measles at page 463 of the 1980 Montana Administrative Register, Issue No. 3.

2. The agency has adopted the rules, to become effective August 2, 1980, with the following changes:

RULE-# 16-2.18(10)-S18070 DEFINITIONS The following definitions apply throughout this sub-chapter:

(1) "Adequate documentation" means that documentation required by ARM 16-2.18(10)-S18072, 16-2.18(10)-S18073, or 16-2.18(10)-S18074, depending upon the school year in question.

~~(1)~~ (2) "Department" means the department of health and environmental sciences.

(3) "Enrolling for the first time" means the first occasion a student is entered upon the rolls of any Montana school, and does not include transfers from one Montana school to another.

~~(2)~~ (4) "Montana immunization initiative" means the actions taken by state and local public health officers between October 1, 1977, and October 1, 1979, to attempt to assess the immunization status of all Montana school children and to fully immunize up to 90 percent of children under age 15 against the immunizable childhood diseases, in conjunction with the nationwide immunization project stating those goals and initiated by the federal department of health, education and welfare in April, 1977.

~~(3)~~ (5) "Official parent-maintained immunization record" means a standard document distributed by a state's principal health or education agency to record the immunization status of a child, as part of that state's immunization maintenance system and designed to be retained and maintained by the parents of those that children.

(4) (6) "Physician" is a person licensed to practice medicine in any jurisdiction in the United States or Canada.

(7) "Vaccine" means an immunizing agent approved by the Bureau of Biologics, Food and Drug Administration, U.S. Public Health Service.

RUBB-ff 16-2.18(10)-S18071 REQUIREMENTS FOR UNCONDITIONAL ENROLLMENT (1) In order to unconditionally enroll a person as a pupil, a school must receive adequate documentation that immunizations were performed on the schedule and with the agents noted below:

(a) DTP, DT, or Td vaccine must be administered as follows:

(i) For a children aged less than 7 years, the schedule shall be four or more doses of diphtheria and tetanus toxoids and pertussis vaccine (DTP) and/or diphtheria/tetanus (DT) toxoids must be administered, with at least one dose (booster) given after the fourth birthday;

(ii) For a persons after the seventh birthday 7 years old or older who have has not completed the above requirement, any combination of three doses of either DTP, DT, or Td shall be is acceptable, with at least one dose given after the fourth birthday.

(iii) Pertussis vaccine is not required for a person seven years of age or older.

(b) Polio:--The schedule shall be vaccine must be administered as three or more doses of live, oral, trivalent poliomyelitis vaccine, with at least one dose (booster) given after the fourth birthday.

(c) Measles: vaccine must be administered as one dose of live, attenuated measles (rubeola) vaccine, given after the first birthday, with the exception that a person certified by a physician as having had measles disease is not required to receive measles vaccine. A person receiving measles vaccine prior to one year of age or prior to 1968 must be revaccinated, unless, in the latter case, it can be documented that the vaccine, if administered between 1966 and 1968, was a live virus vaccine.

(i) --The schedule shall be one dose of live, attenuated measles (rubeola) vaccine, given after the first birthday. Persons receiving measles vaccine prior to one year of age or prior to 1968 shall be revaccinated, unless, in the latter case, it can be documented that the vaccine, if administered between 1966 and 1968, was a live virus vaccine.

(ii) --Persons certified by a physician as having had measles disease shall not be required to receive measles vaccine.

(d) Rubella: vaccine must be administered as one dose of live rubella vaccine given after the first birthday, with the exception that a female who has reached age 12 is exempted

from the rubella vaccine requirement.

~~(i) -- The schedule shall be one dose of live rubella vaccine given after the first birthday.~~

~~(ii) -- Females who have reached age 12 are exempted from the rubella vaccine requirement.~~

(2) same as proposed rule

(a) For DTP, DT, Td, and polio, ---the month and year a series was completed the last dose of a complete series was administered, unless the person was enrolled prior to August 1, 1980, in which case only the year is necessary.

(b) Rubella For rubella and boosters for DTP, DT, Td, and polio, ---the month and year administered, unless the person was enrolled prior to August 1, 1980, in which case only the year is necessary.

(c) Measles For measles (rubeola), ---the month, day, and year the vaccination was administered, or if measles disease was contracted, the date month, day, and year of diagnosis, except if the person was enrolled prior to August 1, 1980, only the month and year are necessary.

~~(3) -- "Adequate documentation" means that documentation required by Rules III, IV, or V, depending upon the school year in question.~~

(d) If a person transfers into a Montana school from out-of-state, he or she must provide the same documentation as required above for a person who enrolled prior to August 1, 1980.

~~RULE III 16-2.18(10)-S18072 DOCUMENTATION OF IMMUNIZATION STATUS OF CHILDREN FIRST ENROLLED PRIOR TO AUGUST 1, 1980~~ (1) Immunization data shall must be kept on the department's cumulative health record form (SDH & ES-1, Revised 2/78; due to typographical error, the form may be labeled SDH and EX-1), the department's certificate of immunization form, or an equivalent form documenting the same immunization information.

(2) If the documentation has not been provided to the school on one of the forms referred to in subsection (1) above, immunization information must be transferred onto one of those forms from one or more of the types of documentation listed below by November 15, 1980, or, if enrollment occurs later than November 1, 1980, within 15 days after enrollment:

(a) - (e) same as proposed rule

(f) the international certificates of vaccination approved by the World Health Organization;

~~(f)~~ (g) for measles (rubeola) only, a letter or statement signed by a physician indicating that the child person had measles (rubeola) disease, with the date of diagnosis indicated;

~~(g)~~ (h) for a pupils-~~seven~~ 7 years of age or older, for the 1980-1981 school year only, immunization assessment data collected during the Montana immunization initiative. This information, if and when entered into an official school immunization record, or certificate of immunization form, ~~shall-be-considered~~ is adequate evidence of immunization throughout the remaining years of school attendance of such pupil.

RULE-IV 16-2.18(10)-S18073 DOCUMENTATION OF IMMUNIZATION STATUS OF CHILDREN PERSONS ENROLLING FOR THE FIRST TIME AFTER JULY 31, 1980, FOR THE 1980-1981 SCHOOL YEAR (1) Immunization data ~~shall~~ must be kept only on the department's certificate of immunization form and ~~shall-be~~ signed by a physician, physician's designee, local health officer, or ~~their~~ that officer's designees, if the data is submitted to the school on that form.

(2) same as proposed rule

(a) immunization data must be transferred onto that form from one or more of the other types of documentation listed in subsection (3) below by November 15, 1980, or if enrollment occurs later than November 1, 1980, within 15 days after enrollment, and

(b) the certificate of immunization must be signed by the person transferring the information, rather than a physician, physician's designee, local health officer, or ~~their~~ that officer's designees.

(3) same as proposed rule

(a) - (e) same as proposed rule

(f) any state's official parent-maintained immunization record if signed by a physician, physician's designee, local health officer, or ~~their~~ that officer's designees;

(g) the international certificates of vaccination approved by the World Health Organization;

~~(g)~~ (h) for measles (rubeola) only, a letter or statement signed by a physician indicating that the ~~child~~ person had measles (rubeola) disease, with the date of diagnosis indicated;

~~(h)~~ (i) for a pupils-~~seven~~ 7 years of age or older, for the 1980-1981 school year only, immunization assessment data collected during the Montana immunization initiative. This information, if and when entered into an official school immunization record, ~~shall-be-considered~~ is adequate evidence of immunization throughout the remaining years of school attendance of such pupil.

RULE-V 16-2.18(10)-S18074 DOCUMENTATION OF IMMUNIZATION STATUS OF CHILDREN PERSONS ENROLLING IN SCHOOL FOR THE FIRST TIME AFTER JULY 31, 1981 (1) Immunization data may be accepted by a school only if submitted on the department's certificate of

immunization form and signed by a physician, physician's designee, local health officer, or ~~their~~ that officer's designee, except:

- (a) same as proposed rule
- (i) - (iii) same as proposed rule
- (iv) the international certificates of vaccination approved by the World Health Organization;
- ~~for~~ (v) for measles (rubeola) only, a letter or statement signed by a physician indicating that the ~~child~~ person had measles (rubeola) disease, with the date of diagnosis indicated;
- (b) data from the official parent-maintained immunization record of Montana or any other state may be accepted if signed by a physician, physician's designee, local health officer, or that officer's designee.
- (c) if documentation of immunization comes from either (a) or (b) above, the data must be transferred to a certificate of immunization form and signed by the person performing the transfer by November 15 of the year the documentation is submitted, or, if enrollment occurs later than that date, within 15 days after the person is enrolled in school.

~~RBBB-VI~~ 16-2.18(10)-S18075 REQUIREMENTS FOR CONDITIONAL ENROLLMENT

- (1) same as proposed rule
- (2) Conditional enrollment ~~shall~~ must be for a reasonable length of time consistent with the immunization schedule in subsection (4) below, in order to allow for completion of all immunization requirements, but in any case ~~shall~~ must not exceed 90 days from the date of enrollment.
- (3) The conditional enrollment form provided by the department ~~shall~~ must be used to document conditional enrollment status and ~~shall~~ must be retained in the person's school health record.
- (4) A person who is conditionally enrolled ~~shall~~ qualify qualifies for unconditional enrollment when he ~~or she~~ receives the following number of doses of each vaccine, and at intervals of no less than four weeks:

<u>Child Person</u>	<u>Has Received</u>	<u>Child Person</u>	<u>Needs:</u>
	0		3
	1		2
	2		1
	3		0
	4		0
	3 or more but none after 4th birthday		1

Number of DTP, DT, or (Td) Doses Child Person Has Received	Child Person Before 7th Birthday Needs DTP or DT:	Child Person After 7th Birthday Needs Td:
0	3*	3*
1	2*	2*
2	2	2
3	1	1
4	0	0
3 or more, but none since 4th birthday	1	1

*A booster dose 8-14 months following the third dose is recommended. Td boosters are also recommended every 10 years.

(5) If the person who is conditionally enrolled fails to complete immunization within the time period indicated in subsection (2) above, he ~~or she shall be considered~~ is exempt from the immunization requirements that remain unfulfilled and a statement that he is administratively exempt from those requirements, naming the particular diseases for which immunization remains incomplete, ~~shall~~ must be filed in his school ~~medical~~ record on a form provided by the department.

~~RULE-VII~~ 16-2.18(10)-S18076 MEDICAL EXEMPTION (1) A person seeking enrollment in school ~~shall~~ is not be required to have any immunizations which are medically contraindicated. A written and signed statement from any physician that an immunization is medically contraindicated will exempt a person from whatever immunization requirements of section 20-5-403, MCA, the statement indicates necessary.

(2) The statement ~~shall~~ must include:

(a) which particular immunization ~~or immunizations are~~ is contraindicated;

(b) - (c) same as proposed rule

(3) same as proposed rule.

(4) The physician's written statement ~~shall~~ must be maintained by the school as part of the immunization record of the person qualifying for the exemption.

~~RULE-VIII~~ 16-2.18(10)-S18077 RELIGIOUS OR PERSONAL EXEMPTION (1) A person seeking enrollment in school ~~shall~~ be is exempted from immunization requirements if the parent or guardian of that person, or the person himself if an adult, objects thereto in a signed, written statement indicating that the proposed immunization interferes with the free exercise of the religious or personal beliefs of the person signing the statement.

- (2) same as proposed rule
(3) The statement ~~will~~ must be kept by the school as part of the person's immunization school record.

~~RULE-IX~~ 16-2.18(10)-S18078 ADMINISTRATIVE EXEMPTION If a parent or guardian of a minor seeking enrollment, or the person seeking enrollment, if an adult, fails to submit documentation that he is in full compliance with the immunization requirements of these rules, to establish that he qualifies for conditional enrollment, or to claim a medical, personal, or religious exemption within the time period established by the board of trustees pursuant to section 20-5-403(2), MCA, the school ~~shall~~ must file an administrative exemption ~~in~~ with that person's school ~~medical~~ records, on a form provided by the department.

~~RULE-X~~ 16-2.18(10)-S18079 TIME LIMIT The board of trustees of a school may, pursuant to section 20-5-403(2), MCA, may set a reasonable date by which information on immunization status qualifying a person for unconditional or conditional enrollment or an exemption must be submitted to the school, so long as that date is not later than the date of enrollment.

~~RULE-XI~~ 16-2.18(10)-S18080 REPORT OF EXEMPTED PUPILS (1) On or before October 15 of each year, ~~all a schools~~ shall submit to the department and the local health department a report of ~~all~~ those students who are exempt from the immunization requirements of section 20-5-403, MCA, ~~because they, their parents or guardians have claimed a medical, religious or personal exemption, or because they are administratively exempt by virtue of the failure of anyone to act to affirmatively claim exempt status, qualify for conditional enrollment, or provide documentation that the required immunizations are complete.~~

(2) The report ~~shall~~ must be filed on a forms provided by the department and shall indicate the disease ~~or diseases~~ in each case for which immunization is incomplete.

(3) If a person transferring into a school after October 15 is ~~exempt, or one who is conditionally enrolled fails to complete immunization within the time period indicated in~~ Rule-VI 16-2.18(10)-S18075, he shall be considered and is therefore administratively exempt, and notice of that fact ~~shall~~ must be sent immediately to the department and the local health department on the form provided by the department for reporting exemptions.

~~RULE-XII~~ 16-2.18(10)-S18081 SUMMARY REPORT OF IMMUNIZATION STATUS (1) A report of the immunization status of the pupils in every school ~~shall~~ must be sent each year to the department by the principal or other person in charge of a school on a form provided by the department.

(2) During the 1980-1981 and 1981-1982 school years, the report of immunization status ~~shall~~ must include the status of all pupils through January 15 of 1981 and 1982,

respectively, and ~~shall~~ must be submitted by February 1 of the respective academic year.

(3) For the 1982-1983 school year and each year thereafter, the report ~~shall~~ must be limited to the immunization status of pupils enrolling in school for the first time and transfer students through November 15 of each school year, and ~~shall~~ must be submitted by December 1 of each school year.

(4) A copy of the report ~~shall~~ must be sent concurrently from the school to the local health department, or, if there is no local health department, to the local board of health.

(5) If, after the annual report of immunization status has been submitted to the department and the appropriate local health authority, the immunization status of any person included in that report changes, ~~another report form shall be filed within 30 days after the change in status showing only the altered data for the grade affected;~~ the school must keep a record of the change in status, available upon request by the department or the local health authority. The information on change of status must be reported along with the summary report for the following school year.

~~RULE VIII~~ 16-2.18(10)-S18082 INFORMED CONSENT

Before vaccine, ~~other than DTP, DP, or Td,~~ which is supplied by the department can be administered by anyone other than a private physician in his or her office, a form supplied by the department containing information regarding risks and benefits of each vaccine must be signed by the parent or legal guardian of a minor receiving a vaccine, or the person receiving vaccine, if an adult.

3. The following comments were received:

(1) Six- to eight-week intervals between doses of polio or DTP were noted to be preferred medical practice as opposed to the 4-week minimum required by Rule VI. Since the 4-week span between doses produces effective immunization, although it is not preferred practice, and the department felt it was important for a school to be able to complete monitoring of conditional enrollees within a short time frame, the 4-week interval was retained.

(2) A physician felt that Rule VI, stating the dosage necessary for a conditional enrollee to achieve unconditional status, should require a booster for DPT and polio. Since effective immunization for pupils inadequately immunized at school entry is tied as closely to frequency and recency of administration of immunization agents as it is to the interval between doses, and the department felt it valuable to retain a 90-day limit on conditional enrollment to allow

the schools to complete monitoring and record-keeping on conditional enrollees, within which a booster would not fit, none was added to the requirements, though, as before, it remains recommended.

(3) Regarding the rubeola and rubella requirements of Rule II, one commenter suggested a girl 12 or over particularly needed rubella immunization to protect the fetus in case of subsequent pregnancy, while, on the other hand, another felt danger to a fetus warranted excluding girls age 12 or older from the rubeola requirement as well. The department left the rubeola requirements as they were because the risk from rubeola vaccine to a fetus is only theoretical and would not warrant barring all 12-year-old girls and older from the requirement outright; in addition, if a doctor finds a girl is in fact pregnant, he can and should claim a temporary medical exemption for her. As for rubella, the risk to the fetus is somewhat more substantial and the age 12 cutoff for the rubella vaccination requirement was retained in order to prevent the vaccine from being inadvertently administered to a pregnant girl. Vaccination of girls of all ages against rubella is still actively encouraged, after careful medical evaluation to ensure that they are not pregnant.

(4) Several commenters suggested that dates doses are administered should be more exact in Rule II and that parents might be confused about what a "series" was and when it ended. On the other hand, other comments indicated it was infeasible to get more than the year vaccination was complete for those students who have already been enrolled, and that there should not be differing date specificity required for different diseases. In response, language was added to help define what a series was and which date was being asked for, and less stringent date requirements were set for students already enrolled than for those enrolling for the first time after July 31 of this year.

(5) It was suggested that the number of acceptable forms be limited in the interest of consistency and in order to make review of the forms less confusing and time-consuming. Since many schools already have documentation in their files such as that allowed in the rules, the allowable kinds of documentation remained the same in order to ease the burden of the record-keeping requirements on the schools.

(6) One commenter was concerned whether military immunization records would be acceptable. In response, the international certificates of vaccination used by the military were added to the list of acceptable documentation.

(7) In regard to the summary report, Rule XII, two health departments thought monthly updates of the report, once it was submitted, were unduly burdensome. One suggested quarterly updates and another a single update to be submitted with the following year's summary report. The department agreed with the commenters and adopted the latter suggested amendment.

(8) One small school system was concerned that repeated instances of the need for documentation signed by a physician would tend to defeat parental cooperation, due to the cost of visits and the lack of doctors in the area, and that in some cases, even a health officer may not be available. The department felt that documentation by a physician, where required, was essential, and that vaccination clinics may be arranged by the department in rural areas to help solve the problem. The date required to document rubella is still more precise than those required for the other vaccines in order to determine if a child has been appropriately vaccinated after the first birthday. Also, vaccine will be made available by the department to the extent of its resources, free of charge to any physician who agrees not to charge for the vaccine.

(9) It was pointed out that Rule XII did not indicate what time period the summary report should cover, so appropriate dates were added.

(10) Another commenter expressed concern why informed consent was required for administration of vaccines supplied by the department, with the exception of DTP, DT, or Td. The department agreed that it was reasonable to require informed consent prior to administration of all the vaccines, and an appropriate amendment was made.

(11) One commenter was uncertain of the meaning of "school medical records" since some schools apparently do not have separate records that would fit under that category. In response, the department simplified the reference to state "school records."

(12) It was suggested that October 15 was too early for the schools to report to the department the names of all exempted students, as required by Rule XI, since it was very close to the beginning of school and competed with other reports schools were required to make. Since epidemics, particularly of measles, tend to occur close to the beginning of the school year, the department felt it necessary to get the list of those children who are not fully immunized as soon as possible, to facilitate preventive action in case of outbreak of one of the diseases covered by these rules. In addition, the department added a time limit for submission of the names of transferrees who are exempt.

(13) A definition of "enrolling for the first time" was considered advisable to prevent confusion over whether the phrase meant the first time a student ever enrolled in any school or whether it meant the first time enrolled each school year. Such a definition was added.

(14) The School Boards Association suggested that the department set up a central computer system to hold all the information required by these rules, feed back to the schools information they may need, and ultimately cut down on the record-keeping each school must handle. The department presently does not have the resources to set up such a system, but it will be considered in the future.

(15) In order to cut down on the number of forms necessary, it was suggested that the certificate of immunization be adapted to include information necessary for conditional enrollment. Since there have been concerns that the certificate of immunization already contains too much information, the suggestion was not accepted.

(16) One physician felt that parents might be more likely to have their children immunized if they had to go to the local health officer or county superintendent to get the certificate of immunization forms. The department did not add such a restriction, preferring to leave open options as to where such forms may be obtained.

(17) There was some concern about the rules' failure to mention exclusion of unimmunized students during an epidemic or to set penalties for non-complying schools. Since both of those subjects are treated in the statutes, and rules are not to unnecessarily repeat statutory language, no changes were made in that regard.

(18) One health department preferred, in place of the summary report, that a complete list of all children and the immunization status of each be submitted. Although this may be a desirable record-keeping method for some schools, the department felt that for preventing childhood diseases and outbreaks, the October 15 report of exempted pupils should be early and complete enough for this purpose. The summary report of immunization status will be evaluated along with the report of exempted pupils for accuracy and statistical purposes. Since the two reports together provide the department with the information it needs with less effort on the part of the schools than would be required by the suggested report, no change was made.

(19) Many comments were received concerning the administrative exemption and the fact that it undercuts the purpose of the law to get as many children as possible immunized, in that it eliminated any necessity for parents to affirmatively act. Since the administrative exemption is the result of an amendment made by the 1979 Legislature, the department is not free to eliminate it.

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

Certified to the Secretary of State April 15, 1980

STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF HORSE RACING

In the matter of the Amendments)	NOTICE OF AMENDMENT OF ARM
of ARM 40-3.46(6)-S4660 subsec-)	40-3.46(6)-S4660 DEFINITIONS;
tions (1)(v) and (1)(v)(i) con-)	40-3.46(6)-S4680 LICENSES;
cerning definitions; ARM 40-)	40-3.46(6)-S4690 RACING
3.46(6)-S4680 subsection (20))	OFFICIALS; 40-3.46(6)-S46010
concerning number of races; 40-)	GENERAL CONDUCT OF RACING;
3.46(6)-S4690 subsections (7)(f))	40-3.46(6)-S46030 CORRUPT
and (8)(a)(ii) concerning racing))	PRACTICES AND PENALTIES;
officials; 40-3.46(6)-S46010)	40-3.46(6)-S46040 PARI-
subsection (6)(b) concerning)	MUTUEL OPERATIONS
general conduct of racing; 40-)	
3.46(6)-S46030 subsection (14))	
concerning corrupt practices and)	
penalties; and 40-3.46(6)-S46040)	
subsections (2)(p), and (8)(d))	
(iv) concerning pari-mutuel)	
operations.)	

TO: All Interested Persons:

1. On Friday, April 4, 1980, the Board of Horse Racing held a public hearing at 10:00 a.m. in the Old Highway Department Auditorium, Fifth and Roberts, Helena, Montana, to receive testimony in the above entitled matter. The notice of hearing was published on March 13, 1980 in the 1980 Montana Administrative Register at pages 702 and 703, issue number 5.

2. Only two persons appeared. Mr. Steven Meloy testified for himself and for the Montana Horse Breeders Association in opposition to that part of the proposed amendment which would change the existing rule on Montana bred preference in maiden races. Mr. Meloy expressed concern that the amendment as proposed would have the effect of discouraging the breeding of horses in the state of Montana. He further argued that the proposed amendment was unnecessary citing evidence from previous years that non-Montana breders were not having difficulty entering maiden races.

Susan Swanberg, on behalf of herself, testified in opposition to the amendments reiterating Mr. Meloy's concerns over the affect of the proposed Montana bred preference amendment on the breeding industry in Montana.

Written testimony was received from A.O. Askin, President, Horseman's Benevolent and Protective Association, L.W.DeNittis, Montana Horse Breeders Association, all of whom objected to the proposed amendment to the Montana bred preference rule citing various reasons, including the adverse effect on the breeding industry in Montana and the clear preference of Montana horsemen for the rule as currently written.


Board member Richard Heard suggested by letter that in lieu of the changes proposed that the Board postpone any further action for one year, speculating that the matter will resolve

itself without the change by virtue of the elimination of the double maiden definition which was proposed as part of the original notice. No other comments or testimony were received.

3. The board having reviewed the oral and written testimony determined that the objections made were insufficient to justify abandoning the proposed amendment. The board maintains its position that while the objections may or may not have merit, the only equitable solution for owners and breeders of both Montana and non-Montana breds is as the amendment was proposed. Therefore the board has adopted all of those changes shown in MAR notice no. 40-46-17 and MAR notice no. 40-46-18 published on January 31, 1980 and March 13, 1980 in Issue numbers 2 and 5, for the reasons stated in the notices.

BOARD OF HORSE RACING
JOE MURPHY, CHAIRMAN

BY:


ED CARNEY, DIRECTOR
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, April 15, 1980.

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

In the matter of the amendment) NOTICE OF AMENDMENT OF ARM
of ARM 40-3.78(6)-S78065 fee) 40-3.78(6)-S78065 FEE SCHEDULE
schedule.)

TO: All Interested Persons:

1. On March 13, 1980, the Board of Pharmacists published a notice of proposed amendment of ARM 40-3.78(6)-S78065 fee schedule, at page 704, 1980 Montana Administrative Register, issue number 5.
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 amendments) NOTICE OF AMENDMENT OF ARM
of ARM 40.40.403 fees and 40.) 40.40.403 FEES and 40.40.404
40.404 subsection (1) concern-) RENEWAL OF LICENSES
ing renewal of licenses)

TO: All Interested Persons:

1. On March 13, 1980, the Board of Physical Therapy Examiners published a notice of proposed amendment of ARM 40.40.403 Fees and 40.40.404 Renewal of Licenses at pages 700 and 701, 1980 Montana Administrative Register, issue number 5.
2. The board has amended the rules exactly as proposed. However, in reviewing the proposed changes the board realized they had overlooked a request from the Administrative Code Committee on October 16 and November 26, 1979, in not removing the license fee which the Code Committee felt the board did not have the authority to charge applicants who take the examination. As it was not proposed for change in the above entitled amendments, the board will submit a notice of proposed change to be published on April 24, 1980.
3. No comments or testimony were received.

BY:


ED CARNEY, DIRECTOR
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, April 15, 1980.


STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF REALTY REGULATION

In the matter of the amendment) NOTICE OF AMENDMENT OF ARM
of ARM 40-3.98(6)-S98040 con-) 40-3.98(6)-S98040 RENEWAL -
cerning inactive licensees.) INACTIVE LIST - REGISTER

TO: All Interested Persons:

1. On March 13, 1980, the Board of Realty Regulation published a notice of proposed amendment of ARM 40-3.98(6)-S98040 concerning renewals, inactive list and registers at pages 705 and 706, 1980 Montana Administrative Register, issue number 5.
2. The board has amended the rule exactly as proposed.
3. No comments or testimony were received.

BOARD OF REALTY REGULATION
DEXTER DELANEY, CHAIRMAN

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

Certified to the Secretary of State, April 15, 1980.

VOLUME NO. 38

OPINION NO. 74

ELECTIONS - Political subdivisions; revised dates of election of officers;
ELECTIONS - Political subdivisions; length of terms of present officers;
CONSERVATIONS DISTRICTS - Election of supervisors; date
WATER AND SEWER DISTRICTS - Election of directors; date
HOSPITAL DISTRICTS - Election of trustees; date
FIRE DISTRICTS - Election of trustees; date
DRAINAGE DISTRICTS - Election of commissioners; date
IRRIGATION DISTRICTS - Election of commissioners; date.
REVISED CODES OF MONTANA - 7-13-2234, 7-13-2236, 7-33-2106, 7-34-2117, 13-1-104, 76-15-304, 85-7-1702, 85-8-302, and 13-1-104.
LAWS OF MONTANA, 1979 - Chapter 571.

- HELD: 1. Officers of hospital, fire, irrigation and drainage districts whose terms were due to expire in the spring of 1980 are entitled to remain in office until their successors are properly qualified following an election held in November, 1980.
2. Officers of water or sewer districts whose terms were due to expire in 1980 are entitled to remain in office until their successors are properly qualified following the election to be held in November, 1981.
3. Officers of conservation districts shall be elected at the general election held in November of even numbered years.

7 April 1980

Honorable Frank Murray
Secretary of State
State Capitol
Helena, Montana 59601

Dear Mr. Murray:

You have requested my opinion regarding the procedures that should be followed for the election of officers in political subdivisions throughout the state. Chapter 571, Laws of Montana, 1979, was a massive revision of the election laws in the state of Montana. One of the major changes was an elimination of elections that were previously held in the spring. All elections must now be held in November, except

school elections and primary elections which are held in June of even numbered years, and if necessary in September of odd numbered years. Section 13-1-104, MCA now provides:

Times For Holding General Elections. (1) A general election shall be held throughout the state in every even-numbered year on the first Tuesday after the first Monday of November to elect federal officers, state or multicounty district officers, members of the legislature, judges of the district court, and county officers when the terms of such offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(2) A general election shall be held throughout the state in every odd-numbered year on the first Tuesday after the first Monday in November to elect municipal officers, officers of political subdivisions wholly within one county, and any other officers specified by law for election in odd-numbered years when the term for the offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(3) The general election for any political subdivision required to hold elections annually shall be held with the general election provided for in subsections (1) and (2). If a primary election is necessary, it shall be held at the same time as the primary provided for the regular general election for that year.

Hospital, fire, irrigation, and drainage districts all elect officers each year. The terms are staggered so that all of the officers do not run for election each year, and each officer serves a three year term.

Prior to the enactment of Ch. 571, each of the above districts held an election every spring. Chapter 571 changed that procedure. Section 7-34-2117, MCA was amended to require trustees of hospital districts to be elected pursuant to the provisions of Title 13. Section 7-33-2106 now requires that fire district trustees be elected pursuant to the provisions of section 13-1-104(3), MCA. Section 85-8-302 was amended to require elections for drainage district commissioners to be held pursuant to 13-1-104 MCA, and section 85-7-1702 was amended to require the same

procedure for the election of irrigation district commissioners.

Section 13-1-104 provides that all of these elections are to be held at the general election in November of each year. The question that has arisen is what happens to the terms of the officers that would have expired this spring, pursuant to the old statutory scheme?

Section 404 of Chapter 571, Laws of 1979, provided a transition schedule to be followed because of the change in election dates. That section provided:

(1) Elected officials holding offices to be elected in odd-numbered years and holding office on the date this law becomes effective shall continue in office and in the performance of their duties until the next election as specified in 13-1-104 and subsection (2) and (3) of this section.

(2) Elections required by 13-1-104 for odd-numbered years shall be held beginning in 1979.

(3) Elections required by 13-1-104 for even-numbered years shall be held beginning in 1980.

(4) Notwithstanding any other provision of state law, all elected officers holding office on the date this law becomes effective shall hold their respective offices until new successors are elected and qualified.

The intent of the legislature was that the present officers hold office until their successors are elected and properly qualified to assume the responsibilities of the office. In districts, such as those listed above, which hold annual elections the holdover period for the current officers is only a few months. Officers of hospital, fire, irrigation and drainage districts whose terms were originally due to expire in the spring of 1980, are entitled to remain in office until successors are elected in November of 1980 and properly qualified to assume office on the date the new term of office commences.

A similar question exists regarding the election of directors for utility districts, such as a water or sewer district. These directors are elected to four year terms. Under prior law the directors of utility districts were elected every fourth year in March. The election could have

been held in either an odd or even numbered year, depending upon the date the district was originally organized. As amended by Chapter 571, section 7-13-2236 MCA provides:

General District Election. The election of directors of the district shall be held every 4 years with the election for local government officials provided for in 13-1-104(2)."

Section 13-1-104(2) requires the election to be held in November of every odd numbered year. By virtue of those provisions there will not be an election of officers in these districts in 1980. The next election for directors of water and sewer districts will not be held until 1981.

Your question is what happens to those directors whose terms were due to expire in 1980? The intent of the legislature can be ascertained from the language of the statutes. Section 7-13-2234(1) MCA, a statute that refers specifically to water and sewer district directors, provides:

All directors, elected or appointed, shall hold office until the election and qualification or appointment and qualification of their successors.

The transition schedule in section 404, Chapter 571, Laws of Montana 1979, also applies:

(4) Notwithstanding any other provision of state law, all elected officers holding office on the date this law becomes effective shall hold their respective offices until new successors are elected and qualified.

It was the intent of the Legislature that those individuals presently serving as officers in water and sewer districts and whose terms were due to expire in 1980, could retain their office until their successors are elected in 1981, and properly qualified to assume office.

The final question is whether the elections for officers in conservation districts should be in even or odd numbered year. It is my opinion that they should be held in even numbered years. Conservation district supervisors are elected to a term of four years under the provisions of section 76-15-312, MCA. Section 76-15-303 provides that the elections for supervisors in conservation districts are to be held at the general election. Under the provisions of section 13-1-104 general elections are to be held in November of each year.

Section 76-15-304(1) provides:

Two supervisors shall be elected at the second general election following the organization or reorganization of the district and shall replace the two supervisors appointed by the department. Thereafter, the district shall alternatively elect three and two supervisors at succeeding general elections.

That section was amended in 1977 to provide that the supervisors be elected during general elections, which at the time were elections held for federal officers and state-wide offices in the even-numbered years. To facilitate the transition to holding elections in even-numbered years instead of the annual meeting, as was the practice prior to 1977, all five supervisor positions were placed on the ballot in 1978. Three supervisors were elected to four year terms to expire in 1982 and two supervisors were elected to two year terms to expire in 1980. That procedure was uniformly adopted throughout the state.

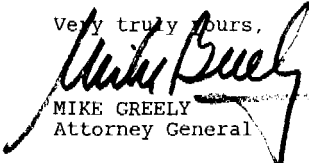
Section 13-1-104(2) provides that elections for officers of political subdivisions wholly within one county shall be held in odd numbered years. Section 13-1-104(1) provides that elections for multi-county district officers are to be held in even numbered years. Conservation districts, by law, may be multi-county districts. See part 5, Chapter 15, Title 76, MCA.

THEREFORE, IT IS MY OPINION:

1. Officers of hospital, fire, irrigation and drainage districts whose terms were due to expire in the spring of 1980 are entitled to remain in office until their successors are properly qualified following an election held in November, 1980.
2. Officers of water or sewer districts whose terms were due to expire in 1980 are entitled to remain in office until their successors are properly qualified following the election to be held in November, 1981.

3. Officers of conservation districts shall be elected at the general election held in November of even numbered years.

Very truly yours,



MIKE GREELY
Attorney General