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OF MONTANA
MONTANA
ADMINISTRATIVE
REGISTER

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1991 ISSUE NO. 18
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SEP 27 1991

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 18

OF MONTANA

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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing and where written comments may be submitted.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 TEACHERS' RETIREMENT BOARD
OF THE STATE OF MONTANA

In the matter of the adoption of)	NOTICE OF PUBLIC
rules implementing laws adopted by)	HEARING ON PROPOSED
the 52nd legislature; amendment of)	ADOPTION OF NEW RULES,
Rules 2.44.306, 2.44.401, 2.44.409,)	AMENDMENT AND REPEAL
2.44.509, 2.44.510, 2.44.514 and)	OR RULES RELATING TO
2.44.517 for the purpose of)	THE TEACHERS'
crediting military service, payment)	RETIREMENT SYSTEM
of benefits at death, payment of)	
child's benefit, bonuses as)	
compensation and correcting errors)	
on wages not reported and repeal of)	
Rules 2.44.504 and 2.44.601)	
relating to the Teachers')	
Retirement System)	
)	

TO: All Interested Persons.

1. On October 21, 1991, at 10 A.M. a public hearing will be held in the office of the Teachers' Retirement System, at 1500 Sixth Avenue, Helena, Montana, to consider the adoption of new rules I, and II; and amendment of rules 2.44.306, 2.44.401, 2.44.409, 2.44.509, 2.44.510, 2.44.514, and 2.44.517.

2. The proposed new rules do not replace or modify any section currently found in the Administrative Rules of Montana.

3. The proposed new rules are as follows:

RULE I. VETERANS CALLED TO ACTIVE DUTY (1) Members of the Teachers' Retirement System called to active duty for a period not to exceed five years and reinstated, in accordance with the provisions of Vietnam Era Veterans' Readjustment Act of 1974, as amended, to a position eligible for membership under the Teachers' Retirement System shall be considered continuously employed during their military leave when determining vested interest and eligibility for retirement benefits.

(2) Reinstated veterans may elect to purchase creditable service for their military leave to be used in the calculation of retirement benefits. The cost to purchase this service shall be equal to the employee contributions that would have been made had they not been called to active duty. Interest accruing on the balance due to purchase active duty service will not be levied during the first year following the date of discharge. If payment is not within one year following discharge, interest will be assessed as provided under ARM 2.44.405.

AUTH: 19-4-201, MCA; IMP: 19-4-801, 19-4-901, 19-4-1001, MCA
Rationale: Implement the provisions of the Vietnam Era Veterans' Readjustment Act of 1974, as amended.

Rule II. PURCHASE OF SALARY CREDIT FOR A TEMPORARY ABSENCE

(1) Members applying to purchase salary credits as provided under 19-4-413, MCA must furnish the board with written verification from their employer of the salary credit not reported to the system and a copy of their contract.

(2) Members may purchase salary credits for a temporary absence in an amount not to exceed 1/9 of their regular annual contract salary.

AUTH: 19-4-201, MCA IMP: 19-4-413, MCA

Rationale: Implement the provisions of House Bill 80 allowing members to purchase salary credits for a temporary absence and to clarify the limit of a temporary absence.

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

2.44.306 ACTUARIAL ASSUMPTIONS, RATES AND TABLES

(1) remains the same.

(2) This rule refers to but is not limited to the following:

(a) remains the same.

(b) remains the same.

(c) termination pay rate table;

(c) is renumbered to be (d)

(d) is renumbered to be (e)

(3) remains the same.

(Auth: Sec. 19-4-201 MCA; IMP, 19-4-206 MCA;)

Rationale: This rule is amended to document the procedure under which termination pay rate tables are adopted.

2.44.401 CALCULATING SERVICE CREDITS

(1) remains the same.

(a) remains the same.

(b) remains the same.

(c) ~~twelve (12) months or 260 days in a fiscal year shall equal 1.0 year service credit for Public Employees Retirement System service qualified in the teachers' retirement system unless the Public Employees Retirement System service was with a school district in which case nine (9) months or 180 days shall equal 1.0 year service credit shall be credited to the member's account at the same rate earned under and reported to the Public Employees Retirement System~~

(2) remains the same.

(3) ~~For employees of the university system, where the above criteria is not applicable, part-time service credit shall be awarded by dividing the contracted credit hours taught and compensated for by 45 the full-time credit hours per quarter or semester.~~ (History: Sec. 19-4-201 MCA; IMP, 19-4-401 through 19-4-411 MCA; Eff. 12/31/72; AMD, 1987 MAR p. 2233, Eff. 12/11/87.)

Rationale: Clarify service credit for Public Employees Retirement System service transfer to T.R.S. under HB 205, and to clarify service credit for part time university system employment under

the semester system.

2.44.409 TRANSFER OF SERVICE CREDIT FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM

(1) remains the same.

(a) remains the same.

(b) remains the same.

~~(2) If the member chooses to receive credit for PERS service transferred based on the ratio between the retirement systems' combined employee and employer contributions rates, their PERS service will not be credited to their Teachers' Retirement System account until:~~

~~(a) the members' accumulated contributions under PERS have been deposited in the Teachers' Retirement System, and~~

~~(b) the amount due from the PERS trust fund has been deposited in the Teachers' Retirement System.~~

~~(3)(2) In no instance shall a member be able to qualify more service into the Teachers' Retirement System than they had or has in the Public Employees' Retirement System.~~

~~(3) No more than 1 year's creditable service shall be awarded for service during the same fiscal year.~~

AUTH: 19-4-201, MCA; IMP: 19-4-409, MCA

Rationale: This rule is proposed to implement HB 205, permitting the transfer of service between the Teachers' and Public Employees' Retirement Systems'.

2.44.509 COMPUTATION OF SALARY EARNED (1) The average final compensation of a member who retires or dies during a school or fiscal year, shall be ~~the highest consecutive 36 full months of wages paid for which contributions were received. A member who retires or dies during a month will be allowed to use the 36 full months of wages paid preceding his retirement or death.~~

determined by using the greater of:

(a) the 3 consecutive years' contracts immediately preceding retirement or

(b) the 3 consecutive fiscal years compensation which yield the highest average.

(2) Only salaries earned under contract on which contributions have been made can be used to determine the average ~~salary~~ final compensation. (History: Sec. 19-4-201 MCA; IMP, 19-4-801 through 19-4-804 MCA; Eff. 12/31/72; AMD, 1987 MAR p. 2233, Eff. 12/11/87.)

Rationale: To clarify the calculation of average compensation for members terminating during the fiscal year.

2.44.510 ADJUSTMENT OF BENEFITS

(1) remains the same.

(2) remains the same.

(3) Effective July 1, 1992, the period for determining the amount that a retiree may earn while receiving retirement benefits shall be the fiscal year, July 1, through June 30, irrespective of the month in which they retired. The amount a

retiree may earn following a mid-year retirement must be prorated by the ratio of the number of months remaining in the fiscal year divided by twelve.

(History: Sec. 19-4-201 MCA; IMP, 19-4-804 MCA; Eff. 7/1/83; AMD, 1987 MAR p. 2233, Eff. 12/11/87; AMD, 1988 MAR p. 1292, Eff. 7/1/88.)

Rationale: Standardize the period for measuring post retirement earnings as the fiscal year, July through June. Currently post retirement earnings are determined during the 12 month period following retirement and depend upon the month in which the retiree begins retirement, requiring that each retiree's earnings be accounted for differently. A standard period will allow for automation of administration and eliminate the manual tracking process. This rule is proposed to be effective July 1, 1992, and is not intended to affect the amount retirees will be allowed to earn from January 1992, through June 1992.

2.44.514 LUMP SUM PAYMENTS AT THE END OF THE SCHOOL TERM

(1) Lump sum payments made under contract to all similarly situated employees at the end of the each school term for bonuses, the current fiscal year's accrual for unused personal leave days or for accruals of leave in excess of that allowed under contract will be treated as earned compensation unless paid on account of termination. When paid as a result of termination, all payments will be considered as termination pay as defined under 19-4-101(5) MCA.

(2) remains the same.

(History: Sec. 19-4-201 MCA; IMP, 19-4-101(8) MCA; NEW, 1987 MAR p. 2233, Eff. 12/11/87.)

Rationale: This amendment is proposed to clarify that only payments for current fiscal year's excess accruals may be reported as earned compensation.

2.44.517 FORMULA FOR DETERMINING CONTRIBUTIONS DUE ON TERMINATION PAY (1) Except as provided in subsection (2), the formula for determining the contributions due ~~for~~ under option

(i) 19-4-101(5)(a) shall be a percentage of the termination pay, based upon the members age at the time of retirement, times the total years of creditable service. The total contribution due to adequately compensate the system for the additional benefit for termination pay under option (i), shall be divided between the member and the employer in the same ratio as employee and employer contributions required under 19-4-602 and 19-4-605 MCA are to the total.

(2) Upon disability retirement, the contributions due to adequately compensate the system for the additional benefit for termination pay under option (i), shall be based on 15 years or the members total years of creditable service, which ever is greater.

(History: Sec. 19-4-201 MCA; IMP, 19-4-101(5) MCA; NEW, 1987 MAR p. 2233, Eff. 12/11/87; AMD, 1988 MAR p. 473, Eff. 3/1/88.)

Rationale: To clarify the contribution due, under a minimum disability retirement benefit, to adequately compensate the system for the additional benefit for the use of termination pay under option (i).

The following rules are to be repealed:

2.44.504 ELIGIBILITY FOR DISABILITY BENEFITS Can be found on page 2-3263 of the Administrative Rules of Montana.
AUTH: 19-4-201, MCA IMP: 19-4-901, MCA

Rationale: House Bill 52 incorporated the provisions of this rule in statute

2.44.601 GENERALLY Can be found on page 2-3275 of the Administrative Rules of Montana.
AUTH: 19-4-201, MCA IMP: 19-4-207, MCA


Rationale: The Teachers' Retirement Board has contracted with the Variable Annuity Life Insurance Company for the administration of the TRS tax deferred annuity plan.

5. Interested parties may submit their data, views, or arguments, either orally or in writing, at the public hearing. Written views, comments or data may also be submitted to David L. Senn, Administrator, Teachers' Retirement System, 1500 Sixth Avenue, Helena, MT 59620-0139, no later than October 28, 1991.

6. David L. Ohler has been designated to preside over and conduct the hearing.

7. The authority of the Board to make the proposed rules is based on section 19-4-201, MCA. and the rules implement Title 19, Section 4, MCA.

By:


David L. Senn, Administrator
Teachers' Retirement System

Certified to the Secretary of State September 13, 1991.

BEFORE THE STATE AUDITOR
AND COMMISSIONER OF INSURANCE
OF THE STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PUBLIC HEARING
adoption of rules pertaining	)	ON PROPOSED ADOPTION
to crop insurance	)	AND REPEAL

TO: All Interested Persons.

1. On Thursday, October 17, 1991, at 9:00 a.m., a public hearing will be held in Room 270 of the Mitchell Building, 111 Sanders, Helena, Montana, to consider the proposed adoption of rules pertaining to crop insurance and the proposed repeal of ARM 6.6.1501 through ARM 6.6.1505.

2. ARM 6.6.1501 through ARM 6.6.1505 can be found on pages 6-198 and 6-199 of the Administrative Rules of Montana. The authority for the repeal of these rules exists at 33-1-313 and 33-16-202, MCA. The rules implement 33-16-201, MCA.

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

RULE I PURPOSE AND SCOPE (1) The purpose of these rules is to set forth procedures for the development and filing for approval of rates applicable to crop insurance coverages over which the Montana Insurance Department has jurisdiction and to provide other procedures related thereto.

(2) While the primary scope of these rules is the regulation of traditional crop hail and companion hail insurances, these rules shall also apply to other forms of crop insurances which include coverage for the peril of hail, to the extent such application is reasonable and appropriate.

(3) These rules do not apply to multi-peril crop insurance policies authorized by the Federal Crop Insurance Corporation, but they do apply to independently filed multi-peril crop insurance policies and to policies intended to provide supplemental coverage to multi-peril crop insurance policies, to the extent such application is reasonable and appropriate.

(4) These rules do not apply to the Montana State Board of Hail Insurance.

AUTH: 33-1-313, 33-16-202, MCA IMP: 33-16-201, 33-16-203, MCA

RULE II CROP HAIL AND COMPANION HAIL INSURANCE STATISTICS AND ADVISORY PRICING COMPONENTS (1) Each insurer writing crop hail insurance or companion hail insurance in Montana shall annually report its crop hail and companion hail insurance statistics to the National Crop Insurance Services.

(2) The National Crop Insurance Services shall annually on or before December 15 file with the commissioner advisory final average loss costs applicable to wheat, based on the latest available cumulative crop insurance statistics for this state.

Rationale: To clarify the contribution due, under a minimum disability retirement benefit, to adequately compensate the system for the additional benefit for the use of termination pay under option (i).

The following rules are to be repealed:

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Rationale: House Bill 52 incorporated the provisions of this rule in statute

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AUTH: 19-4-201, MCA IMP: 19-4-207, MCA


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(2) While the primary scope of these rules is the regulation of traditional crop hail and companion hail insurances, these rules shall also apply to other forms of crop insurances which include coverage for the peril of hail, to the extent such application is reasonable and appropriate.

(3) These rules do not apply to multi-peril crop insurance policies authorized by the Federal Crop Insurance Corporation, but they do apply to independently filed multi-peril crop insurance policies and to policies intended to provide supplemental coverage to multi-peril crop insurance policies, to the extent such application is reasonable and appropriate.

(4) These rules do not apply to the Montana State Board of Hail Insurance.

AUTH: 33-1-313, 33-16-202, MCA IMP: 33-16-201, 33-16-203, MCA

RULE II CROP HAIL AND COMPANION HAIL INSURANCE STATISTICS AND ADVISORY PRICING COMPONENTS (1) Each insurer writing crop hail insurance or companion hail insurance in Montana shall annually report its crop hail and companion hail insurance statistics to the National Crop Insurance Services.

(2) The National Crop Insurance Services shall annually on or before December 15 file with the commissioner advisory final average loss costs applicable to wheat, based on the latest available cumulative crop insurance statistics for this state.

Rationale: To clarify the contribution due, under a minimum disability retirement benefit, to adequately compensate the system for the additional benefit for the use of termination pay under option (i).

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AUTH: 19-4-201, MCA IMP: 19-4-207, MCA

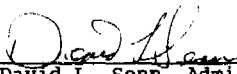
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(3) These rules do not apply to multi-peril crop insurance policies authorized by the Federal Crop Insurance Corporation, but they do apply to independently filed multi-peril crop insurance policies and to policies intended to provide supplemental coverage to multi-peril crop insurance policies, to the extent such application is reasonable and appropriate.

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(2) The National Crop Insurance Services shall annually on or before December 15 file with the commissioner advisory final average loss costs applicable to wheat, based on the latest available cumulative crop insurance statistics for this state.

Rationale: To clarify the contribution due, under a minimum disability retirement benefit, to adequately compensate the system for the additional benefit for the use of termination pay under option (i).

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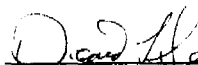
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(3) These rules do not apply to multi-peril crop insurance policies authorized by the Federal Crop Insurance Corporation, but they do apply to independently filed multi-peril crop insurance policies and to policies intended to provide supplemental coverage to multi-peril crop insurance policies, to the extent such application is reasonable and appropriate.

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(2) The National Crop Insurance Services shall annually on or before December 15 file with the commissioner advisory final average loss costs applicable to wheat, based on the latest available cumulative crop insurance statistics for this state.

(3) The National Crop Insurance Services shall file with the commissioner at least every third year other advisory pricing components based on the latest available cumulative crop insurance statistics for Montana, to be applicable to subsequent crop growing seasons. Such filing shall be made in conjunction with the filing of advisory final average loss costs applicable to wheat. All crop rates and deductible options must be priced in relation to the rate for wheat.

(4) The National Crop Insurance Services shall make the advisory final average loss costs, other advisory pricing components and the data underlying them available to any insurer or rating organization authorized to transact crop insurance business in Montana. The National Crop Insurance Services may charge a reasonable fee to non-members for this service.

AUTH: 33-1-313, 33-16-202, MCA IMP: 33-16-201, 33-16-203, MCA

RULE III CROP HAIL FILING REQUIREMENTS (1) The following requirements shall apply to the filing of an insurer's crop insurance pricing structure:

(a) Each insurer intending to write crop hail insurance in Montana shall file all components of the pricing structure it intends to use for the upcoming crop season.

(b) For each component of the pricing structure, the filing must include a discussion of the insurer's previous component and the comparable advisory component, if any, filed by the National Crop Insurance Services. Significant differences between the upcoming year's component and that of the previous year should be explained. Similarly, any differences between the upcoming year's component and that of the National Crop Insurance Services should be explained.

(c) The filing for the upcoming crop season must be received by the Montana Insurance Department or postmarked on or before February 1. No extensions of this deadline shall be granted. No filing amendments or supplements may be made after February 1, except as a result of review of the filing by the Montana Insurance Department.

(d) Any insurer who does not file its intended pricing structure pursuant to these rules shall not be permitted to issue crop hail insurance policies that year.

(e) The insurer's filing must include supporting data sufficient to substantiate each filed pricing component, except that no supporting data are required for pricing components which have been filed on the insurer's behalf by an authorized crop insurance rating organization and accepted by the Montana Insurance Department.

(f) A filing of crop hail insurance rates shall not be considered public record until the date approved, or March 31, whichever is later.

(2) The following requirements shall apply to the loss component of an insurer's basic wheat rates:

(a) An insurer may adopt by reference the advisory final average loss costs for wheat as most recently filed by the National Crop Insurance Services. Such adoption must be

clearly indicated in the filing, and no further loss cost support will be required. Deviations from the advisory final average loss costs for wheat in anticipation of experience differing from that underlying the advisory final average loss costs, whether statewide or in specific areas of the state, shall not be permitted.

(b) An insurer may promulgate independent loss costs for wheat, subject to the following requirements:

(i) Such independent loss costs must be derived using the latest cumulative crop insurance statistics for this state, as compiled by the National Crop Insurance Services. Loss costs for wheat derived from data other than the latest cumulative statistics of the National Crop Insurance Services shall not be permitted.

(ii) The insurer may apply any reasonable loss cost derivation formula, provided that the same formula must be applied in establishing a loss cost for each township in Montana.

(iii) Independently derived loss costs must be filed along with a detailed explanation of the formula used to derive them. A loss cost derivation formula which does not reflect appropriate actuarial pricing techniques such as credibility and catastrophe considerations shall not be considered reasonable.

(iv) Detailed examples of the calculations must be included in the insurer's filing.

(v) The filing must demonstrate that the derived loss costs are expected to produce approximately the same statewide loss cost premium as the National Crop Insurance Services' advisory final average loss costs.

(3) The following requirements shall apply to the expense component of an insurer's basic wheat rates:

(a) Each insurer's filing must include an exhibit detailing the insurer's crop insurance expenses for the past three years. The exhibit must show premium dollars, expense dollars and expense ratios as percentages of premium, for each of the major expense items (commissions, other acquisition costs, general administrative expenses, tax provisions, loss adjustment costs and insurer profits). Any significant change in an expense ratio from one year to the next must be explained in the filing.

(b) The filing must identify the expense ratios expected in the upcoming year. Any differences between expected future expense ratios and the corresponding past ratios must be explained.

(c) A sample exhibit format appropriate for use in meeting the requirements of paragraphs (a) and (b) above is available from the Montana Insurance Department on request.

(4) The following requirements shall apply to the derivations of an insurer's basic wheat rates:

(a) The insurer's adopted wheat rate for each township must be derived by combining appropriately the adopted loss cost and expense loading, subject to the insurer's rounding procedure, minimum and maximum rate limitations and percentage change limitations, as applicable.

(b) If a minimum rate limitation has been imposed, no more than ten percent of the statewide townships may be so limited. Similarly, if a maximum rate limitation has been imposed, no more than ten percent of the statewide townships may be so limited.

(c) The insurer may impose limitations in the percentage or dollar magnitude of rate change from the insurer's prior year's rates. Any such limitations must apply uniformly statewide, and no more than twenty five percent of the statewide townships may be so limited.

(d) The insurer's filing must demonstrate that after any limitations pursuant to paragraphs (b) and (c) above, the adopted rates are expected to produce approximately the same statewide premium as the indicated rates prior to such limitation. Cumulative insured liability statistics by township, as compiled by the National Crop Insurance Services, must be the basis of such calculations.

(5) The filing must include an exhibit detailing the calculation of the insurer's adopted basic deductible wheat rate for each township. A sample exhibit format is available from the Montana Insurance Department on request.

(a) At a minimum, the exhibit must show the following for each township:

(i) The prior year rate.

(ii) The advisory final average loss cost as most recently filed by the National Crop Insurance Services.

(iii) The adopted loss cost if independently derived. In this case, the percentage difference between the adopted loss cost and the advisory final average loss cost must also be shown.

(iv) The indicated rate prior to any limitations.

(v) The adopted rate after limitations.

(vi) The adopted percentage change from the prior year's rate.

(b) The adopted loss costs, expense loadings, minimum rates, maximum rates, percentage change limitations and rounding procedures, as applicable, must be clearly identified and adequately discussed in the filing.

(6) The following requirements shall apply to the derivations of an insurer's rates other than basic wheat rates:

(a) The basic deductible wheat rate must be used as the rate group for identifying rates for other deductible options for wheat, for all deductible options for other crops, and for companion hail coverage options. All such rates for other deductibles and crops and for companion hail coverages must be included in the insurer's filing.

(b) In deriving its rates for wheat deductible options other than the basic option, for all deductible options for other crops, and for companion hail coverages, an insurer may adopt by reference the most recent advisory rates of the National Crop Insurance Services.

(c) An insurer may develop independent rates for wheat deductible options other than the basic option, for deductible options for other crops, and for companion hail coverages. The insurer must use the latest cumulative crop insurance

statistics for this state, as compiled by the National Crop Insurance Services, and the insurer's filing must include supporting data sufficient to substantiate such independent rates.

(7) Pricing components which purport to modify the expected loss component of premium for an individual policy will not be permitted. Such components may include, but are not limited to experience rating, loss-free or claim-free discounts, dividends or rebates guaranteed or represented in advance based on achieved loss results, and discounts based on the total insured acreage or liability.

(8) Pricing components which purport to modify the expected expense component of premium for an individual policy will be permitted if the appropriateness of such modification can be demonstrated.

(a) Any expense discount components and documentation of the magnitude of expense savings for each component of expenses must be included in the insurer's filing. Such components could include multi-policy discounts (where information gathered to issue one policy need not be re-gathered to issue another), renewal discounts (where information gathered for a previously issued policy need not be re-gathered to issue the current policy).

(b) An insurer may reflect economies of large scale in its crop insurance pricing structure. Any such pricing plan must be based on the magnitude of the policy premium. Such premium discount plan must be included in the insurer's filing together with supporting data sufficient to substantiate the plan. Plans which provide for discounts based on insured acreage or insured liability or which apply varying anticipated loss ratios in the rate determination process do not appropriately reflect economies of large scale, and shall not be permitted.

(9) The applicability of pricing components to crop hail insurance coverages and/or companion hail insurance coverages must be explicitly identified in the insurer's filing. Pricing components applicable to crop hail insurance shall not be deemed applicable to companion hail insurance.

(10) Each filing must be accompanied by an actuarial certification which addresses the adequacy and equity of the proposed rates and pricing components. The actuarial certification must be signed by a member of the Casualty Actuarial Society, or by a member of the American Academy of Actuaries who has expertise in crop insurance, such expertise to be documented in the certification.

AUTH: 33-1-313, 33-16-202, MCA IMP: 33-16-201, 33-16-203, MCA

RULE IV. COMPANION HAIL INSURANCE (1) Companion hail coverage is intended to be used in conjunction with, and to provide optional and supplemental coverages to, an underlying multi-peril crop insurance (all risks) policy. The marketing or sale of a companion hail policy as a stand-alone policy is contrary to its intended usage, and shall not be permitted.

(2) The insurer and policy number of the underlying multi-peril crop insurance policy must be indicated on the companion hail policy declarations page.

(3) An optional increasing payment factor plan has been designed to supplement each of the various multi-peril crop insurance policy levels of coverage. Marketing of the companion hail options in any manner which is contrary to that which is intended shall not be permitted. Intended usages are as follows:

(a) A companion hail policy with an increasing payment factor of 2 is intended to be used as a supplemental coverage to an underlying multi-peril crop insurance policy with a 50% level of coverage.

(b) A companion hail policy with an increasing payment factor of 3 is intended to be used as a supplemental coverage to an underlying multi-peril crop insurance policy with a 65% level of coverage.

(c) A companion hail policy with an increasing payment factor of 4 is intended to be used as a supplemental coverage to an underlying multi-peril crop insurance policy with a 75% level of coverage.

(4) The maximum permissible limit of insurance which may be offered on a companion hail policy shall be determined based on the same parameters as the underlying multi-peril crop insurance policy, as follows:

(a) Separately for each crop insured by the underlying multi-peril crop insurance policy:

(i) Determine the expected total yield in bushels, by multiplying the expected yield per acre in bushels, times the number of acres planted and

(ii) determine the expected market value of the crop by multiplying the expected total yield in bushels, times the expected market price per bushel, as established by the Federal Crop Insurance Corporation.

(b) Determine the total expected market value of all crops by adding the expected market values of each of the separate crops to be insured, as determined in paragraph (a) above.

(c) Determine the amount of insurance provided by the underlying multi-peril crop insurance policy, by multiplying the total expected market value of all insured crops, as determined in paragraph (b) above, by the appropriate underlying multi-peril crop insurance policy level of coverage (50%, 65% or 75%).

(d) Determine the maximum permissible limit of insurance which may be offered for the companion hail policy, by subtracting the result of paragraph (c) above, from the result of paragraph (b) above.

AUTH: 33-1-313, 33-16-202, MCA IMP: 33-16-201, 33-16-203, MCA

RULE V. POLICY FORMS (1) Each insurer intending to write crop insurance in Montana for the upcoming year must provide a listing of the forms to the Montana Insurance Department which it intends to use. The listing must include the form number, year of adoption and a brief description of the form.

(2) Advisory forms promulgated by the National Crop Insurance Services may be adopted by reference. No further support will be necessary. Such forms should be so identified in the listing of forms.

(3) Insurers intending to use modified or independent forms must file for approval each proposed form, along with a memorandum explaining where and how the form differs from any comparable form of the National Crop Insurance Services, and why the difference is proposed. For any such independent or modified forms, any impacts on coverages, rates or data to be reported to the National Crop Insurance Services should also be fully explained. If a form and its explanatory memorandum have previously been filed with and approved by the Montana Insurance Department, it need not be refiled, but must still appear on the listing of forms for that year.

(4) The listing of forms and the filing of any modified or independent forms intended for use in Montana during a given year must be received by the Montana Insurance Department or postmarked no later than March 15 of that year.

AUTH: 33-1-313, 33-16-202, MCA IMP: 33-16-201, 33-16-203, MCA

RULE VI POLICIES WHICH ARE INTENDED TO SUPPLEMENT MULTI-PERIL CROP INSURANCE POLICIES (1) Any filing of an independent policy form, coverage form or related endorsement intended to supplement the coverage provided by a multi-peril crop insurance policy reinsured by the Federal Crop Insurance Corporation must comply with the following requirements:

(a) Policy form requirements:

(i) Each such supplemental coverage must be filed separately. A policy or coverage form filing must include a list, for the commissioner's approval, of all forms and endorsements the insurer intends to use with the product. A form or endorsement not included on the approved list of forms and endorsements shall not be used with the product.

(ii) The coverage must be supported on its own merits and must be available to any risk eligible to obtain a Federal Crop Insurance Corporation multi-peril crop insurance policy. The insurer shall not require that the multi-peril crop insurance policy be purchased from that or an affiliated insurer or managing general agent.

(b) Pricing structure requirements:

(i) The pricing structure must be filed together with supporting data sufficient to substantiate the filing. The product must be priced so as to be a viable product standing on its own. Unadjusted past loss ratios shall not be considered appropriate for use in the pricing structure of any such product.

(ii) The loss component of the filed pricing structure may be supported by making appropriate adjustments to the multi-peril crop insurance rates. In such case, the filing shall include a loss elimination or similar analysis in support of the loss component of the rate. Such analysis must be on a statewide basis. The insurer may assume for the purpose of such analysis that the multi-peril crop insurance rate will

generate sufficient premium to fund expected losses. This section is not intended to restrict the use of other methods of supporting the loss component of the pricing structure, such as severity and frequency analyses and loss ratio analyses.

(iii) The expense component must include sufficient provisions for the insurer's expected loss adjustment expenses, commissions, other acquisition costs, general administrative expenses, taxes and contingencies, and may include a reasonable margin for profits. The insurer may offer discounts to reflect expense duplications if the same or an affiliate insurer also issues the multi-peril crop insurance coverage for that risk. Any such discounts must be included in the insurer's filing and supporting data must be provided.

(iv) The insurer must maintain exposure, premium, loss and expense data for the program separate from all other programs for use in supporting the subsequent years' pricing structures.

(2) If forms are subject to prior approval in the insurer's state of domicile, evidence of approval of the form by the insurer's domiciliary department must be provided.

AUTH: 33-1-313, 33-16-202, MCA IMP: 33-16-201, 33-16-203, MCA

RULE VII. PREMIUM DEFERRAL, PREMIUM FINANCING (1) Rates and other pricing components applicable to crop insurance shall establish the premium payable at the policy inception date. No discounts based on the time or date of premium payment shall be permitted.

(2) If full premium is not paid at the time of policy inception, and if any additional costs to the insured are associated with the deferral of premium payment, a written premium finance agreement must be incorporated into the policy by explicit reference on the policy declarations page. Finance charges, service charges and interest charges by whatever name may be imposed, subject to compliance with 33-14-101, et seq., Montana Code Annotated.

(3) Any plan an insurer intends to offer for the deferral of premiums must be included in the insurer's filing, whether or not such proposed plan imposes additional costs on the insured.

AUTH: 33-1-313, 33-16-202, MCA IMP: 33-16-201, 33-16-203, MCA

RULE VIII. EFFECTIVE DATE OF CROP INSURANCE POLICIES (1) No crop insurance policy issued in Montana shall be effective prior to seven days after the mailing or hand-delivery of the insurance application to the insurer.

(2) If the application for coverage is mailed to the insurer, the postmark date on the envelope shall constitute evidence of the date mailed. The insurer shall retain the envelope, including the postmark date, in the file of the insured.

(3) If the application for coverage is hand-delivered, the insurer shall immediately stamp the date of receipt on the application for coverage and the date-stamped application must

be retained in the insurer's file of the insured. A copy of such date-stamped application must be provided to the insurance producer and an additional copy must be provided to the policyholder.

AUTH: 33-1-313, 33-16-202, MCA IMP: 33-16-201, 33-16-203, MCA

RULE IX POLICYHOLDER DIVIDENDS (1) Dividends shall not be guaranteed nor represented.

(2) No dividends on crop insurance policies shall be declared until the period of exposure to loss is substantially over, and in no event prior to November 1 following the growing season.

(3) Dividends must be allocated to all Montana policyholders in proportion to premium. No discrimination between insureds on the basis of area, agent, commission levels, insurance company within a group, insurance company controlled by a managing general agency, nor loss experience shall be permitted.

(4) Dividends payable on a policy may be used to offset premiums due on the policy. However, dividends payable on one policy shall not be used to offset premiums due on a different policy.

AUTH: 33-1-313, 33-16-202, MCA IMP: 33-16-201, 33-16-203, MCA

RULE X MARKETING OF CROP INSURANCE (1) Provisions of Title 33, Chapter 18, Part 2, Montana Code Annotated, relating to unfair trade practices, shall be strictly enforced by the Montana Insurance Department.

(2) For the protection of consumers, every advertisement of crop insurance intended for publication in a Montana newspaper, trade journal or other media shall be submitted to the Montana Insurance Department at least ten working days prior to release to the media.

(3) Once the amount of insured acreage and insured liability on that acreage has been established by the insured on any crop insurance policy issued in Montana, the insured acreage and the insured liability on that policy shall not be reduced unless the insurer concludes that the crop is overinsured.

AUTH: 33-1-313, 33-16-202, MCA IMP: 33-16-201, 33-16-203, MCA

RULE XI INSURER GROUPS AND MANAGING GENERAL AGENTS (1) Differing crop hail or companion hail insurance rates or rating plans for affiliated insurance companies within a group or for different companies under the control of the same managing general agency shall not be permitted.

(2) No exposure to loss under any crop insurance policy shall be retained by any entity other than the insurer. No managing general agency shall assume any exposure to loss under any crop insurance policy.

AUTH: 33-1-313, 33-16-202, MCA IMP: 33-16-201, 33-16-203, MCA

RULE XII CIRCUMVENTING FILING REQUIREMENTS (1) No insurer shall circumvent these filing requirements in any agreement with a Montana farm mutual insurer.

(2) No insurance producer or managing general agent shall circumvent these filing requirements by contracting with a Montana farm mutual insurer whereby the farm mutual insurer would be the policy issuer, but a different insurer would be the true insurer of the risk.

(3) No insurance producer or managing general agent shall at the same time represent a Montana farm mutual insurer and an insurer subject to the filing requirements of these rules.

AUTH: 33-1-313, 33-16-202, MCA IMP: 33-16-201, 33-16-203, MCA

4. The proposed rules are necessary to establish standards for crop insurance policies and certificates delivered or issued for delivery in Montana. The State Auditor and Commissioner of Insurance is proposing these rules in order to establish standards and procedures for the development and filing of rates.

5. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written testimony may be submitted to Ann E. Clark, Attorney, State Auditor's Office, P.O. Box 4009, Helena, MT 59604-4009 no later than Friday, October 25, 1991.

6. Ann E. Clark, Staff Attorney for the State Auditor and Commissioner of Insurance, has been designated to preside over and conduct the hearing.


David Barnhill
Deputy Commissioner of Insurance

Certified to the Secretary of State this 16th day of September, 1991.

BEFORE THE STATE AUDITOR
AND COMMISSIONER OF INSURANCE
OF THE STATE OF MONTANA

In the matter of the proposed) NOTICE OF PROPOSED REPEAL
repeal of ARM 6.6.103) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On October 28, 1991, the State Auditor and Commissioner of Insurance proposes to repeal ARM 6.6.103 - EXAMINATIONS--WAITING PERIODS BEFORE RE-EXAMINATION.

2. The rule proposed to be repealed can be found on page 6-95 of the Administrative Rules of Montana.

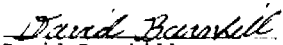
3. The State Auditor and Commissioner of Insurance proposes to repeal this rule because it does not allow retesting as needed by license candidates and creates superfluous record keeping by both the Montana Insurance Department and the examination services contractor.

4. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to Ann E. Clark, Staff Attorney, Montana Insurance Department, P.O. Box 4009, Helena, Montana 59604, no later than October 25, 1991.

5. If a person who is directly affected by the proposed repeal 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 Ann E. Clark, Staff Attorney, Montana Insurance Department, P.O. Box 4009, Helena, Montana 59604, no later than October 25, 1991.

6. If the agency receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed repeal from the Administrative Code Committee of the Legislature; from a governmental subdivision of 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.

7. The authority of the Montana Insurance Department to repeal the rule is based on 33-1-313, MCA, and the rule implements 33-1-313, MCA.


David Barnhill
Deputy Commissioner of Insurance

Certified to the Secretary of State this 16th day of
September, 1991.

BEFORE THE BOARD OF HORSE RACING
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PUBLIC HEARING ON
amendment of rules pertaining	)	THE PROPOSED AMENDMENT
to trainers, general require-	)	OF RULES PERTAINING TO
ments, exacta betting,	)	HORSE RACING
requirements of licensee, and)	
pick (N) wagering)	

TO: All Interested Persons:

1. On October 16, 1991, at 9:00 a.m., a public hearing will be held in the Scott Hart Auditorium, 303 North Roberts Street, Helena, Montana to consider the proposed amendment of rules pertaining to horse racing.

2. The proposed amendments will read as follows:

"8.22.710 TRAINERS (1) Each trainer shall obtain a license from the board. Minors shall not be licensed as trainers. Any application for trainer's license must establish financial responsibility to the satisfaction of the board. ~~Each applicant for trainer's, owner's, and owner-trainer's license must provide evidence of workers' compensation insurance or its equivalent as determined by the state workers' compensation fund for the protection of his employees and workers prior to being issued a license.~~ Failure to maintain financial responsibility ~~and workers' compensation insurance or its equivalent~~ shall be grounds for revocation of license.

(2) Effective January 1, 1982, an applicant may not be issued a trainer license if he fails to attain a passing score of at least 75% on an examination prepared by the board and administered by the state steward. Persons licensed by the board as trainers at any time during the period January 1, 1976 through December 31, 1981 shall be licensed for the 1982 racing season without examination upon application and payment of the license fee. All applicants for a trainer license after the 1982 racing season who were licensed as a trainer by the board in the immediately preceding year shall be licensed without examination upon application and payment of the license fee. Trainers licensed in other racing jurisdictions which are members of the national associations of state racing commissioners and which requires examination for licensure may be licensed without examination upon application and payment of the license fee. Trainers who have let their license lapse for a period of two consecutive license years will be required to take an examination.

(3) will remain the same.

(4) The testing fee for trainers exam will be \$20.00. If a passing score is not received, applicant may upon payment of \$40.00 retake the test.

(4) through (29) will remain the same but will be renumbered (5) through (30)."

Auth: Sec. 23-4-104, 23-4-202, MCA; IMP, Sec. 23-4-104, MCA

REASON: A state statute currently exists in the workers' compensation division which mandates workers' compensation coverage by all employers in the state of Montana. Requiring proof of workers' compensation prior to licensure as well as collecting funds from owners/trainers has proven to create an administrative hardship for the Board of Horse Racing. The requirement would still exist but be administered through another more appropriate agency. The Board is proposing a trainer's examination fee commensurate with program area costs.

"8.22.801 GENERAL REQUIREMENTS (1) through (18) will remain the same.

(19) No horse shall be allowed to enter in any race unless it has been tattooed and fully identified; however, Arabians may be identified by either tattoo or freeze brand.

(20) through (68)(a) will remain the same."

Auth: 23-4-104, 23-4-202, MCA; IMP, Sec. 23-4-104, MCA

REASON: The Arabian Horse Racing Association of Montana requested by letter that the Board make the above proposed amendment. The Association wanted to be able to use a freeze brand on Arabians instead of a tattoo.

"8.22.1619 EXACTA BETTING (1) and (2) will remain the same.

(3) ~~No entries or field horses in a race comprising the exacta are allowed.~~ Entry horses will be allowed in an exacta race in which there are at least six other separate betting interests.

(4) through (11) will remain the same."

Auth: Sec. 23-4-202, MCA; IMP, Sec. 23-4-301, MCA

REASON: Exacta wagering is a popular method of wagering. By not being able to place exacta wagering on a race in which one trainer has two horses, a hardship is created for the track management, because not as much handle would be generated on a non-exacta race. By requiring at least six other separate betting interests, the possibility of a trainer with two entries controlling the outcome of the race would be diminished. This amendment would increase the interest in betting and would subsequently increase the potential purse for the entrants.

"8.22.1802 REQUIREMENTS OF LICENSEE (1) will remain the same.

(2) No entries or field horses in a race comprising the trifecta are allowed except interstate simulcast races.

(3) No licensee shall offer trifecta wagering on any race when there are less than ~~eight~~ six horses scheduled to start, at draw time. In no event will trifecta wagering be permitted on a race in which less than six horses go to the post.

(4) will remain the same.

~~(5) -- Trifecta wagering shall be allowed only at tracks that can demonstrate to the board that their facilities can properly handle and implement trifecta wagering.~~

~~(6) -- No more than two trifecta races may be offered on any single day at any meet."~~

Auth: Sec. 23-4-104, MCA; IMP, Sec. 23-4-104, MCA

REASON: Lowering the number of entries from eight to six head will allow for trifecta wagering on quality races and also will allow for more than two trifecta races on any race day. These amendments will create more income for tracks and the betting public.

"8.22.1805 PICK (N) WAGERING (1) through (3) will remain the same.

(4)(a) Pick (N) shall be composed of two separate and distinct parimutuel pools. Seventy-five percent of the gross amount of all sums wagered on pick (N) tickets on each performance shall be paid into a parimutuel pool to be known as "the jackpot". The remaining twenty-five percent of the gross amount of all sums wagered on pick (N) tickets for that performance shall be paid into a parimutuel pool to be known as ~~"the super-four", "the super-five", "the super-six", "the super-seven", or "the super-eight", depending on the association's decision as to how many races comprise the pick~~ (N) wager "the consolation jackpot pool".

(b) will remain the same.

(c) Subject to the provisions of this rule pertaining to refunds and after deduction of all legal sums therefrom, the net amount in the ~~super-(N)~~ consolation jackpot pool subject to distribution among winning ticket holders shall be distributed among the holders of pick (N) tickets which correctly designate the most official winners of the contests comprising the pick (N) for that performance.

(d) will remain the same.

(e) In the event the accumulated jackpot has not been distributed prior to the closing day of the meeting in which the jackpot was generated, the accumulated jackpot and the net amount in the ~~super-(N)~~ consolation jackpot pool subject to distribution among winning ticket holders shall be distributed among closing day holders of pick (N) tickets which correctly designate the most official winners of the races comprising the closing day pick (N). Where a split meet is held, all jackpot and ~~super-(N)~~ consolation jackpot pools shall be distributed as stated in this section on the final day of each portion of the split meet.

(f) will remain the same.

(g) In the event one or more of the races comprising the pick (N) is cancelled for any reason, the distribution of the net amount subject to distribution in the ~~super-(N)~~ consolation jackpot pool shall be among the holders of parimutuel tickets which correctly designate the most official winners in all of the remaining races comprising the pick (N) during such race days, except that in the event there is officially cancelled or declared as no contest three or more

of the races comprising the pick (N), all parimutuel tickets on the pick (N) for that day shall be refunded, and the pick (N) shall be cancelled for that day. No person shall win the jackpot unless that person holds a pick (N) ticket which correctly picks all official winners of the races comprising the pick (N) for that race day. The cancellation of one or more races comprising the pick (N) in any race day shall result in the contribution to the super-(N) consolation jackpot pool of the amount contributed that day to the jackpot pool. The contribution to that day's jackpot pool will then be distributed along with the remainder of the super-(N) consolation jackpot pool to the winners of the super-(N) consolation jackpot pool. Any contributions to the jackpot pool from prior race days will remain in the jackpot pool to be carried over and included in the jackpot pool for the next race day as prescribed in (d) above.

(5) In the event of a dead heat for win between two or more contestants in any pick (N) race, all such contestants in the dead heat for win shall be considered as the winner in the race for the purpose of distributing the jackpot and the super-(N) consolation jackpot pools.

(6) through (8) will remain the same.

(9) Each jackpot pool shall have a cap which the jackpot pool shall not exceed. The cap for a pick four jackpot pool shall be \$4,000 or 2,000 times the minimum wager, whichever is less. The cap for a pick five jackpot pool shall be \$30,000 or 15,000 times the minimum wager, whichever is less. The cap for a pick six jackpot pool shall be \$250,000 or 125,000 times the minimum wager, whichever is less. The cap for a pick seven jackpot pool shall be \$1,000,000. The cap for pick eight jackpot pool shall also be \$1,000,000. Prior to the opening of a meet the association may declare a cap for the jackpot pool less than the cap imposed above, provided the cap is in increments of \$1,000. Once the association has selected a cap the association may not alter the cap without prior approval of the board. If, at the close of any race day the amount accumulated in the jackpot pool equals or exceeds the cap, then at such time the jackpot pool shall be frozen until it is won under the other provisions of the applicable pick (N) rule. Thereafter, the jackpot pool is frozen under these provisions and one hundred percent (100%) of all subsequent contributions shall go to the super-(N) consolation jackpot pool and be distributed accordingly. Nothing herein shall affect the total distribution of both pools on the closing day of any meet or portion of a split meet.

(10) Prior to the opening of a meet at which a pick (N) wager will be offered, the association may elect to force an early payout of the jackpot pool, as allowed by this rule and in no other manner. The decision shall be made by informing the board in writing prior to the opening of the meet of the association's intent to force an early payout if the conditions of this rule for an early payout are met. If the decision is made, then an early payout of the jackpot pool shall be made as follows. Within 24 hours after the jackpot pool reaches its cap, the association shall designate the race day at which the early payout will be made by informing the

board in writing of the designated race day. The designated race day shall be no sooner than 6 calendar days after the cap is reached and no later than 134 calendar days after the cap is reached. If at the conclusion of the last contest comprising the pick (N) of the designated race day, no wager has won the jackpot pool, then the funds in the jackpot pool shall be transferred to the super-(N) consolation jackpot pool for the designated race day and distributed in the manner in which the super-(N) consolation jackpot pool is distributed."

Auth: Sec. 23-4-104, MCA; IMP, Sec. 23-4-104, MCA

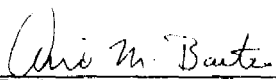
REASON: The Board feels that the "super (N)" connotes a greater pool than the "jackpot" pool when in fact the "super (N)" pool is less than the "jackpot" pool. The Board feels the language "consolation jackpot" better describes the "super (N)" pool.

3. 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 Horse Racing, Room 50, Lee Metcalf Building, 1520 East Sixth Avenue, Helena, Montana 59620, no later than October 24, 1991.

4. Carol Grell, attorney, has been designated to preside over and conduct the hearing.

BOARD OF HORSE RACING
STEVE CHRISTIAN, CHAIRMAN

BY:



ANNIE BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, September 16, 1991.

BEFORE THE BOARD OF NURSING
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed amendment, repeal and adoption of rules pertaining to specialty areas of nursing, substantive rules, disciplinary actions, board organization, approval of schools, standards for Montana schools of professional nursing, standards for Montana schools of practical nursing, fees, nurse specialist prescriptive authority and nurses' assistance program) NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT, REPEAL & ADOPTION) OF RULES PERTAINING TO SPECIALTY) AREAS OF NURSING, SUBSTANTIVE) RULES, DISCIPLINARY ACTIONS,) BOARD ORGANIZATION, APPROVAL) OF SCHOOLS, STANDARDS FOR) MONTANA SCHOOLS OF PROFESSIONAL NURSING, STANDARDS) FOR MONTANA SCHOOLS OF) PRACTICAL NURSING, FEES,) NURSE SPECIALIST PRESCRIPTIVE) AUTHORITY AND NURSES') ASSISTANCE PROGRAM
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TO: All Interested Persons:

1. On October 18, 1991, at 9:00, a.m., a public hearing will be held in the Department of Social and Rehabilitation Services Auditorium, 111 Sanders, Helena, Montana, to consider the proposed amendment of rules pertaining to registered and practical nursing and the proposed adoption of new rules pertaining to the practice of nursing in the areas of nurse specialist prescriptive authority and the nurses' assistance program.

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

"8.32.301 NURSE PRACTITIONER PRACTICE (1) Nurse practitioner practice ~~is~~ means the management of primary health care of individuals, families and communities including the ability to:

(a) assess the health status of individuals and families through using methods appropriate to the client population and area of practice such as health history taking, physical examination and ~~defining~~ assessing of developmental health development problems;

(b) institute and provide continuity of health care to clients-(patients), work with the-client clients to insure their understanding of and compliance with the therapeutic regime regimes;

(c) promote wellness and disease prevention programs;

(d) work within established protocols, and recognize when to refer ~~the-client clients~~ to a physician or other health care provider;

(~~e~~) (e) provide instruction and counseling to individuals, families and groups in the areas of health promotion and maintenance, including involving such persons in planning for their health care; and

(d) (f) work in collaboration with other health care providers and agencies to provide, and, where appropriate, coordinate services to individuals and families."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

REASON: The proposed changes refine the definition of the practice of a nurse practitioner.

"8.32.302. NURSE-MIDWIFERY PRACTICE (1) Nurse-midwifery practice is means the independent management of care of essentially normal newborns and women, antepartally, intrapartally, postpartally and/or gynecologically. This occurs within a health care system which provides for medical consultation, collaborative management, and referral and is in accord with the "Functions, Standards and Qualifications for Nurse-Midwifery Practice" as defined by the American College of Nurse-Midwives, 1522 K Street NW, Suite 1120, Washington, D.C. 20005. Copies of which may be obtained from the American College of Nurse-Midwives at the above address or at the Board office, 1424 9th Avenue Arcade Building, 111 North Jackson, Helena, Montana 59620-0407."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, 37-8-409, MCA

REASON: The proposed change clarifies language. The Board address is corrected to the current address.

"8.32.303 NURSE ANESTHETIST PRACTICE (1) Nurse anesthetist practice is the performance of or the assistance in any act involving the determination, preparation, administration or monitoring of any drug used to render an individual insensible to pain for surgical and other therapeutic procedures in the administration of anesthesia or related services for surgical and other therapeutic procedures which require the presence of persons educated in the administration of anesthetics. A nurse anesthetist is authorized to perform procedures delineated in the American Association of Nurse Anesthetists Guidelines for Nurse Anesthesia Practice. Copies of the guidelines may be obtained from the American Association of Nurse Anesthetists, 216 Higgins Road, Park Ridge, Illinois 60068, (708) 692-7050."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

REASON: The proposed change refines the definition of the practice of a nurse anesthetist.

"8.32.304 SPECIALTY NURSING TITLE (1) Any Only a person holding approval by the board as a specialist in this state shall have the right to use the appropriate title nurse practitioner, nurse midwife, or nurse anesthetist, provided that the registered nurse:

(a) holds a current license to practice professional nursing in the state of Montana;

(b) has submitted application with supporting fees, and credentials have been supported for specialty nursing title and application has been approved by the board of nursing;

(c) pays appropriate application and annual renewal fees; and

(e) (d) holds an endorsement on the professional nursing license which recognizes the specialty.

~~(2) -- Use of the title nurse practitioner, nurse-midwife or nurse-anesthetist by a person not approved by the board is prohibited.~~

(2) Nurse specialists who are recognized in the state of Montana may only practice as a specialist in the area of practice in which they have national certification."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

REASON: The proposed changes clarify language and the meaning intended by the Board and clarify the need to pay fees. Subsection (2) is being deleted because it is redundant.

"8.32.305 EDUCATIONAL REQUIREMENTS AND OTHER QUALIFICATIONS APPLICABLE TO SPECIALTY AREAS OF NURSING

(1) will remain the same.

(a) Successful completion of a post-basic professional nursing education program in the specialty area with the minimum length of one academic year consisting of at least four months of didactic instruction and the remainder under a preceptor; and individual certification from a board approved certifying body for those recognized prior to July 1, 1995;

(b) For recognition after June 30, 1995, Aa master's degree from an accredited nursing education program which prepares the nurse for a specialty role; and individual certification from a board approved certifying body."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

REASON: The proposed amendment establishes a master's degree as the requirement for specialty nursing certificates after June 30, 1995.

"8.32.306 APPLICATION FOR RECOGNITION (1) will remain the same.

~~(2) -- The application fee for specialty area recognition shall be \$25.00 and a fee of \$10.00 for each annual renewal thereafter."~~

Auth: Sec. 37-1-131, 37-8-202, MCA; IMP, Sec. 37-1-134, 37-8-202, 37-8-431, MCA

REASON: All fees are being incorporated in new rule V.

"8.32.402 LICENSURE BY EXAMINATION (1) through (5) will remain the same.

~~(6) -- The fee for licensure by examination is \$35.00 payable at the time the application is submitted. -- Five dollars of this fee is retained by the board if the application is withdrawn prior to the examination.~~

(7) will remain the same but will be renumbered (6).

(6) (7) A seated passing score of 1600 on the appropriate NCLEX examination shall be required as a minimum passing score for licensure as a registered professional or

practical nurse. The passing score is set by the national council of state boards of nursing's panel of content experts.

(9)--A scaled score of 350 shall be required as a minimum passing score for licensure as a practical nurse

(10) through (16) will remain the same but will be renumbered (8) through (14)."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-406, 37-8-416, MCA

REASON: All fees are being incorporated in new rule V. The proposed changes related to test scoring are changed to comply with current scoring practice of the National Council of State Boards of Nursing, Inc., with whom the Board contracts to participate in the national nursing licensure exam program.

"8.32.403 RE-EXAMINATION - REGISTERED NURSE (1) will remain the same.

(2)--The fee for repeating the examination will be \$35.00."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, 37-8-406, 37-8-416, MCA

REASON: All fees are being incorporated in new rule V.

"8.32.404 RE-EXAMINATION - PRACTICAL NURSE (1) will remain the same.

(2)--The fee for repeating the examination will be \$35.00."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, 37-8-406, 37-8-416, MCA

REASON: All fees are being incorporated in new rule V.

"8.32.405 LICENSURE BY ENDORSEMENT (1)--The application for licensure shall be made on the appropriate forms supplied by the department and verified by appropriate measures showing:

(a)--completion of 4 years of high school or its equivalent;

(b)--graduation from an approved school of nursing (professional for registered nurse licensure and practical for practical nurse licensure); and

(c)--holds a valid license issued by another state, territory or country;

(1) An applicant for licensure by endorsement in this state shall submit to the board:

(a) a completed application including the following identifiers: a picture, social security number, birthdate, and documentation of name change;

(b) an official nursing transcript from a board-approved program which prepares for the level of licensure being sought. The transcript shall identify the date of graduation and the credential conferred;

(c) evidence of meeting the standards for nursing education in this state at the time of original licensure;

(d) evidence of completion of a four year high school course of study or its equivalent;

(e) verification of initial licensure by examination;

(f) verification and documentation of licensure status from jurisdictions of all employment for preceding two years; and

(g) Professional nurse applicants shall present evidence of having passed a licensure examination as follows:

(i) a passing score on a state-constructed licensure examination prior to the use of the state board test pool examination in the original state of licensure, or

(ii) 350 on each part of the state board test pool examination for registered nurses, or

(iii) a minimum scaled score of 1600 on a NCLEX-RN (national council licensure examination for registered nurses) examination taken prior to September, 1988, or

(iv) a passing score on a NCLEX-RN examination taken after September, 1988;

(h) Practical nurse applicants shall present evidence of having passed a licensure examination as follows:

(i) 350 on the state board test pool examination for practical nurses, or

(ii) a minimum scaled score of 350 on a NCLEX-PN (national council licensure examination for practical nurses) examination taken prior to September, 1988, or

(iii) a passing score on a NCLEX-PN examination taken after September, 1988;

(i) the required fees for licensure by endorsement as specified in subchapter 11.

(2) The board will not issue a license to an applicant for licensure by endorsement whose license is under investigation or in disciplinary action of a board in another jurisdiction or to an applicant who is under investigation for a felony criminal offense.

(3) The board shall issue a license based on satisfactory completion of the requirements.

(2) will remain the same but will be renumbered (4).

(a) and (b) will remain the same.

(3) --The fee for licensure by endorsement is \$35.00 payable at the time the application is submitted -- Five dollars of this fee is retained by the board if the application is withdrawn."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-407, 37-8-417, MCA

REASON: The proposed amendments clarify the intent of the Board and would adopt recommended language from national model nursing administrative rules. All fees are being incorporated in new rule V.

"8.32.408 TEMPORARY PERMIT (1) Graduates of approved professional nursing educational programs or practical United States nursing education programs may be granted a temporary work permit to practice professional or practical nursing, respectively, pending the results of the first licensing examination scheduled by the board following such graduation.

may accept employment in Montana as a professional or practical nurse and be granted a temporary work permit provided that:

(a) such graduate has been accepted for the licensing examination and meets the criteria:

(i) (a) application for Montana licensure, fee and supporting credentials and fee have been submitted and approved by the executive secretary of the Montana board of nursing by the appropriate date, and

(b) such graduate will function under the supervision of a physician, dentist, osteopath, podiatrist or registered nurse licensed in the state of Montana

(b) the graduate has also applied for and been accepted for the first licensing examination following graduation.

(c) (2) such The temporary permit will not be renewable shall remain valid until the graduate is notified of the results of the licensing examination.

(2) (3) A recent professional or practical nurse graduate candidate who has applied to write the licensing for licensure by examination of in another state, may be granted a temporary work permit and accept employment as a professional or practical nurse in Montana, and be granted a temporary work permit provided that:

(a) such candidate the graduate has submitted an a completed application, and the required fee for Montana licensure by endorsement, and

(b) such candidate possesses a recent graduate permit issued as verification from the board of nursing in the state of licensure by examination that the candidate graduate has been scheduled accepted for the appropriate licensing examination, and,

(c) (4) The license will be issued to the candidate at the time that temporary work permit shall remain valid until the graduate is notified of the results of the licensing examination and if the graduate passes the licensing examination, the temporary work permit shall remain valid until the Montana board of nursing is notified that the candidate graduate has passed the State Board Test-Pool Examination/National Council Licensing Examination and that a license has been issued by the state of licensure by examination.

(3) (5) A registered professional nurse or licensed practical nurse who is currently licensed in another jurisdiction may be granted a temporary work permit and accept employment employed in Montana as a professional or practical nurse, and be granted a temporary work permit provided that:

(a) Such professional or practical the nurse has applied for Montana licensure by endorsement and meets the Montana state board of nursing's criteria for licensure and the nurse has submitted:

(i) (a) a completed application for Montana licensure by endorsement, fee and supporting credentials have been submitted and which have been approved by the executive secretary, an application for a temporary permit,

(ii) all the required affidavit signed by the intended employer has been submitted and the required fee.

~~(b) Such professional or practical nurse will function under the supervision of a physician, dentist, osteopath, podiatrist or registered nurse licensed in the state of Montana until a license is issued. The temporary work permit shall remain valid for 90 days or until the applicant is granted or denied a license, whichever time period is shorter.~~

~~(c) a temporary work permit shall not be issued to an applicant whose license is under investigation or disciplinary action of a board in another jurisdiction.~~

~~(6) The nurse who is employed under a temporary work permit shall function under the supervision of a registered nurse, physician, dentist, osteopath, or podiatrist, who is on the premises where the permittee is working and is specifically assigned the responsibility of supervising the performance of the temporary work permittee.~~

~~(e) (7) Foreign educated applicants for licensure by examination or endorsement are not eligible for a temporary work permit unless such applicant has been licensed by examination in another United States jurisdiction."~~

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-103, MCA

REASON: The proposed changes specify requirements and conditions for issuance of a temporary permit.

"8.32.410. DUPLICATE OR LOST LICENSES (1) An original license will not be changed or replaced.

(2) The current renewal certificate issued by the board which carries the license number ~~should satisfy~~ satisfies as proof of licensure. In a few cases where this does not suffice, the board will provide a statement of licensure.

(3) Upon written request, the board may provide a duplicate renewal certificate."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

REASON: The proposed changes clarify language and allow issuance of duplicate renewal certificates.

"8.32.411. RENEWALS (1) In November of each year, the board of nursing shall mail an application for renewal of license to all persons currently licensed. The licensee must fill out the application and return it to the board BEFORE January 1 December 15, together with the renewal fee of \$20.00. Upon receiving the renewal application and fee, the board shall issue a certificate of renewal for the current year beginning January 1, and expiring December 31.

~~(2)--To place a license on active status, the licensee pays the renewal fee of \$20.00 for the current year at the time that practice is resumed.~~

~~(3)--Registered professional nurses and licensed practical nurses failing to renew their license by January 1 or requesting reinstatement of a lapsed license will pay a late fee of \$5.00 plus the \$20.00 renewal fee which will be due upon application.~~

(2) A license shall be renewed by January 1. A person shall not continue in the practice of nursing without a valid renewal certificate in their possession. Any person

practicing nursing during the time a license has elapsed shall be considered an unlicensed person and may be subjected to the penalties provided for violators under the provisions of this chapter."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, 37-8-431, MCA

REASON: This proposed amendment moves renewal application deadline to December 15 to allow processing time before license expires on December 31. The proposed addition clarifies the penalties for failure to renew in a timely manner. All fees are being incorporated in new rule V.

"8.32.415 DEFINITIONS As used in Title 37, chapter 8, MCA, the following definitions apply:

(1) and (2) will remain the same.

~~(3)--"Predictable outcome" means an expected response to a standardized procedure;~~

~~(4) (3) "Supervision" means the overseeing and the authorization to perform in any given situation based on the level and complexity of the needs of the patient/client and includes:~~

~~(a)--initial direction, procedural guidance and periodic inspection and evaluation; and~~

~~(b)--acceptance of responsibility for such supervision by a specific identified individual in the employment situation provision of guidance by a qualified nurse or a person specified in 37-8-102, MCA, for the accomplishment of a nursing task or activity with initial direction of the task or activity and periodic inspection of the actual act of accomplishing the task or activity."~~

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-102, MCA

REASON: Subsection (3) is being deleted to conform to changes in 37-8-102(3)(b), MCA. Proposed subsection (3) clarifies the intent of the Board, and adopts recommended language from national model nursing administrative rules.

"8.32.501 GROUNDS FOR DENIAL OF A LICENSE (1) Failure to meet requirements A license may be denied for:

(a) Failure failure to meet any requirements or standards established by law or by rules adopted by the board; and/or,

~~(2)--Failure to pass examination;~~

~~(b) Failure failure~~ to pass the licensing examination; and/or,

~~(3)--False representation;--False representation of facts and information on an application for licensure; and/or~~

~~(4)--Having person appear for examination;--Having another person appear in his/her place for the licensing examination;~~

(c) fraud or misrepresentation in association with the examination application, licensure application or licensure examination.

~~(5)--Course of conduct;~~

~~(d) A course of conduct which would be grounds for disciplinary action under section 37-8-441, MCA; or~~

~~(e) conviction of a felony except as provided in section 37-1-203, MCA."~~

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-441, MCA

REASON: The proposed changes clarify and add a felony conviction as a basis for denial of a license.

"8.32.502 LICENSE PROBATION OR REPRIMAND OF A LICENSEE

(1) A licensee may be ~~put placed~~ on probation or ~~reprimanded based on grounds specified in 37-8-441, MCA or ARM 8.32.413(2).~~

~~(a) -- conviction of a misdemeanor; and/or~~

~~(b) -- physical or mental unfitness not yet to the degree of being legally decreed incompetent but serious enough to warrant monitoring; and/or~~

~~(c) -- violations of the professional code of conduct which did not cause serious harm to the patient/client or others but which are not acceptable practice; and/or~~

~~(d) -- assuming duties and responsibilities within the practice of nursing without adequate training or when competency has not been maintained."~~

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-1-136, MCA

REASON: The proposed changes include reprimand as a discipline option and correlate grounds for discipline with statute and other rules.

"8.32.504 DISCIPLINARY PROCEDURES IN ANOTHER JURISDICTION STATE

(1) When the board has knowledge that a person licensed in Montana or applying for a license has had a license to practice denied, revoked, suspended, restricted, placed on probation or voluntarily surrendered in another state jurisdiction, the board shall:

(a) will remain the same.

(b) determine if the findings of fact warrant suspension or revocation or denial of Montana license.

(c) will remain the same."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-441, MCA

REASON: The proposed changes add denial of a license in another jurisdiction as a basis for discipline; change "state" to "jurisdiction".

"8.32.506 REQUEST FOR HEARING (1) The applicant or licensee ~~is entitled to may request~~ a hearing ~~before the board which is requested by~~ depositing in the mail within ~~30~~ 20 days after receipt of notice, a certified letter addressed to the board department and containing such request."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-1-121, MCA

REASON: The amendment shortens time to request a hearing to 20 days and deletes reference to board to allow use of hearing examiners.

"8.32.601 PHILOSOPHY AND OBJECTIVES (1)--The Montana board of nursing believes that nursing is a vital service to society and that nursing practice should safeguard life, health and promote the public interest and welfare.

(2)--The board members believe their primary responsibility is to promote, preserve and protect the public health, safety and welfare by and through the effective control and regulation of the practice of nursing and of educational preparation for these practices.

(3)--Further, they believe maintaining effective communication and cooperative efforts with local, state and national organizations, health agencies, governmental units, schools of nursing and health care providers is essential to assure the public's access to competent practitioners and quality care.

(4)--Members of the board believe each member is committed to demonstrate personal integrity, impartial judgment, wisdom and dedication to a high standard of service in board activities.

(5) will remain the same but will be renumbered (1).

(a) through (f) will remain the same."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

REASON: The subsections being deleted are statements of philosophy of the board members and are not rules for licensees and as such are unnecessary.

"8.32.603 OFFICERS (1) will remain the same.

(2)--~~A vacancy occurring in the office of the president or secretary shall be filled by election.~~"

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

REASON: The subsection being deleted is repetitive of Roberts Rules of Order.

"8.32.605 DUTIES OF OFFICERS THE PRESIDENT (1) will remain the same.

(2)--~~The secretary shall:~~

(a)--~~record the minutes of all meetings;~~

(b)--~~assume other functions at the discretion of the president."~~

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

REASON: The subsection being deleted is repetitive of Roberts Rules of Order.

"8.32.606 DUTIES OF MEMBERS (1) The members acting as the board of nursing shall:

(a) will remain the same.

(b)--~~supervise the affairs of the board;~~

(c) through (f) will remain the same but will be renumbered (b) through (e)."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

REASON: The subsection being deleted is redundant language.

"8.32.801 APPLICATION FOR INITIAL APPROVAL (1) An educational institution wishing to establish a program in nursing and to secure initial approval shall:

(1) (2) Submit to the board of nursing, at least one two calendar years in advance of expected opening date, a statement of intent to establish a program in nursing. Report of a feasibility study is required at this-time least one calendar year prior to the expected opening date.

(2) (3) The feasibility study will include at least the following information:

(a) through (1) will remain the same.

(1) Consideration of how the proposed program may affect existing nursing programs in the state, and indication that plans, and the feasibility study regarding the proposed program have been shared with the directors of existing programs in the state.

(3) will remain the same but will be renumbered (4).

(4) (5) Approval of ~~these materials~~ the feasibility study by the board permits the institution to continue planning but does not assure subsequent approval.

(5) (6) Initial approval may be applied for when the ~~feasibility study has been approved and~~ the following conditions have been met:

(a) and (b) will remain the same and (6) through (8) will remain the same but will be renumbered (7) through (9).

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-301, 37-8-302, MCA

REASON: The proposed changes require a feasibility study at least one year prior to a school opening date; and consideration of impact on existing schools.

"8.32.802 SURVEY AND APPROVAL OF SCHOOLS (1) The board will review an application, ~~material and survey reports for approved related materials, and site visit reports for initial approval~~ or continued approval of professional or practical nursing programs only at times when the board is in formal session. Materials and survey site visit reports shall be in the board office 30 days prior to the board meeting.

(2) To insure continuing compliance with the law and the board of nursing's minimum standards all approved professional nursing education programs will be surveyed and reevaluated for continued approval at least every four years and all approved practical nursing education programs will be surveyed and reevaluated for continued approval at least every three years.

(3) The board, as a part of the initial and continuing approval process, will schedule a site visit to the program being reviewed.

(3) (4) Prior to a survey site visit a school will submit a self-evaluation narrative report to the board which provides evidence of compliance with the appropriate nursing education standards. The school will forward ~~to~~ 12 copies of this report to the board office by January 1 of the year in which a program survey visit is scheduled.

(4) (5) The survey site visit will be made by representatives of the board on dates mutually agreeable to the board and the school.

(a) Announcement of a survey site visit will be sent to schools three months in advance of the visit.

(b) Schools will be asked to participate in scheduling survey site visit activities.

(c) A draft of the survey site visit report will be made available to the school for review and corrections in statistical data.

(d) Site visit reviewers shall be appointed by the board, and will include, but not be limited to, the executive secretary of the board and an outside reviewer with expertise in relation to the type of program being reviewed.

(5) (6) The school's self-evaluation report of compliance with the board's standards and the report of the survey site visit will be submitted to the board one month prior to the board meeting date on which the review is scheduled.

(6) through (8) will remain the same but will be renumbered (7) through (9).

(9) (10) A program may be visited at any time within the usual three or four year period interval as deemed necessary by the board or at the request of the school.

(10) will remain the same but will be renumbered (11)."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-301, and 37-8-302, MCA

REASON: The proposed changes clarify language in changing "survey" to "site visit"; and indicate who will conduct "site visits".

"8.32.803 SCHOOL REPORTS TO THE BOARD (1) In addition to the self-evaluation report of compliance with the law and educational standards submitted prior to a school survey site visit, schools of professional nursing and practical nursing will submit the following four reports found in new rules I, II, III and IV to the board of nursing.

(1)--Faculty qualification report--

(a)--A faculty qualification report will be submitted for each newly-employed faculty member on a form provided by the board.

(b)--The faculty qualification record will be submitted when the faculty appointment becomes effective.

(2)--Quarterly/semester report--

(a)--Quarterly/semester reports will be submitted at the end of each quarter/semester of the school year on forms provided by the board.

(3)--Annual report--

(a)--An annual report for the period beginning September 1 and ending August 31 of the next year shall be submitted by October 1 of each year. Ten copies will be submitted to the board officer.

(b)--The annual report will provide current data for interim evaluation of the school and will include:

- (i)----Progress toward achievement of the schools stated objectives for the past year.
- (ii)---Qualifications and major responsibilities of the dean or director and of each faculty member.---To include an update of faculty members professional development.
- (iii)---Policies used for selection, promotion and graduation of students.
- (iv)---Practices followed in safeguarding the health and well-being of students.
- (v)----Current enrollment by class and student-teacher ratios.
- (vi)---Number of admissions to school per year for past five years.
- (vii)---Number of graduations from school per year for past five years.
- (viii)---Performance of students on state board examinations for past five years.
- (ix)---Curriculum plan.
- (x)----Brief course description.
- (xi)---Descriptions of resources and facilities, clinical areas, and contractual arrangements which reflect upon the academic program.
- (xii)---A copy of the schools' audited fiscal report, including a statement of income and expenditures.
- (xiii)---A current school catalog.
- (xiv)---Goals for forthcoming year.
- (4)---Special reports:
 - (a)---Changes which significantly affect the administration, curriculum, students, faculty, clinical and educational facilities will be submitted in a special written report to the board prior to initiation.---Ten copies will be sent to the board office.
 - (b)---Such other reports as may be requested by the board for information will be provided by the schools."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-301, 37-8-302, MCA

3. The following new rules revise the school report requirements previously listed in ARM 8.32.803 above.

"I FACULTY QUALIFICATION REPORT (1) A faculty qualification report will be submitted for each newly employed faculty member on a form provided by the board.

(2) The faculty qualification record will be submitted when the faculty appointment becomes effective."

Auth: Sec. 37-8-202, 37-8-301, MCA; IMP, Sec. 37-8-301, 37-8-302, MCA

"II SEMIANNUAL REPORT (1) Semiannual reports will be submitted on the form provided by the board.

(a) The semiannual report is due in the board office by January 15 and June 15 each year.

(b) The semiannual report shall provide data for the immediately preceding semester/quarter on:

- (i) student enrollment,
- (ii) projected number of students to be graduated,

~~(4) (5)~~ The survey site visit will be made by representatives of the board on dates mutually agreeable to the board and the school.

(a) Announcement of a survey site visit will be sent to schools three months in advance of the visit.

(b) Schools will be asked to participate in scheduling survey site visit activities.

(c) A draft of the survey site visit report will be made available to the school for review and corrections in statistical data.

(d) Site visit reviewers shall be appointed by the board, and will include, but not be limited to, the executive secretary of the board and an outside reviewer with expertise in relation to the type of program being reviewed.

~~(5) (6)~~ The school's self-evaluation report of compliance with the board's standards and the report of the survey site visit will be submitted to the board one month prior to the board meeting date on which the review is scheduled.

(6) through (8) will remain the same but will be renumbered (7) through (9).

~~(9) (10)~~ A program may be visited at any time within the usual three or four year period interval as deemed necessary by the board or at the request of the school.

(10) will remain the same but will be renumbered (11)."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-301, and 37-8-302, MCA

REASON: The proposed changes clarify language in changing "survey" to "site visit"; and indicate who will conduct "site visits".

"8.32.803 SCHOOL REPORTS TO THE BOARD (1) In addition to the self-evaluation report of compliance with the law and educational standards submitted prior to a school survey site visit, schools of professional nursing and practical nursing will submit the following four reports found in new rules I, II, III and IV to the board of nursing."

~~(1)--Faculty qualification report--~~

~~(a)--A faculty qualification report will be submitted for each newly employed faculty member on a form provided by the board--~~

~~(b)--The faculty qualification record will be submitted when the faculty appointment becomes effective--~~

~~(2)--Quarterly/semester report--~~

~~(a)--Quarterly/semester reports will be submitted at the end of each quarter/semester of the school year on forms provided by the board--~~

~~(3)--Annual report--~~

~~(a)--An annual report for the period beginning September 1 and ending August 31 of the next year shall be submitted by October 1 of each year--Ten copies will be submitted to the board officer--~~

~~(b)--The annual report will provide current data for interim evaluation of the school and will include--~~

- (i)----Progress toward achievement of the schools stated objectives for the past year.
- (ii)----Qualifications and major responsibilities of the dean or director and of each faculty member. To include an update of faculty members professional development.
- (iii)----Policies used for selection, promotion and graduation of students.
- (iv)----Practices followed in safeguarding the health and well-being of students.
- (v)----Current enrollment by class and student-teacher ratios.
- (vi)----Number of admissions to school per year for past five years.
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- (ix)----Curriculum plan.
- (x)----Brief course description.
- (xi)----Descriptions of resources and facilities; clinical areas, and contractual arrangements which reflect upon the academic program.
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- (xiv)----Goals for forthcoming year.
- (4)---Special reports:
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Auth: Sec. 37-8-202, 37-8-301, MCA; IMP, Sec. 37-8-301, 37-8-302, MCA

"II. SEMIANNUAL REPORT (1) Semiannual reports will be submitted on the form provided by the board.

(a) The semiannual report is due in the board office by January 15 and June 15 each year.

(b) The semiannual report shall provide data for the immediately preceding semester/quarter on:

- (i) student enrollment,
- (ii) projected number of students to be graduated,

(4) (5) The survey site visit will be made by representatives of the board on dates mutually agreeable to the board and the school.

(a) Announcement of a survey site visit will be sent to schools three months in advance of the visit.

(b) Schools will be asked to participate in scheduling survey site visit activities.

(c) A draft of the survey site visit report will be made available to the school for review and corrections in statistical data.

(d) Site visit reviewers shall be appointed by the board, and will include, but not be limited to, the executive secretary of the board and an outside reviewer with expertise in relation to the type of program being reviewed.

(5) (6) The school's self-evaluation report of compliance with the board's standards and the report of the survey site visit will be submitted to the board one month prior to the board meeting date on which the review is scheduled.

(6) through (8) will remain the same but will be renumbered (7) through (9).

(9) (10) A program may be visited at any time within the usual three or four year period interval as deemed necessary by the board or at the request of the school.

(10) will remain the same but will be renumbered (11)."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-301, and 37-8-302, MCA

REASON: The proposed changes clarify language in changing "survey" to "site visit"; and indicate who will conduct "site visits".

"8.32.803. SCHOOL REPORTS TO THE BOARD (1) In addition to the self-evaluation report of compliance with the law and educational standards submitted prior to a school survey site visit, schools of professional nursing and practical nursing will submit the following four reports found in new rules I, II, III and IV to the board of nursing.

(1)--Faculty qualification report.

(a)--A faculty qualification report will be submitted for each newly employed faculty member on a form provided by the board.

(b)--The faculty qualification record will be submitted when the faculty appointment becomes effective.

(2)--Quarterly/semester reports.

(a)--Quarterly/semester reports will be submitted at the end of each quarter/semester of the school year on forms provided by the board.

(3)--Annual report.

(a)--An annual report for the period beginning September 1 and ending August 31 of the next year shall be submitted by October 1 of each year. Ten copies will be submitted to the board officer.

(b)--The annual report will provide current data for interim evaluation of the school and will include:

- (i)----Progress toward achievement of the schools stated objectives for the past year.
- (ii)---Qualifications and major responsibilities of the dean or director and of each faculty member. To include an update of faculty members professional development.
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- (xi)---Descriptions of resources and facilities, clinical areas, and contractual arrangements which reflect upon the academic program.
- (xii)---A copy of the schools' audited fiscal report, including a statement of income and expenditures.
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- (i) student enrollment,
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~~(4) (5)~~ The survey site visit will be made by representatives of the board on dates mutually agreeable to the board and the school.

(a) Announcement of a survey site visit will be sent to schools three months in advance of the visit.

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(c) A draft of the survey site visit report will be made available to the school for review and corrections in statistical data.

(d) Site visit reviewers shall be appointed by the board, and will include, but not be limited to, the executive secretary of the board and an outside reviewer with expertise in relation to the type of program being reviewed.

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(6) through (8) will remain the same but will be renumbered (7) through (9).

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Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-301, and 37-8-302, MCA

REASON: The proposed changes clarify language in changing "survey" to "site visit"; and indicate who will conduct "site visits".

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~~(1) -- Faculty qualification report.~~

~~(a) -- A faculty qualification report will be submitted for each newly employed faculty member on a form provided by the board.~~

~~(b) -- The faculty qualification record will be submitted when the faculty appointment becomes effective.~~

~~(2) -- Quarterly/semester report.~~

~~(a) -- Quarterly/semester reports will be submitted at the end of each quarter/semester of the school year on forms provided by the board.~~

~~(3) -- Annual report.~~

~~(a) -- An annual report for the period beginning September 1 and ending August 31 of the next year shall be submitted by October 1 of each year. Ten copies will be submitted to the board officer.~~

~~(b) -- The annual report will provide current data for interim evaluation of the school and will include:~~

- (i)----Progress toward achievement of the schools stated objectives for the past year.
- (ii)----Qualifications and major responsibilities of the dean or director and of each faculty member. To include an update of faculty members professional development.
- (iii)---Policies used for selection, promotion and graduation of students.
- (iv)----Practices followed in safeguarding the health and well-being of students.
- (v)----Current enrollment by class and student-teacher ratios.
- (vi)----Number of admissions to school per year for past five years.
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- (x)----Brief course description.
- (xi)----Descriptions of resources and facilities, clinical areas, and contractual arrangements which reflect upon the academic program.
- (xii)---A copy of the schools' audited fiscal report, including a statement of income and expenditures.
- (xiii)---A current school catalog.
- (xiv)---Goals for forthcoming year.
- (4)---Special reports:
 - (a)---Changes which significantly affect the administration, curriculum, students, faculty, clinical and educational facilities will be submitted in a special written report to the board prior to initiation. Ten copies will be sent to the board office.
 - (b)---Such other reports as may be requested by the board for information will be provided by the schools."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-301, 37-8-302, MCA

3. The following new rules revise the school report requirements previously listed in ARM 8.32.803 above.

"I. FACULTY QUALIFICATION REPORT (1) A faculty qualification report will be submitted for each newly employed faculty member on a form provided by the board.

(2) The faculty qualification record will be submitted when the faculty appointment becomes effective."

Auth: Sec. 37-8-202, 37-8-301, MCA; IMP, Sec. 37-8-301, 37-8-302, MCA

"II. SEMIANNUAL REPORT (1) Semiannual reports will be submitted on the form provided by the board.

(a) The semiannual report is due in the board office by January 15 and June 15 each year.

(b) The semiannual report shall provide data for the immediately preceding semester/quarter on:

- (i) student enrollment,
- (ii) projected number of students to be graduated,

- (iii) any changes in faculty,
- (iv) any changes in curriculum."

Auth: Sec. 37-8-202, 37-8-301, MCA; IMP, Sec. 37-8-301, 37-8-302, MCA

"III ANNUAL REPORT (1) An annual report for the preceding academic year shall be submitted by October 1 of each year. Twelve copies will be submitted to the board office.

(2) The annual report will provide current data for interim evaluation of the school and will include:

(a) progress toward achievement of the school's stated objectives for the past year;

(b) progress toward board recommendations, if applicable;

(c) any changes since the last annual report in qualifications or major responsibilities of the dean or director and faculty members;

(d) a report of faculty members' professional development for the two years preceding the report only;

(e) any changes since last annual report in policies used for selection, promotion and graduation of students;

(f) any changes since last annual report in practices followed in safeguarding the health and well-being of the students;

(g) current enrollment by class student-teacher ratios for clinical experiences;

(h) number of admissions to school per year for past five years;

(i) number of graduations from school per year for past five years;

(j) performance of students on state board examinations for the past five years;

(k) any changes since last annual report in curriculum plan;

(l) any changes since last annual report in course descriptions;

(m) descriptions of resources and facilities, clinical areas, and contractual arrangements which reflect upon the academic program. List current agencies in which students are placed, and approximate number of students in each agency per semester/quarter. Difficulties or potential problems related to overutilization by nursing students of specific clinical sites should be noted here.

(n) a copy of the nursing program's budget, including a statement of income and expenditures and the most recent audited financial report for the parent institution;

(o) one current copy of the school catalog;

(p) goals for forthcoming year."

Auth: Sec. 37-8-202, 37-8-301, MCA; IMP, Sec. 37-8-301, 37-8-302, MCA

"IV SPECIAL REPORTS (1) Changes which significantly affect the administration, curriculum, students, faculty, clinical or education facilities will be submitted in a special written report to the board prior to initiation. Twelve copies will be sent to the board office.

(2) Such other reports as may be requested by the board for information will be provided by the schools."

Auth: Sec. 37-8-202, 37-8-301, MCA; IMP, Sec. 37-8-301, 37-8-302, MCA

REASON: Subsections (1) through (4)(b) as currently appear in ARM 8.32.803 are being proposed to be deleted. It was decided that for clarification purposes the four categories of reports should appear as separate rules. The language being deleted in subsections (1) through (4)(b) is being inserted in amended form in new rules I through IV as shown above.

"8.32.901 STATEMENT OF PURPOSE (1) will remain the same.

(a) as an informative criteria they may provide a basis for interpretation of nursing education to school of nursing faculty and other groups interested in nursing education;

(b) will remain the same.

(c) they will be used by the board of nursing as an evaluation criteria in the approval process of Montana schools of nursing.

(2) These criteria as found in subchapter 9 represent acceptable minimal standards. The board will interpret the standards in terms which will insure that these minimum requirements are met but which allow faculty flexibility in determining the scope, limits and direction of the nursing program. These standards for schools of professional nursing shall be revised from time to time to meet the ever changing health care needs of society and the continuing development of nursing education."

Auth: Sec. 37-8-202, 37-8-301, MCA; IMP, Sec. 37-8-301, 37-8-302, MCA

REASON: The proposed amendment involves language changes only.

"8.32.909 FACULTY (1) will remain the same.

(2) All nursing faculty members, including part-time and substitute nursing faculty in all areas of the nursing education program, shall hold at least a master's degree in nursing from an accredited program, or a master's degree in public health or a doctorate in nursing, have preparation for teaching in their respective area of responsibility and shall be licensed as registered nurses in Montana. An exemption to the requirement for a master's degree in nursing may be granted to faculty hired prior to 1977. Exempted faculty members must have a master's degree in a related field which included advanced nursing courses or have additional graduate level nursing education, i.e., sixteen semester credits (or equivalent) in graduate level nursing courses specifically related to the specialty area of nursing in which the faculty member teaches.

(3) through (4)(c) will remain the same.

~~(d) -- When indicated, referral of students to the appropriate health care provider(s) -->~~

~~(e) (d) through (iv) will remain the same.~~

(5) Preceptors (registered nurses) may be utilized to assist with course teaching provided that a nursing faculty member, holding a master's degree in full compliance with ARM 8.32.909, retains responsibility for lecture and laboratory portions of the course, and provided the use of preceptors is appropriate given the course objectives and the level of students in the course.

(a) Appropriate uses of preceptors include the following:

(i) Preceptors may be used in "capstone" or summary courses, taken during the last quarter/semester of the nursing education program when such preceptors serve primarily as role models for students. In these instances, the usual 10:1 student to master's prepared faculty member ratio may not apply.

(ii) Preceptors may be used to extend master's prepared faculty members in regular nursing curricular courses. In these instances, preceptors are viewed as providing safety supervision such as that which previously could be given by staff nurses during the periods when the nursing shortage was less acute and the complexity of health care was less sophisticated. IN THESE INSTANCES, THE USUAL 10:1 STUDENT TO MASTER'S PREPARED FACULTY MEMBER RATIO APPLIES.

(iii) Preceptors may be used to extend master's prepared faculty members in elective nursing courses. In these instances, the usual 10:1 student to master's prepared faculty member ratio may not apply.

(5) will remain the same but will be renumbered (6)."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, 37-8-301 37-8-302, MCA

REASON: The proposed amendments clarify qualifications of faculty and allow use of preceptors.

"8.32.1001 **INTRODUCTION** (1) will remain the same.

(a) ~~as an~~ as informative criteria they may provide a basis for interpretation of nursing education to school of nursing faculty and other groups interested in nursing education;

(b) will remain the same.

(c) they will be used by the board of nursing as an evaluation tool in the approval of Montana schools of practical nursing.

(2) The standards established in subchapter 10 are to be used in appraising the quality and specific nature of nursing education programs. They have been largely formulated by the joint efforts of faculty members in schools of practical nursing in Montana. Therefore, the statements represent acceptable goals at a minimum level of desirability. They are not intended to be ideals or maximum goals. The board has attempted to state the criteria in general terms so that schools may set forth several approaches in meeting them. The board expects to interpret these standards in terms which will insure the minimum requirements set forth but which will leave faculty in each school free to determine the scope, limits, and direction of the program offered to its students. Since the practice of practical nursing is an integral part of the

changing social scene, these standards will also change to meet the demands for programs which prepare practitioners of practical nursing competent to serve the practical nursing needs of society.

Auth: Sec. 37-8-302, 37-8-301, MCA; IMP, Sec. 37-8-301, 37-8-302, MCA

REASON: The proposed amendment involves language changes only.

"8.32.1007 CURRICULUM (1) through (3) will remain the same.

(4) The curriculum shall ~~be divided into identifiable areas of content which provide a~~ include basic knowledge of:

(a) nursing process.

(b) coordination of safe, effective care.

(c) client's physiological needs.

(d) client's psychosocial needs, and

(e) maintenance and promotion of health.

(5) The curriculum shall provide for progressive development of knowledge, skills and attitudes.

~~(5)~~ (6) The choice and placement of courses, selection of learning activities and the organization of these shall provide continuity, sequence and integration in the total curriculum.

~~(6)~~ (7) Learning experiences shall ~~reflect be based on~~ written behavioral objectives ~~which include demonstration of knowledge, comprehension and application.~~

~~(7)~~ (8) The program shall include practical nursing theory and guided clinical practice based on ~~the broad areas of the nursing process. It shall include the content~~ essential to current practice in practical nursing."

Auth: Sec. 37-8-202, 37-8-301, MCA; IMP, Sec. 37-8-301, 37-8-302, MCA

REASON: The proposed changes specify curriculum content and are changed to be consistent with the national NCLEX-PN licensing exam.

4. ARM 8.32.407, 8.32.503 and 8.32.607 are being proposed for repeal. Full text of the rules appears at pages 8-977, 8-980.5 and 8-983, Administrative Rules of Montana. ARM 8.32.407 is being repealed because the language is repetitive of section 37-8-409, MCA. All fees are being placed under the same rule in subchapter 11. ARM 8.32.503 is being repealed because the language is being incorporated into ARM 8.32.501 and 8.32.502. ARM 8.32.607 is being repealed because it is unnecessary and does not provide standards or guidance. The authority section is 37-8-202, MCA.

5. The following proposed new rules pertain to fees, Nurse Specialist Prescriptive Authority and the Nurses' Assistance Program:

"V FEES (1) The fee for licensure (RN or LPN) by examination (NCLEX) is \$35.00, payable at the time the application is submitted. Five dollars of this fee is

retained by the board if the application is withdrawn prior to the examination.

(2) The fee for repeating the examination (NCLEX) for RN or LPN will be \$35.00.

(3) The fee for licensure (RN or LPN) by endorsement is \$35.00, payable at the time the application is submitted. Five dollars of this fee is retained by the board if the application is withdrawn.

(4) The application fee for specialty area recognition shall be \$25.00, and a fee of \$10.00 for each annual renewal thereafter.

(5) The license (RN or LPN) renewal fee is \$20.00 per year.

(6) The fee to reactivate a license (RN or LPN) is \$20.00.

(7) The fee for late renewal of a license is double the regular renewal fee.

(8) The prescriptive authority application fee is \$60.00.

(9) The renewal fee for prescriptive authority is \$50.00."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-1-134, 37-8-202, MCA

REASON: All fees are being incorporated into new rule V.

"VI. PRESCRIPTIVE AUTHORITY FOR NURSE SPECIALISTS

(1) This subchapter will be known and may be cited as the nurse specialist prescriptive authority rules.

(2) A nurse specialist granted prescriptive authority by the board of nursing may prescribe and dispense drugs pursuant to applicable state and federal laws.

(3) Prescriptive authority permits the nurse specialist to prescribe, dispense and administer prescription drugs in the prevention of illness, the restoration of health and/or the maintenance of health in accordance with section 37-2-104, MCA.

(4)(a) The board of nursing will provide the board of pharmacy with an annual list of nurse specialists with prescribing authority and their titles.

(b) The board of nursing will promptly forward to the board of pharmacy the names and titles of nurse specialists added to or deleted from the annual list.

(c) The board of pharmacy will be notified in a timely manner when the prescriptive authority of a nurse specialist is terminated, suspended, or reinstated."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"VII. DEFINITIONS The following definitions apply in and for this subchapter.

(1) "Accrediting organization" is that professional organization which establishes standards and criteria for continuing education programs approved by the board of nursing.

(2) "Certifying body" is a national certifying organization which examines and validates credentials of nurse

specialists and which has been approved by the board of nursing as a certifying agency for nurse specialist recognition. A list of certifying agencies approved by the board of nursing is available from the board office.

(3) "Committee" refers to the prescriptive authority committee, as defined in new rule VI.

(4) "Drug" is a substance defined by section 37-7-101(6), MCA.

(5) "Nurse specialist" is a registered nurse recognized by the board to practice as a nurse specialist pursuant to 37-8-202(5)(a) MCA, and ARM 8.32.305.

(6) "Prescription" is an order for a drug, as defined by section 37-7-101(13), MCA, or any medicines, devices or treatments, including controlled substances listed in schedule II-V, as defined by federal law in the Code of Federal Regulations Title 21, section 1306."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"VIII PRESCRIPTIVE AUTHORITY COMMITTEE There will be a prescriptive authority committee.

(1) The committee will be composed of three members of the board of nursing, two of whom will be RNS, one physician from the board of medical examiners and one pharmacist from the board of pharmacy.

(a) The committee may retain consultants as necessary.

(b) The committee members will select a chairman and a secretary.

(c) Meetings will be conducted according to Roberts Rules of Order. Minutes will be recorded and maintained by the board of nursing.

(d) Meetings will be conducted in a fashion which protects the applicants' constitutional right to privacy.

(2) The committee will review all applications for prescriptive authority and will recommend action to the board of nursing.

(3) The committee will review the referral process, method of documentation, quality assurance, and any modifications.

(4) The committee will review all complaints charging inappropriate use of prescriptive authority and will recommend action to the board of nursing.

(5) The committee's recommendations may be adopted or rejected by the board of nursing.

(a) If the recommendation is adopted by the board of nursing, the board will use the advisory committee's findings and recommendations in determining appropriate action, in accordance with new rule XIV.

(b) If the recommendation is rejected by the board of nursing, the reasons for rejection will be given in writing to the committee."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"IX INITIAL APPLICATION REQUIREMENTS FOR PRESCRIPTIVE AUTHORITY (1) The nurse specialist will submit a completed application provided by the board of nursing, and a non-refundable fee. The application will include:

(a) evidence of completion of a minimum of 15 contact hours of education in pharmacology and/or the clinical management of drug therapy which has been obtained within a three-year period immediately prior to the date the application is received at the board office. Six of the 15 contact hours must have been obtained within one year immediately prior to the date the application is received at the board office.

(b) a copy of the original certification document from the nurse specialist's certifying body.

(c) The application will include, in accordance with new rule XII, a method of referral and documentation in client records.

(d) in accordance with new rule XIII, a method of quality assurance used to evaluate the nurse specialist's practice.

(2) The board of nursing may deny or delay the application on one or more of the following grounds:

(a) the applicant is not recognized as a nurse specialist,

(b) the applicant submitted an incomplete application,

(c) the applicant has not met the requirements contained in new rule IX(1)(a),

(d) the applicant's license has been impaired by or is under investigation for disciplinary action,

(e) the applicant is a party to legal action related to the propriety of his or her practice or fitness to practice."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"X PRESCRIBING PRACTICES (1) Prescriptions will comply with all applicable state and federal laws.

(2) All prescriptions will include the following information:

(a) Name, title, address and phone number of the nurse specialist who is prescribing.

(b) Name and address of client.

(c) Date of prescription.

(d) The full name of the drug, dosage, route and directions for its use.

(e) Number of refills.

(f) Expiration date of prescriptive authority.

(g) Signature of prescriber on written prescription.

(h) DEA number of the prescriber.

(3) Records of all prescriptions will be documented in client records.

(4)(a) The nurse specialist with prescriptive authority who wishes to prescribe schedule II-V drugs will comply with federal drug enforcement administration requirements prior to prescribing controlled substances.

(b) The nurse specialist will immediately file any and all of his or her DEA registrations and numbers with the board of nursing.

(c) The board of nursing will maintain current records of all nurse specialists with DEA registration and numbers.

(d) In an emergency situation, schedule II drugs may be phoned in to the pharmacist pursuant to 21 C.F.R. 1306.11(d).

(5) A nurse specialist with prescriptive authority will not delegate the prescribing or dispensing of drugs to any other person.

(6) A nurse specialist with prescriptive authority may administer local anesthetics.

(7) A nurse specialist with prescriptive authority who also possesses inpatient care privileges will practice pursuant to a written agreement between the agency and the nurse specialist which is consistent with the rules, regulations and guidelines set forth in 37-8-202(5), MCA, 37-2-104, MCA, ARM 8.32.301 through 8.32.303, and this subchapter. The nurse specialist will file the written agreement and revision thereof with the board of nursing.

(8) A nurse specialist with prescribing authority from the board of nursing will comply with the requirements of 37-2-104, MCA."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XI SPECIAL LIMITATIONS RELATED TO THE PRESCRIBING OF CONTROLLED SUBSTANCES (1) A nurse specialist will not prescribe controlled substances for self or for members of the nurse specialist's immediate family.

(2) A nurse specialist will not provide controlled substances or prescription drugs for other than therapeutic purposes.

(3) A prescription for schedule II drugs will not exceed the quantity necessary for forty eight (48) hours. Prescriptions for schedule III-V drugs will not exceed the quantity necessary for thirty four (34) days.

(4) A nurse specialist will, within 30 days of the initial prescription, record in the client record his or her evaluation of the effectiveness of controlled substances prescribed.

(5) A nurse specialist will not prescribe refills of controlled substances unless the refill prescription is in writing."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XII METHOD OF REFERRAL (1) A nurse specialist with prescriptive authority will have a referral process to Montana licensed physicians and a method for documentation of referral in the client records. Said referral method must be approved by the board of nursing prior to issuance of prescriptive authority.

(2) A nurse specialist will immediately file with the board of nursing any proposed change in the method for referral or client record documentation. Any change will be subject to approval by the board of nursing."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XIII QUALITY ASSURANCE OF NURSE SPECIALIST PRACTICE

(1) A nurse specialist with prescriptive authority will submit a method of quality assurance for evaluation of the nurse specialist's practice. The quality assurance method must be approved by the board of nursing prior to issuance of prescriptive authority.

(2) The quality assurance method will include the following elements:

- (a) use of standards which apply to the nurse specialist's area of practice,
- (b) concurrent or retrospective review of the practice,
- (c) use of preestablished criteria,
- (d) written evaluation of review with steps for corrective action if indicated and follow-up.

(3) A nurse specialist will immediately file with the board of nursing any proposed change in the quality assurance method. Any change will be subject to approval by the board of nursing."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XIV. TERMINATION OF PRESCRIPTIVE AUTHORITY (1) The board of nursing may terminate a nurse specialist's prescriptive authority when one or more of the following criteria apply:

- (a) the nurse specialist has not met the requirements for renewal of prescriptive authority in accordance with this subchapter,
- (b) the nurse specialist has not met requirements necessary to maintain nurse specialist recognition,
- (c) the nurse specialist has not complied with the requirements for referral or quality assurance methods,
- (d) the nurse specialist has prescribed outside the nurse specialist's scope of practice, has prescribed for other than therapeutic purposes, or has otherwise violated the provisions of the prescriptive authority rules contained in this subchapter,
- (e) the nurse specialist has violated any state or federal law or regulations applicable to prescriptions,
- (f) the nurse specialist has violated the nurse practice act or rules.

(2) A nurse specialist whose prescriptive authority has terminated will not prescribe until the nurse specialist has received written notice from the board of nursing that his or her prescriptive authority has been reinstated by the board.

(3) The board of nursing will promptly notify the board of pharmacy of any termination of prescriptive authority."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XV. RENEWAL OF PRESCRIPTIVE AUTHORITY (1) The nurse specialist's prescriptive authority will expire on December 31st of even numbered years.

(2) To renew prescriptive authority, the nurse specialist will submit to the board of nursing:

- (a) a completed renewal application and a non-refundable fee.
- (b) documentation of accredited pharmacological continuing education completed during the two year period immediately preceding the renewal application. Continuing education will be from:

- (i) study provided by advanced formal education,
- or

(ii) continuing education seminars or programs approved by certifying bodies.

(c) A minimum of six contact hours of continuing education in pharmacology or pharmacology management is required during the two year period immediately preceding the effective date of the prescriptive authority renewal. The continuing education will be by a professional accrediting organization approved by the board of nursing.

(3) If a nurse specialist fails to renew prescriptive authority prior to the expiration date of that authority, the nurse specialist's prescriptive authority will be automatically suspended until renewal is completed and the nurse specialist has received written notice that the prescriptive authority has been reinstated.

(a) The nurse specialist whose prescriptive authority is suspended will not prescribe until the nurse specialist has received written notice from the board of nursing that his or her prescriptive authority has been reinstated by the board of nursing.

(b) The board of nursing will promptly notify the board of pharmacy of any suspension of prescriptive authority."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XVI INTRODUCTION (1) The nurses' assistance program (NAP) is a specially designed program to assist licensed nurses whose competency may be impaired due to abuse of drugs or alcohol, so that such nurses can be treated and can return to or continue the practice of nursing in a manner which will benefit the public. The board of nursing, by implementing this nurses' assistance program, will establish two tracks: the disciplinary track (new rule XVII) and voluntary track (new rule XXI)."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XVII DISCIPLINARY TRACK (1) Participation in the nurses' assistance program may be mandated as a part of disciplinary action by the board of nursing. A licensee may choose to participate in the disciplinary track of NAP as an alternative to or in conjunction with other administrative proceedings."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XVIII ADMISSION CRITERIA (1) Any licensed nurse in the state of Montana who has violated the statutes and rules related to nursing practice which involved alcohol and/or drugs and whom the board has stipulated NAP as a part of disciplinary action.

(2) Licensee agrees to abide by the terms of NAP."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XIX PROGRAM REQUIREMENTS (1) Licensee agrees to evaluations necessary to determine treatment and monitoring needs while a part of NAP.

(2) Licensee complies with NAP monitoring contract.

(3) All costs for treatment and monitoring will be the responsibility of the licensee.

- (4) Licensee actively participates in treatment plan.
- (5) All treatment facilities and counseling professionals used in treatment plans must be approved by the board of nursing prior to their use by a licensee.
- (6) Quarterly reports from NAP will be presented to the board.
- (7) Licensee agrees to act as a nurse advocate to other NAP participants when it is deemed appropriate by NAP and/or the board."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XX DISCHARGE CRITERIA (1) Licensee successfully completes terms of NAP contract and/or board stipulations.

(2) Licensee fails to comply with the terms of the NAP contract.

(3) Licensee fails to show evidence of rehabilitation and ability to function safely as a nurse.

(4) Licensee has committed further offenses against the statutes and rules related to nursing which results in further disciplinary action.

(5) Licensee has violated stipulations and disciplinary actions established by the board which results in suspension or revocation of license."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XXI VOLUNTARY TRACK (1) Participation in the nurses' assistance program (NAP) may be a choice of licensees who volunteer for assistance with alcohol and/or drug use/abuse. Involvement by the licensee on the voluntary track will remain confidential."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XXII ADMISSION CRITERIA (1) Any licensed nurse in the state of Montana who is involved with alcohol and/or drug use/abuse who desires rehabilitation assistance.

(2) Licensee agrees to evaluations necessary to determine treatment and monitoring needs prior to admission to NAP.

(3) Treatment and monitoring needs of the licensee are appropriate for admission into NAP.

(4) Licensee cooperates with NAP by providing medical information and release of information and liability authorizations.

(5) Licensee agrees to comply with the NAP treatment plan and monitoring contract.

(6) Licensee has not had any previous disciplinary action from a licensing board (except where approved by the board).

(7) Licensee has not been terminated from NAP or any other such assistance program for noncompliance.

(8) Licensee has not had any drug and/or alcohol related employment problems.

(9) Licensee has not been convicted of, plead guilty to, or pled nolo contendere to a felony under the Controlled Substance, Drug, Device and Cosmetic Act.

(10) Licensee has not had nursing practice problems involving death or significant harm to a patient.

(11) Licensee has not had evidence of diversion of controlled substances or caution legend drugs for the purpose of sale or distribution.

(12) If the licensee's eligibility in NAP is questionable, the licensee may request permission to participate from the board."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XXIII PROGRAM REQUIREMENTS (1) Licensee must comply with NAP treatment plan and contract.

(2) All costs for treatment and monitoring will be the responsibility of the licensee.

(3) Licensee actively participates with treatment plan.

(4) All treatment facilities and counseling professionals used in treatment plans must be approved by the board of nursing prior to their use by a licensee.

(5) Licensee shall sign a waiver that allows NAP to report noncompliance or the suspected inability to practice safe nursing to the board.

(6) Licensee agrees to act as a nurse advocate to other NAP participants when it is deemed appropriate by NAP."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XXIV DISCHARGE CRITERIA (1) Licensee successfully completes the program and terms of the NAP contract.

(2) Licensee fails to comply with the terms of the NAP contract and is subsequently reported to the board of nursing.

(3) Licensee voluntarily removes self from NAP.

(4) If the licensee terminates the NAP contract for any reason, the board will be notified."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XXV ADMINISTRATION OF THE PROGRAM (1) The nurses assistance program will be under the jurisdiction of the board of nursing. The board may contract with a consultant to administrate NAP."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XXVI CONSULTANT REQUIREMENTS (1) To be qualified, a consultant must have:

(a) a license as a registered nurse in Montana with a minimum of a baccalaureate degree in nursing;

(b) a certified chemical dependency counselor in Montana;

(c) a minimum of 2-3 years nursing experience;

(d) two years previous experience in monitoring chemically dependent nurses;

(e) if recovering from chemical dependency, a minimum of five consecutive years of abstinence;

(f) education in identification, treatment, intervention, and rehabilitation of chemically dependent nurses; and

(g) knowledge and experience in a 12-step program for chemical dependency."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

"XXVII CONSULTANT ACTIVITIES (1) A consultant shall:

- (a) act as liaison between approved treatment programs and providers and the licensee;
- (b) carry out all decisions mandated by the board;
- (c) report NAP participants on the disciplinary track to the board quarterly and statistics of all participants;
- (d) review treatment programs and providers and recommend for approval to the board;
- (e) report all voluntary track NAP participants who do not meet the terms of their contract;
- (f) provide information and consultation to the board upon request;
- (g) establish and maintain contracts with NAP participants;
- (h) review statutes and rules with the executive director and other pertinent issues;
- (i) recommend admissions and discharges of NAP to the board as appropriate; and
- (j) provide monitoring of all NAP participants."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

REASON: New rules VI through XV are being proposed to establish prescriptive authority for nurse specialists. New rules XVI through XXVII are being proposed to establish an assistance program for nurses impaired by drugs or alcohol.

6. Interested persons may present their views and comments either orally or in writing at the hearing. Written comments may also be submitted to the Board of Nursing, 111 North Jackson, Helena, Montana 59620, no later than October 24, 1991.

7. Steven J. Shapiro has been designated to preside over and conduct the hearing.

BOARD OF NURSING

BY: 

ANNIE BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, September 16, 1991.

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

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of a rule pertaining) OF 8.42.403 FEES
to fees)

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On October 26, 1991, the Board of Physical Therapy Examiners proposes to amend the above-stated rule.

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

"8.42.403 FEES (1) The fees shall be as follows:
(a) Application for ASI examination (for each examination taken) ~~\$100.00~~ \$ 75.00
(b) Application for endorsement ~~100.00~~ 50.00
(c) will remain the same.
(d) Late renewal (if paid after April 1) ~~75.00~~ 50.00
(e) through (h) will remain the same.
(i) Lists ~~20.00~~ 5.00
(2) will remain the same."

Auth: Sec. 37-1-134, 37-11-201; IMP, Sec. 37-11-304, 37-11-307, 37-11-308, 37-11-309, MCA

REASON: These amendments are being proposed to make fees commensurate with program area costs.

3. Interested persons may present their data, views or arguments concerning the proposed amendment in writing to the Board of Physical Therapy Examiners, Lower Level, Arcade Building, 111 North Jackson, Helena, Montana 59620-0407, no later than October 24, 1991.

4. If a person who is directly affected by the proposed amendment wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Physical Therapy Examiners, Lower Level, Arcade Building, 111 North Jackson, Helena, Montana 59620-0407, no later than October 24, 1991.

5. If the Board receives requests for a public hearing on the proposed amendment from either 10 percent or 25, whichever is less, of those 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 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 41 based on the 416 licensees in Montana.

BOARD OF PHYSICAL THERAPY
EXAMINERS
JOYCE DOUGAN, CHAIRPERSON

BY: Annie M. Bartos
ANNIE BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, September 16, 1991.

BEFORE THE DEPARTMENT OF
FAMILY SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF PROPOSED
of Rule I and the amendment	)	ADOPTION OF RULE I
of Rules 11.12.204, 11.12.413,	)	AND THE AMENDMENT OF
and 11.12.601 pertaining to	)	RULES 11.12.204,
foster parents, and foster	)	11.12.413, AND
parent households, and child	)	11.12.601 PERTAINING TO
care staff in group homes and	)	FOSTER PARENTS, AND FOSTER
child care agencies	)	PARENT HOUSEHOLDS, AND
	)	CHILD CARE STAFF IN GROUP
	)	HOMES AND CHILD CARE
	)	AGENCIES

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On November 27, 1991, the Department of Family Services proposes to adopt Rule I, and amend Rules 11.12.204, 11.12.413, and 11.12.601, pertaining to foster parents and child care staff in child care agencies and youth group homes.

2. The rules as proposed to be adopted or amended read as follows:

1. YOUTH CARE FACILITIES, GENERAL REQUIREMENTS FOR FOSTER PARENTS AND CHILD CARE STAFF WORKING IN YOUTH GROUP HOMES AND CHILD CARE AGENCIES (1) In addition to the specific requirements set out in subchapters 2, 4, and 6, of this chapter, child care staff working in group homes and child care agencies, and foster parents, must:

- (a) be at least 18 years of age;
- (b) be of good moral character;
- (c) be physically, mentally and emotionally competent to care for children;
- (d) like and understand children; and
- (e) be in good general health.

(2) The department may require a psychological evaluation or medical examination of, and/or a signed authorization for release of medical or psychological records from:

(a) any person applying for licensure as a foster parent, or any member of the household of a person applying for licensure as a foster parent;

(b) any foster parent, or any member of a foster parent household; and

(c) any person defined as child care staff under ARM 11.12.101(i).

AUTH: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA.

IMP: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA.

11.12.204 CHILD CARE AGENCY, PERSONNEL

Subsections (1) and (2) remain the same.

(3) General personnel qualifications.

(a) All child care staff of a child care agency must meet the following general qualifications:

~~(i) be at least 18 years of age;~~

~~(ii) be of good character;~~

~~(iii) be physically, mentally and emotionally competent to care for children;~~

~~(iv) like and understand children;~~

~~(v) be in good general health;~~

~~(vi)(i) understand the purpose of the child care agency and be willing to carry out its policies and programs; and~~

~~(vii)(ii) meet the general requirements for child care staff set out in [Rule 1] and any additional qualifications for the position established by these rules.~~

Subsections (4) through (12) remain the same.

AUTH: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA.

IMP: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA.

11.12.413 YOUTH GROUP HOME, STAFF (1) Houseparents,

substitute houseparents and other child care staff must ~~be at least 18 years of age and of good moral character~~ meet the general requirements for child care staff set out in [Rule 1].

(2) ~~Personnel shall be in good physical and mental health.~~ A GSD-SDFS-33 "Personal Statement of Health for Licensure" form provided by the department must be completed by the provider for each staff member and submitted with the initial application for licensure and annually thereafter.

Subsections (4) through (5) remain the same.

AUTH: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA.

IMP: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA.

11.12.601 YOUTH FOSTER HOME, FOSTER PARENTS (1) Foster

parents and other members of the household must ~~be in good physical and mental health~~ meet the general requirements for child care staff set out in [Rule 1]. To assist the department in evaluating the mental and physical health of applicants, foster parents and members of the foster home household, the applicant or licensee shall cooperate with the department in providing the following information:

(a) A GSD-SDFS-33, "Personal statement of health for licensure" form provided by the department must be completed for each person living in the household and submitted to the department with the initial application for licensure and annually thereafter.

(b) The applicant for licensure or relicensure shall complete the application form provided by the department, which shall include questions regarding whether the applicant or other member living in the household has received inpatient or outpatient treatment for mental illness, drug or alcohol abuse.

~~(c) Any applicant, licensed foster parent or member of~~

~~the foster home household may be required to obtain a psychological evaluation or medical examination.~~

~~(d) Any applicant, licensed foster parent or member of the foster home household may be asked to sign an authorization of release of medical or psychological records allowing the department to obtain medical records concerning the applicant, licensed foster home parent or any other member of the household.~~

AUTH: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA.
IMP: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA.

3. Rule I is necessary to combine the general requirements for foster parents and child care staff in one rule for easier reference. Requirements rendered repetitious by adoption of Rule I are proposed to be deleted from Rules 11.12.204, 11.12.413, 11.12.601.

Rule I also adds to requirements providers must meet. Previously, Rule 11.12.601, failed to require that foster parents be of good moral character. The rule also omitted any provision requiring that foster parents like and understand children and be in good general health. However, child care staff in child care agencies must currently meet these requirements under Rule 11.12.204.

The proposed changes also remedy differential treatment regarding required psychological or medical examinations. Previously, only applicants for foster home licensure and foster parents or members of their households were covered by such provisions. See, Rule 11.14.601. The department finds no reason to exclude the household members of applicants for foster home licensure, or child care staff in child care agencies and group homes, from this requirement. The department does not intend to require such evaluations/examinations in the majority of licensures under these rules. However, where there is some question as to the physical or psychological health of a provider or other person in contact with the child, those applying to be licensed should be willing to submit to, or obtain testing, designed to protect children. They should also be willing to divulge records pertaining to any previous condition which may be relevant to their ability to provide services for children. The changes herein also include an update of the name of the required health form which must be filled out under these rules.

Uniform application of these requirements helps to guarantee appropriate environments and role models for children in out-of-home care, and to assure like treatment of similarly situated individuals whose qualifications must be reviewed for approval by the department.

The department intends that the imposition of the requirements of the amended version of Rule 11.12.204 on child care agency


staff in residential treatment facilities, will continue through the already existing cross-reference in Rule 11.12.236 to Rule 11.12.204. Implementation of these rule changes is necessary to fulfill the legislative mandate and grant of authority to the department to properly oversee operations of youth care facilities.

4. Interested parties may submit their data, views or arguments on the proposed amendment in writing to the Office of Legal Affairs, Department of Family Services, 48 North Last Chance Gulch, P.O. Box 8005, Helena, Montana 59604, no later than November 14, 1991.

5. If a person who is directly affected by the proposed amendment wishes to express data, views and arguments orally or in writing at a public hearing, that person must make a written request for a public hearing and submit such request, along with any written comments, to the Office of Legal Affairs, Department of Family Services, 48 North Last Chance Gulch, P.O. Box 8005, Helena, Montana 59604, no later than November 14, 1991.

6. If the Department of Family Services receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of those 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 no less than 25 members who are directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

DEPARTMENT OF FAMILY SERVICES



Tom Olsen, Director

Certified to the Secretary of State, September 16, 1991.

BEFORE THE DEPARTMENT OF
FAMILY SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment) NOTICE OF PROPOSED
of ARM 11.5.1003 pertaining to) AMENDMENT OF ARM 11.5.1003
day care benefit payment on a) PERTAINING TO DAY CARE
monthly basis.) BENEFIT PAYMENT ON A
) MONTHLY BASIS

NO PUBLIC HEARING
CONTEMPLATED

TO: All Interested Persons:

1. On November 27, 1991, the Department of Family Services proposes to amend ARM 11.5.1003 pertaining to day care benefit payment on a monthly basis.

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

11.5.1003 CERTIFIED ENROLLMENT (1) Certified enrollment means that a day care ~~center~~facility operator, upon completing a form, may charge on a monthly basis rather than on a daily basis. The form is signed by the parents and the ~~center~~facility operator and submitted to the district office.

(2) Certified enrollment of children in a day care ~~center~~facility is possible through the use of a form obtainable at any district office. Certified enrollment is intended to assist the day care ~~centers~~facilities in obtaining a more stable income by charging for days when a child is temporarily absent.

(3) Specific guidelines:

(a) Certified enrollment shall be used for full-time day care receivers only. Part-time day care is not eligible for certified enrollment benefits.

(b) Certified enrollment enables day care operators to charge for days of temporary absence of a child for reasons of vacation, illness, or other similar reasons within the limits expressed in the department of family services manual.

(c) Charges cannot be made for major holidays unless actual care is provided by the day care ~~center~~facility.

(d) Certified enrollment shall begin with the first day of the billing month following the initial day of day care services.

(e) Children shall be re-enrolled at 6 month intervals.

(f) Spaces are not to be reserved for children absent for a period of two weeks (10 working days) or more for any reason.

(g) Day care operators shall not charge for children under enrollment when the parent has indicated the intent either verbally or through actions of not returning the child(ren) to the facility for day care services.

(i) Day care ~~centers~~facilities shall be responsible for notifying the county social service worker when an unexplained absence of a child is for 5 working days.

(ii) Day care ~~centers~~facilities shall charge for actual days of care provided only. The day care eligibility shall be terminated for the ~~center~~facility the last day of care actually provided.

(h) Day care ~~center~~facility operators shall use a form obtainable at any district office for the de-enrollment of the child(ren). This form is signed by the day care ~~center~~facility operator and submitted to the district office.

AUTH: Sec. 52-2-704, MCA. IMP: Sec. 52-2-704; 52-2-713 MCA.

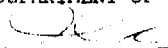
3. This amendment eliminates differential treatment on eligibility for monthly, as opposed to daily, payment of day care benefits. Currently, only day care centers receive monthly payments, while the smaller group and family day care homes, receive daily payments. Daily benefits fail to provide payment when the child is absent. Thus, the department reimburses group and family day care homes at a lower rate in instances where a child is absent during the benefit period. Section 52-2-704(2)(f), MCA, authorizes the adoption of rules consistent with the Montana Child Care Act. The proposed amendment is consistent with the mandate of Section 52-2-704(2)(c), MCA, and aids in the implementation of Section 52-2-704(2)(c), MCA, and Section 52-2-713, MCA.

4. Interested parties may submit their data, views or arguments on the proposed amendment in writing to the Office of Legal Affairs, Department of Family Services, 48 North Last Chance Gulch, P.O. Box 8005, Helena, Montana 59604, no later than November 14, 1991.

5. If a person who is directly affected by the proposed amendment wishes to express data, views and arguments orally or in writing at a public hearing, that person must make a written request for a public hearing and submit such request, along with any written comments, to the Office of Legal Affairs, Department of Family Services, 48 North Last Chance Gulch, P.O. Box 8005, Helena, Montana 59604, no later than November 14, 1991.

6. If the Department of Family Services receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of those 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 no less than 25 members who are directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

DEPARTMENT OF FAMILY SERVICES


Tom Olsen, Director

Certified to the Secretary of State September 16, 1991.

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

In the matter of the amendment of) NOTICE OF DATE CHANGE
rules 16.8.807 and 16.8.809 and) OF PUBLIC HEARING FOR
the repeal of 16.8.810 which) AMENDMENT OF RULES
update the incorporations by)
reference of the Montana Quality)
Assurance Manual.

(Air Quality Bureau)

To: All Interested Persons

1. On November 15, 1991 at 10:00 a.m., the Board will hold a public hearing in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the amendment of the above-captioned rules. The hearing was previously scheduled for the Board's meeting on October 4, 1991 and has been rescheduled to November 15, 1991, at the request of the Air Quality Bureau.

2. The proposed amendments adopt by reference recent changes to both the Montana Quality Assurance Manual and the U.S. Environmental Protection Agency Quality Assurance Manual. The proposed amendments also simplify the process by which future changes to the Montana Quality Assurance Manual will be adopted, while still providing the regulated community with an opportunity for comment and hearing.

3. The rules, as proposed to be amended, appear in the Montana Administrative Register, 1991 Issue No. 17, dated September 12, 1991, pages 1638-1640.

4. Interested persons may submit their data, views, or arguments concerning the proposed amendments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Yolanda Fitzsimmons, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620, no later than November 15, 1991.

5. David W. Simpson, Chairman of the Board, has been designated to preside over and conduct the hearing.

DAVID W. SIMPSON, Chairman
BOARD OF HEALTH AND
ENVIRONMENTAL SCIENCES

by 
DENNIS IVERSON, Director

Certified to the Secretary of State September 16, 1991.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF PUBLIC HEARING
of rules pertaining to record	)	ON PROPOSED ADOPTION OF
retention.	)	RULES I AND II STANDARDS
	)	FOR DISPOSITION OF RECORDS
	)	-- USE AND STORAGE OF
	)	RECORDS ON OPTICAL DISK.

TO: All Interested Persons:

1. On October 16, 1991 at 10:00 a.m. a public hearing will be held in the conference room of the Secretary of State's office, Room 225 Capitol Building, Helena, MT to consider the adoption of the above stated rules.

2. The proposed rules do not replace or modify any section currently found in the Administrative Rules of Montana.

3. The proposed rules provide as follows:

RULE I RECORDS WITH A RETENTION PERIOD OF TEN YEARS OR LESS (1) Originals of government records reproduced on optical disk or government records for which optical disk is the original medium may be authorized for destruction or other disposition. Government agencies should use the record disposal request form RM5 for authority to dispose.

AUTH: Sec. 2-6-111, MCA and Chapter 378, L. 1991

IMP: Sec. 2-6-111, MCA and Chapter 378, L. 1991

RULE II RECORDS WITH A RETENTION PERIOD OF MORE THAN TEN YEARS (1) Originals of government records reproduced on optical disk may be authorized for destruction or other disposition if a paper or an archival quality microform copy, as defined in the Records Management Manual is maintained. Government agencies should use the record disposal request form RM5 for authority to dispose.

(2) A paper or archival quality microform copy, as defined in the Records Management Manual must be maintained for government records for which optical disk is the original medium.

(3) Recognizing that optical disk is just one element in the rapid development of new information technologies, the state records committee will continue to consider issues that affect the availability of government information and the retention or disposition of records in various formats.

AUTH: Sec. 2-6-111, MCA and Chapter 378, L. 1991

IMP: Sec. 2-6-111, MCA and Chapter 378, L. 1991

4. Rationale: These rules are proposed to ensure the accessibility and minimize the risk of premature destruction of

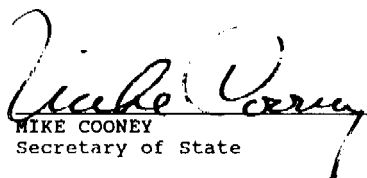
records required for administrative, local and historical purposes that are currently or will be stored on optical disk.

5. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to:

Doug Mitchell, Chief Deputy
Office of the Secretary of State
Room 225, Capitol Building
Helena, MT 59620

no later than October 25, 1991.

6. Doug Mitchell has been designated to preside over and conduct the hearing.



MIKE COONEY
Secretary of State

Dated this 16th day of September.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption)	NOTICE OF ADOPTION OF A NEW
of a new rule relating to a)	RULE 4.12.1030 PERTAINING TO
notice to sellers of financial)	A NOTICE TO SELLERS OF
risk)	FINANCIAL RISK

TO: All Interested Persons:

1. On August 15, 1991, the Department of Agriculture published a notice of proposed adoption of the above-stated new rule at page 1370 of the 1991 Montana Administrative Register, issue no. 15.
2. The department has adopted the rule as proposed.
3. No comments were received.



EVERETT M. SNORTLAND, DIRECTOR
DEPARTMENT OF AGRICULTURE

Certified to the Secretary of State, September 16, 1991

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

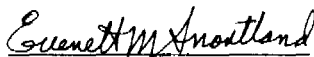
In the matter of the amendment) NOTICE OF AMENDMENT
of an existing rule pertaining) OF ARM 4.13.1001 GRAIN FEE
to the grain fee schedule) SCHEDULE

TO: All Interested Persons:

1. On August 15, 1991, the Department of Agriculture published a notice of proposed amendment of the above-stated existing rule at page 1374 of the 1991 Montana Administrative Register, issue no. 15.

2. The department has adopted the rule as proposed.

3. No comments were received.


EVERETT M. SNORTLAND, DIRECTOR
DEPARTMENT OF AGRICULTURE

Certified to the Secretary of State, September 16, 1991

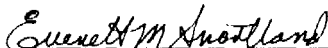
BEFORE THE DEPARTMENT OF AGRICULTURE

OF THE STATE OF MONTANA

In the matter of the adoption)	NOTICE OF ADOPTION
of a new rule establishing)	OF A NEW RULE 4.13.1008
grading standards for)	PERTAINING TO CULTIVATED
cultivated buckwheat)	BUCKWHEAT

TO: All Interested Persons:

1. On August 15, 1991, the Department of Agriculture published a notice of proposed adoption of the above-stated new rule at page 1372 of the 1991 Montana Administrative Register, issue no. 15.
2. The department has adopted the rule as proposed.
3. No comments were received.


EVERETT M. SNORTLAND, DIRECTOR
DEPARTMENT OF AGRICULTURE

Certified to the Secretary of State, September 16, 1991

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

IN THE MATTER OF THE ADOPTION	)	NOTICE OF ADOPTION OF
OF EMERGENCY RULES TO LIST	)	EMERGENCY RULE TO LIST
WILDLIFE SPECIES PROHIBITED	)	WILDLIFE SPECIES PROHIBITED
FROM IMPORTATION AND TO REQUIRE	)	FROM IMPORTATION AND REQUIRE
GENETIC TESTING OF ELK	)	GENETIC TESTING OF ELK
	)	IMPORTS

TO: All interested persons

1. **BACKGROUND:** Recent developments in Montana and other western states and provinces have elevated the potential risks that certain game farm activities pose to public wildlife resources. Specifically, the following incidents have prompted the Montana Department of Fish, Wildlife and Parks and the Fish, Wildlife and Parks Commission to take emergency action:

- TB outbreaks on game farms in Montana, Alberta and Colorado - resulting in quarantine of commercial elk herds and subsequent extermination (at government expense) of infected elk herds in Alberta and Colorado.

- Alberta: 63 game farms quarantined; 2,000 elk to be destroyed (approximately 900 disposed of as of 9/10/91)
- Colorado: 52 elk destroyed on a single game farm. An additional farm was recently quarantined.

- A ban on importation of white-tailed deer by other states and provinces (Alberta, Colorado, Idaho, and Utah) to prevent the introduction of meningeal worm. Meningeal worm produces no ill effects in whitetails, but does produce an often fatal neurologic disease in many other species of mammals including moose, elk, woodland caribou, red deer, reindeer, fallow deer, black-tailed deer, mule deer, domestic goats and sheep and a variety of exotic ungulates such as llamas.

- The prevalence of elk/red deer hybrids, in game farm elk herds as documented in Colorado and Alberta through genetic testing of captive elk herds (10% and 11% incidence, respectively). In conjunction with an indemnity program, Colorado has required mandatory sale and export of all pure red deer and elk/red deer hybrids - (of 21 herds tested, 8 were pure and 13 were hybrid). Montana was the recipient of at least one elk/red deer hybrid exported directly from Colorado, and DFWP has information indicating that other elk/red deer hybrids have been acquired by game farm operators in this state.

- Bans on certain exotic and native species enacted by other states:

- Colorado and Utah; Idaho is in the process of doing so;
- Washington added 17 species to its "banned" list in January, 1991

- Costly state indemnity programs designed to reimburse owners of diseased, hybrid and exotic (non-native) animals required by the state to either be destroyed or exported (in progress in Colorado).

- Escalating problems with escaped exotic species in neighboring states:

- Colorado has had to implement costly control/eradication measures on escaped mouflon, Barbary sheep (oudad), fallow deer, red deer, ibex and wild boar
- Even though Wyoming does not allow game farming within its borders, it is participating with neighboring Colorado in eradication efforts directed toward escaped or illegally introduced red deer, audad and ibex.

The potential for introduction of diseased, hybrid and undesirable exotic species of commercially raised animals into Montana is increasing, due to:

- 1) The banning of such individuals or species by other states and provinces through enactment of increasingly stringent rules and regulations and importation moratoriums.
- 2) Shortcomings in existing laws and rules governing importation and handling of game animals in Montana (particularly with respect to fencing and other facility requirements, marking and identification of game farm stock, record keeping and lack of a deleterious species list designed to preclude introduction of elk/red deer hybrids and certain exotic species).

Recent occurrences of TB among commercial game farm animals in Montana, Alberta and Colorado and subsequent transmission of TB from commercially raised wildlife to humans and to domestic livestock (in Alberta) have heightened concern in Montana as to the existing and the potential ramifications of such occurrences to public wildlife resources, the livestock industry, and public wildlife-related recreation in this state.

RISK ASSESSMENT: Risks posed to Montana's wildlife resources as a result of enactment of more stringent rules governing operation of game farms in nearby states and subsequent movement of game animals (both legal and illegal) from and between states and provinces include:

BIOLOGICAL

- potential transmission of disease and parasite infections between commercially raised game animals
- potential transmission of disease and parasites from commercially raised animals to wildlife populations

- potential of genetic alteration (extinction by degree, at its extreme) of native wildlife populations as a result of hybridization with escaped game farm animals
- habitat degradation and habitat competition between escaped game farm animals (most accentuated in the case of certain exotic species) and native wildlife populations.

ESCAPE POTENTIAL/DIFFICULTY OF CONTROLLING ESCAPEES

- Some exotic species are notoriously difficult to contain in any type of enclosure. Tahr and Ibex, for example, are noted for their ability to jump fences 8 to 12 feet high. Mule deer and pronghorn antelope are also adept at getting over (or through) fences.
- Several exotic species readily become feral and are difficult or impossible to control or eradicate once they have escaped into the wild. Red deer and Barbary sheep (aoudad) (in Colorado and Wyoming) and wild boar (in California) are examples of this problem.

ECONOMICS

- potential financial liability that the state of Montana could incur for costly control/eradication programs to address escaped game farm animals.
- potential financial liability that the state of Montana could incur for costly indemnity programs to reimburse game farm operators for diseased, hybrid and undesirable exotic species, if and when it may be decided that they should be banned from the state.

RATIONALE FOR IMPLEMENTATION OF EMERGENCY RULES:

Time required to develop and implement new game farm rules:

As provided by HB 556 (effective Oct. 1), DFWP and the Department of Livestock are scheduled to embark on a rule-making process to improve regulation of the game farm industry. Proposed rules must be founded on scientific fact and applicable to both current and anticipated problems, necessitating that the rule-making process be preceded by a fact-finding process (currently in progress). Development and implementation of rules according to MAPA procedures will take several months. In the absence of emergency rules during the intervening period, this state could become the logical destination for commercially raised game farm animals which are, or are soon to be, subject to mandatory export from other western states and provinces (including hybrids and exotic species).

Implications to Public Health and Safety

- minimize the potential for transmission of disease among commercially raised captive animals.

- minimize the potential for transmission of disease between infected game farm animals and native wildlife populations.
- minimize the potential for transmission of disease between infected game farm animals and domestic livestock.

Implications to Public Welfare:

- importation of commercially raised animals infected with disease or parasites would pose a risk to existing game farms, the livestock industry and the health of native wildlife populations.
- importation of hybrid and exotic species jeopardizes the genetic integrity of the state's wildlife populations through interbreeding between escaped commercial game farm animals and native wildlife populations.
- any financial liability incurred on the part of the state of Montana for future control or eradication measures and indemnity programs would necessitate redirection of funds from existing agency budgets, resulting in negative impacts to the state's existing wildlife management program and the public benefits and service provided by that program.

Therefore, the Commission finds, based on scientific investigation, that the species listed below, because of behavioral traits or other biological considerations, would not be readily subject to control by man while in captivity or that if released into natural habitat would pose a substantial threat to native wildlife and plants or agricultural production. The Commission further finds that an imminent peril to public health, safety and welfare exists on account of the foregoing and has adopted the following emergency rules, which as adopted will be mailed to appropriate locations, including delivery to a state wire service and any other news media the agency deems appropriate. The Commission may initiate rulemaking procedures to make the following rules permanent.

2. The emergency rules read as follows:

RULE I. PROHIBITED WILDLIFE SPECIES (1) The Fish, Wildlife and Parks Commission finds, based on scientific information, that the following species, because of behavioral traits or other biological considerations, would not be readily subject to control by man while in captivity or that if released into natural habitat would pose a substantial threat to native wildlife and plants or agricultural production and are therefore prohibited, along with viable gametes (eggs and sperm), from importation into the state of Montana for any purpose for 120 days, pending further scientific investigation and rulemaking by the Department of Fish, Wildlife and Parks (as authorized by HB 556).

- a) In the family Bovidae, all members of the following genera and hybrids thereof:

Subfamily Caprinae

- Rudicapra (chamois)
- Hemitragus (tahr)
- Capra (goats, ibexes - except for domestic goat, Capra hircus)
- Ammotragus (Barbary sheep or Aoudad)
- Ovis (only the mouflon species, Ovis musimon)

Subfamily Hippotraginae

- Oryx (oryx and gemsbok)
- Addax (addax)

Subfamily Reduncinae

- Redunca (reedbucks)

Subfamily Alcelaphinae

- Connochaetes (wildebeests)
- Alcelaphus (hartebeests)
- Damaliscus (sassabies: blesbok, bontebok, topi)

- b) In the family Cervidae, all of the following species and hybrids thereof:

- white-tailed deer (Odocoileus virginianus)
- moose (Alces alces)
- all red deer (Cervus elaphus elaphus), and all hybrids with North American elk (C. elaphus canadensis, roosevelti, manitobensis, nannodes, and nelsoni).
- axis deer (Axis axis)
- rusa deer (Cervus timorensis)
- sambar deer (Cervus unicolor)
- sika deer (Cervus nippon)
- fallow deer (Dama dama)
- caribou (reindeer) (Rangifer sp.)

- c) All wild species in the family Suidae (Russian boar, European boar) and hybrids thereof.

- d) In the family Tayassuidae, the collared peccary (javelina) (Tayassu tajacu) and hybrids thereof.

AUTH: 87-5-704, MCA

IMP: 87-5-712, MCA

RULE 11. GENETIC CERTIFICATION OF IMPORTS (1) In addition to any other requirements of law concerning the importation of animals into the state of Montana, all elk (Cervus elaphus) must be tested for evidence of red deer hybridization by an accredited veterinarian prior to importation into Montana. Any animal testing positive for red deer hybridization shall not be imported into Montana. Any health certificate required by Title


81, Chapter 2, MCA, to accompany an importation of elk tested negative for red deer hybridization shall include a certification by an accredited veterinarian that all of the animals in the shipment have tested negative for red deer hybridization.

AUTH: 87-5-704, MCA

IMP: 87-5-712, MCA

3. The rationale for the proposed rules is set forth in the statement of reasons for emergency in paragraph 1.

4. Interested persons who are affected may comment in writing to Heidi Youmans, Wildlife Division, Montana Department of Fish, Wildlife and Parks, 1420 East Sixth Ave., Helena, Montana 59620.


Errol T. Galt, Chairman
Montana Fish, Wildlife and
Parks Commission

Certified to the Secretary of State September 13, 1991.

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

In the Matter of the Adoption) NOTICE OF ADOPTION OF
of an Emergency Rule to) EMERGENCY RULE TO SUSPEND AND
Suspend and Temporarily Repeal) TEMPORARILY REPEAL ARM
ARM 12.6.1506) 12.6.1506

TO: All Interested Persons

1. The Department of Fish, Wildlife and Parks finds that risks are posed to Montana's wildlife resources by certain species of animals raised on commercial game farms and ranches and that there is a growing interest in raising such animals for commercial purposes. The Department recently became aware that current Department rules and policies regulating the game farm industry do not adequately address all of the potential problems and risks associated with the importation and potential escape or introduction of such animals. These problems and risks include hybridization and competition with native wildlife, and transmission of disease and parasites. Realization of these threats could necessitate implementation of costly eradication and control measures by the state of Montana as has been the case in neighboring states. These problems and risks present an imminent peril to the public health, safety and welfare. On account of the foregoing, the Department must temporarily suspend ARM 12.6.1506 through emergency action. During the time that the emergency suspension is in effect, the Department will work with interested and affected parties to formulate permanent rules designed to assure that commercial game farm activities do not result in detrimental impacts to Montana's wildlife resources.

Therefore, the Department of Fish, Wildlife and Parks has adopted the following emergency rule to suspend and temporarily repeal ARM 12.6.1506, which as adopted will be mailed to appropriate locations, including the delivery to a state wire service and any other news media the agency deems appropriate.

2. The Department of Fish, Wildlife and Parks hereby suspends and temporarily repeals ARM 12.6.1506. This action shall be effective for 120 days, or until new rules are adopted by the Department.

3. The rationale for the proposed rule is set forth in the statement of reasons for an emergency in paragraph 1.

4. Interested persons who are affected may comment in writing to Heidi Youmans, Wildlife Division, Montana Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, Helena, Montana 59620.


Patrick Graham, Deputy Director
Montana Department of Fish,
Wildlife and Parks

Certified to the Secretary of State September 13, 1991

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

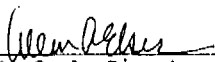
In the matter of the)
amendment of ARM 12.8.301) NOTICE OF AMENDMENT OF
pertaining to Montana State) ARM 12.8.301
Golden Year's Pass)
)

To: All Interested Persons

1. On August 15, 1991, the Department of Fish, Wildlife and Parks published notice to amend ARM 12.8.301 pertaining to the Montana State Golden Year's Pass at page 1388, 1991 Montana Administrative Register, Issue number 15.

2. The Department of Fish, Wildlife and Parks amended the rule as proposed.

3. No comments or testimony were received.


or K.L. Cool, Director
Montana Department of Fish,
Wildlife and Parks

Certified to the Secretary of State September 16, 1991.

BEFORE THE FIRE PREVENTION AND INVESTIGATION BUREAU
OF THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption)	NOTICE OF THE ADOPTION OF
of Rules of the fire)	ARM 23.7.102 through
prevention and investigation)	23.7.110, 23.7.112, and
bureau, describing)	23.7.159 (RULES I THROUGH
enforcement of the rules and)	VI and VIII THROUGH XII; THE
other provisions generally)	AMENDMENT OF ARM 23.7.121,
dealing with fire safety.)	23.7.122, 23.7.124, 23.7.125,
)	23.7.131, 23.7.133, AND
)	23.7.134, AND THE
)	AMENDMENT AND TRANSFER OF ARM
)	23.2.111 and 23.7.101; AND
)	THE REPEAL OF ARM 23.2.131
)	AND 23.7.111.

TO: All Interested Persons:

1. On July 15, 1991, the Department published notice in the 1991 MAR, Issue No. 14, at pages 1186-97, of the proposed adoption of Rules I through XII; amendment of ARM 23.7.121, 23.7.122, 23.7.124, 23.7.125, 23.7.131, 23.7.133, and 23.7.134; amendment and transfer of ARM 23.2.111, 23.7.101; and repeal of ARM 23.2.131 and 23.7.111.

2. Because the proposed rules were revisions of rules proposed earlier, no public hearing was contemplated. No request for a public hearing was received by the agency, and therefore no hearing was held. Written comments were received from four individuals. Comments and responses are addressed in paragraph 7 of this notice.

3. Rules I, II, III, IV, V, VI, VIII, IX, X, XI, and XII are adopted as proposed, and shall be codified at ARM 23.7.102 through 23.7.110, 23.7.112, and 23.7.159, respectively. ARM 23.7.121, 23.7.122, 23.7.124, 23.7.125, 23.7.131, 23.7.133, and 23.7.134, are hereby amended as proposed.

4. ARM 23.2.111 and 23.7.101 are amended as proposed and transferred to 23.7.160 and 23.7.136.

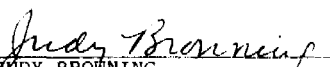
5. Rules 23.2.131 and 23.7.111 are repealed.

6. Based upon the comments received, proposed Rule VII is not adopted.

7. Written comments were submitted by Kevin Hager, President of the Montana Chapter, National Association of Housing and Redevelopment; S. A. Massman, Executive Director of the Helena Housing Authority; Judy Peterson, Property Supervisor for Buchanan Enterprises of Great Falls; and Dick Swingley, Fire Marshal for the City of Great Falls. All of these comments concerned proposed Rule VII and its potential impact on housing for the physically handicapped. Based upon these comments and after further investigation of the federal fair housing

standards, it was determined that this rule would not be adopted.

8. As required by section 50-3-103(2), MCA, these rules have been approved by the Department of Commerce.


JUDY BROWNING
Deputy Attorney General

Certified to the Secretary of State 9-16-91.

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF THE
amendment of Rule 24.9.805,	)	AMENDMENT OF RULE
Records on age, sex, and	)	24.9.805, RECORDS ON AGE,
race, and Rule 24.9.1406,	)	SEX, AND RACE, AND RULE
Employment Applications	)	24.9.1406, EMPLOYMENT
	)	APPLICATIONS

TO: All Interested Persons

1. On June 13, 1991, at page 904 of the 1991 Montana Administrative Register, Issue No. 11, the Human Rights Commission published notice of proposed amendments to Rules 24.9.805 and 24.9.1406, ARM. Rule 24.9.805 relates to the personnel records which employers must keep to facilitate administration of the human rights act and governmental code of fair practices. Rule 24.9.1406 relates to suspect and lawful pre-employment inquiries.

2. The authority of the commission to make these amendments is based upon Sections 49-2-204 and 49-3-106, MCA.

3. As amended, Rule 24.9.805 implements Sections 49-2-102, 49-2-303 and 49-3-201, MCA. As amended, Rule 24.9.1406 implements Sections 49-2-303 and 49-3-201, MCA.

4. The commission received comments from Billings attorney William J. O'Connor II, stating that the amendments to Rule 24.9.805 will allow television stations to comply with Federal Communication Commission recordkeeping requirements without violating state law.

5. The commission received comments from Valencía Lane, Legislative Council staff attorney, stating that the commission should add a statement of reasonable necessity to the notice of amendment. The commission agrees and has added a statement of reasonable necessity to this notice of amendment.

6. The commission has adopted the rules listed above as proposed with the following changes:

24.9.805 EMPLOYMENT RECORDS (1) - (3) Adopted as proposed.

~~(3)~~ (4) Any All personnel ~~or employment~~ records made or kept by an employer, including, but not necessarily limited to, application forms ~~submitted by applicants~~ and other records ~~having to do with~~ related to hiring, promotion, demotion, transfer, layoff or termination, rates ~~or~~ of pay or other terms of compensation, and selection for training ~~of or~~ apprenticeship, shall be preserved ~~by the employer~~ for a ~~period of 6 months~~ 2 years from the date of the ~~making of the~~

18-9/26/91

Montana Administrative Register

record is made and or from the date of the personnel action involved, whichever occurs later. ~~In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of 6 months from the date of termination.~~

(5) - (6) Adopted as proposed.

24.9.1406 PRE-EMPLOYMENT INQUIRIES Adopted as proposed.

7. It was necessary to amend ARM 24.9.805 for the following reasons: The original provision prohibiting employers from making pre-employment records regarding age, sex and race was deleted because it conflicted with lawful affirmative action plans and compliance with government reporting requirements. The amendment which requires employers to keep records of the age of employees is necessary to facilitate Commission staff investigations of complaints alleging age discrimination. The provision requiring employers to file regular reports with the commission regarding the age, sex and race of employees was deleted because regular reports were not used by the Commission staff and would constitute an undue burden on employers in the absence of evidence of a discriminatory practice. The provision making failure to maintain records a criminal misdemeanor was deleted because MCA 49-2-601 already specifies the acts which constitute a criminal violation of the human rights act. The undue hardship exception from the requirement that employers maintain records was deleted because the record keeping requirements are not onerous, an undue hardship exception has never been requested and there is no probable basis for such an exception. The other nonsubstantive amendments were necessary to clarify the rule and make it more concise.

It was necessary to amend ARM 24.9.1406 to clarify the legal effect of a suspect pre-employment inquiry and to make the rule more concise.

MONTANA HUMAN RIGHTS COMMISSION
JOHN B. KUHR, CHAIR

By: Anne L. MacIntyre
ANNE L. MACINTYRE
ADMINISTRATOR
HUMAN RIGHTS COMMISSION STAFF

Certified to the Secretary of State September 16, 1991.

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

In the Matter of Adoption of)	NOTICE OF THE ADOPTION OF
New Rules Requiring Two-Way,)	NEW RULES I THROUGH VI
end-of-train telemetry devices))	REGARDING REAR-END TELEMETRY
on trains operating in Montana))	DEVICES ON TRAINS
within mountain grade)	
territory.)	

TO: All Interested Persons

1. On July 25, 1991 the Department of Public Service Regulation published notice of a public hearing to consider proposed rules regarding rear-end telemetry systems on trains operating within mountain grade territory in the state of Montana at page 1201, issue number 14 of the 1991 Montana Administrative Register.

2. The Department has adopted the following rules as proposed:

RULE III. 38.4.803 MOUNTAIN GRADE TERRITORY

RULE IV. 38.4.804 REPORTING AND FILING REQUIREMENTS

RULE V. 38.4.805 NO DISCIPLINARY ACTION FOR REPORTING

VIOLATIONS

RULE VI. 38.4.806 ENFORCEMENT AND PENALTIES

3. The Department has adopted and amended the rules as proposed with the following changes:

RULE I. 38.4.801 GENERAL PROVISIONS FOR TELEMETRY DE-

VICES (1) through (4) No changes.

(5) Upon failure of any component or function of a rear-end telemetry device, while en route, a caboosseless train shall proceed while operating in mountain grade territory ~~to the next crew change point~~ at a speed not exceeding 25 mph, unless the device is repaired so that all functions are operational.

(6) No change.

Reason for change: The intent of this rule is to ensure safety in mountain grade territory. The next crew change point may be miles beyond mountain grade territory. Therefore the rule is modified to apply only to mountain grade territory and not to impose a requirement beyond the local safety hazard.

RULE II. 38.4.802 REAR-END TELEMETRY SYSTEM (1) A rear-end telemetry system required by these rules shall comply with the statutory requirements of section 69-14-116(2)(b)(i)-(vi) and (d), MCA, for a two-way radio transmitting and receiving system between the controlling locomotive and the last car on the train. Using this device, the locomotive engineer shall be able to electronically monitor brake pipe pressure, rear car movement, functioning of the rear marker light, remaining battery life of the system, communication interruptions, and distance travelled by the locomotive, and when required in the judgment of the engineer, to initiate from the controlling locomotive an emergency application of the brakes by activating the device on the last car on the

~~train. be a radio-transmitter-and-receiver-system-with-one device-placed-on-the-last-car-of-a-train-and-a-second-device placed-in-the-cab-of-the-controlling-locomotive.--The-device in-the-locomotive-shall-be-visible-to-the-locomotive-engineer and-capable-of-indicating-through-electronic-communication with-the-device-on-the-last-car-the-following-information:~~

~~----(a)--brake-pipe-pressure-at-the-rear-of-the-train--in-increments-of-one-pound-per-square-inch;~~

~~----(b)--rear-car-movement;~~

~~----(c)--operation-or-nonoperation-of-the-rear-marker-light;~~

~~----(d)--remaining-battery-life-powering-the-telemetry-system;~~

~~----(e)--interruption-of-the-communication-link-between-the device-located-on-the-last-car-of-the-train-and-the-device-located-in-the-cab-of-the-controlling-locomotive;and~~

~~----(f)--total-distance-travelled-in-feet-by-the-locomotive to-which-the-device-is-attached.~~

~~----(2)--A-rear-end-telemetry-system-installed-pursuant-to these-rules-must-be-capable-of-an-emergency-application-of-the brakes-of-the-train-initiated-from-the-device-placed-in-the cab-of-the-controlling-locomotive-by-activation-of-the-device placed-on-the-last-car-of-the-train-~~

Reason for change: The Commission changed this provision so as not to unnecessarily repeat the statutory language of § 69-14-116(2), MCA, as amended.

4. The Commission received oral comments at the hearing August 22, 1991 and written comments through August 23, 1991. Representatives submitted written and oral comments on behalf of Burlington Northern Railroad Company, Montana Rail Link, Montana Joint Rail Labor Legislative Council, Railway Labor Executives' Association, United Transportation Union, Transportation-Communications Union, and Brotherhood of Locomotive Engineers. Two Montana State Legislators also commented. Mr. James Mular submitted written materials from the legislative history of HB 271 (1991), as well as a copy of the National Transportation Safety Board report on the train accident in Helena, Montana on February 2, 1989. The Public Service Commission has thoroughly reviewed all commentary received. Except for the recommendation that the speed limit requirement be deleted beyond mountain grade territory in Rule I (5), all comments were generally directed to aspects of the legality of HB 271 (1991). Opponents Burlington Northern Railroad Company (BN) and Montana Rail Link (MRL) questioned the jurisdiction of the state and the ability of the railroads to comply. Proponents included union representatives, railroad engineers and conductors, and two state legislators. Proponents stated that the legislation and rules are needed to correct a local safety hazard and that the state has the jurisdiction to regulate for train safety involving a local safety hazard.

Comments: The Federal Railroad Administration (FRA) has found in previous rulemaking proceedings in 1986 that these devices are not necessary from a safety standpoint. Therefore, the matter is preempted by federal regulation and the Commission should not adopt the proposed regulations.

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Response: The judicial system and not the Commission may make a legal determination on preemption. However, the Commission points out the following. The Montana State Legislature has enacted House Bill 271 with the intent of addressing the problem of trains traveling in mountain grade territory in Montana. With a local safety hazard, a state may adopt a more stringent law or regulation related to safety which is not incompatible with a federal law or regulation, if it is not an undue burden on commerce. 45 U.S.C. § 434. Opponents to these regulations have not demonstrated any federal regulation with which these proposed regulations are conflicting. Nor have the opponents identified an undue burden on commerce. Therefore, unless and/or until this matter is interpreted otherwise, the Commission concludes that the state of Montana is not preempted from more stringent regulation to safeguard against the local safety hazard of Montana's mountain grade territory.

Comment: The Commission has a petition pending before the FRA for rulemaking requiring the use of two-way end of train telemetry devices on all cabooselless trains; to avoid conflict with federal rulemaking the Commission should not adopt these regulations.

Response: These regulations would not raise a conflict if rulemaking is granted as requested. If the FRA should require these devices on all cabooselless trains, then this state regulation would not be in conflict. On May 23, 1990 the FRA docketed the Commission's petition in a more general rulemaking proceeding on safety concerns including Burlington Northern Railroad Company's Air Brake and Train Handling Rule 536 on "Passing Summit" and the general problem of brake pipe pressures on steep, descending grades.

The petition will not be acted on by the end of the year, as federal rulemaking is a lengthy process. There has not yet been issued the preliminary notice of rulemaking. Meanwhile, the Montana legislature has expressed its will. The Commission is required to make and enforce rules requiring these devices on trains in mountain grade territory to become effective October 1, 1991. The Commission cannot meet the legislative mandate to address a local safety issue by October 1, 1991 while waiting for the FRA to address more general concerns which may take years.

Comment: The railroads do not have sufficient number of devices and could not obtain them in this period of time.

Response: These devices are required and have been used throughout Canada for four years. They were recommended in a report by the National Transportation Safety Board as a safety device which could have prevented the Montana Rail Link mountain grade accident on February 2, 1989 with a runaway train derailling in Helena, Montana. These devices do not represent new unavailable technology. The railroads acknowledge they have some of these devices. Commentators have not demonstrated that the railroads would be unable to obtain sufficient devices for the mountain grades in Montana.

Comment: It requires FRA approval for railroads to employ safety devices under 49 C.F.R. § 221.14(a).

Response: The marking devices which must be approved by the FRA pursuant to 49 C.F.R. § 221.14(a) refer to the light required at the end of the train which shall be red-orange-amber color, and if flashing, have a flash rate between once every 1.3 and once every .7 seconds. The light shall be between 100 and 1,000 candela intensity with a specified horizontal and vertical beam. Provisions on exterior marking devices are unrelated to the telemetry system which allows the first car to monitor and make emergency brake applications to the end of the train. This provision does not require FRA approval of telemetry systems, which are not marking devices.

Comment: The FRA is the proper authority to determine safety issues, including the need for telemetry systems.

Response: The Commission retains jurisdiction over safety issues within the state of Montana. FRA rules recognize the right of a state to enact regulations either when the FRA has not acted, or else when it has acted, to enact stricter requirements to address an issue of a local safety hazard.

Comment: The railroads should not have to choose between conflicting federal and state regulation, or to have to ask the courts to make a decision.

Response: The railroads do not have to choose between conflicting federal and state regulations. See preceding response. The railroads have indicated no FRA regulation which prohibits telemetry devices. There is no conflict: where there is a local safety hazard, a more stringent state regulation is permissible and compatible with the federal regulations.

Whether the railroads may use the court system to challenge state regulation is their prerogative. The Commission cannot choose not to adopt these regulations until the FRA acts, as the law becomes effective October 1, 1991.

Comment: Pursuant to 49 C.F.R. § 232.19, an end-of-train device shall be designed so that internal failure will not cause an undesired emergency brake application. The railroads could be in violation of this federal regulation in using two-way end-of-train devices which allow for an emergency application to be initiated from the controlling cab.

Response: These devices have been required and used for four years in Canada. In the testimony on HB 271 and again in the rulemaking hearing, no one has offered concrete, documented evidence that an undesired emergency brake application has happened, or that it is a technical possibility. In addition, there has been no evidence offered, or reference to specific provisions of federal regulations, that there is a violation of any regulation in using this device. There has been offered no proof that the FRA must approve these devices before the state can require them for a local safety hazard. If there were such proof, the railroads have not demonstrated that they cannot obtain a waiver from such a requirement. Finally, there is no evidence that these devices are not "[d]esigned so that an internal failure will not cause an undesired emergency brake application" [49 C.F.R. § 232.19(3)].

Comment: According to operating rules of the railroads, the speed limit in mountain grade territory is 25 mph. Proposed Rule 1, part 5 requires a train to proceed at a speed not exceeding 25 mph to the next crew change point if there is a failure of any component or function of the rear-end telemetry device. A crew change point, however, may be more than one hundred miles from mountain grade territory. Both proponents and opponents explained that this provision is unnecessary since railroads are already required to comply with this speed limit in mountain grade territory. The rule as proposed, however, would impose an additional burdensome requirement; i.e., to maintain the 25 mph speed limit for some distance outside mountain grade territory.

Response: The Commission deletes the requirement in Proposed Rule I(5) for a 25 mph speed limit to the next crew change point. Because this device is required to safeguard trains in mountain grade territory, there is no reason to impose the additional requirement of a speed limit while outside mountain grade territory.


6. Statement of Reasons for Adoption: After fully considering the written and oral comments, the Commission adopts Rules I-VI as proposed, incorporating the analysis and responses to comments as discussed herein. The basic arguments in opposition to adoption of the rules involve issues of federal and state jurisdiction, including preemption. The Commission has no jurisdiction to make a legal determination on preemption; rather, this determination is in the province of the courts. Instead, pursuant to § 69-14-116, MCA, the Commission has a legal duty to adopt and enforce rules providing for the installation on and equipment of trains, cars and engines. HB 271 (1991) requires the adoption of these rules to become effective October 1, 1991 in order to enforce the provisions of § 69-14-116, MCA, as amended by HB 271.

These rules address the local safety hazard of trains operating in mountain grade territory in Montana. It is the intent of the legislature to remedy this safety hazard by requiring two-way end-of-train devices which permit electronic monitoring and, when necessary, emergency application of the brakes from the front of the train.

7. These rules become effective October 1, 1991.


DANNY OBERG, Vice Chairman

CERTIFIED TO THE SECRETARY OF STATE SEPTEMBER 16, 1991.

Reviewed By: 
Robin A. McHugh
Chief Legal Counsel

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA


IN THE MATTER OF THE AMENDMENT)	NOTICE OF AMENDMENT
of ARM 42.21.151 relating to)	of ARM 42.21.151 relating to
Television Cable Systems for)	Television Cable Systems for
Personal Property Taxes)	Personal Property Taxes

TO: All Interested Persons:

1. On July 25, 1991, the Department of Revenue published notice of the proposed amendment of ARM 42.21.151 relating to television cable systems for personal property taxes at pages 1204 - 1205 of the 1991 Montana Administrative Register, issue no. 14.

2. No public hearing was held and no written comments were received.

3. The department has amended 42.21.151 as proposed.


DENIS ADAMS, Director
Department of Revenue

Certified to Secretary of State September 16, 1991.

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

In the matter of the	)	NOTICE OF THE ADOPTION OF
adoption of Rules I through	)	RULES I THROUGH XII
XII pertaining to develop-	)	PERTAINING TO DEVELOP-
mental disabilities	)	MENTAL DISABILITIES
commitment process and the	)	COMMITMENT PROCESS AND THE
certification of profes-	)	CERTIFICATION OF PROFES-
sional persons and the	)	SIONAL PERSONS AND THE
repeal of Rules 46.8.701	)	REPEAL OF RULES 46.8.701
through 46.8.704 pertaining	)	THROUGH 46.8.704 PERTAINING
to the certification of	)	TO THE CERTIFICATION OF
professional persons	)	PROFESSIONAL PERSONS

TO: All Interested Persons

1. On August 15, 1991, the Department of Social and Rehabilitation Services published notice of the proposed adoption of Rules I through XII pertaining to developmental disabilities commitment process and the certification of professional persons and the repeal of Rules 46.8.701 through 46.8.704 pertaining to the certification of professional persons at page 1463 of the 1991 Montana Administrative Register, issue number 15.

2. The Department has adopted [RULE I] 46.8.705, RESIDENTIAL FACILITY SCREENING: PURPOSE; [RULE IV] 46.8.711, RESIDENTIAL FACILITY SCREENING: RESPONSIBILITIES OF PROFESSIONAL PERSONS AND QMRP'S; [RULE VIII] 46.8.720, RESIDENTIAL FACILITY SCREENING: CERTIFICATION OF PROFESSIONAL PERSONS; [RULE IX] 46.8.721, RESIDENTIAL FACILITY SCREENING; THE CERTIFICATION COMMITTEE as proposed.

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

[RULE II] 46.8.706 RESIDENTIAL FACILITY SCREENING: DEFINITIONS Subsections (1) through (10) remain as proposed.

~~(11) "Professional person" means, as provided in section 2 of chapter 381, 52nd legislature, a person who is a licensed psychologist or psychiatrist, or a person with a master's degree in psychology who:~~

~~(a) has training and experience in psychometric testing and evaluation;~~

~~(b) has experience in the field of developmental disabilities; and~~

~~(c) has been certified by the professional persons certification committee, according to section 4 of chapter 381, 52nd legislature.~~

Subsections (12) through (16) remain as proposed but will be renumbered as (11) through (15).

AUTH: Sec. 53-20-133 MCA

IMP: Sec. 53-20-102, 53-20-106, 53-20-112, 53-20-116, 53-20-121, 53-20-125, 53-20-127 through 53-20-129 and 53-20-133 MCA

[RULE III] 46.8.710 RESIDENTIAL FACILITY SCREENING: ADMINISTRATION AND COMPOSITION OF SCREENING TEAM Subsections (1) through (4)(c) remain as proposed.

(5) A PERSON SERVING ON THE RESIDENTIAL FACILITY SCREENING TEAM SHALL NOT PARTICIPATE IN A DETERMINATION WHERE THAT PERSON HAS A PERSONAL CONFLICT. IN SUCH CIRCUMSTANCES AN ALTERNATE MEMBER WILL BE SELECTED TO SERVE.

AUTH: Sec. 53-20-133 MCA

IMP: Sec. 53-20-133 MCA

[RULE VI] 46.8.712 RESIDENTIAL FACILITY SCREENING: RESPONSIBILITIES OF THE SCREENING TEAM Subsections (1) through (3)(e) remain as proposed.

(4) In addition to giving notice of its determination to the court, notice of a team determination will be mailed or delivered by the screening team to the individual who is being considered for commitment, AND AS APPROPRIATE TO the parents or guardian, the responsible person, THE next of kin, if known, the attorney for the individual, if any, THE ADVOCATE FOR THE INDIVIDUAL, and the attorney for the parents or guardian, if any.

AUTH: Sec. 53-20-133 MCA

IMP: Sec. 53-20-125, 53-20-127 through 53-20-129 and 53-20-133 MCA

[RULE VII] 46.8.713 RESIDENTIAL FACILITY SCREENING: DETERMINATION OF SCREENING TEAM Subsections (1) through (3)(h) remain as proposed.

(i) contact names for involved parties; AND

(j) legal status; and

~~(k) medicaid eligibility status.~~

Subsection (4) remains as proposed.

(5) A decision by the residential facility screening team to recommend commitment or recommitment must be by consensus OF ALL THE TEAM MEMBERS. If the team does not reach consensus, the team cannot recommend commitment or recommitment.

Subsections (6) and (7) remain as proposed.

AUTH: Sec. 53-20-133 MCA

IMP: Sec. 53-20-125, 53-20-127 through 53-20-129 and 53-20-133 MCA

[RULE VII] 46.8.717 RESIDENTIAL FACILITY SCREENING:
APPEAL OF SCREENING TEAM DETERMINATION OR RECOMMENDATION

(1) If the residential facility screening team determines that the individual is not seriously developmentally disabled and therefore a commitment or recommitment is not appropriate, the determination will be communicated to the district court and the individual. The individual or ~~a person representing the interests of~~ the individual's AUTHORIZED REPRESENTATIVE may request a fair hearing as provided in ARM 46.2.201 et seq., from the department of social and rehabilitation services, within thirty days of the determination that the individual is not seriously developmentally disabled.

Subsection (2) remains as proposed.

AUTH: Sec. 53-20-133 MCA

IMP: Sec. 53-20-125, 53-20-127 through 53-20-129 and 53-20-133 MCA

[RULE X] 46.8.722 RESIDENTIAL FACILITY SCREENING: CER-
TIFICATION PROCEDURES FOR PROFESSIONAL PERSONS Subsec-

tions (1) through (4) remain as proposed.

~~(5) Certification of any person previously certified as a developmental disabilities professional person automatically expires 90 days after the adoption of this rule.~~

AUTH: 53-20-106 and 53-20-133 MCA

IMP: 53-20-106 MCA

[RULE XI] 46.8.723 RESIDENTIAL FACILITY SCREENING:
QUALIFICATIONS OF PROFESSIONAL PERSONS Subsections (1)

through (1)(b)(v) remain as proposed.

~~(2) Applicants will be required to~~ MUST supply transcripts and other appropriate records that document relevant training and experience.

Subsection (3) remains as proposed.

AUTH: 53-20-106 and 53-20-133 MCA

IMP: 53-20-106 MCA

[RULE XII] 46.8.724 RESIDENTIAL FACILITY SCREENING:
RIGHT TO APPEAL CERTIFICATION COMMITTEE DECISIONS Sub-

sections (1) through (2) remain as proposed.

~~(3) If any party to the appeal is dissatisfied with the written decision of the director, the person may appeal to the appropriate district court.~~

AUTH: 53-20-106 and 53-20-133 MCA

IMP: 53-20-106 MCA

4. The Department has repealed Rules 46.8.701 through 46.8.704 as proposed.

5. The Department has thoroughly considered all commentary received:

COMMENT: In Rule II there are two definitions of "professional person."

RESPONSE: The Department has deleted one of the definitions.

COMMENT: Will the definition for "qualified mental retardation professional (QMRP)" used in this rule apply to QMRP's used for other purposes.

RESPONSE: This definition of QMRP is only for the purposes of the commitment rule.

COMMENT: Three comments, regarding the qualifications for professional persons, requested that professional social workers continue to be qualified to be professional persons.

RESPONSE: The Department of SRS is required to implement by October 1, 1991 the provisions of SB 250, concerning commitments of persons who are developmentally disabled. In that legislation the definition of professional persons does not include professional social workers. The Department cannot by rule expand that definition beyond the scope of the statutory definition. A change to that definition can only be undertaken by the Legislature.

COMMENT: A currently certified professional person who is not a licensed psychologist or psychiatrist or who does not have a master's degree in psychology should continue to be certified as a professional person.

RESPONSE: The definition of "professional person" for the purposes of the commitment process was amended in the 1991 Legislature by SB 250 so as to limit the professional qualifications for professional person to a licensed psychologist or psychiatrist or a person with a master's degree in psychology. The Department cannot by rule expand that definition beyond the scope of the statutory definition. A change to that definition can only be undertaken by the Legislature.

COMMENT: The rules should provide a minimum term for the appointments to the screening team.

RESPONSE: The Department, in consultation with the screening team, will develop operating procedures for the screening team that may include specific terms for the members. The Department agrees that specific terms are desirable. It may be difficult, however, to provide certain terms for the members.

COMMENT: The rules should provide that the provider member on the screening team be disqualified from considering a case in

which an individual is being served by that member's provider organization.

RESPONSE: The Department agrees. This provision has been added to Rule III.

COMMENT: The consumer-interests member of the screening team should be chosen from lists furnished by the Protection and Advocacy System designated in the state, the Developmental Disabilities Planning and Advisory Council, the Board of Visitors, or the Parent Training and Information Center (also known as Parents Lets Unite For Kids) to insure that the member truly represents the interests of consumers.

RESPONSE: The operating procedures for the screening team will specify that the consumer-interests representative will be chosen from a pool of names of interested volunteers supplied by the DD Planning and Advisory Council.

COMMENT: Notice as provided in subsection (4) of Rule V should be given to a person's advocate.

RESPONSE: The Department agrees. The advocate for the person has been included in the notice provision.

COMMENT: Medicaid eligibility is not relevant to the determination regarding commitment. This item should be deleted from Rule VI(3).

RESPONSE: The Department agrees. This has been deleted.

COMMENT: In Rule VI(5) the term "consensus" should be clarified by the addition to the end of the first sentence of the words "of all of the members of the team."

RESPONSE: The Department agrees. The suggested change has been made.

COMMENT: In Rule VII(1), that the phrase "a person representing the interests of the individual" should be replaced with the phrase "the individual's authorized representative".

RESPONSE: The Department agrees. The suggested change has been made.

COMMENT: In Rule XI(2) "will be required to" should be replaced with "must".

RESPONSE: The Department agrees. The suggested change has been made.

COMMENT: Subsection (5) of Rule X, providing that currently certified persons would continue to be certified for 90 days

after the effective date of the legislation and the rules, does not appear to comport with the legislation.

RESPONSE: The Department agrees. The provision has been deleted.


COMMENT: The acronym "ITP" should not be used for "individual treatment planning team" in Rule X(10).

RESPONSE: The Department agrees. The acronym has been deleted.

COMMENT: Subsection (3) of Rule XII appears to confer jurisdiction to the state district courts over appeals from determinations of the professional person certification committee. This may not be appropriate.

RESPONSE: The Department agrees. The provision has been deleted.

6. These rules become effective October 1, 1991.



Director, Social and Rehabilitation Services

Certified to the Secretary of State September 16, 1991.

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

In the matter of the	)	NOTICE OF THE AMENDMENT OF
amendment of Rule 46.10.304A	)	RULE 46.10.304A PERTAINING
pertaining to unemployed	)	TO UNEMPLOYED PARENT
parent)	

TO: All Interested Persons

1. On August 15, 1991, the Department of Social and Rehabilitation Services published notice of the proposed amendment of Rule 46.10.304A pertaining to unemployed parent at page 1447 of the 1991 Montana Administrative Register, issue number 15.

2. The Department has amended the following Rule as proposed with the following changes:

46.10.304A UNEMPLOYED PARENT Subsections (1) through (1)(b)(i)(D) remain as proposed.

(I) During an individual's lifetime, he or she may count no more than four quarters of work consisting of such THESE activities MAY BE COUNTED toward the required six quarters necessary to be eligible for AFDC as an unemployed parent.

Subsections (1)(b)(ii) through (4) remain as proposed.

AUTH: 53-4-212 MCA

IMP: 53-4-231 MCA

3. The Department has thoroughly considered all commentary received:

COMMENT: It has been noted that the wording of subsection (1)(b)(i)(D)(I) is unclear.

RESPONSE: The language of subsection (1)(b)(i)(D)(I) has been simplified.

Director, Social and Rehabilitation
Services

Certified to the Secretary of State September 16, 1991.

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

In the matter of the	)	NOTICE OF THE AMENDMENT OF
amendment of Rules	)	RULES 46.13.303, 46.13.304,
46.13.303, 46.13.304,	)	46.13.305 AND 46.13.401
46.13.305 and 46.13.401	)	PERTAINING TO LOW INCOME
pertaining to low income	)	ENERGY ASSISTANCE PROGRAM
energy assistance program)	

TO: All Interested Persons

1. On August 15, 1991, the Department of Social and Rehabilitation Services published notice of the proposed amendment of Rules 46.13.303, 46.13.304, 46.13.305 and 46.13.401 pertaining to low income energy assistance program at page 1450 of the 1991 Montana Administrative Register, issue number 15.

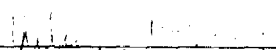
2. The Department has amended Rules 46.13.303, 46.13.304, 46.13.305 and 46.13.401 as proposed.

3. The Department has thoroughly considered all commentary received:

COMMENT: One comment was received in support of the proposed amendment of ARM 46.13.304 to allow the deduction of dependent care expenses from income in computing the amount of a recipient's LIEAP benefit.

RESPONSE: The amendment which the commentor supports was adopted several years ago. The Department is making no further change relating to the deduction of dependent care expenses but is merely amending ARM 46.13.304(3)(b) to change the reference to 1990 poverty level to 1991 poverty level.

4. These rules become effective October 1, 1991.



Director, Social and Rehabilitation Services

Certified to the Secretary of State September 16, 1991.

NOTICE OF FUNCTIONS OF ADMINISTRATIVE CODE COMMITTEE

The Administrative Code Committee reviews all proposals for adoption of new rules, amendment or repeal of existing rules filed with the Secretary of State, except rules proposed by the Department of Revenue. Proposals of the Department of Revenue are reviewed by the Revenue Oversight Committee.

The Administrative Code 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 the 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

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

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

Use of the Administrative Rules of Montana (ARM):

- | | |
|-------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Known
Subject
Matter | 1. Consult ARM topical index.
Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute
Number and
Department | 2. Go to cross reference table at end of each title which lists MCA section numbers and corresponding ARM rule numbers. |

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies which have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 1991. This table includes those rules adopted during the period July 1, 1991 through September 30, 1991 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, 1991, this table and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule and the page number at which the action is published in the 1991 Montana Administrative Register.

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- 4.5.201 and other rules - Designation of Noxious Weeds, p. 210, 511
- 4.10.311 and other rules - Regulatory Status and Use of Aquatic Herbicides, p. 100, 354
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- 4.12.1012 Grain Fee Schedule, p. 570, 998
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BOARD APPOINTEES AND VACANCIES

House Bill 424, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of HB 424 was that the Secretary of State publish monthly in the *Montana Administrative Register* a list of appointees and upcoming or current vacancies on those boards and councils.

In this issue, appointments made in August, 1991, are published. Vacancies scheduled to appear from October, 1991, through December 31, 1991, are also listed, as are current recent vacancies due to resignations or other reasons.

Individuals interested in serving on a new board should refer to the bill that created the board for details about the number of members to be appointed and qualifications necessary.

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

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of September 16, 1991.

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

BOARD AND COUNCIL APPOINTEES: AUGUST, 1991

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Advisory Council on Food and Nutrition (Health)			
Mr. Bill Carey	Governor	new appoint	8/30/1991
Missoula			8/30/1993
Qualifications (if required): none specified			
Senator Ethel M. Harding	Governor	new appoint	8/30/1991
Polson			8/30/1993
Qualifications (if required): none specified			
Ms. Minkie Medora	Governor	new appoint	8/30/1991
Missoula			8/30/1993
Qualifications (if required): none specified			
Ms. Judy Morrill	Governor	new appoint	8/30/1991
Bozeman			8/30/1993
Qualifications (if required): none specified			
Ms. Lynn Paul	Governor	new appoint	8/30/1991
Bozeman			8/30/1993
Qualifications (if required): none specified			
Representative Jim Rice	Governor	new appoint	8/30/1991
Helena			8/30/1993
Qualifications (if required): none specified			
Mr. Sid Rispens	Governor	new appoint	8/30/1991
Helena			8/30/1993
Qualifications (if required): none specified			
Ms. Arlene Templer	Governor	new appoint	8/30/1991
St. Ignatius			8/30/1993
Qualifications (if required): none specified			

BOARD AND COUNCIL APPOINTEES: AUGUST, 1991

Appointee	Appointed by	Succeeds	Appointment/End Date
Advisory Council on Food and Nutrition (Health)			
Mr. David Thomas	Governor	new appoint	8/30/1991
Helena			8/30/1993
Qualifications (if required): none specified			
Mr. Jack Thompson			
Helena	Governor	new appoint	8/30/1991
			8/30/1993
Qualifications (if required): none specified			
Mr. Gary Watt			
Helena	Governor	new appoint	8/30/1991
			8/30/1993
Qualifications (if required): none specified			
Board of Banking (Commerce)			
Mr. Tom Ryan	Governor	Milodragovich	8/9/1991
Hamilton			7/1/1994
Qualifications (if required): public member from Congressional District 1			
Mr. Jerry L. Wiedebush			
Plentywood	Governor	McAtee	8/9/1991
			7/1/1994
Qualifications (if required): officer of state bank & from Congressional District 2			
Board of Personnel Appeals (Labor and Industry)			
Ms. Becky B. Schneekloth	Governor	Foster	8/23/1991
Helena			1/2/1993
Qualifications (if required): member or employee of employee organization			
Board of Physical Therapy Examiners (Commerce)			
Ms. Charlotte Fannon	Governor	Reed	8/7/1991
Billings			7/1/1994
Qualifications (if required): physical therapist			

BOARD AND COUNCIL APPOINTEES: AUGUST, 1991

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Professional Engineers and Land Surveyors (Commerce)			
Mr. David E. Bowman	Governor	Guenzi	8/15/1991
Ennis			7/1/1995
Qualifications (if required): surveyor			
Board of Regents of Higher Education (Education)			
Ms. Katherine Sue Rebish	Governor	Musgrove	8/7/1991
Missoula			7/1/1992
Qualifications (if required): full time student at unit of higher education			
Board of Sanitarians (Commerce)			
Ms. Joanne C. Chance	Governor	Trusler	8/7/1991
Helena			7/1/1994
Qualifications (if required): none specified			
Board of Water Well Contractors (Natural Resources and Conservation)			
Mr. Wes Lindsay	Governor	reappointed	8/16/1991
Clancy			7/1/1994
Qualifications (if required): licensed water well contractor			
Burial Preservation Board (Commerce)			
Mr. Germaine DuMonteir	Governor	new appoint	8/22/1991
Havre			8/22/1992
Qualifications (if required): rep. Little Shell Tribe			
Dr. Tom Foor			
Missoula	Governor	new appoint	8/22/1991
Qualifications (if required): rep. from Montana State Historic Preservation Office			
Mr. Carl Fourstar			
Poplar	Governor	new appoint	8/22/1991
Qualifications (if required): rep. Assiniboine and Sioux Tribes			

BOARD AND COUNCIL APPOINTEES: AUGUST, 1991

Appointee	Appointed by	Succeeds	Appointment/End Date
Burial Preservation Board			
Mr. Gilbert Horn	(Commerce) Cont.	new appoint	8/22/1991
Harlem	Governor		8/22/1992
Qualifications (if required):	rep. Gros Ventre and Assiniboine Tribes		
Mr. Pat Lefthand	Governor	new appoint	8/22/1991
Pablo			8/22/1993
Qualifications (if required):	rep. Salish & Kootenai Tribes		
Mr. Mickey Nelson	Governor	new appoint	8/22/1991
Helena			8/22/1992
Qualifications (if required):	rep. from Montana Coroners' Association		
Mr. Richard Pariman	Governor	new appoint	8/22/1991
Butte			8/22/1992
Qualifications (if required):	rep. Montana Archaeological Association		
Mr. John Pretty On Top	Governor	new appoint	8/22/1991
Crow Agency			8/22/1992
Qualifications (if required):	rep. Crow Tribe		
Ms. Charline Smith	Governor	new appoint	8/22/1991
East Missoula			8/22/1993
Qualifications (if required):	physical anthropologist		
Mr. Jay Stovall	Governor	new appoint	8/22/1991
Billings			8/22/1993
Qualifications (if required):	public member		
Mr. John Sunchild	Governor	new appoint	8/22/1991
Box Elder			8/22/1992
Qualifications (if required):	rep. Chippewa-Cree Tribe		

BOARD AND COUNCIL APPOINTEES: AUGUST, 1991

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Burial Preservation Board	(Commerce) Cont.		
Mr. William Tallbull	Governor	new appoint	8/22/1991
Buzby			8/22/1993
Qualifications (if required):	rep. Northern Cheyenne Tribe		
Mr. Clarence "Curly Bear" Wagner	Governor	new appoint	8/22/1991
Browning			8/22/1993
Qualifications (if required):	rep. Blackfeet Tribe		
Electrical Board (Commerce)			
Mr. Gene Kolstad	Governor	Lewis	8/7/1991
Billings			7/1/1996
Qualifications (if required):	public member		
Judicial Standards Commission (Justice)			
Ms. Jean Grow	Governor	Pavlonnis	8/7/1991
Glendive			7/1/1995
Qualifications (if required):	public member from Congressional District 2		
MTAMI Project Advisory Council (Health and Environmental Sciences)			
Ms. Lil Anderson	Governor	reappointed	8/15/1991
Billings			6/30/1993
Qualifications (if required):	representative of local health dept.		
Ms. Nancy Colton	Governor	reappointed	8/15/1991
Bozeman			6/30/1993
Qualifications (if required):	representative of parent organization		
Ms. Marietta Cross	Governor	reappointed	8/15/1991
Missoula			6/30/1993
Qualifications (if required):	representative non profit child health organization		

BOARD AND COUNCIL APPOINTEES: AUGUST, 1991

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
MIAMI Project Advisory Council (Health and Environmental Sciences) Cont.			
Mr. Dan Dennehy	Governor	Loney	8/15/1991
Butte			6/30/1993
Qualifications (if required):	local service provider		
Ms. Nancy Ellery	Governor	reappointed	8/15/1991
Helena			6/30/1993
Qualifications (if required):	representative from SRS supervise services MT Medicaid		
Dr. Jeffrey P. Hinz	Governor	reappointed	8/15/1991
Great Falls			6/30/1993
Qualifications (if required):	obstetrician/pediatrician		
Representative Angela Russell	Governor	new position	8/15/1991
Lodge Grass			6/30/1993
Qualifications (if required):	American Indian		
Mr. Dale Taliaferro	Governor	reappointed	8/15/1991
Helena			6/30/1993
Qualifications (if required):	from dept. provides preventive health services women & child		
Microbusiness Finance Program Advisory Council (Commerce)			
Ms. Barbara Burke	Director	new appoint	8/20/1991
Missoula			0/0/0
Qualifications (if required):	repr. experts in revolving loan fund admin, Congress Dist 1		
Ms. Anita Dupuis	Director	new appoint	8/20/1991
Pablo			0/0/0
Qualifications (if required):	repr. minorities in Montana, Congressional District 1		
Mr. Don Engels	Director	Commerce	8/20/1991
Miles City			0/0/0
Qualifications (if required):	repr. cities with pop. less 15,000, Congress Dist 2		

BOARD AND COUNCIL APPOINTEES: AUGUST, 1991

Appointee	Appointed by	Succeeds	Appointment/End Date
Microbusiness Finance Program Advisory Council (Commerce) Cont.			
Mr. Harold J. Fraser	Director	new appoint	8/20/1991 0/0/0
Missoula			
Qualifications (if required):	repr. banking industry,	Congressional District 1	
Mr. Richard T. Greenshields	Director	new appoint	8/20/1991 0/0/0
East Glacier Park			
Qualifications (if required):	repr. microbusiness owners,	Congressional District 1	
Ms. Dolph Harris	Director	new appoint	8/20/1991 0/0/0
Sidney			
Qualifications (if required):	repr. statewide business owners,	Congressional District 2	
Ms. Judith Johnston	Director	new appoint	8/20/1991 0/0/0
Helena			
Qualifications (if required):	repr. microbusiness owners,	Congressional District 1	
Ms. Jamie Kay	Director	new appoint	8/20/1991 0/0/0
Missoula			
Qualifications (if required):	repr. microbusiness owners,	Congressional District 1	
Mr. Duane Kurokawa	Director	new appoint	8/20/1991 0/0/0
Wolf Point			
Qualifications (if required):	repr. banking industry,	Congressional District 2	
Ms. Jeanne Moeller	Director	Commerce	8/20/1991 0/0/0
Billings			
Qualifications (if required):	repr. cities with pop. greater 15,000,	Congress Dist 2	
Ms. Lynn Robson	Director	new appoint	8/20/1991 0/0/0
Bozeman			
Qualifications (if required):	repr. experts in revolving loan fund admin,	Congress Dist 1	

BOARD AND COUNCIL APPOINTEES: AUGUST, 1991

Appointee	Appointed by	Succeeds	Appointment/End Date
Microbusiness Finance Program Advisory Council			
Mr. Rick Sharp	Director	(Commerce) Cont. new appoint	8/20/1991
Havre			0/0/0
Qualifications (if required):	repr. low-income persons in Montana,	Congress District 2	
Mr. Craig Smith	Director	Commerce	8/20/1991
Wolf Point			0/0/0
Qualifications (if required):	repr. cities with pop. less 15,000,	Congress Dist 2	
Montana Mint Committee (Agriculture)			
Mr. Mark Ficken	Governor	Fisher	8/16/1991
Kalispell			7/1/1994
Qualifications (if required):	active mint grower		
Peace Officers Standards and Training Advisory Council (Justice)			
Ms. Donna "Midge" Warrington	Governor	vacant	8/14/1991
Great Falls			12/31/1991
Qualifications (if required):	dispatcher		
Women in Employment Advisory Council (Governor)			
Ms. Jeanne C. Amsberry	Governor	not listed	8/9/1991
Helena			8/9/1993
Qualifications (if required):	none specified		
Ms. Judy Birch	Governor	not listed	8/9/1991
Helena			8/9/1993
Qualifications (if required):	none specified		
Ms. Virginia Bliss	Governor	not listed	8/9/1991
Conrad			8/9/1993
Qualifications (if required):	none specified		

BOARD AND COUNCIL APPOINTEES: AUGUST, 1991

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Women in Employment Advisory Council (Governor) Cont.			
Ms. Aubyn Curtiss	Governor	not listed	8/9/1991
Fortine			8/9/1993
Qualifications (if required): none specified			
Ms. Ilene Dallum	Governor	not listed	8/9/1991
Cascade			8/9/1993
Qualifications (if required): none specified			
Ms. Dolores Havdahl	Governor	not listed	8/9/1991
Helena			8/9/1993
Qualifications (if required): none specified			
Ms. Darlene Johnson	Governor	not listed	8/9/1991
Wolf Point			8/9/1993
Qualifications (if required): none specified			
Ms. Carolyn Linden	Governor	not listed	8/9/1991
Helena			8/9/1993
Qualifications (if required): none specified			
Ms. Carolyn Miller	Governor	not listed	8/9/1991
Helena			8/9/1993
Qualifications (if required): none specified			
Ms. Blanche Proul	Governor	not listed	8/9/1991
Anaconda			8/9/1993
Qualifications (if required): none specified			
Ms. Antoinette Fraser	Governor	not listed	8/9/1991
Rosell			8/9/1993
Billings			
Qualifications (if required): none specified			

BOARD AND COUNCIL APPOINTEES: AUGUST, 1991

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Women in Employment Advisory Council	(Governor)	Cont.	
Ms. Sue Weingartner	Governor	not listed	8/9/1991
Helena			8/9/1993
Qualifications (if required):	none specified		

VACANCIES ON BOARDS AND COUNCILS -- October 1 through December 31, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Historic Preservation Review Board (Education)		
Ms. Ellen M. Sievert, Great Falls	Governor	10/1/91
Qualifications (if required): none specified		
Mr. Donald Wetzel, Harlem		
Qualifications (if required): public member	Governor	10/1/91
Local Youth Services Advisory Council, Billings		
Ms. Elaine K. Allestad, Big Timber	(Family Services) Director	10/26/91
Qualifications (if required): Billings area		
Mr. James F. Canan, Billings		
Qualifications (if required): Billings area	Director	10/26/91
Ms. Dollean Lind, Hardin		
Qualifications (if required): Billings area	Director	10/26/91
Mr. Cliff Murphy, Billings		
Qualifications (if required): Billings area	Director	10/26/91
Mr. Vern Peterson, Lewistown		
Qualifications (if required): Billings area	Director	10/26/91
Ms. Pat Regan, Billings		
Qualifications (if required): Billings area	Director	10/26/91
Ms. Karen Smith, Billings		
Qualifications (if required): Billings area	Director	10/26/91

VACANCIES ON BOARDS AND COUNCILS -- October 1 through December 31, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services Advisory Council, Bozeman		
Mr. Bruce Becker, Bozeman	(Family Services) Director	10/26/91
Qualifications (if required): Bozeman area		
Mr. Robert Brown, Bozeman		
Qualifications (if required): Bozeman area	Director	10/26/91
Mr. Jerry Churchill, White Sulphur Springs		
Qualifications (if required): Bozeman area	Director	10/26/91
Mr. Carlo Cieri, Livingston		
Qualifications (if required): Bozeman area	Director	10/26/91
Sen. Dorothy Eck, Bozeman		
Qualifications (if required): Bozeman area	Director	10/26/91
Mr. Ray Hokanson, Bozeman		
Qualifications (if required): Bozeman area	Director	10/26/91
Local Youth Services Advisory Council, Butte		
Mr. Pat Clark, Dillon	(Family Services) Director	10/26/91
Qualifications (if required): Butte area		
Dr. William Hickey, Anaconda		
Qualifications (if required): Butte area	Director	10/26/91
Ms. Charlotte Kilroy, Butte		
Qualifications (if required): Butte area	Director	10/26/91
Mr. Mike Mahoney, Deer Lodge		
Qualifications (if required): Butte area	Director	10/26/91

VACANCIES ON BOARDS AND COUNCILS -- October 1 through December 31, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services Advisory Council, Butte Rep. William T. "Red" Menahan, Anaconda Qualifications (if required): Butte area	(Family Services) Cont. Director	10/26/91
Ms. Rosemary G. Rawls, Butte Qualifications (if required): Butte area	Director	10/26/91
Local Youth Services Advisory Council, Glasgow Mr. Ed Amestoy, Malta Qualifications (if required): Glasgow area	(Family Services) Director	10/26/91
Mr. Ron Arneson, Wolf Point Qualifications (if required): Glasgow area	Director	10/26/91
Mr. Arthur Arnold, Hinsdale Qualifications (if required): Glasgow area	Director	10/26/91
Pastor John Bent, Nashua Qualifications (if required): Glasgow area	Director	10/26/91
Rep. Dorothy Cody, Wolf Point Qualifications (if required): Glasgow area	Director	10/26/91
Mr. Jim Halverson, Wolf Point Qualifications (if required): Glasgow area	Director	10/26/91
Ms. Harriet McCoy, Plentywood Qualifications (if required): Glasgow area	Director	10/26/91
Mr. Larry Wahl, Scobey Qualifications (if required): Glasgow area	Director	10/26/91

VACANCIES ON BOARDS AND COUNCILS -- October 1 through December 31, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services Advisory Council, Glendive		
Mr. Pete Degel, Glendive Qualifications (if required): Glendive area	(Family Services) Director	10/26/91
Ms. Carol Friederichs, Glendive Qualifications (if required): Glendive area	Director	10/26/91
Mr. Bob Jensen, Circle Qualifications (if required): Glendive area	Director	10/26/91
Rep. Betty Lou Kasten, Brockway Qualifications (if required): Glendive area	Acting Director	10/26/91
Mr. Derry S. Long, Circle Qualifications (if required): Glendive area	Director	10/26/91
Ms. Gloria Paladichuk, Sidney Qualifications (if required): Glendive area	Director	10/26/91
Ms. Judy Reddig, Glendive Qualifications (if required): Glendive area	Director	10/26/91
Sen. Larry J. Tweit, Fairview Qualifications (if required): Glendive area	Director	10/26/91
Local Youth Services Advisory Council, Great Falls		
Mr. Russell R. Andrews, Choteau Qualifications (if required): Great Falls area	(Family Services) Director	10/26/91
Ms. Gini Onstad, Fort Benton Qualifications (if required): Great Falls area	Director	10/26/91

VACANCIES ON BOARDS AND COUNCILS -- October 1 through December 31, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services Advisory Council, Great Falls (Family Services) Cont. Rep. Ray Peck, Havre Qualifications (if required): Great Falls area	Director	10/26/91
Judge John Warner, Havre Qualifications (if required): Great Falls area	Director	10/26/91
Local Youth Services Advisory Council, Helena (Family Services) Dr. Thomas D. Carlin, Helena Qualifications (if required): Helena area	Director	10/26/91
Ms. Bonnie Holman, Townsend Qualifications (if required): Helena area	Director	10/26/91
Ms. Joyce Janacaro, Whitehall Qualifications (if required): Helena area	Director	10/26/91
Mr. Wally Jewell, Helena Qualifications (if required): Helena area	Director	10/26/91
Rep. Jim Rice, Helena Qualifications (if required): Helena area	Director	10/26/91
Mr. Bob Stockton, Helena Qualifications (if required): Helena area	Director	10/26/91
Ms. Margaret Stuart, Helena Qualifications (if required): Helena area	Director	10/26/91

<u>Board/Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services Advisory Council, Kalispell Mr. Roy R. Delong, Thompson Falls Qualifications (if required): Kalispell area	(Family Services) Director	10/26/91
Mr. Donald D. Dupuis, Pablo Qualifications (if required): Kalispell area	Director	10/26/91
Mr. Howard W. Gipe, Kalispell Qualifications (if required): Kalispell area	Director	10/26/91
Ms. June Hermanson, Polson Qualifications (if required): Kalispell area	Director	10/26/91
Mr. Melvin R. Mohler, Swan Lake Qualifications (if required): Kalispell area	Director	10/26/91
Ms. Gretchen Otto, Kalispell Qualifications (if required): Kalispell area	Director	10/26/91
Mr. Scott Spencer, Libby Qualifications (if required): Kalispell area	Director	10/26/91
Local Youth Services Advisory Council, Miles City Mr. Hubert Abrams, Wibaux Qualifications (if required): Miles City area	(Family Services) Director	10/26/91
Mr. Ernest Big Horn, Miles City Qualifications (if required): Miles City area	Acting Director	10/26/91
Ms. Carmelita Birdinground, Lame Deer Qualifications (if required): Miles City area	Director	10/26/91

VACANCIES ON BOARDS AND COUNCILS -- October 1 through December 31, 1991

<u>Board/Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Natural Gas Marketing Advisory Council (Governor)		
Mr. Bill Vaughney, Havre	Governor	11/1/91
Qualifications (if required): None specified		
Resource Conservation Advisory Council (Natural Resources and Conservation)		
Sen. John H., Anderson, Jr. Alder	Director	11/30/91
Qualifications (if required):		
Mr. Ellis Hagen, Westby	Governor	11/15/91
Qualifications (if required): conservation district supervisor		
Mr. Jack Hughes, Grass Range	Director	11/30/91
Qualifications (if required):		
Mr. Herb Karst, Sunburst	Director	11/30/91
Qualifications (if required):		
Mr. Arville Lammers, Shawmut	Director	11/30/91
Qualifications (if required):		
Mr. Ken Minnie, Roundup	Director	11/30/91
Qualifications (if required):		
Mr. Allen Rustad, Baker	Director	11/30/91
Qualifications (if required):		
Mr. Bob Schroeder, Missoula	Director	11/30/91
Qualifications (if required):		
Water and Waste Water Operators Advisory Council (Health and Environmental Sciences)		
Mr. Robert L. Butcher, Billings	Governor	10/16/91
Qualifications (if required): holds Class 1C license		