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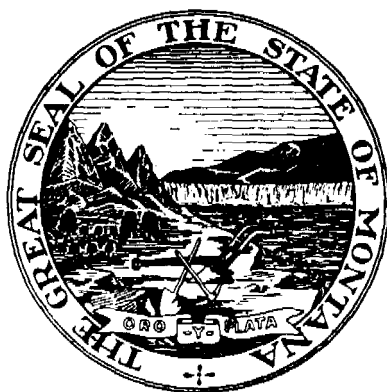
AUG 26 1983

OF MONTANA

**RESERVE**

# **MONTANA ADMINISTRATIVE REGISTER**

1983 ISSUE NO. 16  
AUGUST 25, 1983  
PAGES 1129-1218



# MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 16

The Montana Administrative Register (MAR), a twice-monthly publication, has three sections. The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing, and where written comments may be submitted. The rule section indicates that the proposed rule action is adopted and lists any changes made since the proposed stage. The interpretation section contains the attorney general's opinions and state declaratory rulings. Special notices and tables are inserted at the back of each register.

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BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PROPOSED AMENDMENT  
of rules 2.21.123, 2.21.133, ) OF RULES 2.21.123, 2.21.133,  
and 2.21.137 relating to sick ) AND 2.21.137 RELATING TO SICK  
leave ) LEAVE  
)  
) NO PUBLIC HEARING CONTEMPLATED

To: All Interested Persons:

1. On October 1, 1983, the Department of Administration proposes to amend rules 2.21.123, 2.21.133, and 2.21.137 relating to sick leave.

2. The rules are proposed to be amended as follows:

2.21.123 POLICY AND OBJECTIVES (1) It is the policy of the state of Montana to grant executive branch state employees sick leave benefits in accordance with section 2-18-618, MCA.

(2) Nothing in this policy guarantees approval of the granting of such leave in any instance. Each request will be judged by the agency in accordance with this policy.

~~(2)~~ (3) The objectives of this policy are to establish functional uniform procedures for calculating and granting sick leave benefits in accordance with section 2-18-618, MCA; provide interpretation required for automation of the payroll system, and ensure compliance with the State Maternity Leave Act, 39-7-203 and 204, MCA and the 1978 amendment to the Civil Rights Act of 1964 (42 USC S 20003, 78 statute 253) banning pregnancy discrimination.

(AUTH. 2-18-604 MCA. IMP. 2-18-618 MCA)

2.21.133 ACCRUAL AND USE OF SICK LEAVE CREDITS (1) All permanent, temporary, seasonal, part-time, and intermittent employees are eligible to earn sick leave credits.

(2) Sick leave credits accrue from the first day of employment.

(3) An employee must be continuously employed for the qualifying period of 90 calendar days to use sick leave.

(4) Leave may not be advanced nor may leave be taken retroactively.

(5) Unless there is a break in service, an employee only serves the qualifying period once.

(6) After a break in service, an employee must complete anew the qualifying period to use sick leave.

(7) A seasonal employee's accrued sick leave credits may be carried over to the next season if management has a continuing need for the employee, or paid out as a lump-sum to the employee when the season ends in accordance with Rule 2.21.141.

(8) If sick leave credits are carried over, employment in two or more seasons is continuous employment and can be counted toward the 90-day qualifying period provided a break in service does not occur.

(9) Seasonal employees must immediately report back for work when operations resume to avoid a break in service.

(10) Persons simultaneously employed in two or more positions in the same or in different agencies will accrue sick leave credits in each position according to the number of hours worked. Only hours paid at the regular hourly rate will be counted. Under no circumstances will an employee accrue sick leave credits for more than 40 hours of work in a week.

(11) Sick leave credits will not accrue for overtime (those hours exceeding 40 per workweek that are paid at time and a half.)

(12) Sick leave credits will be used only from the position in which the credits are earned and with approval of the supervisor or appropriate authority for that position.

(13) As provided in 2-18-618, MCA, "an employee may not accrue sick leave credits while in a leave without pay status. "exceeding-15-working-days."

~~{14}-An-employee-who-is-in-a-continuous-leave-without-pay status-for-more-than-15-consecutive-working-days-may-not-accrue sick-leave-for-hours-in-a-leave-without-pay-status-during-these consecutive-working-days-in-excess-of-15~~

~~{15}-An-employee-who-has-worked-the-qualifying-period-for use-of-sick-leave-does-not-have-to-repeat-that-period-upon return-to-work-from-a-continuous-leave-of-absence-without-pay exceeding-15-working-days~~

~~{16}-An-employee-who-has-not-worked-the-qualifying-period for-use-of-sick-leave-must-repeat-that-period-upon-return-to work-from-a-continuous-leave-of-absence-without-pay-exceeding 15-working-days--The-employee-would-not-lose-any-accrued-sick leave-credits-but-would-not-be-eligible-to-use-any-earned-sick leave-credits-until-after-working-90-continuous-days~~

~~{17}-An-employee-who-does-not-return-to-work-from-a continuous-leave-of-absence-without-pay-exceeding-15-working days-will-forfeit-any-sick-leave-credits-accrued-during-the initial-15-days-of-leave-of-absence-without-pay~~

(AUTH. 2-18-604 MCA. IMP. 2-18-615 and 2-18-618 MCA)

2.21.137 SICK LEAVE REQUESTS (1) An agency shall establish procedures for application for and approval of sick leave in compliance with requirements of this policy.

(2) The employee's immediate supervisor or appropriate authority may require medical certification of sick leave charged against any sick leave credits. in-the-form-of-a physician's-statement. The medical certification shall be provided by a licensed physician or, at the agency's discretion, by a licensed practitioner competent to treat and diagnose the particular illness or condition.

(3) A physician's statement by a licensed physician or, at the agency's discretion, by a licensed practitioner, may also be required to certify that the illness of a family member requires the immediate supervision of the employee.

~~(4)--Employees must be informed in advance of return to work if a physician's statement is required.~~

~~(5)~~(4) Medical certification of maternity-related sick leave must be obtained in the same manner and under the same conditions as certification for other sick leave.

~~(6)~~(5) The documentation of requests for leave should contain sufficient detail so that improper use of sick leave credits can be discovered and corrected.

(AUTH. 2-18-604 MCA. IMP. 2-18-618 MCA)

3. The rules are proposed to be amended to implement amendments effective October 1, 1983, in 2-18-618 MCA, and to modify other sick leave rules which have caused administrative problems for agencies in the current form.

4. Interested parties may submit their data, views or arguments concerning the proposed amendments in writing to:

Dennis M. Taylor, Administrator  
Personnel Division  
Department of Administration  
Room 130, Mitchell Building  
Helena, Montana 59620

no later than September 23, 1983.

5. If a person who is directly affected by the proposed amendment 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 Dennis M. Taylor, Administrator, Personnel Division, Department of Administration, Room 130, Mitchell Building, Helena, Montana 59620, no later than September 23, 1983.

6. If the agency 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 at least 25 persons.

By: Morris L. Brusett  
Morris L. Brusett, Director  
Department of Administration

Certified to the Secretary of State August 15, 1983.

STATE OF MONTANA  
DEPARTMENT OF COMMERCE  
BEFORE THE BOARD OF HEARING AID DISPENSERS

In the matter of the proposed ) NOTICE OF PROPOSED AMENDMENT  
amendment of ARM 8.20.401 con-) OF ARM 8.20.401 TRAINEESHIP  
cerning traineeship require-) REQUIREMENTS AND STANDARDS  
ments and standards. )

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On September 24, 1983, the Board of Hearing Aid Dispensers proposes to amend ARM 8.20.401 concerning traineeship requirements and standards.

2. The proposed amendment will add a new subsection (1)(e) (iv) and will read as follows: (new matter underlined, deleted matter interlined)

"8.20.401 TRAINEESHIP REQUIREMENTS AND STANDARDS (1) The trainee apprenticeship period shall be for 6 months as follows:

(a) ...

(e) Supervision of trainee. The dispenser will:

(i) ...

(iv) The number of trainees shall be limited to no more than two trainees for each licensed dispenser at any given time."

3. The addition to the rule is being proposed as the board is finding that upon examination by the board, the trainees are not qualified or knowledgeable to pass the written exam and do not perform well on the practical examination because of lack of proper supervision during the training period.

4. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Hearing Aid Dispensers, 1424 9th Avenue, Helena, Montana 59620-0407, no later than September 22, 1983.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Board of Hearing Aid Dispensers, 1424 9th Avenue, Helena, Montana 59620-0407, no later than September 22, 1983.

6. If the board 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 agency or subdivision; 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 3 based on the approximate 35 applicants per year.

7. The authority of the board to make the proposed change is based on section 37-16-202 (5), MCA and implements section 37-16-405, MCA.

BOARD OF HEARING AID DISPENSERS  
DUDLEY ANDERSON, CHAIRMAN

BY: 

GARY BUCHANAN, DIRECTOR  
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, August 15, 1983.

STATE OF MONTANA  
DEPARTMENT OF COMMERCE  
BEFORE THE BOARD OF PHYSICAL THERAPY EXAMINERS

In the matter of the proposed )	NOTICE OF HEARING ON PROPOSED
amendments of ARM 8.42.401 )	AMENDMENT OF ARM 8.42.401
concerning applications, 8.42.)	APPLICATIONS, 8.42.402 EXAM-
402 concerning examinations, )	INATIONS, 8.42. 403 FEES,
8.42.403 concerning fees, 8.42.)	8.42.405 TEMPORARY LICENSES,
405 concerning temporary li- )	and PROPOSED ADOPTION OF A
censes, and proposed adoption )	NEW RULE, FOREIGN-TRAINED
of a new rule concerning foreign) )	APPLICANTS
trained applicants. )	

TO: All Interested Persons:

1. On Tuesday, October 4, 1983, at 10:00 a.m., a public hearing will be held in the Scott Hart Building Auditorium, 303 Roberts, Helena, Montana to consider the above stated amendments and adoption.

2. The proposed amendment of 8.42.401 will read as follows: (new matter underlined, deleted matter interlined)

"8.42.401 APPLICATIONS (1) The application forms for licensure as a physical therapist, copy of current statutes and rules, along with the jurisprudence examination will be provided to applicants in accordance with the requirements of section 37-11-304, MCA. In addition, the board may, in its discretion, require statements of good moral character and references from the applicant's previous place(s) of employment."

3. The board is proposing this rule change to correspond with the rule change in 8.42.402 which provides for the jurisprudence examination. The board feels it is their duty to supply the material upon which the jurisprudence examination is based. The authority of the board to make the proposed change is based on section 37-11-201, MCA and implements section 37-11-304, MCA.

4. The proposed amendment of 8.42.402 will read as follows: (new matter underlined, deleted matter interlined)

"8.42.402 EXAMINATIONS (1) ...

(2) The examination and meeting dates will be the first Tuesday in April and the first Tuesday in October of each year. Applicants must have their applications in the board office at least 45 days prior to the examination date.

(3) The board may, after review of an application, request the applicant to meet with the board at a time designated by the board and prior to licensure, for the purpose of conducting an oral interview.

(4) Applicants for examinations shall file with the board office an application which shall include the following:

- (a) application for examination fee ~~of~~ \$120.00;
- (b) copy of their certificate of graduation from a board approved physical therapy school;
- (c) three affidavits reference letters of good moral character;
- (d) verification of physical therapy instruction and

graduation; and

(e) recent photograph of the applicant; and

(f) completed jurisprudence examination.

(5) The applicant's overall passing score for the Professional Examination Service is to be equal to or higher than 1.5 standard deviation below the national mean. The passing score on the jurisprudence examination shall be 75%.

(6) The jurisprudence examination shall be an open book examination covering current Montana physical therapy statutes and rules, subject to Title 37, Chapters 1, 2, and 11, Montana Codes Annotated, state and federal narcotic statutes, and standards of care and definition of moral turpitude. The jurisprudence examination must be passed by all examination and endorsement applicants before original licensure will be granted. Applicants failing the jurisprudence examination must retake said examination until passed. The fee of each retake will be assessed in accordance with the established fee schedule."

5. The proposed change sets requirements for making application. The change from "affidavit" to "reference letters" under subsection (4)(c) is due to the fact that the implication is that the board is requiring a notarized statement, when all the board requires is reference letters. Subsection (4)(f) provides that the jurisprudence examination be filed with the application. Subsection (5) sets passing grades on the examinations. Subsection (6) outlines the procedures and policies for the jurisprudence exam. The authority of the board to make the proposed change is based on section 37-11-201, MCA and implements sections 37-11-303, 304, MCA.

6. The proposed amendment of 8.42.403 will read as follows: (new matter underlined, deleted matter interlined)

"8.42.403 FEES (1) The fees shall be as follows:

(a) Application for PES examination (for each examination taken)	<del>\$120.00</del>	<u>150.00</u>
(b) Application for <u>reciprocity</u> endorsement <del>licensure</del>		120.00
(c) Renewal	<del>25.00</del>	<u>75.00</u>
(d) Late renewal (if paid after April 1)	<del>45.00</del>	<u>100.00</u>
(e) Temporary license	<del>15.00</del>	<u>30.00</u>
(f) <u>Original license</u>		<u>30.00</u>
(g) <u>Jurisprudence re-examination (each retake)</u>		<u>15.00</u>
(2) All fees are non-refundable."		

7. The board is proposing the fee changes to set the fees commensurate with program costs. The board has reviewed its fee schedule and administrative costs and determined that these fees are those necessary to cover the costs. The authority of the Board to make the proposed change is based on sections

37-11-201 and 37-1-134, MCA and implements sections 37-11-304, 307, 308, 309, MCA.

8. The proposed amendment of 8.42.405 will read as follows: (new matter underlined, deleted matter interlined)

"8.42.405 TEMPORARY LICENSES (1) Applicants for licensure by ~~reciprocity~~ endorsement who are holders of a license in another state may be issued a temporary license to practice pending licensure by the board. An interview with at least one board member may be required. Said temporary license will expire when the board makes its final determination on licensure.

(2) ..."

9. The change is being made in response to a letter from the American Physical Therapy Association which stated "Reciprocity generally applies when there is an agreement between two or more states to accept a license if an individual is licensed in one state, i.e., the individual is eligible for licensure in the other state by agreement. I do not believe any agreements of this type exist currently in the United States.

All states seem to be using the endorsement concept, i.e., if an individual is licensed in one state, he/she may apply for licensure by having his/her examinations score(s) reported to another state. If the new state agrees that the applicant's score(s) meet its licensure criteria, then it issues a license to practice." The board feels the change is necessary for clarification. The authority of the board to make the proposed change is based on section 37-11-201, MCA and implements section 37-11-309, MCA.

10. The proposed amendment of 8.42.406 will read as follows: (new matter underlined, deleted matter interlined)

"8.42.406 ~~RECIPROCITY-LICENSES~~-LICENSURE BY ENDORSEMENT

(1) Each applicant applying for ~~reciprocity~~ licensure by endorsement must have taken the Professional Examination Service examination or the National Registry Exam in another state to be considered for licensure by ~~reciprocity~~ endorsement. All Professional Examination Service scores must be reported directly to the board office through the Interstate Reporting Service. All National Registry Exam scores must be substantiated by the records of the American Congress of Physical Medicine, 80 North Michigan Avenue, Chicago, Illinois, 60602. If the overall score of the Professional Examination Service exam, is equal to or higher than 1.5 standard deviation below the national mean, the individual may be licensed by ~~reciprocity~~ endorsement. The overall score of those applicants that have taken only the National Registry exam, must be in accordance with the pass or fail grades as mandated by the Registry. Those applicants failing the National Registry exam will not be licensed by ~~reciprocity~~ endorsement.

(2) Applicants for reciprocity licensure by endorsement shall file with the board office an application which shall include the following:

(a) application for reciprocity licensure by endorsement fee of ~~\$120~~;

(b) copy of their certificate of graduation from a board approved physical therapy school;

(c) recent photograph of the applicant;

(d) three affidavits reference letters of good moral character;

(e) copy of all other physical therapy licenses;

(f) verification of current license in another state;

and-

(g) verification of physical therapy instruction and graduation; and

(h) completion and passage of the jurisprudence examination.

(3) Applicants applying for licensure by endorsement who have not been actively engaged in the profession of physical therapy in the five years immediately preceding application shall be required to undergo continued study in the field of physical therapy. Continued study may include, but will not be limited to:

(a) supervised internships;

(b) independent study;

(c) refresher courses;

(d) pertinent graduate or undergraduate course work;

(e) pertinent continuing education courses; and

(f) specialized study in a specific area.

(4) All the above would be subject to the discretion of the board."

11. The board is making the proposed change with reference to endorsement for the reason stated in paragraph 9. above. The reference letters under subsection (2)(d) is being proposed for change as stated in paragraph 5. above. The proposed additions of (2)(h) and (3) is based on the changes in the statutes with reference to applicants licensed in another state passed as section 1, Chapter 454, 1983 Session Laws of Montana which states that the board may require a written, oral, or practical examination and continued study or refresher courses. The authority of the board to make the proposed change is based on section 37-11-201, MCA and implements sections 37-11-303, 307, MCA.

12. The proposed new rule will read as follows:

"1. **FOREIGN-TRAINED APPLICANTS** (1) Foreign-trained applicants shall be subject to the following requirements:

(a) compliance with educational standards equivalent to the University of Montana, Physical Therapy Curriculum shall be established by using an evaluation of educational background performed by any of the following evaluation services;

World Education Services, Inc.  
P. O. Box 745  
Old Chelsea Station  
New York, NY 10011

International Education Research Foundation, Inc.  
Credentials Evaluation Services  
P. O. Box 24679  
Los Angeles, California 90024

International Consultants, Inc.  
ICI of Delaware  
914 Pickett Lane  
Newark, Delaware 19711

(b) a fee is required by the services and shall be paid by the applicant;

(c) be of good moral character and at least 18 years of age;

(d) have graduated from a board approved physical therapy school;

(e) pass to the satisfaction of the board a written examination prescribed by the board and, if considered necessary, an oral interview to determine the fitness of the applicant to practice as a physical therapist;

(f) if from a non-english speaking country the applicant shall display competency in the English language by passing the national examination Test of English as a Foreign Language (TOEFL) with a score of 55% of the total possible points on each subject. The applicant would contact TOEFL by writing:

TOEFL  
Box 899

Princeton, New Jersey 08541, USA

A fee is required by TOEFL and must be paid by the applicant."

13. The new rule is being proposed for adoption to implement section 2, Chapter 454, 1983 Session Laws of Montana which provides that the board may license foreign trained applicants. The rule sets out the necessary requirements to be met for examination and subsequent licensure.

14. 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 Board of Physical Therapy Examiners, 1424 9th Avenue, Helena, Montana 59620-0407, no later than September 26, 1983.

15. The board or its designee will preside over and conduct the hearing.

16. The authority and implementing sections are listed

after each proposed amendment and adoption.

BOARD OF PHYSICAL THERAPY  
EXAMINERS  
HELEN JORGENSEN, R.P.T.,  
VICE-CHAIRMAN

BY: 

CARY BUCHANAN, DIRECTOR  
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, August 15, 1983.

STATE OF MONTANA  
DEPARTMENT OF COMMERCE  
BEFORE THE MILK CONTROL BUREAU

In the matter of the amendment ) NOTICE OF PUBLIC HEARING FOR  
of Rule 8.79.101 (5), (6)(a), ) PROPOSED AMENDMENT OF RULE  
(b), (7), (8), (11)(e), (f), ) 8.79.101 (5), (6)(a), (b),  
(13) regarding purchase and re- ) (7), (8), (11)(e), (f), (13)  
sale: Rule 8.79.201 (1)(d) re- ) TRANSACTIONS INVOLVING PUR-  
garding trade practices ) CHASE AND RESALE OF MILK  
 ) WITHIN THE STATE, RULE DEF-  
 ) INITIONS; RULE 8.79.201 (1)  
 ) (d) REGULATION OF UNFAIR  
 ) TRADE PRACTICES  
 )  
 ) DOCKET #65-83

TO: All Interested Persons

The notice of proposed agency action published in the Montana Administrative Register at pages 689 - 692 on June 30, 1983 is amended as follows because the required number of persons designated therein have requested a public hearing.

1. On October 7, 1983 at 9:00 a.m., a public hearing will be held in the lower conference room of the Department of Commerce, 1430 Ninth Avenue, Helena, Montana, to consider the amendment of Rule 8.79.101 at the request of Gallatin Dairies to permit dairies to delay extending unit prices until after the invoice is received by office personnel (subsection 5) and on its own cognizance to permit licensed Montana milk distributors to use composite milk samples to test for butterfat content and to amend Rule 8.79.201 (1)(d) to revise the reference marketing areas in the rule so it coincides with the repeal of 81-23-301, MCA, effective November 1, 1983.

2. The wording in the proposed amendment has remained the same as shown in the above previously referenced notice.

3. The rule is proposed for the same rationale as originally noticed.

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 Milk Control Bureau, 1430 Ninth Avenue, Helena, Montana 59620-0422 no later than September 26, 1983.

5. Mr. Geoffrey L. Brazier, 1424 Ninth Avenue, Helena, Montana has been designated to preside over and conduct the hearing.

6. The authority of the Department to amend the proposed rules is based on Section 81-23-104, MCA, and the rule implementations Sections 81-23-103, 81-23-105 and 81-23-402, MCA.

GARY BUCHANAN, DIRECTOR  
DEPARTMENT OF COMMERCE

BY William E. Ross  
William E. Ross, Chief  
Milk Control Bureau

Certified to the Secretary of State August 15, 1983.

STATE OF MONTANA  
DEPARTMENT OF COMMERCE  
BEFORE THE BOARD OF MILK CONTROL

In the matter of the amendment ) NOTICE OF THE PROPOSED AMEND-  
of Rule 8.86.301 (5), (6) (a), ) MENT OF RULE 8.86.301 (5),  
(b), (9) (a), (e), (11), (14) (a) ) (6) (a), (b), (9) (a), (e),  
as it relates to deleting the ) (11), (14) (a) PRICING RULES  
references to "marketing areas")  
in the rule to coincide with, ) NO HEARING CONTEMPLATED  
and conforms to, the repeal of )  
81-23-301, MCA. ) DOCKET #66-83

To All Interested Persons:

1. On September 30, 1983, the Board of Milk Control and the Milk Control Bureau of the Department of Commerce propose to amend Rule 8.86.301 on their own cognizance to repeal all references to "marketing areas" in the rule so it coincides with, and conforms to, the repeal of 81-23-301, MCA.

2. Proposed Rule 8.86.301 (5), (6) (a), (b), (9) (a), (e), (11), (14) (a) as amended will read as follows: (full text of rule is located at pages 8-2539 through 8-2549 Administrative Rules of Montana) (new matter underlined, deleted matter interlined)

"8.86.301 PRICING RULES

(1) . . .

(5) Prices to public and/or state institutions.

Prices to be paid for fluid milk sold to public and/or state institutions in ~~all-market-areas-of~~ the State of Montana are fixed by the Board of Milk Control at ninety-two percent (92%) of the regular wholesale price and such institutional prices are to be computed and made a part of the appropriate price announcement.

(6) . . .

(a) The minimum prices which shall be paid to producers by distributors in ~~all-market-areas-of~~ the State of Montana shall be calculated by either applying the flexible economic formula described below or the Minnesota-Wisconsin series plus three dollars (\$3.00) whichever price is lower. The flexible economic formula utilizes a November, 1969 base equalling 100, an interval of 4.5 and consists of seven (7) factors. The factors and their assigned weights are as follows:

	<u>FACTOR</u>	<u>WEIGHT</u>	<u>CONVERSION FACTOR</u>
(i)	Unemployment U.S. (6.67 (3.8 - c) + 100)	.05	5%
(ii)	Unemployment MT (6.67 (6.1 - c) + 100)	.10	10%

(iii)	Weekly wages - total private (Revised and seasonally adjusted)	15%	.13297873
(iv)	Prices received by farmers-MT. ('47 - '49 = 100)	15%	.22960139
(v)	Mixed Dairy Feed	20%	.32258065
(vi)	Alfalfa Hay	12%	.48000000
(vii)	Prices paid by farmers - U.S. ('67 = 100)	23%	.41990335
		<hr/>	
		100%	

Note: the reported revised weekly wage - total private is seasonally adjusted by dividing each months revised figures by the following factors: Jan. - .9770; Feb. - .9760; March - .9795; April - .9838; May - .9934; June - 1.0067; July - 1.0292; August - 1.0274 Sept. - 1.0221; Oct. - 1.0135 Nov. - 1.0027; Dec. - .9887.

The following table will be used in computing producer prices:

TABLE I

Producer price determination using above formula with November, 1969 - 100 and an interval- 4.5.

FORMULA INDEX	PRICE PER C.W.T.
201.5 - 205.1	\$12.86
206.0 - 209.6	13.09
210.5 - 214.1	13.32
215.0 - 218.6	13.55
219.5 - 223.1	13.78
224.0 - 227.6	14.01
228.5 - 232.1	14.24
233.0 - 236.6	14.47
237.5 - 241.1	14.70
242.0 - 245.6	14.93
246.5 - 250.1	15.16
251.0 - 254.6	15.39
255.5 - 259.1	15.62
260.0 - 263.6	15.85
264.5 - 268.1	16.08
269.0 - 272.6	16.31
273.5 - 277.1	16.54
278.0 - 281.6	16.77
282.5 - 286.1	17.00
287.0 - 290.6	17.23

(i) The class I butterfat differential will be calculated by multiplying the average Chicago area butterfat price (Grade A, 92 Score) by or most recently reported by

the United States Department of Agriculture, by .118 and the resulting answer from this calculation shall be rounded to nearest half cent. When milk does not test 3.5 percent butterfat, the price per C.W.T. will be adjusted by the above resulting calculation for each .1 percent the butterfat test moves up or down.

(b) The flexible economic formula which shall be used in calculating minimum on-the-farm wholesale and retail, jobber, wholesale, institutional and retail prices of class I milk in ~~all-market-areas-of~~ the State of Montana utilizes a November, 1969 base equalling 100, an interval of 5.3 and consists of five (5) economic factors. It is used to calculate incremental deviations from the price which was calculated for the first quarter of 1974. The factors and their assigned weights are as follows:

FACTOR	WEIGHT	CONVERSION FACTOR
(i) Weekly wages - total private revised	50%	.4035187
(ii) Wholesale price index (U.S.)	28%	.2607076
(iii) Pulp, paper and allied products (U.S.)	12%	.1142857
(iv) Industrial machinery (U.S.)	6%	.0556586
(v) Motor vehicle and equipment (U.S.)	4%	.0376294
	100%	

The following table will be used in computing distributor prices.

TABLE II

Handler incremental deviation from last official reading of present formula. (December, 1973 - 122.10; formula base = November, 1969; Interval = 5.3.)

FORMULA INDEX	HANDLER INCREMENTAL DEVIATION
101.30 - 105.54	- \$0.02
106.60 - 110.84	- 0.01 (Note: this
111.90 - 116.14	--- 0.00 chart is
117.20 - 121.44	0.01 amended to re-
122.50 - 126.74	0.02 flect a two
127.80 - 132.04	0.03 cent (\$0.02)
133.10 - 137.34	0.04 reduction in
138.40 - 142.64	0.05 the distribu-
143.70 - 147.94	0.06 tor's margin

149.00	-	153.24	0.07 based on a
154.30	-	158.54	0.08 half (½) gal-
159.60	-	163.84	0.09 lon of whole
164.90	-	169.14	0.10 milk, as or-
170.20	-	174.44	0.11 dered by the
175.50	-	179.74	0.12 Board of Milk
180.80	-	185.04	0.13 Control on
186.10	-	190.34	0.14 Sept. 15,
191.40	-	195.64	0.15 1979.)
196.70	-	200.94	0.16
202.00	-	206.24	0.17
207.30	-	211.54	0.18
212.60	-	216.84	0.19
217.90	-	222.14	0.20
223.20	-	227.44	0.21
228.50	-	232.74	0.22
233.80	-	238.04	0.23
239.10	-	243.34	0.24
244.40	-	248.64	0.25

(c) . . .

(9) . . .

(a) The following maximum freight allowances may be charged producers of a licensed distributor or dealer, whose plant is located within Montana, on transfers of bulk milk, a major portion of which is used Class I, between distributors situated more than twenty-five (25) road miles apart, regardless of the market-area or state ~~of where~~ the receiving plant is located:

<u>DISTANCE</u>			<u>MAXIMUM FREIGHT ALLOWANCE</u>
25	to	50 miles	\$ .25
51	to	75 miles	\$ .40
76	to	100 miles	\$ .50
101	to	150 miles	\$ .64
151	to	200 miles	\$ .85
201	to	250 miles	\$1.06
251	to	300 miles	\$1.28
301	to	350 miles	\$1.49

(b) . . .

(e) ~~Producers of bulk milk produced in one natural marketing area and sold in another natural marketing area~~ must be paid for their bulk milk transferred between plants by the exporting or transmitting distributor in accordance with the current official price announcement ~~of the market area where produced and~~ at the prices therein specified or fixed pursuant to statutory formula for the class or use in which it is ultimately used or sold. A freight allowance which is no more than that fixed in subparagraph (a) of paragraph 9 of this rule may be deducted from such payments by the exporting or transmitting

distributor.

(f) . . .

(11) Products not specified. Any unassigned quantity or new product hereafter marketed, but not specifically priced under the appropriate price announcement, will be assigned a price which will be the logical multiple or fraction of the nearest quantity or product to which a specific price has been fixed by the appropriate price announcement, until a specific price or formula for price is ordered by this Board as a result of the regular hearing procedure and based upon actual cost experience of the industry. The Board of Milk Control must be given thirty (30) days written notice prior to the introduction of a new product in any-market-area the State of Montana.

(12) . . .

(14) . . .

(a) Monthly price announcements will be issued pursuant to paragraph 6 of this rule. Producer, jobber, institutional, wholesale, retail and on-the-farm wholesale and retail prices will be uniform and identical in-all-market areas-of throughout the state of Montana.

(b) . . .

3. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Milk Control, or the Milk Control Bureau, 1430 Ninth Avenue, Helena, Montana 59620-0422 no later than September 26, 1983.

4. If a person who is directly affected by the proposed amendment wishes to express his data, views or arguments, orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Board of Milk Control or the Milk Control Bureau, 1430 Ninth Avenue, Helena, Montana 59620-0422 no later than September 26, 1983.

5. If the Board of Milk Control or the Milk Control Bureau receives requests for a public hearing on the proposed amendments from either ten percent (10%) or twenty-five (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 agency or subdivision, or from an association having no 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 38 based on twelve (12) licensed distributors, two hundred ninety seven (297) producers and seventy three (73) jobbers licensed to do business in Montana.

6. The authority of the Board of Milk Control and the Milk Control Bureau to amend the proposed rule is based on Section 81-23-104, 81-23-302, MCA, and implements section 81-23-301,

81-23-302, MCA.

BOARD OF MILK CONTROL  
Curtis C. Cook, Chairman

BY William E. Ross  
William E. Ross, Chief  
Milk Control Bureau

Certified to the Secretary of State August 15, 1983.

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION  
OF THE STATE OF MONTANA

In the matter of the repeal	)	NOTICE OF PROPOSED REPEAL
of Rules 10.16.102, 10.16.212,	)	OF RULES 10.16.102,
10.16.213, 10.16.1210,	)	10.16.212, 10.16.213,
10.16.1802, 10.16.1803	)	10.16.1210, 10.16.1802
10.16.2301 pertaining to	)	10.16.1803, 10.16.2301
special education programs.	)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On October 3, 1983 the superintendent of public instruction proposes to repeal rules 10.16.102, 10.16.212, 10.16.213, 10.16.1210, 10.16.1802, 10.16.1803 and 10.16.2301 pertaining to special education programs.

2. Rule 10.16.102 proposed to be repealed is on page 10-217 of the Administrative Rules of Montana.

The authority of the superintendent to repeal this rule is Secs. 20-7-403 and 20-7-414, MCA and the rule implements Section 20-7-403(2) and (7), MCA.

3. Rules 10.16.212 and 10.16.213 proposed to be repealed are on page 10-218 of the Administrative Rules of Montana.

The authority of the superintendent to repeal these rules is Sec. 20-7-403, MCA and the rules implement Section 20-7-403(2) and (7), MCA.

4. Rule 10.16.1210 proposed to be repealed is on page 10-237 of the Administrative Rules of Montana.

The authority of the superintendent to repeal this rule is Secs. 20-7-403 and 20-7-414, MCA and the rule implements Sec. 20-7-403(2) and (7), MCA.

5. Rules 10.16.1802 and 10.16.1803 proposed to be repealed are on page 10-250 of the Administrative Rules of Montana.

The authority of the superintendent to repeal these rules is 20-7-403, MCA and the rules implement Secs. 20-7-403(2) and (7), MCA.

6. Rule 10.16.2301 proposed to be repealed is on page 10-259 of the Administrative Rules of Montana.

The authority of the superintendent to repeal this rule is Sec. 20-7-403, MCA and the rule implements Secs. 20-7-403(2) and (7), MCA.

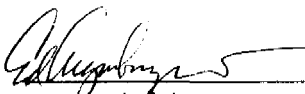
7. The superintendent proposes to repeal these rules because they are either covered in state law, no longer required by federal or state regulations, or are covered in the superintendent of public instruction's newly adopted uniform rules of procedure for all school controversy contested cases before the county superintendents of the state of Montana (Chapter 6 of Title 10).

8. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to Rick Bartos, Legal Services, Office of Public Instruction, State Capitol, Helena, Montana 59620 no later than September 22, 1983.

9. If a person who is directly affected by the proposed amendment 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 to Rick Bartos, Legal Services, Office of Public Instruction, State Capitol, Helena, Montana 59620 no later than September 22, 1983.

10. If the agency receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed repeal; 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 1,689 persons based on the 16,888 special education students in the state of Montana.

11. The authority and implementing sections are listed at the end of each rule.



Ed Argenbright  
Superintendent of Public Instruction

Certified to the Secretary of State, August 15, 1983.

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION  
OF THE STATE OF MONTANA

In the matter of amendment of )	NOTICE OF PROPOSED AMENDMENT
rules governing special edu- )	OF CHAPTER 16, SPECIAL
cation programs of the public )	EDUCATION
schools of the state of )	
Montana. )	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Interested Persons:

1. On October 3, 1983 the superintendent of public instruction proposes to amend rules found in Chapter 16, Special Education, which govern special education programs in the public schools of the state of Montana.

2. The rules as proposed to be amended provide as follows:

10.16.903 WRITTEN NOTIFICATION BEFORE CHANGE IN EDUCATION/  
PLACEMENT PROGRAM.

(1) Remains the same.

~~{2}--The form to be used to notify parents of the proposed change in the educational placement program or to deny initiation of a requested program should be included---~~

{3} (2) The notice of placement/program change should include the following:

(a) a description of the proposed educational program, the reasons why the proposed placement is deemed appropriate, or the reasons why the requested program is being denied and the reasons why it is the least restrictive program setting appropriate for the education of the child;

(b) a description of any tests, reports, or evaluation procedures on which the proposed education placement is based or the requested educational program is being denied;

(c) a statement that the school reports, files, and records pertaining to the child shall be available for inspection to the parents or their designee as indicated in writing; (copies of such records may be obtained on request at no more than the actual cost of such copying).

(d) a description of the right of the parent to obtain a hearing if there are objections to the proposed action or non-action. This notice should emphasize that the parent need not accept the proposed decision to change or not to change the status of the child when there is disagreement with the proposed alternative program;

(e) a detailed description of the procedures the parent should use to appeal a hearing decision; and

(f) an explanation stating that if the proposed action is rejected by the parent, the child shall continue, temporarily, in the current placement unless the current placement endangers the health or safety of the child or other children and/or substantially disrupts the education programs of other children. In this instance, the local educational agency shall notify the parent of the interim change in writing by certified mail in a notice which specifies:

(i) the manner in which the health and safety of the child or other children is endangered or the manner in which the educational program of other children is being disrupted;

(ii) the nature, duration, and location of the interim placement, which must not exceed 15 school days;

(iii) the fact that the interim placement may be extended beyond 15 school days only on the decision of the trustees and that in no case may it extend beyond the duration of the entire due process procedures; and

(iv) the name of the person responsible for the interim placement and the date the interim placement will begin.

(g) an explanation that in the case where a complaint involves a child who is applying for initial admission to a public school, the child shall, with the consent of the parents, be placed in the public school program until the completion of due process proceedings. In this case, the local education agency shall notify the parents of the type of interim placement in writing by certified mail using procedures established and written in item (f) immediately preceding this item in a notice which specifies:

(i) the nature, duration and location of the interim placement, which must not exceed 15 school days;

(ii) the fact that interim placement may be extended beyond 15 school days only on the decision of the hearing officer and that in no case may it extend beyond the duration of the entire due process procedures; and

(iii) the name of the person responsible for the interim placement and the date the interim placement will begin. (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

#### 10.16.1102 INDEPENDENT EDUCATION EVALUATION.

(1) Parents shall have the right to an independent educational evaluation of their child at public expense when those parents have reason to question the appropriateness of the school's public agency's educational evaluation and proposed program recommendations. The public agency may initiate a hearing under 10.16.101 to show that its evaluation is appropriate. If the decision of the hearing officer is that the evaluation is appropriate, the parent still has the right to an independent evaluation, but not at public expense.

~~(2) The parents must state the reason(s) for their request for an independent evaluation. The local school district utilizing special education funds is responsible for the financial expense of the independent evaluation. Advance approval of any contract for an independent evaluation must be obtained from the superintendent of public instruction.~~

(2) If the parent obtains an independent evaluation at private expense, the results of the evaluation:

(a) must be considered by the public agency in any decisions made with respect to the provision of a free appropriate public education of the child, and

(b) may be presented as evidence at a hearing regarding the child.

(3)--The following is a delineation of responsibility of the parents, district or county superintendent and the office of public instruction in an independent educational evaluation:

(a)--the parents must direct a request for an independent educational evaluation in writing to the district superintendent or the county superintendent when there is no district superintendent. The parents must state the reason(s) for such an evaluation;

(i)--the parents must allow the local school district to complete a current evaluation (assessment during the school year) before requesting an independent evaluation;

(ii)--the parents must sign a consent for evaluation to be conducted by the independent evaluator(s); and

(iii)--the parent must sign a release of information between the school district and the independent evaluator(s). The school district and the independent evaluator(s) must exchange all records concerning the child. All records and information from the independent evaluation become part of the child's school record.

(b)--Within 10 to 15 days of a request by parents for an independent evaluation of their child, the school district must submit a letter to the office of public instruction stating the child's birthdate, initials, handicapping condition (if known), dates of evaluations, instruments used, and the parents' reason for an independent evaluation. When necessary, the school district will contract for the independent evaluation. This contract must have the prior approval of the office of public instruction.

(c)--The superintendent of public instruction will assist the school district and parents in securing an appropriate independent evaluation(s).

(i)--the superintendent of public instruction will approve or disapprove the contract for independent educational evaluation. If the contract is disapproved, an alternative independent evaluation(s) will be offered.

(3) If a hearing officer requests an independent evaluation as part of a hearing, the cost of the evaluation must be at public expense.

(4) Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner(s), must be the same as the criteria which the public agency uses when it initiates an evaluation. (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

#### 10.16.1201 SCREENING AND REFERRAL PROCESS AND CHILD FIND.

(1) Each school district must screen and develop criteria for further assessment for its students annually to determine potential candidates for special education. ~~and report the screening process to the superintendent of public instruction.~~

(2) and (3) Remain the same. (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

10.16.1202 CHILD STUDY TEAM PROCESS.

(1), (2) and (3) Remain the same.

(4) Once a decision is made by the child study team that a child is handicapped and is not receiving an appropriate education in the present educational program, recommendations are made to the board of trustees. The district has 30 days in which to initiate the appropriate changes in the child's program. (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

10.16.1203 EVALUATION BY THE CHILD STUDY TEAM. No child shall ~~receive~~ be eligible for special education services until a child study team has performed an appropriate comprehensive assessment which yields evidence that the child has learning and/or behavioral problems requiring a specialized service not afforded by the regular program.

(1) Areas of assessment shall include, when appropriate, but not limited to, the following categories:

(a) scholastic - this area shall include assessment of the intellectual, language and communication, academic, and self-help skill status of the child;

(b) physical - this area shall include a review of general health status of the child, with particular attention to the visual, auditory, musculo-skeletal, neurological, and developmental modalities; and

(c) adjustment - this area shall include assessment of the social skills and emotional status of the child.

(2) Assessment results shall be summarized in writing, dated, and signed by the individual(s) responsible for conducting the assessments. The report shall be kept with the child's ~~permanent-records~~ special education records as required in the Standards for Accreditation of Montana Schools.

(3), (4), (5), (6) and (7) Remain the same. (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

10.16.1205 COMPOSITION OF SPECIFIC CHILD STUDY TEAMS.

(1), (2), (3), (4), (5) and (6) Remain the same.

(7) In addition to the core team, a teacher or administrator with training or knowledge in the area of specific learning disabilities, ~~a speech therapist when the speech therapist considers participation necessary,~~ and other appropriate professional individuals are as needed when the child has a specific learning disability or disabilities.

(8) In addition to the core team, a qualified (certified/ approved) psychologist and/or a (licensed/certified) psychiatrist is needed for the study of the educational needs of the emotionally disturbed child. (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

10.16.1207 DEVELOPMENT OF INDIVIDUALIZED EDUCATION PROGRAM.

(1) Services provided directly to a child via special education shall begin only when a comprehensive child study team evaluation has been conducted and when written parental/guardian approval of the written individualized education program has been developed. Written parental consent for special education placement shall also be obtained ~~annually~~ prior to placing the child in the program.

- (2) and (3) Remain the same.
- (4) The statement shall include at least these items:
  - (a) a statement of the present levels of educational performance of such child (baseline date data);
  - (b) a statement of annual goals;
  - (c) short term instructional objectives (in addition to the basic academic and life skills objectives, psychomotor objectives also must be considered);
  - (d) a statement of the specific educational services to be provided to such child and the extent to which such child will be able to participate in regular educational programs;
  - (e) the projected date for initiation and anticipated duration of such services; and
  - (f) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.
- (5) Remains the same. (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

10.16.1209 PERIODIC REVIEW OF INDIVIDUALIZED EDUCATION PROGRAM.

(1) Each agency and parents will establish or revise an individualized education program for each handicapped child ~~before-the-beginning-of-each-school-year---~~. They will then review, and if appropriate, revise its provisions periodically but not less than annually. Parents shall have the opportunity to review their child's individualized education program and be given the opportunity to assist in scheduling the meetings at a mutually agreed time and place.

(2) The notice of the meeting should include the following information:

- (a) the date, time and place of review conference;
  - (b) a ~~core~~ team will participate in the review;
  - (c) a description of procedures to be used in the review;
- and
- (d) a statement that the parents will receive the findings and recommendation of the staff's review within 10 days after completion of the review.

(3) Remains the same. (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

10.16.1301 SERVICES IN GENERAL.

- (1) Remains the same.
- (2) To meet the needs of each handicapped person, districts should afford children access to a variety of instructional and service options. ~~Every-district-cannot-be-expected-to-have-all-the-necessary-resources-to-develop-as-many-services-as-are-necessary-to-meet-the-needs-of-handicapped-children-in-the-district.~~ Services will be developed as availability of qualified staff permits. Small school districts with a minimal number of handicapped students should seek to serve those students with programs and services coordinated with nearby districts and/or through special education cooperatives. (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

10.16.1303 CASELOAD OF A RESOURCE SERVICE. A teacher of a resource service should have a minimum caseload of eight handicapped students per day before establishing a first full-time service. The maximum number of students assigned to each resource service should not exceed 25 students per week. In situations where fewer than eight students per day can be documented for a first full-time service or where fewer than 25 students per week can be documented in an established service, the full-time equivalent to be approved shall be negotiated with the office of public instruction based on special education needs of the children, ~~utilizing the recommendation of the child study teams.~~ (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

10.16.1304 ADDING RESOURCE SERVICES. If a school district is considering adding resource services, the district must first establish ~~the maximum number of that~~ at least 18 handicapped students and/or 150 contact hours ~~able to be~~ are accommodated in existing services. ~~Once each resource service is filled to the maximum, the school may provide service on a part-time basis by prorating the number of additional handicapped students until an additional full-time resource service is justified.~~ (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

10.16.1306 ITINERANT RESOURCE SPEECH AND HEARING SERVICES

(1) Remains the same.

(2) The caseload for a speech pathologist depends on the severity of the handicapped students to be served. The suggested range is from 15 to 60 children. ~~The caseload must be verified by a fully licensed speech pathologist before it will be approved by the superintendent of public instruction. If the caseload includes primarily hearing handicapped students, then the caseload must be verified by a fully licensed audiologist and coordinated with the child study team for hearing impaired students.~~

~~A full-time speech pathologist's suggested minimum student base population is one clinician per 1,000 students. Exceptions are to be negotiated with the superintendent of public instruction.~~ (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

(3) Remains the same.

10.16.1308 SERVICES TO HOMEBOUND AND/OR HOSPITALIZED STUDENTS.

(1) Remains the same.

(2) When the child study team has completed a comprehensive education evaluation ~~as outlined in Rule 10-16-1203, and determined the child to be handicapped,~~ the service may be extended to the student following completion of an individualized education program. ~~However, the procedure in Rule 10-16-2001 must be followed.~~ (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

10.16.1310 OUT-OF-DISTRICT SERVICES.

(1) Remains the same.  
(2) When a child is handicapped to such a degree that a totally controlled environment is needed, residential school placement may be essential. Room and board and out-of-state tuition costs are considered allowable costs in the district's special education budget. The public school is only responsible for room and board and educational costs. Other services such as psychiatric therapy and/or medical treatment must be deleted from the special education costs and assumed by parents and/or other agencies. An out-of-district placement must be approved by the superintendent of public instruction. ~~(See Rule-10-16-2001(1)-)~~

(3), (4) and (5) Remain the same.

(6) ~~A regional-services cooperative~~ staff may provide supportive services when such services are not available through the local district. ~~Please refer to Rule-10-16-1204, Composition-of-a-Core-Child-Study-Team.~~

(7) The resident school district is required to budget for room and board costs ~~(0555-Transportation)~~ in its special education budget. Budget approval does not mean the school district has authorization to send a specific child out of district. Approval shall also be obtained from the school district or agency which is providing the services. Program evaluation is the responsibility of both the resident school district and the providing school district or agency.

(8) If a handicapped child is placed out-of-state, tuition charges are covered under Contracted Services ~~-01-01-0200.~~

(9) Remains the same. (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

10.16.1311 RESPONSIBILITIES FOR OUT-OF-DISTRICT SERVICES.

(1) and (2) Remain the same.

(3) The receiving school district will:

(a) form a child study team to determine acceptance and whether appropriate services can be offered; and

(b) conduct periodic review and report results to the appropriate official of the resident district.

(4), (5) and (6) Remain the same. (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

10.16.2004 PRESCHOOL PROGRAMS.

(1) Remains the same.

(2) Approval procedures for preschool handicapped children are:

(a) the school district is to submit a letter to the office of public instruction requesting permission to operate a program. The letter should briefly describe the program, identification process and/or number of handicapped children, and the types of handicapping conditions to be treated;

(b) a program unit application, ~~Part-B,~~ is to be submitted for each professional staff member.

~~(c) the program must be included in the district's approved budget.~~ (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

10.16.2106 COOPERATIVE SPECIAL EDUCATION PROGRAMS. Each application for a cooperative special education program shall be submitted through a single district or county superintendent. The applicant district, on submission of both the budget and program applications, will identify the districts to be served as well as the projected population and caseloads. A written agreement explaining how services will be provided must be submitted to the superintendent of public instruction and signed by all involved school districts. This procedure also applies to services which are provided for under the contracted services portion of the special education budget. (Auth. Sec. 20-7-403, MCA; IMP, Sec. 20-7-403, MCA.)

10.16.2303 EDUCATION OF ALL HANDICAPPED CHILDREN ACT,  
PART B.

(1) Remains the same.

(2) It is the goal of the superintendent of public instruction to insure that all unserved (out of school) handicapped children age 6 or older, but not having yet reached his or her 19th birthday will be guaranteed full education opportunities. ~~These EHA-B monies not utilized for unserved children in the above age categories will then be utilized to expand pre-school programs for the children ages three through five.~~ Children who are enrolled in private schools may participate in projects sponsored under this Act, but funds cannot be made available directly to such schools.

(3) ~~All proposals submitted will be read and rated by a reading team using the following criteria:~~

(a) ~~are the children that are identified for services in the proposal unserved and within the age range of six to 19;~~

(b) ~~are the children that are identified for services in the proposal in school, but not getting an appropriate education;~~

(c) ~~is the proposal centered on children rather than personnel, materials, and equipment;~~

(d) ~~can the children identified as needing service in the proposal be served reasonably in an existing school program;~~

(e) ~~are the services to be delivered in the least restrictive setting as possible;~~

(f) ~~are the objectives for the program measurable;~~

(g) ~~can the objectives be met through the activities that are proposed;~~

(h) ~~is the proposed program evaluation adequate;~~

(i) ~~are staff members who will provide the services for the children appropriately trained to deliver the services as outlined;~~

(j) ~~is the proposed budget reasonable in terms of number of children to be served;~~

(k) ~~is the proposed timeline for providing services reasonable;~~

(l) ~~does proposal show evidence of long-range planning in meeting the state's full educational services goal for the handicapped by 1979;~~

(m) ~~how does the district/agency plan to finance the program in the future; and--~~

~~{n}--does-the-proposal-show-evidence-of-consideration-----  
being-given-to-the-eight-dimensions-of-a-Basic-Quality-Educa---  
tion-program-in-a-realistic-way?- (Auth. Sec. 20-7-403, MCA;  
IMP, Sec. 20-7-403, MCA.)~~

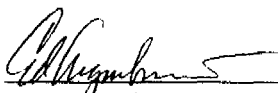
3. The rules are proposed to be amended to correct typographical errors, to correct inaccurate statements, and to facilitate rule changes at the state and federal levels.

4. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to Rick Bartos, Legal Services, Office of Public Instruction, State Capitol, Helena, Montana 59620 no later than September 22, 1983.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at the public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Rick Bartos, Legal Services, Office of Public Instruction, State Capitol, Helena, Montana 59620, no later than September 22, 1983.

6. If the agency 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 1,689 persons based on the 16,888 special education students in the state of Montana.

7. The authority and implementing sections are listed at the end of each rule.



Ed Argenbright  
Superintendent of Public Instruction

Certified to the Secretary of State August 15, 1983.

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

In the matter of the	)	NOTICE OF PROPOSED
adoption of a rule	)	ADOPTION OF A RULE
establishing licensure	)	ESTABLISHING STANDARDS FOR
standards for hospice	)	LICENSURE OF HOSPICES
programs	)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On September 26, 1983, the department proposes to adopt a new rule establishing standards for the licensing of hospice programs within Montana.
2. The proposed rule provides as follows:

RULE 1 [to be codified as 16.32.373] MINIMUM STANDARDS FOR A HOSPICE PROGRAM, LICENSING AND CERTIFICATION (1) The following definitions apply in this rule:

(a) "Hospice program" means a public agency or private organization (or a subdivision thereof) which is primarily engaged in providing hospice care, provides such hospice care on a 24-hour on-call basis, and also provides bereavement counseling for the immediate family of terminally ill individuals.

(b) "Hospice care" means home and in-patient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and his family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying, and that includes a formal bereavement component.

(2) A hospice program may be licensed to operate either:

(a) as a free-standing hospice with its own hospice license, or

(b) as a part of a licensed hospital without its own license when the department finds that the hospital's hospice program meets the requirements set forth in this rule.

(3) Licensed hospice programs shall have the following organizational components:

(a) A formally established governing body with authority to make decisions affecting the operation of the hospice;

(b) An organization chart defining reporting relationships among hospice workers;

(c) A statement of patient/family rights;

(d) Established policies for the administration and operation of the program, including but not limited to:

(i) Written criteria for program admission and discharge;

(ii) Procedures for bereavement referrals and assistance;

(iii) Development of a plan of care;

(iv) Patient transfer agreements;

(v) System(s) for recordkeeping;

- (vi) Patient care procedures; and
- (vii) In-service education.
- (e) Formal, on-going long range planning;
- (f) Development of annual budgets;
- (g) Annual evaluation of each aspect of the hospice program, including the program's quality assurance measures.
- (4) Licensed hospice programs shall have a care team responsible for the provision of hospice care. The care team shall:
  - (a) include persons with skills in the areas of medical care (M.D.), nursing care, psychological care and spiritual care;
  - (b) consist of members who are qualified by education, training, licensure or experience to provide optimal care to hospice patients and families;
  - (c) Confer or meet regularly;
  - (d) Assign overall responsibility for implementation of the individual plan of care to an identified coordinator;
  - (e) Allow for inclusion within the care team the patient/family and other personnel resources within the community, as appropriate.
- (5) Licensed hospice programs shall assure that each patient has a physician who is the patient's primary physician. The primary physician shall:
  - (a) Assist in the development of the patient's care plan; and
  - (b) Approve and sign the plan.
- (6) Licensed hospice programs shall maintain a medical record for every individual accepted as a hospice patient. The medical record shall include:
  - (a) Patient identification, diagnosis, prognosis;
  - (b) Patient's medical history;
  - (c) Patient/family plan of care;
  - (d) All doctor's orders;
  - (e) Progress notes, dated and signed; and
  - (f) Evidence of timely action by the patient care team.
- (7) Licensed hospice programs which utilize volunteers shall provide volunteer training which shall include:
  - (a) Information concerning hospice philosophy;
  - (b) Instruction on the volunteer's role, responsibilities, restrictions and expectations; and
  - (c) Information concerning the physical, emotional and spiritual issues encountered by hospice patients and families.
- (8) Licensed hospice programs shall allow the patient/family to make the decision to participate in a hospice program and shall encourage the patient/family to assume as much responsibility for care as they choose;
- (9) Licensed hospice programs shall assure that all services including skilled nursing services are provided either directly or by contract or are arranged through referral as necessitated by the patient/family needs.

(10) Licensed hospice programs shall have a plan for providing bereavement follow-up for families desiring it.

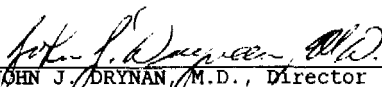
3. The rule is being proposed in order to carry out the intent of the legislature, Chapter 324, Laws of 1983, to include hospices within the definition of a "health care facility" thereby making them subject to licensure under Title 50, Chapter 5, Part 2, MCA. In proposing this rule, the department is exercising the rulemaking authority granted by the legislature to establish standards for hospice licensure. The proposed rule establishes minimum criteria to assure that the components of a hospice program as now defined in section 50-50-101(16), MCA, are properly structured and maintained, so that the delivery of hospice services to the public will be appropriate and will be consistent within the state.

4. Interested persons may submit their data, views, or arguments concerning the proposed rule in writing to Robert L. Solomon, Cogswell Building, Capitol Station, Helena, Montana, 59620, no later than September 23, 1983.

5. If a person who is directly affected by the proposed action 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 Robert L. Solomon at the above address no later than September 23, 1983.

6. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action, 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 more than 25 based on the fifteen hospice groups currently operating within the state, as well as persons and other health care institutions using or interrelating with such hospice groups.

7. The authority of the department to adopt the rule is based on section 50-5-103, MCA, and the rule implements sections 50-5-103 and 50-5-204, MCA.

  
JOHN J. DRYNAN, M.D., Director

Certified to the Secretary of State August 15, 1983

BEFORE THE DEPARTMENT OF INSTITUTIONS  
OF THE STATE OF MONTANA

In the matter of the amendment of Rules 20.3.201 through 20.3.203, 20.3.206 through 20.3.212 through 20.3.216, 20.3.301 through 20.3.401, 20.3.402, 20.3.405, 20.3.406, 20.3.408, 20.3.409, 20.3.411 through 20.3.415 and the adoption of a new rule pertaining to the approval of chemical dependency programs, guidelines for county chemical dependency plans and the certification system for chemical dependency personnel.

) NOTICE OF PROPOSED AMENDMENT  
) OF RULES 20.3.201-20.3.203,  
) 20.3.206-20.3.209, 20.3.212-  
) 20.3.216, 20.3.301-20.3.303,  
) 20.3.401, 20.3.402, 20.3.405,  
) 20.3.406, 20.3.408, 20.3.409,  
) 20.3.411-20.3.415  
) AND THE PROPOSED ADOPTION OF  
) RULE I  
)  
) (Approval of Chemical De-  
) pendency Programs, Guidelines  
) for County Chemical Depend-  
) ency Plans and Certifica-  
) tion System for Chemical  
) Dependency Personnel)  
)  
) NO PUBLIC HEARING CON-  
) TEMPLATED

TO: All Interested Persons.

1. On September 24, 1983, the Department of Institutions proposes to amend rules 20.3.201 through 20.3.203, 20.3.206 through 20.3.209, 20.3.212 through 20.3.216, 20.3.301 through 20.3.303, 20.3.401, 20.3.402, 20.3.405, 20.3.406, 20.3.408, 20.3.409, 20.3.411 through 20.3.415 pertaining to the approval of chemical dependency programs, guidelines for chemical dependency plans and the certification system for chemical dependency personnel and adopt a new rule pertaining to the certification system for chemical dependency personnel.

2. The rules as proposed to be amended provide as follows:

20.3.201 ALCOHOL CHEMICAL DEPENDENCY TREATMENT PROGRAMS

(1) Purpose. The purpose of this rule is to establish treatment standards for the approval of programs extending treatment services to alcoholics, intoxicated persons, persons incapacitated by alcohol, drug abusers and family members pursuant to Section 53-24-208 MCA; standards for acceptance of persons into the treatment program and standards by which the administrator may determine which persons may be admitted to an approved public treatment program as an alcoholic, drug abuser or family member pursuant to Section 53-24-209 MCA.

AUTH: 53-24-207

IMP: 53-24-207

20.3.202 DEFINITIONS (1) In addition to the terms defined in Section 53-24-103 MCA,

(a) "ADAD" means alcohol and drug abuse division of the department of Institutions.

(b) "Administrator" means the person in charge, care or control of the treatment program and responsible for the operation of the program.

(c) "Client" means a person being treated for a chemical dependency an-alcohol related problem who is formally admitted to the program within the admission criteria set by the program.

(d) "Certified counselor" means an individual meeting standards pursuant to 53-24-204 MCA, and corresponding rules and regulations described in Section 20.3.401-405 ARM.

(e) "Counseling"

(i) "Family" means face-to-face interaction between an alcoholism a chemical dependency counselor and family member or members for a specific therapeutic purpose.

(ii) "Group" means face-to-face interaction between two or more clients and a chemical dependency an-alcoholism counselor for a specific therapeutic purpose.

(iii) "Individual" means a face-to-face interaction between a chemical dependency an-alcoholism counselor and an individual client for a specific therapeutic purpose.

(f) "Detoxification (emergency care) component" means the services required for the treatment of persons intoxicated or incapacitated by alcohol and/or drugs. Detoxification involves clearing the system of alcohol and/or drugs and enabling individual recovery from the effects of intoxication. These services include screening of intoxicated persons, counseling of clients to obtain further treatment, and referral of detoxified persons to other appropriate treatment programs. Medical detoxification refers to short term treatment in a licensed medical hospital. Non-medical detoxification refers to short term treatment in a social setting with 24 hour supervision.

(g) "Facility" means the physical area (grounds, buildings or portions thereof) where program functions take place under the direct administrative control of a program administrator.

(h) "Follow-up" means the process of providing continued contact with a discharged client to support and increase gains made to date in the recovery process and to gather relevant data.

(i) "Governing body" means the individual or group which is legally responsible for the conduct of the program.

(j) "Inpatient-hospital care component: means treatment for persons requiring 24-hour supervision in a licensed hospital or suitably equipped medical setting licensed by the department of health under Section 50-5-201 MCA. Services include medical evaluation and health supervision; alcoholism chemical dependency education; organized individual, group and family counseling; discharge referral to necessary supportive services; and a client follow-up program after discharge.

(k) "Inpatient-free standing care component" means treatment for persons requiring 24 hour supervision in a community based residential setting. Services include a physical exam signed by a licensed physician; ~~alcoholism~~ chemical dependency education; organized individual, group and family counseling; discharge referral to necessary supportive services and a client follow-up program after discharge.

(l) "Intermediate care (transitional living) component" means a non-medical residential facility in a community-based setting. These facilities provide a transitional phase for individuals who have recently received ~~alcoholism~~ chemical dependency inpatient care services and require a moderately structured living arrangement. Services provided include counseling services (individual and group), ~~alcoholism~~ chemical dependency education and social and recreational activities. These individuals are encouraged to seek vocational rehabilitation, occupational training, education and/or employment as soon as possible.

(m) "Limited approval" means a status of state approval granted to ~~alcoholism~~ chemical dependency treatment programs which are requesting approval for the first time and who have not attained substantial compliance specified in these rules. Limited approval is granted to provide them with time to comply with standards. Limited approval shall not be issued for more than a six month period.

(n) "Outpatient care component" means services provided on a regularly scheduled basis to clients residing outside a program. Services include crisis intervention; counseling; ~~alcohol~~ chemical dependency education; referral services; and a client follow-up program after discharge.

(o) "Outreach" means the process of reaching into a community systematically for the purpose of identifying persons in need of services, alerting persons and their families to the availability of services, locating other needed services, and enabling persons to enter and accept those services.

(p) "Person(s)" means an individual or a group of individuals, association, partnership or corporation.

(q) "Physician" means a medical doctor licensed by the state of Montana.

(r) "Program" means the general term for an organized system of services designed to address the treatment needs of clients.

(s) "Program effectiveness" means utilization of measurable indicators to demonstrate effectiveness.

(t) "Quality assurance" means a program and/or efforts designed to enhance quality care through an ongoing objective assessment of important aspects of client care and the correction of identified problems.

(u) "Residential" means a facility providing 24 hour care, room and board.

(v) "Restricted approval" means a status of state

approval granted to an approved ~~aleehel~~ chemical dependency treatment program, which has failed to maintain substantial compliance. Restricted status is issued for a maximum of 90 days in order to allow programs to meet substantial compliance. This approval cannot be renewed.

(w) "Revoke" means invalidation of approval of an ~~aleehelism~~ chemical dependency program.

(x) "Substantial compliance" means conformity with at least 70% of the rules and regulations for each applicable service component as described in this chapter.

(y) "Suspension" means invalidation of approval of an ~~aleehel~~ chemical dependency treatment program for any period less than one year or until the department has determined substantial compliance and notifies the program of reinstatement.

(z) "Volunteers" means a person or persons who offer their services free of charge.

AUTH: 53-24-204,208,209 MCA

IMP: 53-24-204,208,209 MCA

20.3.203 DEPARTMENT PROCEDURES FOR APPROVAL OF ~~AL60H0E~~ CHEMICAL DEPENDENCY TREATMENT PROGRAMS (1) Each public or private program providing services for ~~aleehel~~ chemical dependency treatment and receiving alcohol earmarked revenue funds under 53-24-108 MCA, shall be subject to approval by the department. The department will issue approval for the following service components: detoxification (emergency care), inpatient-hospital, inpatient-free standing, intermediate (transitional living), and outpatient. A program may be approved for more than one service if the program complies with the specific requirements for approval of each service provided. Programs providing detoxification (non-medical) must also provide at least one of the other components listed above. The certificate of approval shall be obtained annually. Issuance of the certificate of approval shall be conditional to establishing and operating programs in compliance with this rule.

(2) ~~Aleehel~~ chemical dependency treatment programs seeking departmental approval of one or more of the services shall submit written application to the ADAD of the department on a form provided by ADAD.

(a) Such application shall include a detailed description of the facility, personnel and services to be provided.

(3) The application shall be completed as per instructions.

(a) A letter from the applicant, including supporting information and statistics, showing that there is a need in the community for the type of services requested in the application and does not duplicate existing services.

(b) If applicable, evidence that the program has met the certificate of need rules and regulations as required by the Montana Certificate of Need Law.

(c) Evidence that the need for the requested services are included in the county plan as required by 53-24-211 MCA.

(4) Within 30 days of receiving the application, the department will notify the applicant in writing of acceptance or denial of the application.

(5) If the department denies the application for approval, the applicant has 30 days to request a formal hearing as provided for in the Montana Administrative Procedures Act. If a response is not received at the end of 30 days, the department may refuse to grant approval and shall notify the applicant agency.

(6) If the application is approved the department will notify the agency in writing and copies of all written documents required by these rules and regulations shall be requested.

(7) If written documents submitted to the department do not meet the requirements of these rules and regulations, ADAD shall notify the applicant in writing. The applicant shall have 30 days from date of ADAD notification to respond in writing to the content of the notice. If a response is not received within 30 days, the department may refuse to grant approval and shall notify the applicant in writing of the action taken. If written documents submitted to the department do meet the requirements of these rules and regulations, the department shall have the program inspected to ensure compliance with the requirements of these rules and regulations. After inspection, the ADAD shall either approve the program to provide one or more of the services listed in this section, or refuse to grant approval. The ADAD shall send written notification of department approval of the program as an approved ~~aleehel~~ chemical dependency treatment program or shall send written notification of the deficiencies which resulted in the refusal to grant approval.

(8) The department may grant limited approval to ~~aleehel~~ chemical dependency treatment programs when department staff are unable to determine, without a period of operation, whether the program will comply with these rules and regulations. Limited approval shall expire automatically after six months and may not be renewed. Such expiration shall not be considered a suspension or revocation pursuant to 20.3.205 ARM.

(9) The department shall issue an annual certificate of approval to those approved ~~aleehel~~ chemical dependency treatment programs which remain in substantial compliance with these rules and regulations.

(10) The department may revoke or suspend any service component listed in 20.3.203(1) if a program ceases to provide those services for which it has been approved.

AUTH: 53-24-108(1)MCA

IMP: 53-24-208(1)MCA

20.3.206 ALL PROGRAMS-ACCEPTANCE OF PERSONS INTO THE TREATMENT PROGRAM (1) The program shall ensure compliance

with 53-24-209 MCA.

(2) The program shall admit and care for only those persons for whom they can provide care and services appropriate to the person's physical, emotional, and social needs.

(3) If ~~an alcoholic~~ a chemically dependent person is not admitted to an approved treatment program for the reason that adequate and appropriate treatment is not available at that program or facility, the administrator shall refer that person to another treatment program at which adequate and appropriate treatment is available.

(4) Approved ~~alcohol~~ chemical dependency treatment programs shall provide services to persons with alcohol and alcohol related problems, or to their families, without regard to source of referral, race, color, creed, national origin, religion, sex, age or handicap.

(5) An individualized treatment plan specifically tailored to meet the needs of the individual client shall be prepared and maintained on a current basis for each client.

(6) The staff of a program shall develop an appropriate referral plan for the client to effect total and complete recovery and rehabilitation. Staff shall actively assist clients to make contact with alcoholics anonymous, social and welfare agencies, and other treatment programs suitable for follow-up care upon discharge from the program.

AUTH: 53-24-209 MCA

IMP: 53-24-209 MCA

20.3.207 ALL PROGRAMS - CLIENTS RIGHTS (1) All approved ~~alcohol~~ chemical dependency treatment programs shall make reasonable efforts to assure the right of each client to:

(a) Be treated without regard to physical or mental disability unless such disability makes treatment afforded by the facility nonbeneficial or hazardous.

(b) Have all clinical and personal information treated confidentially in communications with individuals not directly associated with the approved ~~alcohol~~ chemical dependency treatment program.

(c) Be provided reasonable opportunity to practice the religion of his or her choice, alone and in private, insofar as such religious practice does not infringe on the rights and treatment of others, or the treatment program. The client also has the right to be excused from any religious practice.

(d) Not be denied communication with family in emergency situations.

(e) Not be subjected by program staff to physical abuse, corporal punishment, or other forms of abuse administered against their will including being denied food, clothing or other basic necessities.

(f) Have services for men and women which reflect an awareness of the special needs of each gender. All residential facilities shall provide equivalent, clearly defined, and well supervised sleeping quarters and bath accommodations for male

and female clients.  
AUTH: 53-24-305 MCA

IMP: 53-24-305 MCA

20.3.208 ALL PROGRAMS-ORGANIZATION AND MANAGEMENT (1)  
The administrative organization of all approved ~~alcohol~~  
chemical dependency treatment programs shall ensure that:

(a) Lines and delegation of authority, responsibilities, structure and reporting relationships are explicitly stated in writing and delineate all staff positions and functions.

(b) Development and implementation of a policies and procedures manual describing in detail the program services and personnel services and includes all policies and procedures required by these rules.

(c) The policy and procedure manual is reviewed and revised as necessary to keep it current.

(d) The program administrator reports to the governing body at least quarterly on progress toward goals and objectives.

(e) The program will develop and conduct program self evaluations and report results to the governing body.

(f) Adequate staff to meet client requests for services and professional counseling staff/client ratios are at an acceptable level as determined by ADAD.

(g) All clients have individualized treatment plans. These treatment plans shall:

(i) Be designed to help the client understand and overcome his or her illness.

(ii) Be the focal point in the documentation of the treatment of the client.

(iii) Provide summary statements of the clients problems, appropriate realistic goals, and strategies for achieving goals. Goals should be defined as long or short term.

(iv) Delineate the treatment process.

(v) Reflect all services provided to the client.

(vi) Be reviewed and updated as appropriate for the component.

(h) That progress notes are maintained on all clients. Progress notes shall:

(i) Be required to provide documentary evidence of person-to-person services provided to the client.

(ii) Be used in conjunction with the treatment plan to assess progress made in attaining treatment plan goals and ensure needed modifications. (These may occur as staffing notes.)

(iii) Relate to the treatment plan, i.e., if a new problem is identified in the note it must also be entered on the plan.

(iv) Be the primary tool for reviewing clients progress.

(v) Include documentation of important events, information, reported 3rd party statements affecting the client and contacts from referral sources.

(vi) Be written specific to each service component. One

of these should be a staffing note.

(i) A properly completed "authorization for release of information form" which meets all the federal and state requirements is completed for each disclosure of information concerning the client.

(j) Security measures are adequate and are in compliance with the confidentiality rules and regulations.

(k) Client records are retained according to the following guidelines:

(i) If a state approved ~~alcohol~~-or-drug chemical dependency program is receiving public funds through a contract, grant or written agreement with federal, state, county or city agencies, records must be retained five (5) years beyond the termination date of said contract, grant or written agreement. Records shall be retained beyond the five (5) year period if an audit is in process or if any audit findings, litigations or claims involving the records have not been resolved. The retention period for each year's records starts from date of submission of the annual or final report or expenditures (financial status report or equivalent).

(ii) If a state approved program is not receiving public funds (federal, state, county or city) records must be retained five (5) years beyond the fiscal year end (June 30th) in which that client was most recently discharged from that program. Records shall be retained beyond the five (5) year period if an audit is in process or if any audit findings, litigations or claims involving the records have not been resolved.

(l) Facilities are clean and well maintained.

(m) Accounting and fiscal procedures are adopted which ensure financial accountability and meet all federal, state and county requirements.

(n) A sliding fee schedule is adopted based on ability to pay for all individuals receiving treatment services provided by approved ~~alcohol~~ chemical dependency programs.  
(53-24-108(4) MCA)

(o) Program maintains liability insurance (minimum \$300,000.00).

(p) Sub-contracts and service agreements include a description of services; basis for payment; total amount of contract; duration of contract; and appropriate signatures of program administration and a representative of the governing body.

AUTH: 53-24-207(1),208(5)MCA IMP: 53-24-208(5),209(4)(5),306 MCA

20.3.209 ALL PROGRAMS - PERSONNEL, STAFF DEVELOPMENT AND CERTIFICATION (1) There shall be sufficient qualified and certified ~~alcoholism~~ chemical dependency counselors, clerical and other support staff, who are not of the present client population, to ensure the attainment of program service objectives and properly maintain the ~~alcoholism~~ chemical dependency treatment facility. This shall not preclude the

assignment of work to a client when the assignment is part of the client's treatment program, the client's work assignment has therapeutic value, and the client works under the immediate supervision of a certified staff member.

(2) There shall be written and current job descriptions for each position within the program which details duties, responsibilities and minimum qualification.

(3) Certification:

(a) Pursuant to section 53-24-204 MCA state approved programs must comply with personnel certification rules defined in 20.3.401 through 20.3.416 ARM. ~~may hire uncertified personnel after July 1, 1983. These uncertified employees must become certified within 1 year of the date of employment. Any program hiring such uncertified persons shall monitor the certification point accumulation to ensure compliance within the state time period.~~

~~(b) All programs shall ensure that all persons hired submit a certification registry form within 30 days of the employment date, and all supporting documents within 90 days.~~

~~(c) Before July 1, 1983, programs must have all personnel certified. These employees may work across endorsement areas until July 1, 1985, after which job titles must match endorsements. Programs must monitor all employees for compliance and document certification status.~~

(d) (b) Failure to adhere to any of the above regulations could result in the suspension or revocation of program approval.

(4) The alcohol treatment program shall maintain personnel files on each employee which contains a job description; resume and/or application; payroll records; performance evaluation and documentation of certification and training.

(5) A planned, supervised orientation shall be provided to each new employee to acquaint him or her with the organization of the program, physical plant layout, his or her particular duties and responsibilities, the policies, procedures, and equipment which are pertinent to his or her work and the disaster plan for the facility.

(6) Each employee shall have a tuberculin test upon employment.

(7) Employees with a communicable disease in an infectious stage shall not be on duty.

(8) Volunteers may be used in an alcohol treatment program as a staff supplement. The program shall develop the following in utilizing volunteers:

(a) Selection and evaluation criteria.

(b) A definition of the service areas in which volunteers will be utilized.

(c) A written plan which describes how volunteers will be utilized and a written job description.

(d) A brief but comprehensive orientation, including a signed confidentiality statement, and ongoing training program

for all volunteers.

(e) Direct supervision by a certified alcoholism counselor.

(f) Documentation of volunteer hours in accordance with ADAD reporting procedures.

AUTH: 53-24-204(2)(e) MCA

IMP: 53-24-204(2)(e)MCA

20.3.212 DETOXIFICATION (EMERGENCY CARE) COMPONENT REQUIREMENTS (1) Admission of clients to ~~an alcoholism~~ a chemical dependency detoxification component shall be limited to persons who need detoxification services and do not manifest signs and symptoms of a condition which warrants acute care and treatment in a hospital.

(2) Detoxification services shall be provided by approved ~~alcohol~~ chemical dependency treatment programs and/or licensed hospitals providing detoxification services to all intoxicated and/or incapacitated persons unless uncontrollable because of violent behavior.

(3) Detoxification services shall include:

(a) Admission and screening services in accordance with admission criteria.

(b) A safe and protective environment.

(c) Protection from the development of life threatening mental and physical symptoms that may ensue when a habitual and excessive drinker or drug abuser abruptly terminates his drinking or drug usage.

(d) 24-hour, 7-day a week supervision.

(e) Medical screening which includes medical history, vital signs, screening for a diversity of medical/surgical conditions, emotional problems, contagious disease, vermin infestation, observation of client's emotional behavior and physical discomfort. If the client is found to be totally incapacitated by alcohol or drugs he/she shall be examined by a licensed physician.

(f) Counseling services designed to facilitate motivation of the person to accept referral into a continuum of care.

(g) Transportation services as appropriate.

(h) Referral, discharge and follow-up services that ensure continuity of care after discharge.

(4) Staff requirements:

(a) At least one registered nurse for supervision of medical screening.

(b) All detoxification staff shall be knowledgeable about medical conditions, skilled in observation and eliciting information pertinent to assessment of a health problem and competent to recognize significant signs and symptoms of illness or trauma. In addition, staff shall possess a valid and current red cross card or certificate for first aid cardiopulmonary resuscitation or the equivalent.

(c) A minimum of one staff member on duty for admitting, treatment and discharging purposes.

(d) Adequate staff to guarantee care as defined in this section.

(5) The program shall develop policies and procedures to address the previously listed services, staff requirements and the criteria in 20.3.206 ARM.

(6) Residential requirements for detoxification (emergency care) component shall include:

(a) A facility license from the department of health and environmental sciences or, if under eight (8) beds, a fire, life and safety sign-off by appropriate officials.

(b) Adequate food service which includes a 30 day menu and a weeks food supply or contract for food services. Also juice and snacks must be available.

(c) Availability of articles necessary for personal hygiene.

(d) Documented availability of a licensed physician for referral, emergencies and consultation with the staff nurse.

(e) An affiliation agreement with a licensed hospital and access to medical, surgical, dental and psychiatric care.

(f) Medical policies and procedures including: approval by a licensed physician, medical screening, care of residents with minor acute illnesses, medical emergencies, first aid, dangerous behavior, cardio-pulmonary resuscitation, and care of residents having convulsions.

(g) Policies and procedures on medication control which address the handling, storing and administration of medications within the facility according to federal and state regulations. Note: Only a registered nurse or a licensed practical nurse may administer medications, otherwise the self-administration system must be utilized.

(h) Client admission register which designates date of admission, date of discharge, discharge and referral note.

(7) Client recordkeeping and reporting requirements specific to the detoxification component shall include:

(a) ADAD admission/discharge forms.

(b) Date of admission.

(c) Social history.

(d) Documentation of a medical screening which includes vital signs.

(e) Documentation of all supportive services contacts.

(f) Individualized treatment plan which is reviewed and updated daily and includes an aftercare plan. The plan shall meet the requirements of 20.3.208(g) ARM.

(g) Progress notes written for every 8-hour shift and meeting the requirements of 20.3.208(h) ARM.

(h) A discharge summary that includes a description of the client's physical condition and status of recommended referral.

(8) Program effectiveness and quality assurance efforts including individual case review and utilization reviews.

(a) Individual case review is a procedure for monitoring

a client's progress and is designed to ensure the adequacy and appropriateness of the services provided to that client and shall:

(i) Be designed to ensure that the care provided for clients is evaluated and updated according to the needs of each individual.

(ii) Be accomplished through daily staffing. Appropriate treatment staff must participate.

(iii) Ensure a staffing note is developed at the staffing meeting and inserted in the progress notes. An aftercare plan shall be formulated, reviewed and documented.

(b) Utilization and effectiveness review is a process of using predefined criteria to evaluate the necessity and appropriateness of allocated services and resources to ensure that the program's services are necessary, cost efficient and effectively utilized. Utilization and effectiveness reviews shall:

(i) Be designed to achieve cost efficiency, increase effective utilization of the program's services, and ensure the necessity of services provided.

(ii) Address under-utilization and inefficient scheduling as well as over-utilization of the program's resources.

(iii) Ensure methods for identifying utilization related problems which include analysis of the appropriateness and necessity of admission, continued stays, recidivism, supportive services, effectiveness of an aftercare plan based on verification of referrals and results of follow-up, as well as utilization of the findings of related quality assurance activities and all relevant documentation.

(iv) Be conducted at least quarterly.

AUTH: 53-24-208(1)

IMP: 53-24-208(1)

#### 20.3.213 INPATIENT-HOSPITAL COMPONENT REQUIREMENTS

(1) ~~Persons requiring intensive residential care for the treatment of alcoholism~~ Persons requiring intensive residential care for the treatment of chemical dependency in a hospital or suitably equipped medical setting shall be admitted to this component. Persons needing detoxification shall not be admitted or retained but shall be referred or transferred to an approved ~~alcohol~~ chemical dependency detoxification program or a unit within a licensed hospital which provides detoxification. (Persons manifesting signs and symptoms of a condition that warrants acute medical care shall not be admitted but shall be transferred to a licensed hospital or a unit within a licensed hospital which provides acute medical services.)

(2) Inpatient services shall include:

(a) Admission and screening services in accordance with admission criteria.

(b) 24 hour, 7 day a week supervision in a hospital.

(c) A medical evaluation performed by a licensed physician and conducted upon admission. This shall include a

medical history, physical examination and laboratory work-up.

(d) Structured educational presentation.

(e) 10-20 hours of group therapy per week, consistent with the client's individual treatment plan. Group therapy hours may include structured group dynamics, group educational experiences, group step work or other interpersonal group processes. Regular alcoholics anonymous meetings are not counted as group therapy hours.

(f) One session of documented individual counseling per week with certified counseling staff.

(g) Social and recreational activities.

(h) Other supportive services as deemed necessary by the program.

(i) Periodic assessment by treatment staff.

(j) Provision of a family counseling program.

Preferably a structured four to seven days of residential treatment.

(k) Referral, discharge and follow-up services that ensure continuity of care after discharge.

(l) Transportation services as appropriate.

(3) Staff requirements:

(a) There shall be qualified staff and supporting personnel necessary for the provision of inpatient care including registered nurse, licensed practical nurse, and certified counseling staff.

(b) A licensed physician or a list of rotating physicians responsible for admissions and on-call services.

(4) The program shall develop policies and procedures to address the previously listed services, staffing requirements and the criteria in 20.3.206 ARM.

(5) Residential requirements for the inpatient care component shall include:

(a) A facility in a hospital or a suitably equipped medical setting licensed in accord with 50-5-201 MCA. Such programs are usually located in facilities classified as institutional occupancies in Chapter 10 of the 1973 edition of the life safety code (national fire protection association 101.)

(b) Adequate food service which includes a 30 day menu and a weeks food supply or contract for food services.

(c) Availability of articles necessary for personal hygiene.

(d) Access to medical/surgical/dental and psychiatric care.

(e) A medical evaluation performed by a licensed physician shall be conducted upon admission. This shall include a medical history, physical examination and laboratory workup.

(f) Adequate life support systems within the unit.

(g) Availability of general care, emergency care and medication control in accordance with hospital standards.

(h) Client admission register which designates date of admission, date of discharge, discharge and referral notes.

(6) Client recordkeeping requirements specific to the inpatient care component shall include:

(a) ADAD admission and discharge forms.

(b) Date of admission.

(c) Social history.

(d) Results of physical examination conducted by a licensed physician, medical history and lab work-up.

(e) Documentation of all supportive service contacts.

(f) Individualized treatment plan which is reviewed and updated weekly and responds to 20.3.208(g) ARM.

(g) Progress notes written a minimum of 3 times a week and meeting the requirements of 20.3.208(h) ARM.

(h) Nurses' notes which summarize the clients' activities, response and physical condition and any medical treatment during an 8-hour period. They shall be written each shift and document the client's presence in the inpatient unit.

(i) Discharge summary that includes an account of the client's response to treatment which reviews the treatment plan, and documents the client's progress in accomplishing treatment goals and an aftercare plan.

(7) Program effectiveness and quality assurance efforts which include individual case review, quality assurance program and utilization review.

(a) Individual case review is a procedure for monitoring a client's progress and is designed to ensure the adequacy and appropriateness of services provided to that client and shall:

(i) Be designed to ensure that the care provided for the client is evaluated and updated weekly, according to the needs of each individual client.

(ii) Be accomplished through weekly staff meetings and/or reviews. All involved treatment staff must participate.

(iii) Ensure a staffing or review note is developed at the review and inserted in the progress notes. Corresponding updates and/or revisions to the treatment plan shall be documented on the plan.

(b) Quality assurance program is designed to identify problems and to initiate corrections in provider performance or to demonstrate that services provided are of optimal achievable quality and shall:

(i) Contain 5 components which include: problem identification of important or potential problems, problem assessment based on criteria that relate to the essential aspects of client care, problem correction efforts designed to eliminate in so far as possible identified problems, problem correction monitoring that periodically monitors the results of corrective actions, and program monitoring that substantiates the effectiveness of the overall program.

(c) Utilization and effectiveness review is a process of using predefined criteria to evaluate the necessity and

appropriateness of allocated services and resources to ensure that the program's services are necessary, cost efficient and effectively utilized. Utilization and effectiveness reviews shall:

(i) Be designed to achieve cost efficiency, increase effective utilization of the program's services, and ensure the necessity of services provided.

(ii) Address under-utilization and inefficient scheduling as well as over-utilization of the program's resources.

(iii) Ensure methods for identifying utilization related problems including analysis of the appropriateness and necessity of admission, continued stays, recidivism, supportive services, effectiveness of an aftercare plan based on verification of referrals and results of follow-up, as well as utilization of the findings of related quality assurance activities and all relevant documentation.

(iv) Be conducted at least quarterly.

AUTH: 53-24-208(1)

IMP: 53-24-208(1)

#### 20.3.214 INPATIENT-FREE STANDING CARE COMPONENT

REQUIREMENTS (1) Persons requiring intensive residential care outside a hospital for the treatment of ~~alcoholism~~ chemical dependency shall be admitted to this component. Persons needing detoxification shall not be admitted or retained, but shall be referred or transferred to an approved ~~alcoholism~~ chemical dependency detoxification program or licensed hospital. Persons manifesting signs and symptoms of a condition that warrants acute medical care shall not be admitted but shall be referred to a licensed hospital.

(2) Inpatient-free standing care services shall include:

(a) Admission and screening services in accordance with admission criteria.

(b) 24-hour, 7-day a week supervision in a community based residential setting.

(c) A physical exam signed by a physician.

(d) Contract with a physician for physicals, referral and consultation with the staff nurse.

(e) Structured educational presentations.

(f) Between 10 and 20 hours or group therapy per week, consistent with the client's individual treatment plan. Group therapy hours may include structured group dynamics, group educational experiences, group step work or other interpersonal group processes. Regular alcoholics anonymous meetings are not considered as group therapy hours.

(g) One session of documented individual counseling per week with certified counseling staff.

(h) Other supportive services as deemed necessary by the program.

(i) Periodic assessment by certified staff.

(j) Social and recreation activities.

(k) Family counseling services, as appropriate.

- (1) Referral, discharge and follow-up services that ensure continuity of care after discharge.
- (m) Transportation services as appropriate.
- (3) Staff requirements:
  - (a) Staff shall consist of a director, certified ~~alcohol~~ chemical dependency counselor(s), house manager(s), support staff and a registered nurse or licensed practical nurse on staff for at least 4 hours per week.
  - (b) A minimum of one staff member shall be on duty for admitting, treating and discharging purposes on a 24-hour, 7-day a week basis. House manager may be utilized for nights.
  - (4) The program shall develop policies and procedures to address the previously listed services, staff requirements and the criteria in 20.3.206 ARM.
  - (5) Residential requirements for the inpatient-free standing care component shall include:
    - (a) A facility license from the department of health and environmental sciences, or if under eight (8) beds, an acceptable life and safety inspection by appropriate officials.
    - (b) Adequate food service which includes a 30 day menu and a weeks food supply or contract for food services.
    - (c) Availability of articles necessary for personal hygiene.
    - (d) Contract with a licensed physician for physical referral, emergencies and consultation with the staff nurse.
    - (e) Access to medical/surgical, dental and psychiatric care.
    - (f) Medical policies and procedures which include: screening, care of residents with minor acute illnesses, medical emergencies, dangerous behavior, cardio-pulmonary resuscitation care of residents having convulsions, and first aid.
    - (g) Medication control which ensures the handling, storing and administration of medications within the program according to federal and state regulations. Note: Only a registered nurse or licensed practical nurse may administer medications, otherwise the self-administration system must be utilized.
    - (h) A safe, protective environment.
    - (i) Client admission register which designates date of admission, date of discharge, discharge and referral notes.
    - (6) Client recordkeeping and reporting requirements specific to the short term intermediate care component shall include:
      - (a) ADAD admission/discharge forms.
      - (b) Date of admission.
      - (c) Social history.
      - (d) Documentation of a physical exam signed by a physician.
      - (e) Documentation of all supportive service contacts.
      - (f) Individualized treatment plan which is reviewed and

updated weekly and responds to 20.3.208(g) ARM.

(g) Progress notes shall be written at a minimum of three (3) times a week and respond to 20.3.208(h) ARM.

(h) Discharge summary that includes an account of the client's response to treatment which reviews the treatment plan and documents the client's progress in accomplishing treatment goals and an aftercare plan.

(7) Program effectiveness and quality assurance efforts which include individual case review and utilization review.

(a) Individual case review is a procedure for monitoring a client's progress and is designed to ensure the adequacy and appropriateness of services provided to that client and shall:

(i) Be accomplished through weekly staff meetings and/or staff reviews. All involved treatment staff must participate.

(ii) Ensure that a staffing or review note is developed at the review and inserted in the progress notes.

Corresponding updates and/or revisions to the treatment plan shall be documented on the plan.

(b) Utilization and effectiveness review is a process of using predefined criteria to evaluate the necessity and appropriateness of allocated services and resources to ensure that the program's services are necessary, cost efficient and effectively utilized. Utilization and effectiveness reviews shall:

(i) Be designed to achieve cost efficiency, increase effective utilization of the program's services, and ensure the necessity of services provided.

(ii) Address under-utilization and inefficient scheduling as well as over-utilization of the program's resources.

(iii) Ensure methods for identifying utilization related problems including analysis of the appropriateness and necessity of admission, continued stays, recidivism, supportive services and delays in the provision of supportive services, effectiveness of an aftercare plan based on verification of referrals and results of follow-up, as well as utilization of the findings of related quality assurance activities and all current relevant documentation.

(iv) Be conducted at least quarterly.

AUTH: 53-24-208(1)

IMP: 53-24-208(1)

20.3.215 INTERMEDIATE CARE (TRANSITIONAL LIVING)  
COMPONENT REQUIREMENTS (1) Persons who have recently received ~~alcoholism~~ chemical dependency inpatient services and require a moderately structured living arrangement shall be admitted to this component. Persons needing detoxification shall not be admitted or retained but shall be referred or transferred to an approved ~~alcohol~~ chemical dependency detoxification program or licensed hospital. Persons manifesting signs and symptoms of a condition that warrants acute medical care shall not be admitted but shall be referred to a licensed hospital.

(2) Intermediate care services shall include:

(a) Admission and screening services in accordance with admission criteria.

(b) 24-hour, 7-day a week supervision in a non-medical community-based residential treatment program.

(c) Medical history and personal observation. Since clients are only accepted from inpatient care, it is assumed that an adequate medical evaluation has been performed and the results have been forwarded and included in the client's file.

(d) Two sessions of group therapy per week, consistent with the client's individual treatment plan. Group therapy hours may include structured group dynamics, group educational experiences, group step work or other interpersonal group processes. Regular alcoholics anonymous meetings are not considered as group therapy hours.

(e) Two sessions per month of documented individual counseling with certified counseling staff.

(f) Other supportive services as deemed necessary by the program.

(g) Periodic assessment by certified staff.

(h) Encouragement to participate in alcoholics anonymous or with support groups.

(i) Efforts toward vocational rehabilitation, occupational training, education and/or job placement.

(j) Social and recreational activities.

(k) Family counseling services, as appropriate.

(l) Referral, discharge and follow-up services that ensure continuity of care after discharge.

(m) Transportation services as appropriate.

(3) Staff requirements:

(a) Staff shall consist of a director, certified ~~alcohol~~ chemical dependency counselor(s) and house manager(s).

(b) A minimum of one staff member shall be on duty for admitting, treating and discharging purposes on a 24-hour, 7-day a week basis. A senior resident may be utilized for relief coverage if definite criteria for senior resident status has been established. Criteria must include a minimum of three (3) months ~~sobriety~~ abstinence, record of progress, evidence of increased responsibility, and training.

(4) The program shall develop policies and procedures to address the previously listed services, staffing requirements and the criteria in 20.3.206 ARM.

(5) Residential requirements for the intermediate component shall include:

(a) Facility license from the department of health and environmental sciences or, if under eight (8) beds, an acceptable fire, life and safety sign-off by appropriate officials.

(b) Adequate food service which includes a 30 day menu and a weeks food supply.

(c) Availability of articles necessary for personal hygiene.

(d) Documented availability of a licensed physician for referral and emergencies.

(e) Access to medical/surgical, dental and psychiatric care.

(f) Medical policies and procedures which include: care of residents with minor acute illnesses, medical emergencies, dangerous behavior, cardiopulmonary resuscitation (CPR), care of residents having convulsions, and first aid. Since clients are only accepted from an inpatient component, it is assumed they will have received an adequate medical evaluation and the results forwarded and included in the client's file. Therefore, this component will only be required to take a medical history, make personal observations and check for medications.

(g) Medication control which ensures the handling, storing and administration of medications within the facility according to federal and state regulations. Note: Only a registered nurse or licensed practical nurse may administer medications, otherwise the self-administration system must be utilized.

(h) A safe, protective environment.

(i) Client admission register which designates the date of admission, date of discharge and discharge and referral notes.

(6) Client recordkeeping and reporting requirements specific to the intermediate component shall include:

(a) ADAD admission/discharge form.

(b) Date of admission.

(c) Social history.

(d) Medical history and documentation that a medical evaluation occurred at the inpatient care program.

(e) Documentation of all supportive service contacts.

(f) Individualized treatment plan which is reviewed and updated monthly and responds to 20.3.208(g) ARM.

(g) Progress notes shall be written at a minimum of once per week and respond to 20.3.208(h) ARM.

(h) Discharge summary that includes an account of the client's response to treatment which reviews the treatment plan and documents the client's progress in accomplishing the treatment goals and an aftercare plan.

(7) Program effectiveness and quality assurance efforts which includes individual case review and program effectiveness review.

(a) Individual case review is a procedure for monitoring a client's progress and is designed to ensure the adequacy and appropriateness of services provided to that client and shall:

(i) Be designed to ensure that the care provided for clients is evaluated and updated monthly, according to the needs of each client.

(ii) Be accomplished through weekly staff meetings and/or staff reviews. All involved treatment staff must participate.

(iii) Ensure that a staffing or review note is developed at the staff review and inserted in the progress notes. Corresponding updates and/or revisions to the treatment plan shall be documented on the plan a minimum of once per month.

(b) Program effectiveness:

(i) Shall ensure the collection, development and utilization of information which demonstrates program effectiveness. This can include but not be limited to completion of goals and objectives, average monthly caseloads, completion ratios, employment and/or vocational/educational placements and follow-up data.

AUTH: 53-24-208(1)

IMP: 53-24-208(1)

20.3.216 OUTPATIENT COMPONENT REQUIREMENTS (1) Persons able to receive services on a non-residential basis shall be admitted to this component. Persons needing detoxification, inpatient or intermediate care services shall be referred to an appropriate treatment program. Persons manifesting signs and symptoms of a condition that warrants acute medical care shall not be admitted but shall be referred to a hospital.

(2) Outpatient services shall include:

(a) Admission and screening services in accordance with admission criteria. Services which are provided on a regularly scheduled basis to clients residing outside the programs.

(b) Crisis intervention, screening evaluation, individual, group and family counseling, intervention services; structured educational presentation; referral and transportation services, discharge and follow-up services.

(c) A plan for outreach activities which includes: target groups, methodology, and special emphasis programs.

(d) Availability of 24-hour, 7-day a week coverage.

(3) Staff requirements:

(a) Counseling staff shall be certified and trained in the field of alcoholism chemical dependency counseling and education and shall demonstrate an ability to work with clients and a knowledge of the etiology of alcoholism chemical dependency.

(b) Sufficient staff shall be available to provide 24-hour on-call services.

(c) Staff shall be familiar with community resources for referral, including medical, social, vocational, mental health, alcoholics anonymous, etc.

(4) The program shall develop policies and procedures to address the above listed services, staff requirements and criteria in 20.3.206 ARM.

(5) Client recordkeeping and reporting requirements specific to the outpatient care component.

(a) ADAD admission/discharge forms.

(b) Date of admission.

(c) Social history.

(d) Medical history.

(e) Documentation of all supportive service contacts.  
(f) Individualized treatment plan which is reviewed and updated at least every 90 days and responds to 20.3.208(g) ARM.  
(g) Progress notes shall be written following each contact (a minimum of once a month) and respond to 20.3.208(h) ARM.

(h) Discharge summary that includes an account of the client's response to treatment which reviews the treatment plan and documents the client's progress in accomplishing treatment goals and a follow-up plan.

(6) Program effectiveness and quality assurance efforts which includes individual case review and program effectiveness.

(a) Individual case review is a procedure for monitoring a client's progress and is designed to ensure the adequacy and appropriateness of the services provided to that client and shall:

(i) Be designed to ensure that the care provided to clients is evaluated and updated every 90 days, according to the needs of each client.

(ii) Be accomplished through staff meetings and/or quarterly staff reviews. All involved treatment staff must participate. In small rural programs with only one staff member, files shall be reviewed by that staff member.

(b) Program effectiveness:

(i) Shall ensure the collection, development and utilization of information which demonstrates program effectiveness. This can include, but not be limited to, completion of goals and objectives, average monthly caseloads, average contacts per client per month, completion ratios, employment and/or vocational placements and follow-up data.

AUTH: 53-24-208(1)

IMP: 53-24-208(1)

20.3.301 SUBMISSION DATE (1) All county alcohol and drug chemical dependency plans are to be submitted to the department of institutions by 5:00 p.m. December 31, 1979. 83. If plan is not received by December 31, 1979, the county is not eligible for alcohol tax funds generated under section 53-24-206 MCA. The plan will include FY 84, 85, 86, and 87. The second four-year county plans are to be submitted by December 31, 1986. Comprehensive county chemical plans are to be submitted every four years thereafter to the department of institutions by 5:00 p.m. December 31.

(2) County plan updates are to be submitted to the department of institutions by 5:00 p.m. December 31 of each year that a comprehensive four-year county plan is not required.

AUTH: 53-24-211 MCA

IMP: 53-24-204, 207, 208 MCA

20.3.302 APPROVAL DATE (1) All county alcohol and drug chemical dependency plans and/or updates must be approved by June 30, 1980 of each year. If the plan and/or update is not

approved by June 30, 1980, the county is not eligible to receive alcohol tax funds generated under Section 53-24-206 MCA.

AUTH: 53-24-211 MCA

IMP: 53-24-204, 207, 208 MCA

20.3.303 CONTENT OF COUNTY PLANS (1) County identification form. Plans may include more than one county but an identification form must be completed for each county included in the plan. Line 4 (signature of approving county officials) must be signed by a majority of the county commissioners from each county. To be submitted by December 31 of each year.

~~(2) Description of service area and county planning process. Each county must describe management, administration and planning process of alcohol and drug services.~~

~~(3) (2) Analysis of county needs. County(ies) must analyze and describe the extent of their alcohol and drug program problems within the county(ies) covered by the plan which includes a description of programs or services offered by alcohol and drug programs. To be submitted every four years with comprehensive plan.~~

~~(4) (3) Treatment and rehabilitation. County(ies) must list the names and services provided by existing alcohol and drug chemical dependency programs within the county(ies). If all service components (detoxification, inpatient [hospital and free-standing], intermediate-transitional living, outpatient outpatient, intermediate, inpatient, detox, transitional living) are not available within the county(ies) service area, provisions must be made to obtain these services on a referral basis. Planned expansion of services should be included in this section as well as delineation of problems encountered in delivering services. To be submitted with comprehensive plan every four years.~~

~~(5) (4) FY81 Fiscal year county action strategy. County(ies) must list programs to receive alcohol tax monies during next fiscal year and determine what services each will provide and estimate allocation by service component (i.e., detoxification, outpatient, etc.) of county funds for each program. County(ies) must describe how each program was chosen and explain how services provided by each program meet identified county needs. A justification is required for any duplication of services. A county shall include a written statement explaining why a program or proposal was not granted funds. To be submitted by December 31 of each year.~~

~~(6) Third-party payments and fees for services. County(ies) must describe activities in exploring third-party reimbursements and client fees for services, as well as other sources of income for financing alcohol and drug programs.~~

~~(7) County and local service provider coordination with other agencies. County(ies) must describe county and local alcohol and drug service provider coordination with mental~~

health, vocational rehabilitation, local job services and school systems and develop an action plan for resolving any coordination problems.

(8) (5) Prevention. County(ies) must assess and describe alcohol and drug chemical dependency prevention services available within the county(ies) service area. To be submitted every four years with comprehensive plan.

(9) -- Criminal justice -- County(ies) must describe cooperative arrangements the county and/or alcohol and drug service providers have with the criminal justice system (law enforcement, judicial, corrections) and develop an action plan to resolve any problem. -- County(ies) must also list all DWI court schools within service area.

AUTH: 53-24-211 MCA

IMP: 53-24-204, 207, 208 MCA

20.3.401 SYSTEM OVERVIEW (1) Certification is a two tier structure based upon a point system. Tier one is a general chemical dependency certification with points given for work experience, college coursework, structured workshop training, performance on a written examination, and performance ratings on a taped work sample. Tier two provides endorsements in the four three fields of:

(a) alcoholism chemical dependency counseling;

(b) drug counseling;

(c) education/prevention; and

(d) management and supervision

(2) Endorsements are acquired by points assigned based on a combination of background and oral examination.

AUTH: 53-24-105 MCA

IMP: 53-24-204 MCA

Table 1. System Overview

<u>Tiers</u>	<u>Based On:</u>
Basic Certificate	1. Work experience plus 2. Academic coursework plus 3. Structured workshop plus 4. Written examination plus 5. Performance on work sample
Endorsements	1. Oral examination, one for each endorsement 2. <u>Background in endorsement area</u>

20.3.402 POINT SYSTEM (1) To become certified, BAP CDP (drug and alcohol chemical dependency personnel) must

accumulate two hundred (200) points in accord with system rules for accumulation of points. The following sections outline the areas covered, rules for gaining points, and maximum and minimum point requirements for areas. Subsequent sections address the implementation process and forms needed.

AUTH: 53-24-105 MCA

IMP: 53-24-204 MCA

20.3.405 STRUCTURED WORKSHOP TRAINING (1) One (1) point will be granted for each day of approved structured workshop training. To qualify for credit, such workshops must be at least one day (six hours minimum), the workshop must be approved as appropriate for DAP CDP by the ADAD training and certification section.

(2) Training must be documented by supplying an original (or a certified copy of a certificate of completion signed by the trainer and/or an official of the training organization.) All workshop training completed after implementation of certification must be approved in advance by the ADAD training and certification section to gain certification points.

(3) Local in-service training qualifies for points only when it is:

(a) structured training equalling one or more 6-8 hour days in length;

(b) offered in a continuous block;

(c) is an approvable topic;

(d) is offered by an approved trainer. Other types of in-service offerings are credited as part of the work experience points earned. (Four 2-hour sessions devoted to one subject is the equivalent of one 8-hour session.) To gain certification points, all in-service training must have ADAD prior approval.

(4) Up to sixty-five (65) points may be granted for any approved workshop training.

AUTH: 53-24-105 MCA

IMP: 53-24-204 MCA

20.3.406 WRITTEN EXAMINATION (1) Each year a written examinations will be offered by ADAD. Fifty (50) points are available on this these exams. To be certified a minimum of 35 points must be earned. Each applicant may attempt this these exams three-times to either meet the minimum or to increase overall point total. However, the exam score of record is the most recent score. ~~Should someone fail three times to meet the minimum of 35 points, payment of an additional \$100 fee will allow the applicant 3 more attempts.~~

(2) Examination questions cover counseling in general, community resource use, pharmacology, ~~first-aid~~, and general drug and alcohol treatment knowledge.

AUTH: 53-24-105 MCA

IMP: 53-24-204 MCA

20.3.408 ENDORSEMENT AREAS (1) Endorsement-area points-derive-from-two-scores. An oral examination can earn up to forty-(40) (50) points. A-further-ten-(10)-points-are available-from-any-combination-of:

(a)--work-experience;  
(b)--structured-workshop-training-(1-point-per-training day)-or;

(c)--five-points-also-derive-from-an-advanced counseling-area-degree-(counting-toward-DAP-certification-in the-drug-or-alcohol-counseling-area)-or-any-business, accounting,-or-economics-bachelors-or-advanced-degree (toward-the-management-and-supervision-area)--Similarly,-a teaching-certificate-earns-5-points-(within-the-10)-toward an-education-endorsement--(Note-that-only-degree, certificates,-and-workshops-may-be-used-in-the-endorsement area-

(2) Anyone in registry categories A or B is eligible to take the endorsement area examination. upon successful completion of the written exam.

(3) Up to 50 endorsement points may be counted toward the basic certificate.

AUTH: 53-24-105 MCA

IMP: 53-24-204 MCA

Table 7. Endorsement Areas

Area	Criteria	Formula	Allowed Maximum	Required Minimum
Alcoholism				
Chemical Dependency		Score x 50 Possible Score 40	40 50 )	
Counseling	Oral Examination			
	Work-Experience--1-point-per month		)	35
	Designated-Degree-5-points		10 )	
	Area-Workshop 1-point-per day		)	
Drug Counseling	Same-as-Alcohol			
Education	Chemical Dependency			
Prevention	Same as Alcohol	(Except-a-teaching-certificate earns-5-points)		
Management	Chemical Dependency			
Supervision	Same as Alcohol	(Except-an-undergraduate degree-in-business-also-earns 5-points)		
Minimum Points to be endorsed in each area				35
Maximum Endorsement Points toward initial certification				50

20.3.409 BASIC CERTIFICATION (1) Basic certification thus requires earning a minimum of 200 points from a rather unlimited pool of resources. Of these 200 points, 35 must come from the written examination, 35 from an endorsement area, and 35 from performance ratings.  
AUTH: 53-24-105 MCA IMP: 53-24-204 MCA

Table 8. Overall Points Summary

	Available	Maximum Can Count	Minimum Required
Work Experience	Unlimited	65	-0-
College Course Work	Unlimited	65	-0-
Structured Workshop-approved	Unlimited	65	-0-
Written Examination	50	50	35
Work Performance Sample	50	50	35
Endorsement Areas	200 <u>150</u>	50	35

20.3.411 PERFORMANCE ON WORK SAMPLE (1) Applicants will submit two tapes of not less than 25 nor more than 45 minutes in length. These must be continuous segments of actual counseling sessions or of a counseling role play where the client (real or role played) is dealing with either a drug or alcohol concern as addict or impacted family member.

(2) Applicants should make every effort to submit a tape of an actual counseling session with a real client as five (5) points will be added to the scores of all tapes with actual clients. All tapes from persons employed in the field must be sent in by the director of the applicant's program by certified mail along with a signed and notarized statement from the program director attesting the nature of the submitted tapes (role play or real clients) and that the counselor named is the counselor executing the session on the tape. Each tape (can be one physical tape with a different session on each side) must be clearly labeled with the applicant's name, program where taped, the session number (1st, 10th, etc.) with the client if a real client or with "role play" if not a true client, and the type of client (drug, alcohol, impacted family member) and the type of session (individual, couples, family.) If role played, the name of the person playing the client should be given. Security will be maintained and confidentiality assured.

(3) Persons not currently employed in the field should contact the director of any state approved program, (a list is available from ADAD) and ask either to be allowed

to sign on as a volunteer and execute actual counseling sessions for submission, or to have a role play set up with a staff member playing the client. Program directors are under no obligation to assist in this fashion. If local arrangements cannot be made, applicants should contact ADAD in Helena, training and certification section, and a role play will be set up in Helena.

(4) Work samples must be mailed from a program director by certified mail in the same way as described above for persons employed in the field. Outside applicants must reimburse the local program for the mailing, notary, and other costs. The exception would be where the session was role played at ADAD in Helena. In this case, the supervising staff would attest to the validity of the tapes.

(5) Tapes are rated by three judges on a rating sheet covering a range of "desirable" counselor characteristics. One judge is an ADAD staff professional with a counseling background, two judges from the field, usually one of these judges will have a background primarily derived from experience and workshop training, and the other a background primarily derived from formal higher education. Judges rate each tape separately. Judges travel to Helena and rate work samples periodically (e.g. semi-monthly or quarterly) as the flow of applications demands. ~~Judges do not have access to other judges' ratings of tapes and do not meet as a group in any formal or official way.~~

(6) The score is the average score across judges and tapes showing the proportional positive rating multiplied by 45 plus 5 if a "real" session. Judges only rate. ADAD staff score, average and record ratings.

AUTH: 53-24-105 MCA

IMP: 53-24-204 MCA

20.3.412 ENDORSEMENT AREAS (1) Endorsement area attainment is through ~~a combination of education, experience, and performance~~ on an oral examination. ~~Points for background derive from title review.~~

(2) Each area panel is composed of three persons. One person is the ADAD "resident expert" in the endorsement field.

(3) Additionally, two panel members will be selected whose skills derive largely from experience and workshop training and the other, someone who has considerable academic background. They are to be selected by ADAD. ~~Nominations, including self-nomination, should be sought from the field (forms to be provided), but the decision is with ADAD exclusively.~~

(4) Designated ADAD staff serve one year terms on the panel. Field panelists serve two years. In the first year one field panelist serves a one year term. In the first year the ADAD staff member chairs the panel. In subsequent years the field panelist who is in his/her second year of

service chairs.

(5) A master list of 15 to 25 questions and model answers is developed for each area. Panelists question the applicant for 15 minutes drawing questions from this list. For 30 minutes panelists can ask any follow-up questions they wish of any type, regardless of the list, providing it relates to the endorsement field, in an open discussion format. The applicant is excused and panelists may then discuss the applicant among themselves prior to each panelist making their own private ratings. ~~Applicants may apply for only one endorsement area each year. -- This is a practical rule to keep costs and manpower commitments within bounds.~~

AUTH: 53-24-105 MCA

IMP: 53-24-204 MCA

20.3.413 CONTINUING EDUCATION (1) Once certified, BAP CDP will be required to earn ten (10) points per year on the average; averages being run three years. Points can come from FTE work experience up to 15 points, workshop or academic courses taken within each 3-year period.

AUTH: 53-24-105 MCA

IMP: 53-24-204 MCA

20.3.414 LOSS OF CERTIFICATION (1) Certification may be lost or suspended in the following manner:

(a) By not meeting continuing education requirements. In this case a warning is given with a one year period to make up any deficiencies. If not made up in one year, the certificate is suspended until the requirements are brought up to date.

(b) Violation of a code of professional ethics ~~to be~~ published by the department. The director of the department will appoint a panel of three peers and one department employee to investigate any formal breach of ethics charges directed to the department. The panel will have the power to either recommend that the accused person be cleared of any charges or recommend suspension of the certification for a period ranging from 6 months up to 10 years. If the person losing certification wishes to make a formal appeal to the director of the department, he may do so pursuant to the other administrative rules of contested cases already adopted by this department.

AUTH: 53-24-105 MCA

IMP: 53-24-204 MCA

20.3.415 DEFINITIONS (1) Full-time equivalent (FTE) A half-time BAP CDP working two years equals one full-time equivalent, etc.

(2) Document (able) (ed) A person who by position is found credible by ADAD (e.g. a program director, personnel manager, program board officer) will sign a form attesting the dates, hours, and job titles reported for salaried employment or annual clock hours of service per year for

volunteers, etc., as required. For academic work this would be an official transcript.

(3) State approved program A program reviewed and approved for offering drug or alcohol services by Montana, JCAH, or any other sources credible to ADAD. (Proof of program approval must be supplied for out-of-state experience.)

(4) Active volunteer One who acts on behalf of the object organization(s), without payment, at least 50 hours per year.

(5) Duplication Counting the same point earning activity in more than one point category, ~~(e.g., counting a year of work experience both toward general certificate and an endorsement area.)~~

(6) Governing board Persons legally responsible for operation of a corporate entity as defined in the articles of incorporation and by-laws.

(7) Training day A training day is six-to-eight hours of continuous training. Where dates and hours are available points will be granted for each full day provided days average at least six hours. Where hours alone are given days will be established by division of seven (7).

(8) Approved list The listing of structured workshops and trainers that have been reviewed and approved by ADAD as, respectively, relevant for ~~drug/alcohol~~ chemical dependency personnel and as having the necessary qualifications to train such personnel.

(9) The field Refers to all persons currently employed in a state approved program, serving as a board member of such a program, serving on any state level advisory board for ADAD, or employed directly or on contract by ADAD.

(10) Judges Persons rating work performance tapes.

(11) Panel The group of three persons who conduct oral examination for an endorsement area.

(12) Panelist A person serving on an endorsement panel.

(13) Rounding Fractional points are not assigned. Should totaling and averaging (e.g. with FTE's) result in fractional points, these will be rounded down to reflect amounts clearly earned. Nothing is "given" through rounding off or up.

(14) Duplication One cannot count volunteer experience for any year in which one is a full-time employee of a program. Similarly, one can count a year's experience or a particular workshop towards basic certification.

(15) Endorsement and certification Applicants are not seen as certified until they have been examined and gained the minimum required points in one endorsement area.

(16) Capacity grace period If through lack of capability or other reason, ADAD is unable to accommodate an

applicant for testing, a grace period will be granted to operate on registration alone until applicant can be tested.

(17) Examination eligibility To take oral, performance, and written tests, applicants must be on the registry in categories A-B. An applicant failing three (3) times to attain a passing grade on any examination must wait one (1) year before attempting the examinations again.

(18) Removal from system Any applicant who has been on the registry for five (5) years without obtaining sufficient points for certification will be dropped from consideration. Those who are dropped may not reapply for a period of two years.

(19) Special case-trainer Persons who are ADAD approved trainers for ADAD approved workshops are granted points for these workshops toward certification. The ADAD approved list is the documentation in this case.

AUTH: 53-24-105 MCA

IMP: 53-24-204 MCA

RULE I. REQUIREMENT FOR HIRING PERSONNEL (1) All personnel hired prior to July 1, 1982, must be certified by July 1, 1983. Personnel entering the field for the first time and hired on or after July 1, 1982, will have one (1) year from the date of employment to become certified. Otherwise the employing program faces approval action.

2. As of April 1, 1980, all newly employed persons in the field should complete and submit all registry forms within 30 days. All supporting documents must be received within 90 days. Otherwise the employing program faces approval action.

AUTH: 53-24-105 MCA

IMP: 53-24-204 MCA


3. Changes to 20.3.209 are required because the existing rule would be in conflict with proposed amendments to the certification rules set forth in subchapter 4. Changes to Chapter 3, subchapter 3 are needed to comply with HB 312 which changed the County Alcohol and Drug Plans from an annual process to a four year process. It also gave the Department rule making authority to establish submission and approval dates for county plans. Changes to Chapter 3 subchapter 4 were necessitated by the passage of HB 360 by the 1983 Legislative Session which combined the designations "alcoholism counselor" and "drug counselor" into "chemical dependency counselor". Other changes in subchapter 4 were made to correct discrepancies in the certification system and to add rules and definitions inadvertently omitted from the original rules.

4. Interested parties may submit their data, views or arguments concerning the proposed amendments in writing to Nick A. Rotering, Legal Counsel, Department of Institutions, 1539 11th Avenue, Helena, MT 59620, no later than September 23, 1983.

5. If a person who is directly affected by the proposed amendment 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 Nick A. Rotering, Legal Counsel, Department of Institutions, 1539 11th Avenue, Helena, MT 59620, no later than September 23, 1983.

6. If the agency 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 65 persons based on approximately 240 persons employed in state approved chemical dependency programs and 407 others who have applied for certification.

7. The authority of the Department of Institutions to make the proposed amendment is based on sections 53-24-105, 53-24-204(2)(e), 53-24-211 MCA and implements sections 53-24-204, 53-24-204(2)(e), 53-24-207, 208 MCA.

  
CARROLL V. SOUTH, Director  
Department of Institutions

Certified to the Secretary of State August 15, 1983.

BEFORE THE BOARD OF OIL  
AND GAS CONSERVATION

In the matter of the amendment )	NOTICE OF AMENDMENT OF
of Rules 36.22.501 and 36.22.502 )	RULE 36.22.501 SHOT
pertaining to location limitations)	LOCATION LIMITATIONS
and plugging and abandonment )	AND 36.22.502 PLUGGING
procedures for seismic shot holes )	AND ABANDONMENT, AND
and the adoption of a rule )	THE ADOPTION OF NEW
requiring proper identification of)	RULE 36.22.504
seismic exploration crews. )	IDENTIFICATION.

TO: All Interested Persons

1. On June 30, 1983, the Board of Oil and Gas Conservation (Board) published notice of proposed amendments to ARM 36.22.501 and 36.22.502 concerning the shot hole location and plugging regulations and a proposed new rule concerning identification of seismic exploration crews. The notice was published at page 716 of the 1983 Montana Administrative Register, issue number 12.

2. The Board amended the rules as proposed and adopted the new rule with the following change:

New Rule (36.22.504) IDENTIFICATION Each unit of mobile equipment utilized in seismic exploration or plugging seismic shot holes shall display on both sides in conspicuous lettering the name of the holder of the geophysical exploration permit by or for whom the work is being done and the telephone number of the person in charge of said crew permit holder.

3. No requests for a public hearing were received but comments made by Don Allen, Executive Director of the Montana Petroleum Association and Senator Larry Tveit, both of whom served on the seismic exploration task force which made recommendations to the Board concerning seismic exploration rules, were considered by the Board and resulted in the change made in the new rule. That change recognizes that the crew chief and his telephone number are subject to frequent change. Task force members suggested that it would be more appropriate to identify the permit holder and his phone number on field equipment.

4. The authority of the Board to make the proposed amendments is based on Sections 82-1-101 and 82-1-104, MCA, and the rules implement Section 82-1-101 and 82-1-104, MCA.

Richard A. Campbell  
Richard A. Campbell, Chairman  
Board of Oil and Gas Conservation

BY: Dee Rickman  
Dee Rickman  
Assistant Administrator  
Oil and Gas Conservation Division

Certified to the Secretary of State August 12, 1983.

BEFORE THE BOARD OF OIL  
AND GAS CONSERVATION

In the matter of the amendment of ) NOTICE OF AMENDMENT OF  
Rules 36.22.1012 and 36.22.1013 ) RULE 36.22.1012 SAMPLES  
pertaining to confidentiality ) OF CORES AND CUTTINGS,  
of stratigraphic test hole ) RULE 36.22.1013 FILING  
information and filing deadlines ) OF COMPLETION REPORTS,  
for submitting said information ) WELL LOGS, ANALYSES,  
to the Board, and Rule 36.22.1242 ) REPORTS, AND SURVEYS  
transferring the duty of ) AND RULE 36.22.1242  
collecting the oil and gas ) REPORTS BY PRODUCERS  
privilege and license tax )  
assessment to the Dept. of Revenue.)

TO: All Interested Persons

1. On June 30, 1983, the Board of Oil and Gas Conservation (Board) published notice of proposed amendments to ARM 36.22.1012 and 36.22.1013 pertaining to confidentiality of stratigraphic test hole information and filing deadlines for submitting said information to the Board and Rule 36.22.1242 concerning transferring the duty of collecting the oil and gas privilege and license tax assessment to the Department of Revenue. The notice was published at page 720 of the 1983 Montana Administrative Register, issue number 12.

2. The Board amended the rules as proposed.

3. No comments, testimony, or requests for a public hearing were received.

4. The authority of the Board to make the proposed amendments is based on Section 82-11-111, MCA, and the rules implement Sections 82-11-125, 81-11-131, and 82-11-132, MCA.

Richard A. Campbell  
Richard A. Campbell, Chairman  
Board of Oil and Gas Conservation

BY: Dee Rickman  
Dee Rickman  
Assistant Administrator  
Oil and Gas Conservation Division

Certified to the Secretary of State August 12, 1983.

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

In the matter of the amend-	)	NOTICE OF THE AMENDMENT OF
ment of Rules 46.5.904,	)	RULES 46.5.904, 46.5.905
46.5.905 and 46.10.404 per-	)	AND 46.10.404 PERTAINING TO
taining to day care for	)	DAY CARE FOR CHILDREN OF
children of recipients in	)	RECIPIENTS.
training or in need of	)	
protective services.	)	

TO: All Interested Persons

1. On June 30, 1983, the Department of Social and Rehabilitation Services published notice of the amendment of Rules 46.5.904, 46.5.905 and 46.10.404 pertaining to day care for recipients in training or in need of protective services at page 725 of the Montana Administrative Register, issue number 12.

2. The Department has amended the rules as proposed.

3. No written comments or testimony were received.

  
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Director, Social and Rehabilitation Services

Certified to the Secretary of State August 12, 1983.

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

In the matter of the adop-	)	NOTICE OF THE ADOPTION OF
tion of Rule 46.12.204 and	)	RULE 46.12.204 AND THE
the amendment of Rules	)	AMENDMENT OF RULES
46.12.102, 46.12.302 and	)	46.12.102, 46.12.302, AND
46.12.303 pertaining to	)	46.12.303 PERTAINING TO
medical services, co-	)	MEDICAL SERVICES, CO-
payments.	)	PAYMENTS

TO: All Interested Persons

1. On May 26, 1983, the Department of Social and Rehabilitation Services published notice of the adoption of Rule 46.12.204 and the amendment of Rules 46.12.102, 46.12.302 and 46.12.303 pertaining to medical services, co-payments at page 597 of the Montana Administrative Register, issue number 10.

2. The Department has amended Rules 46.12.102, 46.12.302 and 46.12.303 as proposed.

3. The Department has adopted Rule 46.12.204 as proposed with the following changes:

46.12.204 RECIPIENT REQUIREMENTS, CO-PAYMENTS (1) Each recipient, unless eligible for an exemption, must pay to the provider the following co-payments not to exceed the cost of the service:

(a) inpatient hospital services, \$3.00 per service day not to exceed ~~\$65.00~~ \$66.00 per admission;

(b) outpatient hospital services, \$1.00 per service;

(c) podiatry services, \$1.00 per service;

(d) outpatient physical therapy services, .50 per service;

(e) speech pathology, .50 per service;

(f) audiology services, .50 per service;

(g) hearing aids, .50 per service;

(h) outpatient occupational services, .50 per service;

(i) home health services, \$1.00 per service;

~~(j) --personal--care--services--in--a--recipient's--home--\$50 per--service;~~

(k) home dialysis for end stage renal disease, .50 per service, except for attendant back-up service;

(l) private duty nursing services, .50 per service;

(m) clinic services, \$1.00 per service, visit;

(n) psychological services, .50 per service;

(o) dental services, \$1.00 per service;

(p) outpatient drugs, the amount specified in ARM 46.12.703;

(q) prosthetic devices, durable medical equipment and medical supplies, \$.50 per item for items that do not require

prior authorization, and \$3.00 per item for items that require prior authorization;

- (rg) optometric services, \$1.00 per service;
- (sr) eyeglasses, \$1.00 per service; and
- (ts) physician's services, \$1.00 per service.

(2) The following recipients are exempt from co-payments:

- (a) individuals under 21 years of age;
- (b) pregnant women; and
- (c) inpatients in a hospital, skilled nursing facility,

intermediate care facility or other medical institution if such individual is required to spend for the cost of medical care all but his their personal needs allowance, as defined in ARM 46.12.40087, ~~including individuals served under the home and community-based services waiver as provided for in Rule-XI through IVF--of--MAR--Notice--No--46-2-379--published--in--the Montana Administrative Register~~

(3) No co-payment will be imposed with respect to emergency services or family planning services.

(4) The total co-payment for each medicaid case shall not exceed 5 percent of the maximum yearly AFDC grant for one adult. The maximum shall be based on the AFDC grant in effect at the end of the state fiscal year (June 30).

4. The Department has thoroughly considered all verbal and written commentary:

COMMENT: I find no mention in the rule changes that pertain to ophthalmological eye care, only to optometric eye care. I am sure your intent is to establish co-payments in the area of eye care in general. Failure to do so would be discriminatory and illegal.

RESPONSE: Eye care provided by ophthalmologists is covered under Physicians' Services, except for eyeglasses. Therefore, the co-payments will apply to examinations and treatment provided by ophthalmologists. The co-payments specified for eyeglasses, apply whether dispensed by physicians, optometrists, or opticians.

COMMENT: Billing procedures require optometric care to be billed as separate services, e.g., refraction, color vision, tonometry, measuring and verifying, fitting and servicing, etc. Ophthalmological billings are for an "eye exam" period. Therefore, any co-payment charges on a per-service basis would also be discriminatory.

RESPONSE: Physicians' services for eye care are not limited to "eye exam". Eyeglasses would result in the same co-payment

whether dispensed by a physician, an optometrist or an optician.

COMMENT: In no case should providers be forced to forfeit the amount of the co-payment.

RESPONSE: The provider can use any legal means to collect the co-payment except deny service.

COMMENT: The conscientious recipient will suffer while the chronic abusers will continue to be served because they really don't care and demand to be served.

RESPONSE: The Department has an established program which identifies recipients whose utilization of services is so extensive that it constitutes program abuse. There are currently twenty-eight (28) recipients who are affected by this program. However, the recipient lock-in program is primarily for utilization control of severe abuse of the Medicaid program as it does not affect those recipients who occasionally receive unnecessary services. The co-payment is intended to encourage all recipients to use their Medicaid coverage carefully without denying access to necessary medical care.

COMMENT: Several comments were received recommending removal of co-payments on personal care services and home dialysis services.

RESPONSE: The Department agreed to remove the co-payment from personal care services and home dialysis back-up attendant services. Both of these services are limited by stringent utilization controls. Personal care services must be: ordered by a physician; based on a plan of care developed by a registered nurse; supervised by a registered nurse; and authorized by the supervising registered nurse or Department social worker prior to payment. Home dialysis back-up attendant services must be ordered by a physician, and performed by a provider who is under contract to the Department to provide home dialysis back-up services for a specific Medicaid recipient. In addition, the imposition of co-payments on these services is not essential for meeting the anticipated savings from the imposition of co-payments.

COMMENT: Provider representatives recommended that the proposed hospital co-payments be withdrawn, or if this is not possible, modified to make it easier for hospitals to determine the amount of the co-payment so recipients will know the extent of their liability and hospitals will be in a better position to collect the co-payments. It was recommended that the co-payment be changed to \$6.00 per day with a maximum of \$66.00.

RESPONSE: We concur with the position that the in-patient hospital co-payment should be modified to a per day basis to facilitate identification of the amount by recipients and hospitals and the maximum co-payment also be changed to \$66.00. The amount of co-payment per service cannot exceed \$3.00 under current federal regulations. Therefore, the amount of the co-payment has not been changed.

COMMENT: Several providers objected to the co-payment on clinic services because it would discourage utilization of mental health day treatment services when they are necessary for deinstitutionalization and the co-payment would be excessive due to the number of services received by the chronically mentally ill.

RESPONSE: The Department has modified the co-payment for clinic service to prevent the imposition of excessive co-payments on the chronically mentally ill while allowing a co-payment that may affect utilization.

COMMENT: The nominal co-payment will not be cost effective for a provider to collect.

RESPONSE: An office visit usually has two (2) or three (3) other services associated with it. Under the co-payment rules, a separate, though nominal co-payment charge will be imposed on the office visit and each of the associated services. In other words, in aggregate the total of all co-payment charges resulting from the office visit should be an amount that would be cost-effective to collect.

COMMENT: The proposed rule is in reality a reduction in the payment to the providers.

RESPONSE: Recipients are responsible for the co-payments. The Department's intent is that providers will collect co-payments to the extent feasible. The co-payment remains the recipient's liability despite his inability to pay at the time the service is provided. The provider can use any legitimate means to collect the co-payment except deny service. The Department's intent is not to reduce fees.

COMMENT: Can emergency services be performed in other settings besides hospitals?

RESPONSE: Emergency services can be performed in settings other than hospital emergency rooms. Any services that must be provided outside of the provider's usual hours of business can be considered an emergency service when the service is necessary to prevent death or serious impairment to health.

COMMENT: Definition of emergency services should be clarified to include relief of pain as well as to protect health.

RESPONSE: Emergency services as defined are consistent with the Department's definition of medically necessary services.

COMMENT: Who determines if a person is unable to pay a co-payment?

RESPONSE: The recipient determines when he cannot pay the co-payment at the time the service is provided. However, the co-payment remains the recipient's liability whether or not he can pay at the time the service is provided.

COMMENT: Other states who had co-payments have abandoned them.

RESPONSE: Utah is pursuing co-payments for all services that may be subject to co-payments under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). South Carolina modified their co-payment program to conform to TEFRA and impose the maximum co-payments on all services subject to co-payments. According to information provided by the HHS Denver Regional Office, 15 states currently have co-payments in effect.

COMMENT: Co-payment is administratively expensive to providers of health care.

RESPONSE: The co-payment rule has been developed using fixed amounts per service in order to enable providers and recipients to easily determine the amount of co-payment the recipient will owe. The provider can use the most cost effective means to collect co-payments.

COMMENT: Use of psychological services will decrease while use of medical services will increase because those who receive psychological services normally require less medical services.

RESPONSE: The co-payments are applied to all services that can have co-payments imposed under TEFRA. Any reduction in utilization due to co-payments will not be limited to psychologist's services.

COMMENT: The collection of co-payments relative to inpatients, outpatients, emergency service and medically necessary service presents a problem for hospitals. It will be difficult to identify those recipients from whom and those services for which collection of co-payment is to be effected.

RESPONSE: The rule has been revised to apply the co-payment to each day of an admission for inpatient services. All outpatient hospital services will be subject to co-payments except emergency room services.

COMMENT: The Department is risking its hard won goodwill both from providers and recipients.

RESPONSE: In a time of scarcity of funds and rising medical costs, as a third party payor the Department has responsibility to consider and implement a number of cost-containment measures. It is the Department's intent in any actions taken to deal equitably with both providers and recipients and to continue building goodwill. Goodwill requires that all affected parties -- provider, recipient, and payor -- accept responsibility for their reasonable share in the medical care system.

COMMENT: The Department should pay the provider and bill the recipient for the co-payment.

RESPONSE: The co-payment is an obligation the recipient has to the provider for services rendered. The Department, as a third party payor, will pay the allowable charge less the co-payment amount. The Department under Federal guidelines, may not act as a bill collector.

COMMENT: Under these rules, a group already in a compromised state of nutrition and health may delay seeing a physician. This delay will only increase medical cost by causing extended hospitalizations, increased post-hospital follow-up visits, and added costs for longer drug therapy.

RESPONSE: The latest finding of the Rand Corporation Health Insurance Experiment, as summarized in Medicare Medicaid Information (June 14, 1983), is as follows: "Cost-sharing reduces how often a patient visits a physician or hospital, but not how much each episode of treatment costs... It appears to confirm the hypothesis that delaying care because of higher cost-sharing does not necessarily lead to higher long-term costs due to avoidance of necessary care because of price."

COMMENT: Medical providers should not be penalized for inadequate funding of Medicaid.

RESPONSE: The co-payment rule is not intended to penalize providers. It is intended to involve recipients in making decisions about using their Medicaid coverage in a manner consistent with their medical needs. The co-payment rule is intended to promote the use of the limited funds available in

the most effective manner for the medical needs of the recipients.

COMMENT: Notice of the hearing and proposed rule was not adequately given.

RESPONSE: The Department followed the Montana Administrative Procedures Act in publishing the notice of hearing and proposed rule in the Montana Administrative Register. In addition, copies went to provider associations, client advocacy groups such as Montana Legal Services Association and County Welfare Departments.

COMMENT: Satellite hearings should be held in other cities of the state.

RESPONSE: In promulgating the rule, the Department relied on the requirements of the Montana Administrative Procedures Act concerning proper hearing and to assure adequate notification and opportunity for comment.

COMMENT: Co-payment is an ineffective way to control medical expenditures because the physician not the patient determines the amount and kind of medical services.

RESPONSE: While the amount and kind of medical services may be largely determined by the physician, the number of encounters with the physician is generally determined by the recipient. This is consistent with the findings of the Rand Study mentioned elsewhere.

COMMENT: Co-payments represent a surtax on Medicaid recipients.

RESPONSE: It is difficult for the Department to conceive of the provision of medical assistance as a tax on the Medicaid recipient. A surtax is a tax upon something already taxed.

COMMENT: The rule is discriminating because it exempts the young who abuse Medicaid more.

RESPONSE: The Department's experience indicates that individuals under 21 are not more inclined to overutilize Medicaid services. TEFRA allows states to exclude individuals under 21 years of age from the co-payment and requires that states exclude individuals under 18 years of age from co-payments.

COMMENT: Co-payments will lead providers to make up cost with private pay or to increase their Medicaid billing.

RESPONSE: As stated elsewhere, the Department has designed the co-payment requirement to enable providers to cost-effectively pursue the recipient's share of costs allowable under Medicaid. The Department's intent is to avert the shifting of costs to providers to the extent possible.

COMMENT: The theory that free medical care leads to overutilization of medical services is incorrect.

RESPONSE: According to the Rand study referenced elsewhere, cost-sharing reduces the number of encounters with a physician, or leads to lower utilization.

COMMENT: Health care providers will drop out of the Medicaid program.

RESPONSE: In order to provide medical assistance through Medicaid a state must insure that a sufficient number of providers will participate in the program so that access to services is assured. As discussed elsewhere, the Department has designed the co-payment requirement to enable providers to cost-effectively pursue collection of the co-payment, so that the allowable payment under Medicaid remains intact to the degree possible. Through this strategy, the Department intends that provider participation will not be adversely affected.

COMMENT: It is absurd to think that a group of people who are already unable to meet the financial demands of daily living, let alone the cost of medical and hospital care, can then meet the cost of a co-payment.

RESPONSE: The co-payment requirement is in accordance with TEFRA and meets current federal definitions of "nominal" charges. TEFRA provides that if the definition of "nominal" under regulations in effect on July 1, 1982 is changed, that the Secretary of HHS will "take into account the level of cash assistance" in each state when making the change. The Secretary of HHS has not changed the definition of "nominal". The Department concludes from this that the existing definition of "nominal" does not place an excessive burden on the recipient.

However, the Department has established a cumulative maximum on co-payments for each Medicaid case per state fiscal year by adding subsection (4) to Rule 46.12.204. This maximum will protect Medicaid recipients from excessive co-payments.

COMMENT: Disabled persons would be harder hit than many simply because of the existence of a disability which requires medical care and services.

RESPONSE: The Medicaid expenditures for the disabled nationally are only slightly higher than the expenditures for AFDC families (30 percent for the disabled vs. 28 percent for AFDC families). In addition, 40 percent of the expenditures for the disabled is for nursing home care. Therefore, the disabled who are receiving most Medicaid services would be exempt from co-payments since they are nursing home patients.

COMMENT: The poor do not overutilize medical services. The poor use fewer services than more affluent people of comparable health status.

RESPONSE: The Medicaid program has substantially increased access for the poor to medical services. Between 1963 and 1976, the number of poor seeing a physician rose 30 percent and hospitalization for the poor rose 35 percent. In contrast, physician visits and hospitalization for the non-poor rose 4 percent and 2 percent, respectively, during the same period. It is now necessary to establish some controls on the access to medical care that will not erode the gains made by the poor. The use of deductibles is a common method used by other third party payers. The co-payments proposed for Medicaid are nominal and have a cap for each state fiscal year. These limits are intended to assure continued access to medical care for the poor while containing costs.

COMMENT: Testimony indicated that only inpatients in a medical institution should be exempt from co-payments.

RESPONSE: ARM 46.12.204(2)(c) has been modified to exempt only inpatients in medical institutions from co-payments.

  
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Director, Social and Rehabilitation Services

Certified to the Secretary of State August 15, 1983.

VOLUME NO. 40

OPINION NO. 18

COUNTIES - Contents of county fund, proceeds of mill levy, transfer of county poor fund and responsibilities to Department of Social and Rehabilitation Services;  
COUNTY BUDGET - Report of final budget and tax levies to Department of Administration;  
COUNTY FUNDS - To include distributions of taxes pursuant to specific statutes;  
COUNTY POOR FUND - Content of fund upon its transfer to Department of Social and Rehabilitation Services when responsibilities for programs transferred;  
MILL LEVY - Proceeds of, reports of final budget and mill levies to Department of Administration;  
TAXATION - Proceeds of mill levy to include distribution of taxes pursuant to specific statutes;  
MONTANA CODE ANNOTATED - Sections 7-6-2321, 7-6-2322, 7-16-2103, 7-21-3410, 7-22-2432, 7-35-2123, 15-1-205, 15-16-114(1), 15-31-702, 22-1-304, 53-2-813, 61-3-509.

- HELD: 1. SRS should rely upon the tax levies presented in the county clerk and recorders' reports that are provided pursuant to section 7-6-2322, MCA, for determining the amount levied by the county for purposes of its county poor fund during fiscal year 1982.
2. The proceeds of the mill levy set pursuant to section 7(1)(a) of HB 798 should include revenue from any source that is normally allocated among county funds in the proportion a fund bears to the total mill levies of the county.

11 August 1983

Russell E. Cater, Esq.  
Office of Legal Affairs  
Department of Social and  
Rehabilitation Services  
Room 308, SRS Building  
111 Sanders  
Helena, Montana 59620

Dear Mr. Cater:

You have requested my opinion on two issues raised by enactment of House Bill 798 during the last legislative session. This bill allows counties to transfer all of their public assistance responsibilities to the Department of Social and Rehabilitation Services upon payment of a mill levy to the state as determined by section 7 of the bill (codified as section 53-2-813, MCA).

1. Should SRS rely upon the information presented by each county's clerk and recorder to the Department of Administration, as required by section 7-6-2322, MCA, in determining the amount levied by the county for purposes of its county poor fund during fiscal year 1982? And, if so, should SRS rely upon this information even in those counties in which the information provided in accordance with section 7-6-2322, MCA, differs from information provided the Department of Revenue and/or county officials other than the clerk and recorder?
2. Does the amount due the State from the levy required by part (1)(a) of section 7, HB 798, include the revenue normally due the county poor fund from sources such as those required by sections 61-3-509 and 15-31-702, MCA?

Section 7-6-2322, MCA, requires that each year by September 15, the county clerk and recorder is to "forward a full and detailed copy of the final budget, together with the tax levies, to the department of administration." Your opinion request indicates that in the process of determining the amounts which counties actually levied in 1982, the base period for determining the amount the counties must levy and pay into an earmarked account in the State treasury pursuant to section 7 of the bill, SRS has been presented with conflicting reports from the Departments of Revenue and Administration and from some county officials. You indicate that in some cases the county figures differ from both the Department of Administration reports and the Department of Revenue annual reports.

The only report of county tax levies and final budgets mandated by statute is that required pursuant to section 7-6-2322, MCA. The tax levy for each fund within that

final budget and report of tax levies is fixed as provided in section 7-6-2321, MCA. That section requires that the tax levy be set based upon the taxable valuation of the county for the current fiscal year. It may be set at a rate no higher than required to meet the amount approved and adopted for that fund in the final budget. The levy rate may not include any anticipated tax delinquency. The amount levied by the county would be reflected in the tax levy set to meet the final budget pursuant to this statute. The amount of tax actually collected under the authority of the tax levy may therefore differ from the levy itself due to the variables of: (1) the taxable valuation of the county for the current fiscal year, and (2) unanticipated tax delinquency. This should account for the discrepancy in the reports provided to SRS.

A tax levy refers not to the proceeds of the levy but to "the exercise of a legislative function, whether state or local, which determines a tax shall be imposed and fixes the amount, purpose and subject of the exaction. 3 T. Cooler, Taxation § 1012 at 2043-2044 (4th ed. 1924)." Carkonen v. William, 76 Wash. 2d 617, 458 P.2d 280, 286 (1969) (en banc). See also Black's Law Dictionary, 816 (5th ed. 1979). While the proceeds of the tax levy may therefore vary from the amount set by the levy, each county should set only one levy for each county fund pursuant to section 7-6-2321, MCA, and that levy is the amount that should be reported to the Department of Administration pursuant to section 7-6-2322, MCA.

Section 7(1)(b) of HB 798 provides as follows:

A county that levied an amount less than 12 mills for purposes of its county poor fund during fiscal year 1982 must levy an equivalent amount to the poor fund mill levy assessed by that county during fiscal year 1982, plus 1.5 mills, not to exceed a total of 12 mills, less a mill levy equivalent to an amount the county can demonstrate was spent during fiscal year 1982, for the building or operation of a medical facility.

It is clear that the "levied...amount" to which this provision refers is the levy set by the county

commissioners pursuant to section 7-6-2321, MCA, and is the figure upon which SRS should rely.

The report published annually by the Department of Revenue is not statutorily mandated and is compiled only for statistical purposes as a basis for preparing the biennial legislative report required pursuant to section 15-1-205, MCA. That report does not specifically include the county tax levies but considers them in determining the taxable value of all property of the state, counties and cities. The values will vary as property values fluctuate. Similarly, the proceeds from the tax levies will vary with property value fluctuations and with unanticipated tax delinquencies.

SRS should utilize the tax levies reported to the Department of Administration pursuant to section 7-6-2322, MCA.

Section 7(2) of HB 798 requires that "the proceeds of the mill levy established in subsection (1)" be deposited in an earmarked revenue fund in the state treasury.

The second issue you present requires interpretation of the term "proceeds of the mill levy." The phrase read alone would seem to limit the contents of the county poor fund to the proceeds of the real property levy. It seems clear and unambiguous. However, when read together with other county finance statutes, the meaning of the phrase is not clear.

A number of specific statutes have been enacted by the Legislature which require counties to distribute the proceeds of particular taxes among the county funds on a proportionate basis. Each of these statutes provides a pro rata distribution that is controlled by the proportion a tax levied for a particular fund bears to the total mill levy of the taxing authority. Examples of statutes requiring distributions of taxes into existing funds are section 61-3-509, MCA (the motor vehicle suspension fund); section 15-31-702, MCA (corporate license taxes collected from banks or savings and loan associations); and section 15-16-114(1), MCA (personal property taxes).

Since their enactment, these statutes have been interpreted by county authorities to allow distribution

of these taxes into county funds on a pro rata basis. The individual county funds into which these taxes are distributed are each authorized pursuant to statute. Language similar to that of section 7(1)(a) of HB 798 is contained in a number of these county fund statutes.

This language appears to authorize the county commissioners to establish a separate fund for the proceeds of the tax and to limit the use of the fund to the purposes set forth in the statute. The language read in context does not appear to limit the contents of the fund. Rather, it is authorizing legislation which governs the use of the fund. County commissioners have interpreted similar language to that effect. For example, section 22-1-304, MCA, which governs the county library fund, provides as follows:

22-1-304. Tax levy--special library fund--bonds. (1) The governing body of any city or county which has established a public library may levy in the same manner and at the same time as other taxes are levied a special tax in the amount necessary to maintain adequate public library service, not to exceed 3 mills on the dollar, upon all property in such county which may be levied by the governing body of such county and not to exceed 4  $\frac{1}{2}$  mills on the dollar upon all property in such city which may be levied by the governing body of such city.

(2) The proceeds of such tax shall constitute a separate fund called the public library fund and shall not be used for any purpose except those of the public library.

(Emphasis added.) Other examples include sections 7-16-2103 (civic-youth-recreation centers), 7-35-2123 (cemeteries), 7-21-3410 (county fairs), 7-22-2432 (mosquito control). Taxes have been distributed on a pro rata basis into these county funds pursuant to the specific authorizing statutes provided by the Legislature.

A basic rule of statutory construction presumes that the Legislature would not pass meaningless legislation and, therefore, statutes relating to the same subject must be harmonized to give effect to each other. Crist v.

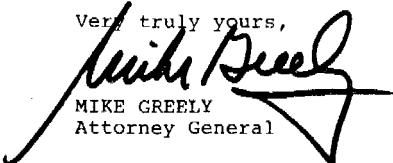
Segna, 622 P.2d 1028 (Mont. 1981). In order to give meaning to the statutes providing for a proportionate distribution of specific taxes among county funds, it is necessary to interpret the county fund statutes as statutes which limit the use of funds, rather than as statutes which limit the contents of the funds. This interpretation is consistent with past practice. It also appears consistent with legislative intent to augment county funds with the proceeds of other specific taxes.

The proceeds of the 12 mill levy provided for in section 7(1)(a) of HB 798 would include all monies collected from real property taxes and distributed to that county fund (here the county poor fund) as well as all other monies deposited in the fund that were collected and distributed on a proportionate basis to the county funds pursuant to specific statutory authority.

THEREFORE, IT IS MY OPINION:

1. SRS should rely upon the tax levies presented in the county clerk and recorders' reports that are provided pursuant to section 7-6-2322, MCA, for determining the amount levied by the county for purposes of its county poor fund during fiscal year 1982.
2. The proceeds of the mill levy set pursuant to section 7(1)(a) of HB 798 should include revenue from any source that is normally allocated among county funds in the proportion a fund bears to the total mill levies of the county.

Very truly yours,



MIKE GREELY  
Attorney General

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 bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt or amend 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, Montana State Capitol, Helena, Montana 59620.

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

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

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

Use of the Administrative Rules of Montana (ARM):

- |                                     |   |
|-------------------------------------|---|
| Known<br>Subject<br>Matter          | 1. Consult General Index, Montana Code Annotated to determine department or board associated with subject matter or statute number.           |
| Department                          | 2. Refer to Chapter Table of Contents, Title 1 through 46, page 1, Volume 1, ARM, to determine title number of department's or board's rules. |
|                                     | 3. Locate volume and title.   |
| Subject<br>Matter and<br>Title      | 4. Refer to topical index, end of title, to locate rule number and catchphrase.   |
| Title Number<br>and Department      | 5. Refer to table of contents, page 1 of title. Locate page number of chapter.  |
| Title<br>Number and<br>Chapter      | 6. Go to table of contents of Chapter, locate rule number by reading catchphrase (short phrase describing the rule.)                          |
| Statute<br>Number and<br>Department | 7. Go to cross reference table at end of each title which lists each MCA section number and corresponding rules.                              |
| Rule In ARM                         | 8. Go to rule. Update by checking the accumulative table and the table of contents for the last register issued.                              |

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The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies which have been designated by the Montana Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 1983. This table includes those rules adopted during the period July 1, 1983 through September 30, 1983, and any proposed rule action that is pending during the past 6 month period. (A notice of adoption must be published within 6 months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through June 30, 1983, this table and the table of contents of this issue of the MAR.

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