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**MONTANA
ADMINISTRATIVE
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1995 ISSUE NO. 6
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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 6

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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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AUTH: 80-11-403, MCA

IMP: 80-11-401, MCA

RULE II CONDITIONS GOVERNING IMPORTATION OF MINT AND MINT ROOTSTOCK (1) No mint or mint rootstock shall enter Montana unless the following conditions are met:

(a) The mint or mint rootstock is certified mint or mint rootstock which meets the following criteria:

(i) the acreage from which the imported mint or mint rootstock originates is included in an official mint certification program which has been reviewed prior to importation by the committee and found to substantially meet or exceed the requirements of this rule; or

(ii) the mint or mint rootstock has been inspected in the state of origin. The inspection procedures used by the state of origin must be reviewed and approved by the committee prior to shipment of mint into Montana and must meet inspection criteria listed below.

(A) The inspections shall be conducted at such times in the life cycle of the pests and mint wilt to maximize the ability of the mint inspector to detect the pests and mint wilt if present. All mint rootstock fields shall be inspected according to the following procedure:

(I) Each 2.5 acres shall have four samples; sample sites shall include areas of plant stress or damage suspected to be due to mint wilt or mint pests. Each sample site shall include one square foot of soil and roots to a depth of two inches. The samples shall be mixed and screened in the field and placed in Berlese funnels to collect the larvae. These shall be collected at appropriate times in the life cycle of the mint root borer, mint flea beetle, strawberry root weevil, mint stem borer, and wire worms to assure detection in the stolons if the pests are present.

(II) Based on the field inspection the samples shall be free of mint wilt, mint stem borer, strawberry root weevil or mint flea beetle (0 tolerance). The level of pests detected shall be recorded and provided on the phytosanitary certificate for mint root borer and wire worm.

(III) During the Fall of the year, a random sample of feeder roots shall be analyzed for the root knot nematode and root lesion nematode for each 2.5 acres. The samples shall be free of root knot nematode (0 tolerance). The level of root lesion nematode shall be recorded on the phytosanitary certificate. It is the responsibility of the exporting state to assure that inspections have occurred at appropriate times; and

(iii) the person(s) conducting the inspections must be able to demonstrate by education, training, and experience, the expertise necessary to identify mint wilt and mint pests; or

(b) The mint, mint rootstock, or mint plant tissue is tested by Montana State University and is determined to be free of mint wilt and pests. Fees for the testing will be determined by Montana State University; or

(c) Nuclear stock may be imported when accompanied with a phytosanitary certificate confirming that the nuclear stock has been grown in sanitary, isolated, and environmentally controlled conditions, and the nuclear stock is free of all pests and mint wilt.

(2) Each lot of mint or mint rootstock shipped into Montana must be accompanied by a phytosanitary certificate which states:

(a) the name, address, and phone number of the shipper; and

(b) the legal description down to quarter section of the field location(s) where the mint or mint rootstock originated from; and

(c) the name, address, and phone number of the importer; and

(d) a statement that the mint or mint rootstock is certified mint or mint rootstock inspected according to the above defined procedure; and

(e) a statement declaring that based on inspection of the mint or mint rootstock according to the above defined procedure, no mint wilt and pests have been found, with the exception that the level or amount of root lesion nematode, mint root borer, and wire worm infestations must be stated.

(3) A copy of the phytosanitary certificate must be sent to the Montana department of agriculture by the agency responsible for plant pest regulations in the state of origin prior to importation of the mint or mint rootstock. The department shall forward a copy of the phytosanitary certificate to the chairman of the Montana mint committee.

(4) If any imported mint or mint rootstock is found to be in violation of these importation rules, the mint or mint rootstocks shall be shipped back to the exporting grower or destroyed at the discretion of the importer. If the mint or mint rootstock has already been planted, the mint shall be destroyed by tillage or chemical means. All such remedial actions shall be at the importing grower's expense.

AUTH: 80-11-403, MCA

IMP: 80-11-401, MCA

RULE III CONDITIONS GOVERNING IMPORTATION OF MINT EQUIPMENT (1) All used mint equipment imported from another state shall be disinfected using the following procedure: (a) All equipment shall be power washed with an EPA registered disinfecting solution. (b) The committee may require that the power wash procedure be conducted a second time within 24 hours of the equipments arrival in Montana, and be inspected by the committee.

(2) A phytosanitary certificate shall be issued on all equipment imported into the state declaring that the equipment has been disinfected as in (1) above.

(3) Mint equipment imported without following the above procedures will be disinfected at the owner's expense and shall be subject to a penalty as specified in 80-11-419, MCA.

AUTH: 80-11-403, MCA

IMP: 80-11-401, MCA

RULE IV. RIGHT TO CONTEST COMMITTEE ACTION

(1) Any action taken by the committee is subject to the contested case provisions of the Montana Administrative Procedure Act as set out in Title 2, chapter 4, MCA.

AUTH: 80-11-403, MCA

IMP: 80-11-401, MCA

Reasons: The reason for the new rules is to regulate the movement of all mint, mint rootstock, and mint equipment imported into Montana. The Montana mint growers have recently received mint rootstock that has shown evidence of disease that has the potential to destroy the entire Montana mint industry. The Montana mint committee has determined it necessary to adopt rules necessary to ensure that all Mint rootstock and equipment imported or used in Montana is free of mint pests and diseases. Upon adoption of the proposed rules the Montana department of agriculture intends to eliminate the existing mint quarantine which only regulates the importation of mint rootstock in Flathead, and Lake Counties.

3. Interested persons may present their data, views, or arguments either orally or in writing to Brian Schweitzer, c/o Montana Department of Agriculture, Agricultural Sciences Division, P.O. Box 200201, Helena, MT. 59620-0201, no later than April 27, 1995.

4. If a person who is directly affected by the proposed adoption wishes to express his/her data, views and arguments orally or in writing at a public hearing, he/she must make written request for a hearing and submit this request along with any written comments he/she has to Brian Schweitzer, c/o Montana Department of Agriculture, Agricultural Sciences Division, P.O. Box 200201, Helena, MT. 59620-0201, no later than April 27, 1995.

5. If the agency receives requests for a public hearing on the proposed adoption from either 10% or 25%, whichever is less, of the persons who are directly affected by the proposed adoption; from the Administrative Code Committee of the legislature, from a governmental agency or subdivision or from any 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 and mailed to all interested persons. Ten percent of those persons directly affected has been determined to be 5 based on the 49 mint growers in Montana.


Leo A. Giacometto
Director
DEPARTMENT OF AGRICULTURE


Timothy J. Meloy, Attorney
Rule Reviewer

Certified to the secretary of state March 20, 1995.

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

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of rules pertaining) OF 8.22.502 LICENSES ISSUED
to licenses for parimutuel) FOR CONDUCTING PARIMUTUEL
wagering and general require-) WAGERING ON HORSE RACING
ments) MEETINGS AND 8.22.801
) GENERAL REQUIREMENTS

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On April 29, 1995, the Board of Horse Racing proposes to amend the above-stated rules.

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

"8.22.502. LICENSES ISSUED FOR CONDUCTING PARIMUTUEL WAGERING ON HORSE RACING MEETINGS (1) through (29) will remain the same.

(30) Each track licensee shall file with the board the condition of races it proposes to hold, together with the stake and purse schedule, no later than December 1st. Failure of a track licensee to submit its stakes conditions on or before December 1st shall subject the licensee to a fine of \$25 for each day the submission is late, to be paid before issuance of the track license. In any stakes race, futurity, maturity, derby and/or added money event, the conditions for said races shall be submitted to the board for approval prior to circulation of any such information by a licensee. The names of all persons, firms or corporations contributing any or all of the purse money must be listed and the amount contributed specified.

(31) through (50) will remain the same."

Auth: Sec. 23-4-104, 23-4-201, 23-4-202, 37-1-131, MCA; IMP, Sec. 23-4-104, 23-4-201, 23-4-202, MCA

REASON: The proposed amendment will implement a fine against track licensees who do not submit stakes conditions by the deadline indicated, as this requirement has been routinely ignored in the past, thus creating hardships for publishing and advertising stakes conditions in a timely manner for horsemen.

"8.22.801 GENERAL REQUIREMENTS (1) through (27) will remain the same.

~~(28) No maiden 6 years old or older shall be eligible to enter or start in any race. For purposes of this rule only, a maiden is a horse which at the time of starting has never won a race on the flat in any country.~~

(a) will remain the same, but will be renumbered (28).

(29) through (37)(b) will remain the same.

(c) Lease arrangements shall reflect both lessor's (owner) and lessee's name in the racing program, and identical lessor and/or owner names, along with identical trainer names, shall cause the horses or mules to be deemed an entry.

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

Auth: Sec. 23-4-104, 23-4-202, MCA; IMP, Sec. 23-4-104, 23-4-202, 23-4-301, MCA

REASON: The proposed amendment to (28) will delete the six-year-old limit on maidens, and allow for more horses to participate in maiden races in Montana.

The proposed amendment to (37) will require the actual owner's name to appear on the program, so the betting public may know when the horses or mules are actually owned by the same person, despite leases having been entered into. The amendment will require lease arrangements and other entries with identical owners and trainers to be deemed an entry, and prohibit trifecta wagering with the entry, unless five other betting interests are entered in the race.

3. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Horse Racing, 1520 E. 6th, Room 50, P.O. Box 200512, Helena, Montana 59620-0512, to be received no later than 5:00 p.m., April 27, 1995.

4. If a person who is directly affected by the proposed amendments 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 Horse Racing, 1520 E. 6th Avenue, Room 50, P.O. Box 200512, Helena, Montana 59620-0512, to be received no later than 5:00 p.m., April 27, 1995.

5. If the Board receives requests for a public hearing on the proposed amendments from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed amendments, from the Administrative Code Committee of the legislature, from a governmental agency or subdivision, or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date.

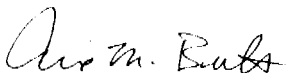
Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 70 based on the 700 licensees in Montana.

BOARD OF HORSE RACING
JAMES SCOTT, DVM, CHAIRMAN

BY:



ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE



ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 20, 1995.

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

In the matter of the proposed	)	NOTICE OF PROPOSED
amendment of ARM 12.2.501	)	AMENDMENT OF ARM
pertaining to crappie as	)	12.2.501
nongame species in need of)	
management	)	No Public Hearing
	)	Contemplated

TO: All interested persons

1. On May 1, 1995, the Montana Department of Fish, Wildlife & Parks proposes to amend ARM 12.2.501 to read as follows:

12.2.501 NONGAME WILDLIFE IN NEED OF MANAGEMENT (1) The following nongame wildlife species are determined by the department to be nongame wildlife in need of management within the meaning of the Nongame and Endangered Species Conservation Act, 87-5-101, MCA, et seq. Management regulations for these species will be issued annually by the department.

(a) through (c) remain the same

(d) Crappie - Pomoxis

AUTH: 87-5-105, MCA

IMP: 87-5-105, MCA

2. Rationale for proposed amendment: Crappie (genus Pomoxis) are important sport fish in some eastern and central Montana waters. In particular, the crappie is the primary sport fish in the Tongue River Reservoir where fishing pressure totals approximately 25,000 angler days per year. Fishing pressure has become so great that some control on the harvest is needed to assure continued success of the fishery. The unlimited nature of the crappie fishery has led to at least some degree of wastage. During periods of good fishing, some anglers are able to catch 100-200 crappie in a single day. Some anglers are unwilling to clean this many fish, resulting in whole crappie disposed in trash receptacles.


Although generally a highly prized game fish in most states, the crappie does not have game fish status in Montana. Without game fish status, Fish, Wildlife & Parks lacks the authority to impose regulations to control harvest or prohibit wastage. The crappie must be designated as a "nongame species" in need of management to allow the department authority to develop and enforce harvest limits on this species.

3. Interested parties may submit their data, views or arguments, either orally or in writing, to Larry Peterman, Department of Fish, Wildlife & Parks, P.O. Box 200701, Helena, Montana 59620-0701, no later than April 27, 1995.

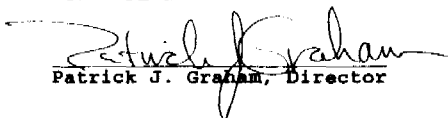
4. If a person who is directly affected by the proposed adoption wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments to Larry Peterman, Department of Fish, Wildlife & Parks, P.O. Box 200701, Helena, Montana 59620-0701, no later than April 27, 1995.

5. If the agency receives requests for a public hearing on the proposed adoption from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed adoption; from the Administrative Code Committee of the legislature, from a governmental agency or subdivision or from any 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 and mailed to all interested persons. Ten percent of those persons directly affected has been determined to be 50 based on fishing records for that area.

MONTANA DEPARTMENT OF FISH,
WILDLIFE & PARKS



Robert N. Lane
Rule Reviewer



Patrick J. Graham, Director

Certified to the Secretary of State March 20, 1995.

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

In the matter of the amendment of)	NOTICE OF PROPOSED
rule 16.29.103 regarding the)	AMENDMENT
transportation of dead human bodies)	
)	NO PUBLIC HEARING
)	CONTEMPLATED

(Dead Human Bodies)

To: All Interested Persons

1. On May 1, 1995, the department proposes to amend rule 16.29.103 regarding the transportation of dead human bodies.

2. The rule, as proposed to be amended, appears as follows (new material is underlined; material to be deleted is interlined):

16.29.103 TRANSPORTATION OF DEAD HUMAN BODIES (1)-(2)
Remain the same.

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

(a) Remains the same.

AUTH: 50-1-202, MCA; IMP: 50-1-202, MCA

3. The department is proposing to amend this rule to eliminate confusion about when the 48-hour time period begins to run and to clarify that the period begins to run after the time of death.

4. Interested persons may submit their data, views, or arguments concerning the proposed amendment, in writing, to Todd Damrow, Department of Health and Environmental Sciences, PO Box 200901, Helena, Montana, 59620-0901, no later than April 27, 1995.

5. If a person who is directly affected by the proposed amendment wishes to express his/her data, views, and arguments orally or in writing at a public hearing, he/she must make written request for a hearing and submit this request along with any written comments he/she has to Todd Damrow, Department of Health and Environmental Sciences, PO Box 200901, Helena, Montana, 59620-0901. A written request for hearing must be received no later than April 27, 1995.


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

proposed action; from the administrative code committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be in excess of 25 persons, based on the number of health care facilities and morticians in the State and the number of persons served by them.


ROBERT J. ROBINSON, Director

Certified to the Secretary of State March 20, 1995.

Reviewed by:


Eleanor Parker, DHES Attorney

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

In the matter of the adoption of)	NOTICE OF PROPOSED
a rule regarding the application of)	ADOPTION
other licensure rules to adult)	
day care centers.)	NO PUBLIC HEARING
)	CONTEMPLATED

(Adult Day Care Centers)

To: All Interested Persons

1. On May 1, 1995, the department proposes to adopt Rule I regarding the application of other licensure rules to adult day care centers.
2. The rule as proposed to be adopted appears as follows:

RULE I APPLICATION OF OTHER RULES (1) To the extent that other licensure rules in ARM Title 16, chapter 32, subchapter 3 conflict with the terms of ARM Title 16, chapter 32, subchapter 10, the terms of subchapter 10 will apply to adult day care centers.

AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

3. The department is proposing to adopt this rule to clarify that the minimum standards for health care facilities, promulgated under ARM Title 16, chapter 32, subchapter 3, do not apply to adult day care centers if they conflict with the standards specific to adult day care centers in subchapter 10. This clarification was inadvertently left out of the adult day care center rules promulgated in 1994.

4. Interested persons may submit their data, views, or arguments concerning the proposed adoption, in writing, to Roy Kemp, Department of Health and Environmental Sciences, Licensure Bureau, PO Box 200901, Helena, Montana, 59620-0901, no later than April 27, 1995.

5. If a person who is directly affected by the proposed amendment wishes to express his/her data, views, and arguments orally or in writing at a public hearing, he/she must make written request for a hearing and submit this request along with any written comments he/she has to Roy Kemp, Department of Health and Environmental Sciences, Licensure Bureau, PO Box 200901, Helena, Montana, 59620-0901. A written request for hearing must be received no later than April 27, 1995.

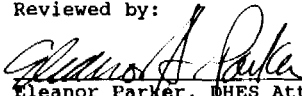
6. If the agency receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the administrative code committee of the legislature; from a governmental subdivision or agency;

or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be in excess of 25 persons, based on the number of adult day care centers in the state, the number of potential new adult day care centers in the state, and the number of persons served by them.


ROBERT J. ROBINSON, Director

Certified to the Secretary of State March 20, 1995.

Reviewed by:


Eleanor Parker, DHES Attorney

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

In the matter of the adoption of)	NOTICE OF PROPOSED
a rule regarding the application of)	ADOPTION
other licensure rules to personal)	
care facilities.)	NO PUBLIC HEARING
)	CONTEMPLATED

(Personal Care Facilities)

To: All Interested Persons

1. On May 1, 1995, the department proposes to adopt Rule I regarding the application of other licensure rules to personal care facilities.
2. The rule as proposed to be adopted appears as follows:

RULE I APPLICATION OF OTHER RULES (1) To the extent that other licensure rules in ARM Title 16, chapter 32, subchapter 3 conflict with the terms of ARM Title 16, chapter 32, subchapter 9, the terms of subchapter 9 will apply to personal care homes.

AUTH: 50-5-103, 50-5-227, MCA; IMP: 50-5-103, 50-5-227, MCA

3. The department is proposing to adopt this rule to clarify that the minimum standards for health care facilities, promulgated under ARM Title 16, chapter 32, subchapter 3, do not apply to personal care homes if they conflict with the standards specific to personal care homes in subchapter 9. This clarification was inadvertently left out of the personal care rules promulgated in 1994.

4. Interested persons may submit their data, views, or arguments concerning the proposed adoption, in writing, to Roy Kemp, Department of Health and Environmental Sciences, Licensure Bureau, PO Box 200901, Helena, Montana, 59620-0901, no later than April 27, 1995.

5. If a person who is directly affected by the proposed amendment wishes to express his/her data, views, and arguments orally or in writing at a public hearing, he/she must make written request for a hearing and submit this request along with any written comments he/she has to Roy Kemp, Department of Health and Environmental Sciences, Licensure Bureau, PO Box 200901, Helena, Montana, 59620-0901. A written request for hearing must be received no later than April 27, 1995.

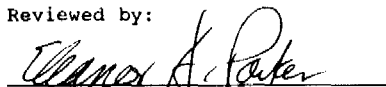
6. If the agency receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the administrative code committee of the legislature; from a governmental subdivision or agency;

or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be in excess of 25 persons, based on the number of personal care facilities in the State, the number of potential new personal care facilities in the State, and the number of persons served by them.


ROBERT J. ROBINSON, Director

Certified to the Secretary of State March 20, 1995 .

Reviewed by:


Eleanor Parker, DHES Attorney

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

In the matter of the amendment of)	NOTICE OF PROPOSED
rules 16.32.375, 425, and 426)	AMENDMENT
regarding construction standards)	
for hospices and specialty mental)	NO PUBLIC HEARING
health care facilities)	CONTEMPLATED

(Health Care Facilities)

To: All Interested Persons

1. On May 1, 1995, the department proposes to amend rules 16.32.375, 425, and 426 regarding construction standards for hospices and specialty mental health facilities.

2. The rules, as proposed to be amended, appear as follows (new material is underlined; material to be deleted is interlined):

16.32.375 MINIMUM STANDARDS FOR A RESIDENTIAL HOSPICE FACILITY (1)-(4) Remain the same.

(5) A residential hospice facility must meet the life safety requirements set forth in chapters 22 and 23, "Life Safety Code Handbook, National Fire Protection Association, ~~1991~~ 1994 Edition", for residential board and care occupancies.

(6)-(11) Remain the same.

(12) The department hereby adopts and incorporates by reference chapters 22 and 23 of the "Life Safety Code Handbook, National Fire Protection Association, ~~1991~~ 1994 Edition", which establishes building construction requirements for residential board and care occupancies. Copies of the above standards may be obtained from the National Fire Protection Association, Batterymarch Park, Quincy, Maryland, 02269.

AUTH: 50-5-103, 50-5-210, MCA; IMP: 50-5-210, MCA

16.32.425 SPECIALTY MENTAL HEALTH FACILITY--LIFE SAFETY AND BUILDING CODE (1) A specialty mental health facility must be in compliance with the provisions of+

(a) the ~~1991~~ 1994 National Fire Protection Association (NFPA) 101 Life Safety Code, Chapters 22 and 23, residential occupancy; and

~~(b) the 1991 Uniform Building, Electrical, and Mechanical Codes.~~

(2) The department hereby adopts and incorporates by reference the ~~1991~~ 1994 NFPA 101 Life Safety Code, Chapters 22 and 23, residential occupancy, ~~and the 1991 Uniform Building, Electrical, and Mechanical Codes, which set national building and safety standards for various types and uses of buildings.~~ Copies of the codes may be obtained from the

department's ~~Licensing, Certification, & Construction Licensure~~ Bureau, ~~Capitol Station PO Box 200901~~, Helena, Montana 59620-0901 ~~{444-2037}~~.
AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

16.32.426 SPECIALTY MENTAL HEALTH FACILITY--PHYSICAL PLANT (1) Each patient room in a specialty mental health facility must meet the following standards:

(a)-(c) Remain the same.

(d) Each room must have a window in accordance with section 7.28A(11) of the Guidelines for Construction and Equipment of Hospital and Medical Facilities (1987 1992-1993 edition) published by the American Institute of Architects.

(e)-(g) Remain the same.

(2)-(10) Remain the same.

(11) The department hereby adopts and incorporates by reference:

(a) section 7.28A(11) of the Guidelines for Construction and Equipment of Hospital and Medical Facilities (1987 1992-1993 edition) published by the American Institute of Architects, a manual which specifies architectural requirements to ensure comfort, aesthetics, and safety in hospital and medical facilities. A copy of section 7.28A(11) or the entire manual may be obtained from the American Institute of Architects Press, 1735 New York Avenue NW, Washington, D.C. 20006.

(b) ARM 16.20.207, stating maximum microbiological contaminant levels for public water supplies, and ARM 16.10.635, which outlines the ~~department~~ construction, operation, and maintenance standards for springs, wells, and cisterns and other water supply system minimum requirements. Copies of the rules may be obtained from the department's ~~Licensing, Certification, & Construction Licensure~~ Bureau, ~~Gegewell Building PO Box 200901~~, Helena, Montana 59620-0901 ~~{444-2037}~~.

(c) ARM 16.20.636, outlining department construction and operation standards and other minimum requirements for sewage systems. A copy of the rule may be obtained from the department's ~~Licensing, Certification, & Construction Licensure~~ Bureau, ~~Gegewell Building PO Box 200901~~, Helena, Montana 59620-0901 ~~{444-2037}~~.

AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

3. The department is proposing to amend these rules to reflect the most current nationally-accepted life safety code standards applicable to the construction of health care facilities in order to adequately protect the public health, welfare, and safety of persons utilizing hospices and specialty mental health care facilities.

4. Interested persons may submit their data, views, or arguments concerning the proposed amendment, in writing, to Roy Kemp, Department of Health and Environmental Sciences, Licensure Bureau, PO Box 200901, Helena, Montana, 59620-0901, no later than April 27, 1995.

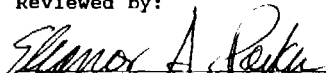
5. If a person who is directly affected by the proposed amendment wishes to express his/her data, views, and arguments orally or in writing at a public hearing, he/she must make written request for a hearing and submit this request along with any written comments he/she has to Roy Kemp, Department of Health and Environmental Sciences, Licensure Bureau, PO Box 200901, Helena, Montana, 59620-0901. A written request for hearing must be received no later than April 27, 1995.

6. If the agency receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the administrative code committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be in excess of 25 persons, based on the number of hospices, specialty mental health care facilities, and the persons served by them within the state.


ROBERT J. ROBINSON, Director

Certified to the Secretary of State March 20, 1995.

Reviewed by:


Eleanor Parker, DHES Attorney

BEFORE THE BOARD OF LABOR APPEALS
FOR THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC HEARING
amendment ARM 24.7.306,)	ON THE PROPOSED AMENDMENT
related to rules of procedure)	OF ARM 24.7.306 AND NOTICE
before the Board of Labor)	OF MEETING TO CONSIDER
Appeals)	COMMENTS

TO ALL INTERESTED PERSONS:

1. On April 28, 1995, at 10:00 a.m., a public hearing will be held in the Dan Rickman Room (basement floor conference room) at the Walt Sullivan Building (Dept. of Labor Building), 1327 Lockey Street, Helena, Montana, to consider the amendment of ARM 24.7.306, related to the procedure of the Board of Labor Appeals.

The Board of Labor Appeals will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the Department by not later than 5:00 p.m., April 24, 1995, to advise us of the nature of the accommodation that you need. Please contact the Board of Labor Appeals, Attn: Ms. Michele Bailly, P.O. Box 1728, Helena, MT 59624-1728; telephone (406) 444-3311; TDD (406) 444-0532; fax (406) 444-1394.

2. The Board of Labor Appeals proposes to amend an existing rule as follows: (new matter underlined, deleted matter interlined)

24.7.306 DETERMINATION OF APPEALS (1) ~~The board shall include in the record and consider as evidence all records of the department that are material to the issues. The department shall transmit to the board all records that are pertinent to the appeal. The board will consider such records or portions of those records as the board deems appropriate. The board shall will not consider any new evidence introduced at the board hearing unless good cause is shown that it was unavailable at the lower level appeal hearing. As soon as possible after the hearing, the board shall render a written decision which shall state the findings of facts and the reasons for the decisions will decide whether to reverse, modify or affirm the decision of the appeals referee. Copies of such decision shall~~ Written notice of the board's action will be mailed to all interested parties.

(2) In making its determination, the board will consider arguments, ~~on as to~~ whether the referee erred in either law or fact as well as any new evidence pursuant to subsection (1).

AUTH: Sec. 2-4-201 MCA

IMP: Sec. 2-4-201 and 39-51-2404 MCA

REASON: The proposed amendments are reasonably necessary in light of the recent Montana Supreme Court decision Bean v. Board of Labor Appeals, No. 94-278 (decided March 15, 1995). The proposed amendments are needed in order to provide flexibility for the Board to decide whether a complete review of the hearings record (either by listening to the tape recording or reviewing the transcript of the hearing) is appropriate for any given case. The proposed amendments also make technical and stylistic changes to conform the rule to the requirements of the Secretary of State, Administrative Rules Bureau.

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:

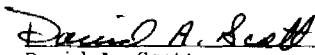
Claren Neal
Board of Labor Appeals
Department of Labor and Industry
P.O. Box 1728
Helena, Montana 59624-1728

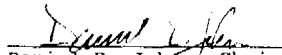
and must be received by no later than 5:00 p.m., May 5, 1995.

4. The Board of Labor Appeals will meet on May 26, 1995, at 10:00 a.m., in the first floor conference room at the Walt Sullivan Building (Dept. of Labor Building), 1327 Lockey Street, Helena, Montana, to consider the comments received concerning the proposed amendments and the response of the Board to those comments, and to decide whether to adopt the proposed amendments. Interested persons are invited to observe the deliberations of the Board.

5. The Board of Labor Appeals proposes to make the amendments effective June 16, 1995, and have the amendments apply to any appeal made on or after that date. The Board reserves the right to make the proposed amendment effective on a different date, or not at all, as the Board deems appropriate.

6. The Hearings Unit of the Legal/Centralized Services Division of the Department of Labor and Industry has been designated to preside over and conduct the hearing.


David A. Scott
Rule Reviewer


Daniel D. Johns, Chair
BOARD OF LABOR APPEALS

Certified to the Secretary of State: March 20, 1995.

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

In the matter of the	)	NOTICE OF PUBLIC HEARING
amendment of Montana's	)	ON PROPOSED AMENDMENT OF
prevailing wage rates,	)	PREVAILING WAGE RATES-
pursuant to ARM 24.16.9007	)	SERVICE OCCUPATIONS

TO ALL INTERESTED PERSONS:

1. On April 21, 1995, at 10:00 a.m., a public hearing will be held in room 104 of the Walt Sullivan Building (Department of Labor and Industry Building), 1327 Lockey, Helena, Montana, to consider proposed amendments to the prevailing wage rate rule, ARM 24.16.9007. The Department proposes to incorporate by reference the 1995 service occupation rates.

The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the Department by not later than 5:00 p.m., April 17, 1995, to advise us of the nature of the accommodation that you need. Please contact the Research and Analysis Bureau, Unemployment Insurance Division, Attn: Ms. Kate Kahle, P.O. Box 1728, Helena, MT 59624-1728; telephone (406) 444-3239; TDD (406) 444-0532; fax (406) 444-2638.

2. The Department hereby proposes to adopt and incorporate by reference the 1995 edition of "State of Montana Prevailing Wage Rates-Service Occupations" which sets forth the service occupation prevailing wage rates. A copy of the proposed prevailing wage rates may be obtained from Kate Kahle, Research and Analysis Bureau, Unemployment Insurance Division, Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624.

AUTH: Sec. 18-2-431 and 2-4-307 MCA

IMP: Sec. 18-2-401 through 18-2-432 MCA

Reason: Pursuant to 18-2-402 and 18-2-411(b)(5), MCA, the Department is updating the standard prevailing wages for service occupations. The Department updates the prevailing wages for these service occupations every two years. Prevailing wages for service occupations were last updated in 1993. Use of prevailing wage rates is required in public contracts by 18-2-422, MCA.

3. Interested parties may submit their data, views, or comments, either orally or in writing, at the hearing. Written data, views, or comments may also be submitted to:

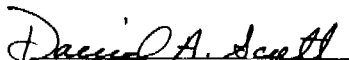
Kate Kahle
Research and Analysis Bureau
Unemployment Insurance Division
Department of Labor and Industry
P.O. Box 1728
Helena, Montana 59624-1728

so that they are received by not later than 5:00 p.m., May 5, 1995.


4. The Department proposes to make these amendments effective July 1, 1995.

5. The Hearings Bureau of the Legal/Centralized Services Division of the Department has been designated to preside over and conduct the hearing.

Laurie Ekanger, Commissioner
DEPARTMENT OF LABOR & INDUSTRY



David A. Scott
Rule Reviewer

By: 

David A. Scott, Chief Counsel
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State: March 20, 1995.

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

In the matter of the proposed	)	SUPPLEMENTAL NOTICE OF PUBLIC
adoption of 15 new rules	)	HEARING ON THE PROPOSED
related to the operation of	)	ADOPTION OF NEW RULES AND
the uninsured employers' fund	)	REPEAL OF AN EXISTING RULE
and the underinsured employers')	
fund, and the repeal of ARM)	
24.29.2801)	

TO ALL INTERESTED PERSONS:

1. On January 26, 1995, the Department published MAR Notice No. 24-29-62 at pages 101 through 108 of the Montana Administrative Register, Issue No. 2, regarding a public hearing to consider the adoption of 15 new rules related to the operation of the uninsured employers' fund and the underinsured employers' fund, and the repeal of ARM 24.29.2801. On February 23, 1995, the Department published notice at page 280 of the Montana Administrative Register, Issue No. 4, that the public hearing was being continued and the comment period was being extended.

2. On April 27, 1995, at 10:00 a.m., a public hearing will be held in the first floor conference room at the Walt Sullivan Building (Dept. of Labor Building), 1327 Lockey Street, Helena, Montana, to consider the adoption of 15 new rules related to the operation of the uninsured employers' fund and the underinsured employers' fund, and the repeal of ARM 24.29.2801.

The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the Department by not later than 5:00 p.m., April 21, 1995, to advise us of the nature of the accommodation that you need. Please contact the Employment Relations Division, Attn: Ms. Linda Wilson, P.O. Box 8011, Helena, MT 59604-8011; telephone (406) 444-6531; TDD (406) 444-5549; fax (406) 444-4140. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Ms. Wilson.

3. The text of the proposed new rules and the proposed repeal can be found at pages 101 through 108 of MAR Issue No. 2, published January 26, 1995. Persons who want a copy of the proposed new rules may obtain a copy by contacting Ms. Wilson at the address or telephone numbers listed in the preceding paragraph.

4. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to:

Dennis Zeiler, Bureau Chief
Workers' Compensation Regulations Bureau
Employment Relations Division
Department of Labor and Industry
P.O. Box 8011
Helena, Montana 59604-8011

and must be received by no later than 5:00 p.m., May 4, 1995.

5. The Department now proposes to make these new rules and repeal effective July 1, 1995. The Department reserves the right to adopt only portions of these proposed rules, or to adopt some or all of the rules at a later date.

Laurie Ekanger, Commissioner
DEPARTMENT OF LABOR & INDUSTRY



David A. Scott
Rule Reviewer

By:



David A. Scott, Chief Counsel
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State: March 20, 1995.

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

In the matter of the	)	NOTICE OF PUBLIC HEARING ON
adoption of Rules I through	)	THE PROPOSED ADOPTION OF
IX pertaining to self-	)	RULES I THROUGH IX
sufficiency trusts	)	PERTAINING TO SELF-
	)	SUFFICIENCY TRUSTS

TO: All Interested Persons

1. On April 19, 1995, at 9:00 a.m., a public hearing will be held in Room 306 of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana to consider the proposed adoption of Rules I through IX pertaining to self-sufficiency trusts.

The Department of Social and Rehabilitation Services will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the department no later than 5:00 p.m. on April 10, 1995, to advise us of the nature of the accommodation that you need. Providing an interpreter for the deaf or hearing impaired may require more time. Please contact Dawn Sliva, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970.

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

[RULE 1] SELF-SUFFICIENCY TRUSTS: PURPOSE (1) These rules provide for the acceptance by the state of monies from a certain type of trust, known as a self-sufficiency trust, to be used to purchase services to supplement the services that a person with a disability receives from the state. These rules also provide for the receipt of donated monies to be used for the purchase of certain human services.

(2) A properly constituted self-sufficiency trust allows a person to obtain additional resources for enhancing the quality of the person's life while maintaining the person's eligibility for certain state funded human services.

(3) These rules are not written to correspond to or to provide guidance concerning any requirements that may be necessary for a trust to be in compliance with state laws relating to trusts or the federal and state tax codes.

(4) The department is not responsible for advising or directing a party in the various legal requirements necessary for the establishment of a trust in relation to state trust law and federal and state tax codes.

AUTH: Sec. 53-18-103 and 53-2-201 MCA
IMP: Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and
53-18-105 MCA

[RULE II] SELF-SUFFICIENCY TRUSTS: DEFINITIONS (1) For the purposes of these rules, the following definitions apply:

(1) "Department funded services" means services and items normally purchased by the department for recipients of its programs. Department funded services are typically provided by a service provider through a contract with the department or by fee reimbursement from the department. The term also includes services provided by a service provider through a contract with the department of corrections and human services or by free reimbursement from the department of corrections and human services.

(2) "Department" means the department of social and rehabilitation services provided for in Title 2, chapter 15, part 22, MCA.

(3) "Person with a disability" means a disabled person as defined at 45 USC 1382c(a)(3) (1995) who has a medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 45 USC 1382c(a)(3) (1995) is a federal statute that is hereby adopted and incorporated herein by this reference. A copy of the cited regulation is available upon request from the Department of Social and Rehabilitation Services, Office of Legal Affairs, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210.

(4) "Beneficiary" means a person who is eligible to be a beneficiary of a self-sufficiency trust as provided in [Rule III].

(5) "Life care plan" means a written plan established to govern the provision of supplemental services purchased with the monies of a self-sufficiency trust.

(6) "Self-sufficiency trust", as defined at 53-18-101(2), MCA, means a trust to benefit a person with a disability established, held and managed by a nonprofit corporation that is a 501(c)(3) organization under the United States Internal Revenue Code of 1954, as amended, and that is organized under the Montana Nonprofit Corporation Act, Title 35, chapter 2, MCA. The corporation must have as one of its principal purposes the use of trust monies for the care and treatment of a person or persons with disabilities who are or could be the recipients of department funded services. The monies of individual self-sufficiency trusts may be pooled together by a nonprofit corporation for management and investment purposes.

(7) "Self-sufficiency trust account" means the account established by the state for the purpose of receiving monies from self-sufficiency trusts for the purchase of supplemental services by the state for eligible beneficiaries.

(8) "Service provider" means a person or corporation that provides department funded services or supplemental services to a beneficiary.

(9) "Special charitable account" means the account within the state's self-sufficiency trust account established for the purpose of receiving charitable donations to fund services for persons who have developmental disabilities, mental illness, and physical disabilities, or who are otherwise eligible for department services, as defined by the department.

(10) "Supplemental services" means services and items that are in addition to the department funded services an eligible beneficiary is receiving from the department.

AUTH: Sec. 53-18-103 and 53-2-201 MCA

IMP: Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105 MCA

[RULE III] SELF-SUFFICIENCY TRUSTS: ELIGIBLE BENEFICIARY

(1) The beneficiary of a self-sufficiency trust must be:

(a) a resident of the state of Montana;

(b) a person with a disability; and

(c) potentially eligible for services provided by the department or for mental health services provided by the department of corrections and human services.

(2) A person of 18 or more years of age has a disability only if the person is unable to engage in any substantial gainful activity due to the disability.

(3) Services provided by the department include:

(a) developmental disabilities services;

(b) vocational rehabilitation services;

(c) independent living services;

(d) severe disabilities services;

(e) weatherization services;

(f) low income energy assistance;

(g) aid for dependent children;

(h) food stamps; and

(i) medicaid services.

AUTH: Sec. 53-18-103 and 53-2-201 MCA

IMP: Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105 MCA

[RULE IV] SELF-SUFFICIENCY TRUSTS: QUALIFYING TRUSTS

(1) To qualify as a self-sufficiency trust, an individual trust must meet the following criteria:

(a) The individual trust must be established and managed by a nonprofit corporation which has as one of its principal purposes the use of trust monies for the care and treatment of a person or persons with disabilities who are or could be the recipients of state funded services;

(b) The individual trust must be for the sole benefit of a person or persons with disabilities who are or could be the recipients of the state funded services listed in [Rule III(3)];

(c) The individual trust must be funded by the beneficiary, by a parent, grandparent or legal guardian of the beneficiary, or at the direction of a court;

(d) The individual trust must provide that the trust monies may only be expended on supplemental services;

(e) The individual trust must provide that upon the death of the beneficiary the state be reimbursed, to the extent the monies remaining in the trust allow, an amount equal to the total cost to the state of providing medicaid services to the beneficiary;

(f) The individual trust must provide that upon the death of the beneficiary, in accordance with IRS codes, rulings and interpretations, monies are donated from the remainder of the trust to the special charitable account as described in [Rule VII];

(g) The expenditure of monies from the individual trust on behalf of a beneficiary must be governed by a life care plan approved by the department in accordance with [Rule V]; and

(h) The individual trust must be established in accordance with state laws governing trusts and with relevant federal and state tax codes, rulings and interpretations.

AUTH: Sec. 53-18-103 and 53-2-201 MCA

IMP: Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105 MCA

(RULE V) SELF-SUFFICIENCY TRUST: LIFE CARE PLAN APPROVAL AND PAYMENT (1) A life care plan must include:

(a) the name and address of the beneficiary;

(b) a description of the specific supplemental services to be purchased;

(c) the amount of the supplemental services to be purchased;

(d) the amount of money available to purchase the supplemental services; and

(e) any other information necessary for the department to be able to decide whether it is feasible to purchase the specified supplemental services.

(2) A life care plan must meet the following criteria in order to be approved by the department:

(a) The supplemental services specified in the plan must be currently available and can be reasonably expected to be available for the beneficiary when necessary;

(b) The supplemental services specified in the life care plan can be purchased in a manner consistent with the practices of the department;

(c) The beneficiary's trust account must have sufficient monies over the term of the plan to fund the supplemental services to be purchased under the plan; and

(d) The services and items specified in the plan are supplemental services as defined in [Rule II].

(3) The department will notify the self-sufficiency trust corporation of the department's decision to approve or disapprove a life care plan.

(4) The self-sufficiency trust corporation must provide the department with a payment schedule by which the monies necessary for the reimbursement of the cost of the supplemental services specified in the plan will be deposited to the state's self-sufficiency trust account so as to provide payments for the purchase of the services.

(5) The department will not approve the life care plan for a person who is or could be eligible for state funded mental health services unless the department of corrections and human services approves the plan and is committed to managing the delivery of the supplemental services specified in the plan.

AUTH: Sec. 53-18-103 and 53-2-201 MCA

IMP: Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105 MCA

(RULE VI) SELF-SUFFICIENCY TRUST: LIFE CARE PLAN IMPLEMENTATION (1) The department manages the purchase and delivery of the supplemental services specified in an approved life care plan.

(2) The department may contract with a service provider to manage on behalf of the department the delivery of supplemental services specified in a life care plan.

(3) A contract for the management of the purchase and delivery of supplemental services specified in a life care plan must provide the following:

(a) the name and address of the beneficiary;

(b) the supplemental services to be purchased and delivered;

(c) the amount of money available in the life care plan to purchase the supplemental services;

(d) the types and quantity of the supplemental services to be delivered;

(e) the amount of any reasonable administrative cost the service provider may charge for the management of the purchase and delivery of the supplemental services; and

(f) any other information necessary to secure the purchase and delivery of supplemental services.

(4) Prior to the purchase of a service or item, the money to purchase the service or item must be available in the state's self-sufficiency trust account.

(5) The department reimburses the charges for supplemental services based upon billing provided after the delivery of the services.

(6) The department may terminate the delivery of supplemental services if the amount of funds deposited in the state's self-sufficiency trust account for that particular beneficiary is not sufficient for the management and purchase of the services specified in the life care plan.

(7) A life care plan may be modified only with the written approval of the department.

(8) A self-sufficiency trust desiring to terminate supplemental services must provide the department with written notification 30 days prior to the date when the services are to terminate.

AUTH: Sec. 53-18-101 and 53-2-201 MCA

IMP: Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105 MCA

[RULE VII] SELF-SUFFICIENCY TRUST: SPECIAL CHARITABLE ACCOUNT (1) The special charitable account provides monies to fund services for recipients of the programs of services specified in [Rule III(3)] on an individual or group basis.

(2) The special charitable account is funded with monies donated by individual trust accounts as provided in [Rule IV(1)(f)], by other charitable donations, and by any other permissible means.

(3) The expenditure of monies from the special charitable account is subject to the legislative appropriation process.

(4) Services for a person are provided in accordance with the provisions of a life care plan developed by the department and approved by the special charitable account review board.

(5) The special charitable account review board is a 3 person board appointed by the department director to review and approve proposed life care plans developed by the department to purchase services for persons with funds from the special charitable account and to review and approve other expenditures from the account.

(6) The special charitable account review board consists of the following members:

- (a) a department employee;
- (b) a member of the board of directors of an organization which provides self-sufficiency trust services; and
- (c) an employee of a service provider.

AUTH: Sec. 53-18-101 and 53-2-201 MCA

IMP: Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105 MCA

[RULE VIII] SELF-SUFFICIENCY TRUST: REPORTING REQUIREMENTS

(1) A service provider, managing the purchase and delivery of supplemental services must provide an annual report to the department.

(2) The department must provide an annual report on an active individual self-sufficiency trust to the managing self-sufficiency trust corporation specifying the following:

- (a) the name and address of the eligible beneficiary who received supplemental services;
- (b) a description of the supplemental services provided;
- (c) the amount of the supplemental services provided;
- (d) the cost of the supplemental services provided; and
- (e) information about the impact of the supplemental services on the beneficiary.

AUTH: Sec. 53-18-103 and 53-2-201 MCA

IMP: Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105 MCA

[RULE IX] SELF-SUFFICIENCY TRUST: STATE SELF-SUFFICIENCY TRUST ACCOUNT

(1) Monies of a self-sufficiency trust, in order to be expended by the state, must be transferred to the department for deposit to the state self-sufficiency trust account.

(2) Monies from a self-sufficiency trust received by the department are deposited in the state's self-sufficiency trust account. The monies for each beneficiary are individually accounted for in the trust account.

(3) The department must return monies to a self-sufficiency trust along with any interest earned on the monies if the department is unable to obtain the supplemental services specified in the life care plan and the life care plan is not revised.

(4) The department must disburse monies from the special charitable account in the self-sufficiency trust account in accord with the appropriation process and the direction of the special charitable account review board.

AUTH: Sec. 53-18-103 and 53-2-201 MCA

IMP: Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105 MCA

3. A person who is a recipient of certain state funded human services as presented in proposed [Rule III] or certain other persons and entities may establish a trust which provides monies for the cost of services that are in addition to the state funded services then available to the person. This type of trust is commonly referred to as a self-sufficiency trust. The trust must be held and managed by a nonprofit corporation that has as its principal purpose responsibility for self-sufficiency trusts.

The Legislature at 53-18-101, MCA et seq. has provided that a recipient of certain state funded human services as presented in proposed [Rule III] may receive additional services funded with the monies of a self-sufficiency trust without being disqualified for the state funded services due to the expenditure of the monies. The additional services must be purchased through the state programs of human services. Federal law governing eligibility for the medicaid program at 42 USC §1396p(d)(4)(C) also provides that a person may be eligible for medicaid services even though receiving additional services funded by a self-sufficiency trust.

The proposed rules generally are necessary to implement state law at 53-18-101, MCA et seq. The rules establish the criteria to govern the establishment of self-sufficiency trusts for state law purposes and provide procedures and criteria for the purchase and management by the state of services and items funded through a self-sufficiency trust. In addition the rules provide for the state to accept donated monies to be used for the development of services for recipients of certain state funded services.

Proposed [Rule I], "Purpose", is necessary to inform the public of the purpose of the rule set and to inform persons establishing self-sufficiency trusts of the limitations upon the scope of the rules.

Proposed [Rule II], "Definitions", is necessary to provide definitions to insure common understanding for key terms in the rules.

Proposed [Rule III], "Eligible Beneficiary", is necessary in that it informs persons of the specific criteria necessary for a person to be the beneficiary of a self-sufficiency trust.

Proposed [Rule IV], "Qualifying Trusts", is necessary in that it states the specific criteria necessary for the establishment of a self-sufficiency trust from which the state will accept monies to fund additional services for a recipient with.

Proposed [Rules V and VI], "Life Care Plan Approval and Payment" and "Life Care Plan Implementation", are necessary to implement 53-18-103, MCA. Proposed [Rule V] is necessary in that it provides the management prescription derived by agreement with the state for the selection and provision of the additional services for a recipient funded with the monies of a self-sufficiency trust. Proposed [Rule VI] is necessary in that it states the means by which the state may purchase or otherwise obtain additional services for a recipient purchased with the monies of a self-sufficiency trust.

Proposed [Rule VII], "Special Charitable Account", implementing 53-18-105, MCA, is necessary to provide a means by which donated monies may be placed into a special state account to benefit recipients of services. The establishment of the special charitable account review process is necessary to provide a process for planning and implementing the delivery of supplemental services funded with donated monies. The establishment of the proposed special charitable account review board is necessary to provide a knowledgeable decision making body that has primary responsibility for planning and directing the expenditure of services purchased with donated monies.

Proposed [Rule VIII], "Reporting Requirements", is necessary to provide a means of tracking the delivery through the state of services funded by self-sufficiency trusts. The requirement will help to assure accountability in the management of service delivery.

Proposed [Rule IX], "State Account", is necessary to provide procedures for the management of monies held in the state's self-sufficiency account.

4. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Russell E. Cater, Chief Legal Counsel, Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, MT 59604-4210, no later than April 27, 1995.

5. The Office of Legal Affairs, Department of Social and Rehabilitation Services has been designated to preside over and conduct the hearing.

Dawn Alva
Rule Reviewer

Russell E. Cater - for
Director, Social and
Rehabilitation Services

Certified to the Secretary of State March 20, 1995.

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

In the matter of the general)	
revision of the rules regarding	)	NOTICE OF
Annual Audited Reports and	)	AMENDMENT
Establishing Accounting Practices)	
and Procedures to be Used in)	
Annual Statements)	

TO: All Interested Persons


1. On February 9, 1995, the State Auditor's Office published a notice of public hearing on proposed amendment of the above-stated rules at page 157 of the Montana Administrative Register, Issue Number 3. The hearing was held on March 1, 1995, at 9:00 a.m. in Helena, Montana.

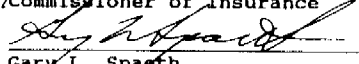
2. The State Auditor's Office has amended the rules (6.6.3505, 6.6.3509, 6.6.3511, and 6.6.4001) exactly as proposed.

3. No comments or testimony were received.

MARK O'KEEFE, State Auditor and
Commissioner of Insurance

BY:


Mark O'Keefe
State Auditor and
Commissioner of Insurance


Gary L. Spaeth
Rules Reviewer

Certified to the Secretary of State this 20th day of March 1995.

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

In the matter of the adoption of)	
new rules implementing	)	NOTICE OF ADOPTION
the Montana life and health)	
insurance guaranty association)	
act and notice concerning coverage)	
limitations and exclusions)	

TO: All Interested Persons.

1. On February 9, 1995, the state auditor and commissioner of insurance of the state of Montana published notice of public hearing with respect to the proposed adoption of new rules implementing the Montana life and health insurance guaranty association act and notice concerning coverage limitations and exclusions. The notice was published at page 152 of the 1995 Montana Administrative Register, issue number 3.

2. Based on the comments and suggestions received, the state auditor and commissioner of insurance adopts proposed rule XI (6.6.4602) with modifications (new material is underlined and deleted material is interlined) and does not adopt proposed rules I through X. An additional new rule XII (6.6.4601) is also adopted.

3. A public hearing on the proposed new rules was held on March 1, 1995. Three interested persons attended the hearing and written comments were received from two others. The agency has fully considered all written and oral submissions respecting the proposed rules and responds as follows:

COMMENTS REGARDING THE RULES:

There were primarily two comments regarding the rules:

COMMENT ONE:

The first comment was a suggestion that since the rules incorporated the substance of the proposed forms, that the forms be adopted by reference and not be included as rules.

RESPONSE: The commissioner adopts this suggestion with the assurance that the form includes the substance of the proposed rules.

COMMENT TWO:

The second comment was a concern on how to administer the requirement of having the policyholder's signature on file and having it be the cover of the policy. Another concern was whether the commissioner had the authority to mandate the use of the form.

RESPONSE: The commissioner accepts this suggestion and amends proposed rule XI to exclude the requirement. While the commissioner accepts the suggestion, it is unnecessary to respond to whether he has the authority but will reiterate that the commissioner does have such authority, and will review the procedures followed in complying with Section 33-10-210, MCA, before mandating any further requirements.

RULE XI (6.6.4602) POLICY DISCLOSURE NOTICE DELIVERY (1) ~~The insurer or insurance producer must give a separate written notice in addition to the notice provided under rules I through X prior to or at the time of delivery that clearly and conspicuously discloses that a policy or contract described in Section 33-10-201(4), MCA and excluded under 33-10-201(6), MCA is not covered by the life and health insurance guaranty association.~~

~~(2) The form and content of the Notice should be as follows:~~

IMPORTANT NOTICE CONCERNING YOUR POLICY OR CONTRACT

~~The Montana Life and Health Guaranty Association Act (MCA section 33-10-201 et seq.) created an Association to protect policyowners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations and exclusions, against failure by an insurance company in the performance of contractual obligations due to its financial impairment.~~

~~COVERAGE IS NOT PROVIDED BY THE MONTANA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION FOR YOUR POLICY OR CONTRACT OR ANY PORTION OF IT UNDER WHICH THE RISK IS BORNE BY YOU, THE POLICYHOLDER.~~

~~The issuing insurer is required to supply this written Notice to you by the Montana State Insurance Commissioner:~~

~~State of Montana Department of Insurance
Sam W. Mitchell Building
P.O. Box 4009
Helena, Montana 59604-4009
(406) 444-2040
1-800-332-6148~~

~~(3) The notices shall be delivered where appropriate to the policy, certificate, or contract holder, shall be the cover sheet of any policy or contract delivered, and the insurer or insurance producer must retain in policy file a duplicate original of the signed notice.~~

AUTH: 33-10-210 MCA IMP: 33-10-210 MCA

NEW RULE XII (6.6.4601) APPROVAL OF NOTICE (1) The commissioner hereby adopts, by reference, the form of the notices that must be provided pursuant to 33-10-210(3) and 33-10-210(5), MCA. Copies of such notices may be obtained from either the Commissioner of Insurance, State of Montana Insurance Department, P.O. 4009, Helena, Montana 59604-4009 or the Montana Life and Health Insurance Guaranty Association, P.O. Box 541, Helena, Montana 59624.

AUTH: 33-10-210 MCA

IMP:

33-10-210 MCA

MARK O'KEEFE
State Auditor

By:


GARY L. SPAETH
Rules Reviewer

Certified to the Secretary of State this 20th day of March 1995.

BEFORE THE BOARD OF ALTERNATIVE HEALTH CARE
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment)	NOTICE OF AMENDMENT OF
of a rule pertaining to required))	8.4.507 REQUIRED REPORTS,
reports and the adoption of new)	AND THE ADOPTION OF NEW
rules pertaining to VBAC)	RULES PERTAINING TO VBAC
deliveries and management of)	DELIVERIES AND MANAGEMENT
infectious waste)	OF INFECTIOUS WASTE

TO: All Interested Persons:

1. On November 23, 1994, the Board of Alternative Health Care published a notice of public hearing on the proposed amendment and adoption of the above-stated rules at page 2998, 1994 Montana Administrative Register, issue number 22. The hearing was held on December 21, 1994.

2. The Board voted NOT to amend ARM 8.4.507 as proposed and NOT to adopt proposed new rule I. The Board voted to adopt new rule II (8.4.304) exactly as proposed.

3. The Board accepted written comments through 5:00 p.m. December 21, 1994. The Board has thoroughly considered all comments and testimony received. Those comments, in summary form, and the Board's responses follow:

ARM 8.4.507

COMMENT NO. 1: Three comments were received stating opposition to the use of non-licensed birth assistants, who will be performing duties similar to nursing duties, as there will be no assurance to the public that they are capable, educated or trained in these duties. The duties could possibly be construed as practicing nursing without a license.

RESPONSE: Due to an obvious misperception of the Board's intent, which was to control the use of "assistants" so nursing and direct entry midwife duties **were not** performed by these people, the Board will **withdraw** the proposed rule amendment and leave "assistants" with no guidance from the Board. The Board will instead rely on current statutory language which only allows a licensed direct entry midwife to advise, attend or assist a pregnant woman, not an "assistant."

COMMENT NO. 2: Two comments were received stating general opposition to all language in the rule pertaining to the services of non-licensed birth assistants.

RESPONSE: See Response to Comment No. 1 above.

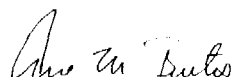
New Rule I. Vaginal Birth After Cesarean (VBAC) Deliveries

COMMENT NO. 3: Forty-five separate comments, summarized in 16 comments, were received stating various reasons in opposition to the proposed new rule on VBAC deliveries.

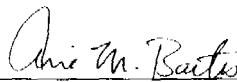
RESPONSE: The Board will withdraw New Rule I due to opposition, and the Board's concerns, but will later propose a VBAC rule under the current high risk transfer or consultation rules, as there are no current regulations in place on VBAC at home by direct entry midwives at all. Since licensees are therefore currently allowed to perform VBAC deliveries without any Board guidance or regulation, the Board will continue to attempt to study the issue and respond to a national trend to allow VBAC at home. The Board will review all articles and information submitted in response to the previous proposed new rule, and will implement some regulation on this issue to better protect the public.

BOARD OF ALTERNATIVE HEALTH CARE
MICHAEL BERGKAMP, N.D., CHAIRMAN

BY:



ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE



ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 20, 1995.

BEFORE THE BOARD OF COSMETOLOGISTS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT OF
of a rule pertaining to fees) 8.14.814 FEES - INITIAL,
) RENEWAL, PENALTY AND REFUND
) FEES

TO: All Interested Persons:

1. On February 9, 1995, the Board of Cosmetologists published a notice of public hearing on the proposed amendment of the above-stated rule at page 160, 1994 Montana Administrative Register, issue number 3. The hearing was held on March 2, 1995, at 9:00 a.m., in Helena, Montana.

2. The Board has amended the rule exactly as proposed.

3. Comments were received by the Board through 5:00 p.m., March 9, 1995. The Board has thoroughly considered all comments and testimony received. Those comments, in summary form, and the Board's responses thereto follow:

Oral and Written Comments submitted at the March 2, 1995, hearing.

COMMENT NO. 1: Don Henderson of Great Falls, licensed cosmetologist and salon owner, opposed the proposed fee increase. He questioned whether the costs in administration of the program had increased in relation to the proposed fee increases, which he calculated to range from 40 percent to 250 percent. He questioned the efficacy of the Board's inspection function as it relates to public health, stated that cosmetologists have a lot of restrictions on them, and stated that tattoo artists are not licensed; yet present a higher risk with regard to human blood exposure as compared to someone who cuts your hair. He stated a preference for less government and suggested that the examination of applicants for licensure by the Board was an ineffective method. Finally, he stated that licensees needed a Board that is responsible and responsive to the needs of licensees and the needs of the public and to look at ways to reduce costs instead of raising the fees.

RESPONSE: The Board notes Mr. Henderson's overall opposition to the fee increase and declines to withdraw the notice of proposed rule amendment. The proposed fee increases range from 25 percent to 150 percent. The largest increase affects the examination fee. The increase in the number of applicants for examination have made it necessary to administer the examination in two facilities as no single facility could continue to hold all examinees. The increase in the number of salon applications has placed an additional burden on the administration of the program, including the processing of salon applications and the initial inspection of salons. The Legislature has placed the responsibility to protect the health, safety and welfare of the public with the Board by requiring that the Board administer exams, promulgate sanitation rules,

and conduct annual inspections. It is within the discretion of the Legislature to license tattoo artists as well as cosmetologists--that tattoo artists are not licensed is beyond the Board's control. The recent recommendation of the Governor's Task Force to Renew State Government was to keep the Board of Cosmetology intact.

The Board has previously considered alternatives to the examination process, including the hiring of private examiners. Whether this would result in savings to the Board is yet to be determined. The Board will continue to assess ways of reducing costs related to the examination process as well as the overall administration of the program.

COMMENT NO. 2: Darlene Battaiola, licensed cosmetologist and school operator from Butte, stated that the fee increase would affect students more adversely than licensed practicing cosmetologists because students can least afford it. She stated that the highest percentage of increase proposed were those fees affecting students. She further commented on the "vicious circle" of lowering and raising fees. She stated her observation that when the Board has a surplus of funds in its budget that it is compelled to lower fees to use up the residual funds until the fees must be increased at the point the Board has little or no money on which to operate. She stated that this indicated lack of budget planning on the part of the Department.

The Hearing Examiner asked Ms. Battaiola if she would support an increase in the fees for other licensees to offset any lowering of fees the Board may consider for the students. She responded that percentage-wise, the students are faced with a 200 percent increase whereas licensees who are out working are only facing a 50 percent increase.

RESPONSE: See response to Comment #1 with regard to the percentage increase in fees. The Board agrees that more fees are imposed upon students, but that this is unavoidable. The fees assessed at renewal time reflect the costs of processing a renewal application. The fees assessed to a student are necessarily higher as the student must register as a student, apply for the examination, obtain a manager-operator license, and if desired, obtain a temporary license pending successful completion of the examination. The Board notes that students must pay tuition to go to school which is a similar, necessary expense to become a cosmetologist. The Board declined to raise fees for the nonstudent category in an attempt to decrease costs to students.

With regard to the raising and lowering of fees, the Board last raised fees in 1984, which resulted in an accumulation of a cash balance in excess of that recommended by the Department of Commerce. Statutorily, the Board may lower fees to address such an excess, and did so in 1988, 1989 and 1990. The complexity of the budget process is made no easier by the fact that budgets include projections into the future. This fee increase attempts to raise the fees no more than is necessary

to fall within the appropriation requested for FY 96 and 97 as submitted to the 1995 Legislature.

COMMENT NO. 3: Farrell Griffin, licensed cosmetologist and school owner and operator from Billings, opposes the fee increase. He stated that the proposed increase in fees is not consistent with the costs of the Board doing business. He stated that some of the fees appear to be increased arbitrarily. He expressed his concern that the Board has not provided a satisfactory answer to how the proposed fees are commensurate with costs.

RESPONSE: See response to Comment #1.

COMMENT NO. 4: LaVonne Maltby commented in opposition of the proposed fee increase. She suggested a cost-saving measure whereby schools would conduct examinations in lieu of State Board examiners. She noted that the current system of examination require the Board to pay per diem to the examiner as well as the cost of renting the test facility. She suggested that this would eliminate the cost students and inspectors incur to travel to the exam.

RESPONSE: The Legislature has deemed the Board of Cosmetologists the appropriate entity to prescribe rules for the qualification and examination of applicants for licensure to meet the goal of protection of the public health, safety, and welfare. The Board responds that placing the responsibility to conduct examinations in the hands of the schools creates conflicts of interest, potential bias and unfairness, and lack of consistency and declines to change the proposed amendment to increase fees. However, the Board will continue to consider alternatives and or adjustments to the current system.

COMMENT NO. 5: Brenda St. Clair, Administrative Officer for the Professional and Occupational Licensing Bureau, presented a projected cash balance sheet based on the proposed fee increases. The projections reflect the appropriation for fiscal year 1995 as set by the 1993 Legislature and the projections for fiscal years 1996 and 1997, as will be submitted to the 1995 Legislature. The total revenue projected to be collected in FY 96 and FY 97 with the new fees is lower than the total requested budget appropriation for FY 96 and 97, which would have the effect of maintaining a low cash balance.

RESPONSE: None.

COMMENT NO. 6: A petition was received in the office on March 1, 1995, which stated as follows:

"We are opposed to the proposed raise in cosmetology licensing fees for the following reasons:

Montana's low population does not warrant a seven member board. The board members should be qualified to conduct the examinations. Most salons are not being inspected on a yearly basis; so one inspector could easily be eliminated."

The petition contained the signatures of 31 licensed cosmetologists and 156 customers.

RESPONSE: The Board notes that the comment makes no specific proposal to change the proposed fee increase other than to keep the fees the same. The Board declines to withdraw the proposed rule amendment. Any change to the composition of the Board would require a legislative amendment to section 2-15-1857, MCA. Currently, Board members assist as proctors at examinations. The testing of candidates by Board members is an option that the Board will consider. The Board further responds that section 37-31-312, MCA requires annual inspections. That salons are not inspected on a yearly basis has been related to under staffing. The addition of one inspector was necessary to address the statutory requirement to inspect annually as well as to inspect new salons.

COMMENT NO. 7: Marguerite Harsha, of Marguerite's Beauty Salon in Billings, offered written testimony received in the office on February 16, 1995. The letter states:

"I do feel that your fees have been far too generous for us, the cosmetologists. Over the years, the price of everything else has gone up so I support the raise in fees."

RESPONSE: None.

Written comments submitted prior to 5:00 p.m., March 9, 1995.

COMMENT NO. 8: Three individuals, Gaylord E. Henderson, Sharon L. Uhl, and Gail Johnson, submitted a written statement against the proposed amendment of ARM 8.14.814.

RESPONSE: See response to Comments #1, 2, 4, & 6.

COMMENT NO. 9: Joe Hrella, salon owner; Robin Burke, stylist; David Brown, salon owner; Janette Stubbs, stylist; and Angel Barham, stylist; all from Hair Hair The Salon, signed written statements to oppose any increase in licensing fees.

RESPONSE: See response to Comment #8.

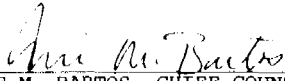
COMMENT NO. 10: Martin Andrews, cosmetologist wrote that he doesn't understand the role of the Board of Cosmetologists, other than to examine students. This duty could be turned over to the schools in his opinion. He stated that inspectors are supposed to protect the public health, but only check for general cleanliness. The rules requiring dust free towel

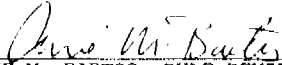
cabinets and self closing doors is stupid and a waste of money. He states that the general public can police themselves and that if a salon is unclean that the public can choose whether to frequent that salon.

RESPONSE: Section 37-31-204, MCA requires the Board to prescribe sanitary rules it considers necessary, with particular reference to the precautions necessary to be employed to prevent the creation and spread of infectious and contagious diseases. The Board is currently in the process of revising its sanitation rules. The public will be noticed of the proposed rule changes and invited to comment on those changes.

BOARD OF COSMETOLOGISTS
MARY L. BROWN, CHAIRMAN

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE
Department of Commerce


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 20, 1995.

BEFORE THE BOARD OF PLUMBERS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF AMENDMENT AND
of rules pertaining to defini-	)	ADOPTION OF RULES PER-
tions, applications, examina-	)	TAINING TO THE PLUMBING
tions, renewals, journeyman	)	INDUSTRY
working in the employ of master,)	
registration of business name,)	
and fees, and the adoption of)	
new rules pertaining to quali-)	
fications for journeyman, master)	
and out-of-state applicants)	

TO: All Interested Persons:

1. On December 22, 1994, the Board of Plumbers published a notice of proposed amendment and adoption of rules pertaining to the plumbing industry at page 3118, 1994 Montana Administrative Register, issue number 24.

2. The Board has amended and adopted the rules exactly as proposed. The new rules will be numbered as follows: I (8.44.413), II (8.44.414) and III (8.44.415).

3. Written comments were accepted through January 19, 1995. The Board has thoroughly considered all comments received. Those comments, in summary form, and the Board's responses follow:

COMMENT NO. 1: One comment was received stating agreement with the proposed changes, and stating the plumbing work done on Montana construction projects must be done by master plumbers licensed by the state, who are responsible for the quality and correctness of the plumbing to safeguard the public.

RESPONSE: The Board acknowledges receipt of the comment and thanks the author for his support of the proposed rules.

COMMENT NO. 2: One comment was received stating the loaning or selling of master plumber licenses to others has to be stopped, as it undermines the state statutes and local businesses throughout Montana, and the proposed rules will accomplish this.

RESPONSE: The Board acknowledges receipt of the comment and thanks the author for his support of the proposed rules.

BOARD OF PLUMBERS
RICHARD H. GROVER, CHAIRMAN

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

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 20, 1995.

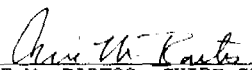
BEFORE THE BOARD OF REALTY REGULATION
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF AMENDMENT OF
of rules pertaining to license	)	8.58.419 GROUNDS FOR
discipline, application for	)	LICENSE DISCIPLINE -
licensure and discipline of	)	GENERAL PROVISIONS -
property management licensees	)	- UNPROFESSIONAL CONDUCT,
	)	8.58.702 APPLICATION FOR
	)	LICENSURE AND 8.58.714
	)	GROUNDS FOR DISCIPLINE OF
	)	PROPERTY MANAGEMENT
	)	LICENSEES - GENERAL PRO-
	)	VISIONS - UNPROFESSIONAL
	)	CONDUCT

TO: All Interested Persons:

1. On January 12, 1995, the Board of Realty Regulation published a notice of proposed amendment of the above-stated rules at page 5, 1995 Montana Administrative Register, issue number 1.
2. The Board has amended the rules exactly as proposed.
3. No comments or testimony were received.

BOARD OF REALTY REGULATION
STEVE CUMMINGS, CHAIRMAN

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


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 20, 1995.

BEFORE THE BOARD OF MILK CONTROL
OF THE STATE OF MONTANA

In the matter of proposed) NOTICE OF AMENDMENT
amendments to several rules:)
rule 8.86.502 as it relates to)
initial determination of quota;))
rule 8.86.505 as it relates to)
quota adjustment; rule 8.86.511))
as it relates to pooling plan)
definitions; rule 8.86.513 as)
it relates to computation of)
quota and excess prices; rule)
8.86.515 as it relates to)
payments to pool dairymen.) DOCKET #22-95

TO: ALL LICENSEES UNDER THE MONTANA MILK CONTROL ACT
(SECTION 81-23-101, MCA, AND FOLLOWING), AND ALL INTERESTED
PERSONS:

1. On February 9, 1995, the Board of Milk Control published notice of proposed amendments to: rule 8.86.502(1), concerning initial determination of quota; rule 8.86.505(1)(c)(iv), (v) concerning quota adjustment; rule 8.86.511(1)(i), concerning pooling plan definitions; rule 8.86.513(1)(a), (d) and (f), concerning computation of quota and excess prices; and rule 8.86.515(1)(b), concerning payments to pool dairymen. Notice was published at page 162 of the 1995 Administrative Register, issue no. 3, as MAR NOTICE 8-86-51.

2. The Board has amended the rules as proposed.

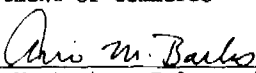
AUTH: 81-23-302, MCA

IMP: 81-23-302, MCA

3. No comments or testimony were received.

MONTANA BOARD OF MILK CONTROL
MILTON J. OLSEN, Chairman

By: 
Andy J. Poole, Deputy Director
Department of Commerce

By: 
Annie M. Bartos, Rule Reviewer
Commerce Chief Legal Counsel

Certified to the Secretary of State March 20, 1995.

BEFORE THE DEPARTMENT OF
FAMILY SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption)	NOTICE OF ADOPTION OF RULE I
of Rule I and the amendment of)	AND THE AMENDMENT OF RULE
Rule 11.12.101 pertaining to)	11.12.101 PERTAINING TO
definitions and medical)	DEFINITIONS AND MEDICAL
necessity requirements of)	NECESSITY REQUIREMENTS OF
therapeutic youth group homes)	THERAPEUTIC YOUTH GROUP
)	HOMES

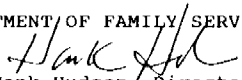
TO: All Interested Persons

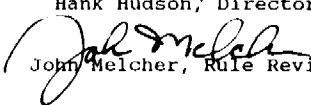
1. On January 26, 1995, the Department of Family Services published notice of the proposed adoption of Rule I [11.13.101] and the amendment of Rule 11.12.101 pertaining to definitions and medical necessity requirements of therapeutic youth group homes at page 95 of the 1995 Montana Administrative Register, issue number 2.

2. The department has amended 11.12.101 and adopted Rule I (11.13.101) as proposed.

3. No comments were received.

DEPARTMENT OF FAMILY SERVICES


Hank Hudson, Director


John Melcher, Rule Reviewer

Certified to the Secretary of State, March 20, 1995.

BEFORE THE DEPARTMENT OF
FAMILY SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment)	NOTICE OF AMENDMENT OF RULE
of Rule 11.14.401 pertaining)	11.14.401 PERTAINING TO
to family day care home)	FAMILY DAY CARE HOME
provider responsibilities and)	PROVIDER RESPONSIBILITIES
qualifications.)	AND QUALIFICATIONS

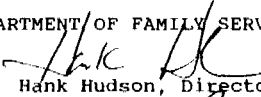
TO: All Interested Persons

1. On January 26, 1995, the Department of Family Services published notice of the proposed adoption of Rule 11.14.401 pertaining to family day care home provider responsibilities and qualifications at page 91 of the 1995 Montana Administrative Register, issue number 2.

2. The department has amended the rule as proposed.

3. No comments were received.

DEPARTMENT OF FAMILY SERVICES


Hank Hudson, Director


John Melcher, Rule Reviewer

Certified to the Secretary of State, March 20, 1995.

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

In the matter of the amendment of)	
rules 16.24.406 through 16.24.417)	NOTICE OF REPEAL AND
and repeal of 16.24.418 regarding)	AMENDMENT OF RULES
health standards for operating day)	PERTAINING TO DAY CARE
care centers)	CENTERS

1. On December 22, 1994, the department published a notice of public hearing on the above-stated proposed repeal of rule and amendment of rules at page 3158 of the 1994 Montana Administrative Register, issue number 24.

2. The department has repealed rule 16.24.418 as proposed.

3. The department has amended the rules as proposed with the following changes (new material is underlined, material to be deleted is interlined):

16.24.406 DEFINITIONS (1)-(3) Same as proposed.

(4) "Health care provider" means a physician, a physician assistant-certified, a nurse practitioner, or a registered nurse practicing within the scope of his/her license.

(4)-(11) Same as proposed but renumbered (5)-(12).

16.24.407 SOLID WASTE (1)(a)-(c) Same as proposed.

(d) transport or utilize a private or municipal hauler to transport the solid waste at least weekly to a ~~landfill site~~ solid waste facility approved by the department in a covered vehicle or covered containers.

16.24.408 LAUNDRY (1)(a)-(b) Same as proposed.

(c) machine wash all laundry at a minimum initial water temperature of ~~130°F~~ 140°F and a minimum time of 8 minutes, and dry all laundry in a hot air tumble dryer vented to the outside of the building;

(d)-(e) Same as proposed.

16.24.409 GENERAL HOUSEKEEPING (1)(a)-(e) Same as proposed.

(f) at the end of each day week of use, or more frequently as needed, toys are cleaned and sanitized in a solution containing ~~50~~ 100 ppm available chlorine (~~1/8~~ 1/4 cup household bleach to 1 gallon of water) or a comparable sanitizing solution, air dried after sanitizing, rinsed with clean water after the first air drying step, and air dried again;

(g)-(h) Same as proposed.

(i) cleaning devices for toilets, sinks, and tubs are kept separate from each other, and cleaning devices used on toilet bowls, toilet seats, or urinals, are not used for any other purpose and are kept out of the reach of children;

- (j) Same as proposed.
- (k) cleaning compounds and pesticides are stored separately and out of the reach of children, used, and disposed of in accordance with the manufacturer's instructions.

16.24.410. SPECIAL REQUIREMENTS FOR CHILDREN REQUIRING CRIBS OR DIAPERS (1) If a day care center cares for children requiring cribs or diapers, it must:

(a) ensure that cribs, playpens, and toys used by those children are made of washable, nontoxic materials and are kept clean and sanitized with a solution containing at least 50 ~~100~~ ppm chlorine (~~1/8~~ 1/4 cup household bleach to 1 gallon water) or equivalent sanitizing solution, air dried, rinsed with clean water after the first air drying step, and air dried again. This must be done daily;

(b) Same as proposed.

(c) have adequate facilities to bathe such children when necessary that are separate from food service, food preparation, and play or sleeping areas;

(d) handle diapers in the following manner:

(i) Same as proposed.

(ii) after each diapering, thoroughly clean and sanitize the diapering area, using a solution of at least 50 ~~100~~ ppm chlorine (~~1/8~~ 1/4 cup household bleach to 1 gallon water) or an equivalent sanitizing solution, air dry, rinse with clean water after the first air drying step, and air dry the area again;

(iii) store soiled diapers in easily cleanable or lined receptacles with tight-fitting lids in an area inaccessible to children; and empty, clean, and wash the receptacles at least daily once per day or more often as needed;

(iv) Same as proposed.

(v) ensure that all staff members who diaper children wash their hands with ~~soap and warm running water~~ immediately after each diapering following the procedures outlined in ARM 16.24.414(7)(c). The hands of the diapered infant must also be washed; and

(vi) equip diapering and toilet areas with a hand washing sink that is separate from the hand washing sink used for food preparation.

(e)-(f) Same as proposed.

16.24.411. SWIMMING POOLS (1) Same as proposed.

(2) In regard to swimming, a day care center must:

(a) Same as proposed.

(b) in the event that a portable wading pool is used, add 1 to 3 ppm chlorine (1 tablespoon household bleach to 100 gallons of water) to the pool on the day of use, drain and clean it at least daily, drain, clean, and refill it with fresh water daily, and refill it with fresh water when needed. Bleach must be added any time the pool is refilled and drained.

(c) provide and utilize each day the pool is used a chlorine test kit to ensure that the required chlorine resid-

ual is present in the pool at all times.

16.24.412 FOOD PREPARATION AND HANDLING (1)-(2) Same as proposed.

(3) A domestic style dishwasher may only be used if it is equipped with a heating element and the following conditions are met:

(a) The dishwasher:

(i) Same as proposed.

(ii) ~~if it uses hot water for sanitization~~, must have water at a temperature of at least ~~155°F~~ 165°F when it enters the machine, ~~if it uses hot water for sanitization~~;

(iii) Same as proposed.

(b) Same as proposed.

(c) If the two-compartment sink is used, all dishware, utensils, and food service equipment are thoroughly cleaned in the first sink compartment with a hot detergent solution that is kept clean and at a concentration indicated on the manufacturer's label, and sanitized in the second compartment ~~by using one of the following methods:~~

~~(i) complete immersion in hot water of not less than 170°F for at least one-half minute and air-drying before they are stored; or~~

~~(ii) immersion in any chemical sanitizing agent that will provide the equivalent bacteriocidal effect of a solution containing at least 50 ppm of available chlorine at a temperature of at least 75°F for one minute, and air-drying before being stored.~~

(4)-(12) Same as proposed.

16.24.413 IMMUNIZATION (1)-(10) Same as proposed.

(11) A child seeking to attend a Montana day care center is not required to have any immunizations which are medically contraindicated. A written and signed statement from a physician that an immunization is medically contraindicated will exempt a person from the applicable immunization requirements of this rule.

(12) A child under 5 years of age seeking to attend a Montana day care center is not required to be immunized against Haemophilus influenza type B if the parent or guardian of that child objects thereto in a signed, written statement indicating that the proposed immunization interferes with the free exercise of the religious beliefs of the person signing the statement.

(13) Same as proposed.

16.24.414 HEALTH SUPERVISION AND MAINTENANCE (1)-(2) Same as proposed.

(3)(a)-(b) Same as proposed.

(c) Children with any of the bacterial infections listed below must be treated with antibiotics for 24 hours before they return to the day care center:

(i)-(iv) Same as proposed.

(v) skin infections such as draining burns or wounds ~~or~~

infected wounds or hangnails.

(d)-(h) Same as proposed.

(4)-(6) Same as proposed.

(7) Every employee, volunteer, or resident at a day care center must:

(a) have an examination for tuberculosis prior to commencing work at the day care center, in conformity with ARM 16.28.1005, and have a re-examination for tuberculosis every year thereafter;

(b) be excluded from the day care center if the person has a communicable disease, ~~or~~ a sore throat or cold, or if the person exhibits any of the symptoms outlined in (3) above for which a child would be excluded;

(c) Same as proposed.

(d) provide documentation of complete measles and rubella immunization and a tetanus and diphtheria booster within the 10 years prior to commencing work, volunteering, or residing at the day care center.

(8) Same as proposed.

16.24.415 NUTRITION (1) Same as proposed.

(2) Each day care center must do the following, with the exception noted in (4) below:

(a) Same as proposed.

(b) serve meals and snacks on, at a minimum, the following schedule to children in attendance:

(i)-(ii) Same as proposed.

(iii) breakfast, before 9:00 a.m., or supper if a child is being cared for in the center at the normal time for those meals and has not otherwise received them.

(c) ensure that each bottle-fed infant from newborn to 1 year of age is held upright during bottle feedings until the child is able to hold the bottle, and that bottles are not propped;

(d)-(f) Same as proposed.

(g) offer drinking water at regular intervals to infants and toddlers and ensure that drinking water is freely available to all children; and

(h) Same as proposed.

(3)-(4) Same as proposed.

16.24.416 WATER SUPPLY SYSTEM Same as proposed.

16.24.417 SEWAGE SYSTEM (1) Same as proposed.

(2) In order to ensure sewage is completely and safely disposed of, a day care center must:

(a) Same as proposed.

(b) if the day care center is not utilized by more than 25 persons daily at least 60 days out of the calendar year, including children, staff, and residents; and an adequate public sewage system is not available; utilize a non-public system whose construction and use meet the standards for such systems set by the local board of health and the construction and operation standards contained in ARM Title 16, chapter

17, subchapter 1, and incorporated by reference in (1) of this rule, with the proviso that the necessary size of the system be determined using a rate of 20 gallons per day per child and per staff member attending the day care center, plus 75 gallons per day per resident.

(3) A day care center must replace or repair a failed system as defined by ARM 16.17.103(6) or the local health code.

4. The department has thoroughly considered all commentary received:

16.24.407 Solid Waste

Comment: (1)(d)--One person commented that the requirement that the waste go to a landfill could be better stated as "a solid waste facility approved by the department." In some areas, wastes go to a transfer station or incinerator rather than a landfill.

Response: The department agrees with this comment and has amended the rule accordingly.

16.24.408 Laundry

Comment: (1)(c)--One person questioned whether there is a public health significance to the water temperature requirement, and felt that heated drying by itself is effective sanitization. In addition, the person asked if 120° would be an adequate water temperature for sanitization.

Another commenter suggested adding "starting" between "minimum" and "temperature" and adding "vented to the outside" after "hot air tumble dryer."

Response: As to the first comment, the department has researched this issue and found the temperature threshold level for effective sanitization is 140°F. Therefore, the rule has been amended accordingly. As for the contention that heated drying by itself is sufficiently effective, the information available to the department indicates otherwise, so a minimum washing temperature is still required.

In response to the second comment, the department has added the language "initial water" to clarify the requirement that the water must meet this temperature as it comes into the machine. In addition, the department accepts the comment regarding venting the machine outside and has amended the rule accordingly.

Comment: (1)(d)--One person commented that bedding and laundry should be defined, and questioned whether the requirement that pillows and blankets must be cleaned between users was necessary.

Response: The department disagrees that these terms need definition, as common usage applies here and felt that the requirement that any bedding used by one child must be laun-

dered before use by another child is necessary to prevent spread of disease.

16.24.409 General Housekeeping

Comment: (1)(e)--One person stated that temperatures should be listed in fahrenheit.

Another person commented that this rule should provide a maximum temperature.

Response: As to the first comment, the department notes that the temperatures are already listed in fahrenheit.

As to the second comment, the department has carefully reviewed the feasibility of including a maximum temperature. While such a maximum temperature is a sound idea, the department recognizes that, while all day care centers have heating systems, not all day care centers have air conditioning. Imposing a maximum temperature in effect means requiring the addition of an expensive cooling system and is likely not justified, so long as the facility is adequately ventilated. Therefore, the department has not amended the rule.

Comment: (1)(f)--One person suggested that this be eliminated because this requirement will result in the elimination of many toys that are difficult to wash, such as wooden blocks, soft toys, and game boards. Also, the additional staff time required to wash toys daily means additional expense, with the likely result that, for financial reasons, centers will use a minimum number of toys. Also, children touch lots of other surfaces such as books, door knobs, shelves, and furniture that are not required to be cleaned daily.

Three persons questioned how soft toys are to be cleaned, as the center cannot be expected to sanitize plush toys daily. Therefore, the rule either should apply only to toys with smooth, hard surfaces or the frequency of cleaning should be lowered to weekly and the rule should direct which types of toys need to be cleaned with the stated solution.

One person stated that sanitizing once a day is ideal but may be excessive.

Another commented that many nationally recognized sources indicate that a chlorine bleach solution of 1:64 or 1/4 cup bleach per gallon of water is standard for proper disinfection, rather than the current language of 1/8 cup. Documentation supporting this statement was submitted. The commenter also indicated this requirement should be changed throughout the rules.

Response: As to the first three sets of comments, the department notes that the intent of the rule amendments was to sanitize toys that younger children put in their mouths. Therefore, the department has amended ARM 16.24.410 to cover this concern by requiring toys used for younger children to be cleaned and sanitized daily, and amended ARM 16.24.409 to require that toys generally must be cleaned and sanitized once a week or more frequently if needed.

As to the last comment, the department agrees that 1/4 cup bleach is an appropriate amount to use, so long as the surface is allowed to air dry, rinsed after that air drying to remove any chlorine residual, and then air dried again. Therefore, the department has incorporated this comment into ARM 16.24.409 with the requirement that the surfaces must be rinsed after sanitization. ARM 16.24.410(1)(a) and 16.24.410(1)(d)(ii) were also amended accordingly.

Comment: (1)(h)(i)--One person stated that the rule should state that the cleaning devices must be kept out of the reach of children.

Response: The department agrees with this comment and has amended the rule accordingly.

Comment: (1)(k)--One person suggested adding "separately" after "stored."

Another person stated that this rule is not clear. If the idea is to keep the chemicals away from children and food preparation areas, manufacturer's instructions may not be specific enough to do so.

Response: As to the first comment, the department agrees and has amended the rule accordingly.

As to the second comment, the department believes that manufacturer's instructions will adequately indicate if the chemicals must be kept away from food contact areas. Also, the food service rules, which have been incorporated by reference in ARM 16.24.412, discuss the storage of chemicals in food preparation areas. In addition, the department did amend the rule to require that the chemicals be kept out of the reach of children. Therefore, no other amendments are believed necessary.

16.24.410 Special Requirements for Children Requiring Cribs or Diapers

Comment: (1)(c)--One person pointed out that "facilities to bathe" could include dishwashing sinks, utility sinks, hand-washing sinks, and hose-down areas and that requiring a sink or bathtub to be dedicated to bathing is not too demanding for a facility of this size.

Response: The department agrees that bathing facilities must be separate and has amended the rule accordingly.

Comment: (1)(d)(i)--One person commented that he was concerned regarding the requirement that diapering be separated from play areas. Some day care centers have a diaper changing area in the play area with the changing table on a counter next to a sink with hot and cold running water.

Response: In response to this comment, the department states that this separation is adequate for the purposes of the

rule. The intent is not to diaper the baby on the floor of the room where other children are playing. So long as there is a distinguishable diaper changing area and children are not playing on or with the changing area, the rule is satisfied. The department does not believe any amendment to the rule language is necessary.

Comment: (1)(d)(iii)--One person requested that the language "at least" be removed.

Response: The department has carefully reviewed this comment and believes amending the language to read "once per day and more often as needed" addresses the commenter's concerns. The rule has been amended accordingly.

Comment: (1)(d)(v)--One person suggested citing the hand-washing practices described in ARM 16.24.414.

Another person suggested adding "and the hands of the diapered infant" after "hands" and before "with soap." Infants have a tendency to contaminate their hands during the diaper change, so the infant's hands should be washed as well.

Response: As to both comments, the department agrees and has amended the rule accordingly.

Comment: (1)(d)(vi)--One person suggested adding "handwash" between "the" and "sink."

Response: The department agrees and has amended the rule accordingly.

16.24.411 Swimming Pools

Comment: (1)--One person commented that this section should be simplified by removing the statement that swimming pool rules can be obtained from two agencies.

Response: The department disagrees that the rule would be simplified by allowing a person to obtain the rules from only one source. In fact, the department believes the amended language may make it easier to obtain the incorporated rules.

Comment: (2)(b)--One person stated that the wording of this rule is poor, as sanitizer should be added any time the pool is refilled and drained, not necessarily just once daily.

Another person commented that effective chlorination of pool water has many variables and one tablespoon of bleach is not enough to bring this water to pool standards. Because of agitation, pH, temperature, and alkalinity factors, a higher dose of at least 3 tablespoons is needed, even though this still does not afford the protection of a constant chlorination process.

Response: As to the first comment, the department agrees and

has amended the rule accordingly.

As to the second comment, the department does not believe that a stronger initial residual chlorine level is necessary so long as the stated amount is present. In response to this comment, however, the department has amended the rule to require that the day care center have a chlorine test kit which is utilized to test the water to ensure that the required residual is present at all times.

16.24.412 Food Preparation and Handling

Comment: One person stated that a facility of this size, serving 25 children or more a few meals a day, should be required to meet all standards for food service establishments, including licensing as a food purveyor. This is because children have more vulnerable immune systems and day care centers are reservoirs of pathogens. This is not a family home-type of day care and as a business it should be held to higher standards.

Response: The department notes that a facility of this size might only serve 13 children, which is the minimum size of a day care center. The department also notes that the centers are required to meet the majority of the food rules which are incorporated by reference. However, day care centers are not currently required to obtain food purveyor licenses to avoid duplicate regulation; that is, the Department of Family Services inspects and licenses these centers and based on that regulation this department is not requiring secondary licensure.

Comment: (3)--One person commented that if the dishwasher requirements of (3) are not met, a commercial set-up should be required.

Another person commented that a pre-scrape and rinse should be required, as should the use of detergent in the first cycle with dry bleach in the second wash cycle as an alternative.

Response: As to the first comment, the department agrees that the intent of the rule is to require a commercial set-up if the requirements of (3) are not met. The rule has been amended to reflect this.

As to the second comment, the department disagrees that these requirements need to be included. ARM 16.10.215(21), incorporated by reference, requires pre-scraping and soaking as necessary to optimize the effectiveness of the mechanical dishwasher used.

Comment: (3)(a)(ii)--One person stated that the temperature requirement of 155° is hazardous and impractical, and that a booster heater or separate heater could be used for sanitizing.

Another person suggested adding "it" after "sanitization", changing 155° to 165°, and adding "manifold" after

"machine."

Response: As to the first comment, the department disagrees that this water temperature is hazardous and impractical. The water goes directly into the machine, not in to the faucets, so no access by humans to the water is possible.

As to the second comment, the department did not agree, because the addition of "it" would be grammatically incorrect. Upon review, the department also agrees that requiring 165°F is appropriate, as the higher temperature provides better sanitization to kill microorganisms. Also, the higher temperature will assist in dissolving dirt and soiling agents from the dishes. Therefore, this comment was accepted and the rule has been amended accordingly. As to the last part of the comment, the department does not believe that adding "manifold" clarifies or betters the rule and has declined the suggested change.

Comment: (3)(c)(i)--One person commented that the temperature requirement of 170° is impractical and a hazard.

Response: The department has agreed with this comment and has amended the rule to require chemical sanitizer in a compartment sink.

Comment: (8)--One person suggested changing "home canned" to "home prepared" or, if the intent is to require compliance with Title 50, Chapter 31, MCA, nothing further needs to be said because neither home-canned nor home-prepared foods are allowed.

Response: The department disagrees with this comment. Home canned food is not allowed but food should be allowed to be prepared in a day care center so long as its preparation complies with the food service requirements of those rules.

Comment: (9)--One person pointed out that the new FDA Food Code sets the internal temperature minimum at 41°, so this should be used in place of 45°.

Response: The department disagrees that the internal temperature should be lowered. At this time, the Food Code has not been adopted and in order to maintain consistency with current rules the current temperature will be retained.

16.24.413 Immunization

Comment: (1)--Two commenters stated that ACIP recommendations should be incorporated into these rules, which would modify the required numbers of polio doses by 7 months of age and by 16 months of age to a total of 3, and gives the third polio dose with the other #3 boosters at 6 months of age.

Response: The department has reviewed these comments and notes that the American Academy of Pediatrics Red Book pro-

vides that the third polio vaccination can be given any time between 6-18 months provided that the child has had the first 2 vaccinations in 2 month increments prior to receiving the third vaccination. Therefore, the suggested change has not been accepted in order to provide maximum flexibility.

Comment: (4)--One person stated that requiring a Montana certificate of immunization is too restrictive, in part because people from out of state will not have this for their children. Another commenter suggested including the new additional language and retaining the current rule language as well. Requiring only the form HES-101 is a barrier, and other proofs of immunization, currently accepted, should still be allowed.

Response: The department disagrees that this rule is too restrictive. ARM 16.24.414(2) requires that a parent or guardian provide a day care center with a health record form documenting the results of a current health assessment performed by a physician licensed to practice in Montana. At the time of that health assessment, the HES-101 form can be completed.

Comment: (6)--One person requested deletion of the provision that Hib vaccine not be administered to children 5 years of age and older.

Response: The department has not established any reason to delete this rule and has not accepted the comment.

Comment: (11)--One person suggested deleting the word "Montana" modifying "day care center".

Response: The department agrees and has amended the rule accordingly.

Comment: (12)--One person again suggested deleting the word "Montana" before "day care center".

One person stated that no religious exemption should be allowed for the Hib vaccine because day care is not mandatory and those parents who choose not to vaccinate their kids put others at risk.

Two commenters stated that religious exemptions should be allowed for all immunizations, that there is an allowance for the Hib vaccine and all others should be included, and that, if children with HIV are allowed in the center, unvaccinated children should also be allowed.

Response: As to the first comment, the department agrees and has amended the rule accordingly.

As to the second and third comments, the department notes that the legislature has specifically stated that a religious exemption for vaccination against Hib must be allowed under these rules at 52-2-735(1), MCA. However, no

other provision for religious exemptions was provided for by the legislature, casting doubt on the department's authority to extend the religious exemption option to other types of vaccination; in addition, public health considerations -- the fact that vaccination is not 100% protection from disease and that unvaccinated youngsters increase the risk to their playmates -- indicate a religious exemption should not be allowed. Therefore, no expansion of the religious exemption was made.

Comment: One person stated that the immunization requirements should be checked by a registered county nurse rather than a sanitarian, since immunizations are within the scope of a nurses' expertise.

Response: The department notes this comment but also recognizes that not all counties have county nurses and therefore declines to accept this comment.

16.24.414 Health Supervision and Maintenance

Comment: (2)--One person stated that rules addressing the exclusion of sick children from the day care center are needed and appreciates their inclusion in the rules and that they should apply to family and group day care facilities as well.

Response: The department appreciates this comment. As to the requirement that these rules apply to family and group day care homes, the department notes that it has rulemaking authority only for day care centers and cannot promulgate rules in the other care settings.

Comment: (3)(c)(v)--One person suggested modifying the language to read "skin infections such as draining burns or infected wounds", since many small wounds do not need to be treated with antibiotics.

Response: The department agrees and has amended the rule accordingly, including the language regarding infected hangnails.

Comment: (3)(d)--One person questioned whether a parent should have to bring a signed evaluation by a health care provider to prove that a child's generalized rash has been evaluated.

Response: The department has reviewed this comment and does not believe that it is appropriate for the department to define what proof a day care provider must obtain in this situation.

Comment: (3)(g)--One person requested a definition of "health care provider."

Response: The department agrees that providing a definition

is appropriate and has amended ARM 16.24.406 accordingly.

Comment: (7)(a)--Two people suggested amending this to read "have an examination for tuberculosis within 10 days of commencing work" because requiring the test prior to employment makes it difficult to provide substitutes to work in a child care setting and may result in a center program operating without adequate staff.

One person stated that not all volunteers should be required to have an examination for tuberculosis or required immunization documentation. Also, the term volunteer needs parameters; for example, parents or students that happen into a day care for whatever capacity should not have to meet the requirement. Finally, the language "regularly scheduled" should be added to modify "volunteer".

One commenter pointed out that, while each person working in the day care center must have a TB examination prior to commencing work, there is no requirement for any further testing. Because an initial TB infection results in more serious outcomes in infants and young children, re-examination of workers should be required; therefore "and be re-examined for tuberculosis every 3 years" should be added after "ARM 16.28.1005."

One commenter stated that this rule contradicts the Department of Family Services' requirement that you must be tested for TB every year. These should be consistent.

Response: As to the first 2 comments, the department disagrees that this rule should be amended. To adequately protect health, any one working with the children must have an examination for tuberculosis. The department does not believe allowing an employee to wait a certain amount of time, or providing an exemption for others, adequately protects the health of children in day care centers.

As to the last 2 comments, the department agrees that a re-examination should be required and has amended the rule accordingly.

Comment: (7)(b)--One person suggested amending the language to read "be excluded from the day care center if the person has a communicable disease, a sore throat or cold, or if the person exhibits any of the symptoms outlined in ARM 16.24.414 (3)(a)-(3)(g)." The same restrictions which apply to day care children should apply to day care workers.

Another person suggested changing this exclusionary language to the same health exclusions for children that were previously listed, and allow local health department experts to make the decision for exclusion of communicable disease cases, as some diseases require exclusion and some do not.

Response: As to the first comment, the department agrees and has amended the rule accordingly.

As to the second comment, the department does not believe it is appropriate to allow the local health departments

to designate which communicable disease require exclusion. Variances among the health departments could lead to an inconsistent application of the rule. The department has a list of communicable diseases which are reportable, some of which present more health risks in a day care setting and require exclusion. The department will determine which of these communicable diseases present a danger to attendees of a day care center.

Comment: (7)(d)--One person said this should be changed to require proof of measles and rubella immunization and a tetanus and diphtheria booster within the last 10 years to be consistent with the requirements for day care home providers and day care group home providers, to conform to CDC recommendations.

Response: The department agrees with this comment and has amended the rule accordingly.

Comment: (8)--One person stated that smoking must be prohibited in areas used by children and in food preparation areas. Smoking should only be allowed in areas where the ambient air has no connection with areas used for children, outdoors excepted.

Response: The department notes that ARM 16.24.412 adopts by reference the food service rules, which prohibit smoking in food preparation areas. The current rule does not allow smoking in areas used by children, and this would include the outside playground areas. Therefore, because the concerns addressed by the commenter are covered elsewhere in the rules, no amendment to the rule has been made.

16.24.415 Nutrition

Comment: (2)(b)--One commenter questioned what are normal hours for breakfast and whether the day care provider is required to ask each child whether the child has eaten.

Response: The department has reviewed the first portion of the comment and agrees that some "cut off" time for breakfast is appropriate. Because a mid-morning snack must be provided to all children, the department has determined that 9:00 a.m. is an appropriate cut off time for breakfast and has amended the rule accordingly. As to the second comment, the day care center is required to serve the meal if the child has not eaten. How the provider chooses to ascertain the status of the child's food intake is up to the provider.

Comment: (2)(c)--One person suggested adding "upright" after "held." Lots of babies get stomach aches if they are held down during feedings.

Response: The department agrees with this comment and has amended the rule accordingly.

16.24.417 Sewage System

Comment: (2)(b)--One person suggested compliance with local health codes should also be required and that "necessary" in the last sentence be deleted.

Response: The department agrees with these comments and has amended the rule accordingly.

Comment: (3)--One person stated that this section should be more specific by citing compliance with ARM 16.17.101. Also, the language "and local health code" should be added at the end of the sentence.

Response: The department notes that all of ARM 16.17.101 is incorporated by reference at ARM 16.24.417(1); thus, compliance with those applicable rules is required. As to the second comment, the department agrees and has amended the rule accordingly.

Miscellaneous Comments

Comment: There should be rules addressing safety issues and day care workers should be trained in CPR.

Response: The department is statutorily authorized to promulgate rules for day care centers in only three areas: food preparation, nutrition, and communicable disease. Therefore, while the department agrees that rules addressing safety issues is appropriate for rule, this department does not have the authority to promulgate those rules.

Comment: There should be rules regarding playground equipment safety and a rule stating that no cats, dogs or other animals are allowed in areas where children can come into contact with them for safety and health reasons.

Response: As stated directly above, the department does not have the authority to promulgate rules in these areas.

Comment: An annual report of the immunization status of the children in every day care center should be sent to the Department of Health and Environmental Sciences by the person in charge of the day care center on a form provided by the department. This report would serve as a tool for measuring whether or not the center is in compliance with immunization requirements and would encourage accountability on the part of the provider. Each school in Montana must make this report and the same reporting requirement should be included in the day care rules.

Response: As stated directly above, the department does not have the authority to promulgate rules in this area.

Comment: The term "day care" is outdated and should be changed to "child care."

Response: The department notes that the term "day care" is the term used by the statute and thus does not have the authority to change it.

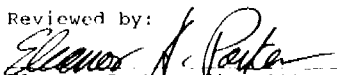
Comment: When rules are incorporated by reference, the incorporated rules should be attached.

Response: The department notes this comment and states that incorporated rules are always available upon request.


ROBERT J. ROBINSON, Director

Certified to the Secretary of State March 20, 1995.

Reviewed by:


Eleanor Parker, OHES Attorney

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT)	NOTICE OF THE AMENDMENT
of ARM 42.21.159 relating to)	of ARM 42.21.159 relating
Property Audits and Reviews)	to Property Audits and
)	Reviews

TO: All Interested Persons:

1. On February 9, 1995, the Department published notice of the proposed amendment of ARM 42.21.159 relating to property audits and reviews at page 203 of the 1995 Montana Administrative Register, issue no. 3.

2. No public comments were received regarding this rule.
3. The Department has amended the rule as proposed.

Chas Anderson

CLEO ANDERSON
Rule Reviewer

Mick L.

MICK ROBINSON
Director of Revenue

Certified to Secretary of State March 20, 1995.

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 December 31, 1994. This table includes those rules adopted during the period January 1, 1995 through March 31, 1995 and any proposed rule action that was 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 December 31, 1994, 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 1994 and 1995 Montana Administrative Register.

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BOARD APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in February, 1995, appear. Vacancies scheduled to appear from April 1, 1995, through June 30, 1995, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and 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 March 7, 1995.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

BOARD AND COUNCIL APPOINTEES FROM FEBRUARY, 1995

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Housing (Commerce)			
Ms. Waneeta Farris	Governor	Mart	2/10/1995 1/1/1999
Forsyth			
Qualifications (if required):	public member		
Ms. Barbara Hamlin	Governor	reappointed	2/10/1995 1/1/1999
Helena			
Qualifications (if required):	public member		
Mr. Bob Thomas	Governor	reappointed	2/10/1995 1/1/1999
Stevensville			
Qualifications (if required):	public member		
Board of Labor Appeals (Labor and Industry)			
Ms. Carol Donaldson	Governor	Birch	2/2/1995 1/1/1999
Billings			
Qualifications (if required):	public member		
Board of Public Education (Education)			
Ms. Linda Vaughney	Governor	Johnson	2/1/1995 2/1/2002
Havre			
Qualifications (if required):	Republican from District 2		
Child Care Advisory Council (Family Services)			
Ms. Kathleen Miller Green	Governor	Love	2/22/1995 6/30/1996
Missoula			
Qualifications (if required):	child care provider		
Committee on Telecommunication Services for the Handicapped (Social and Rehabilitation Services)			
Ms. Cathy Brightwell	Governor	Plaggemeyer	2/22/1995 7/1/1996
Helena			
Qualifications (if required):	representative of an Interlata Interchange carrier		

BOARD AND COUNCIL APPOINTEES FROM FEBRUARY, 1995

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Developmental Disabilities Planning and Advisory Council (Social and Rehabilitation Services)			
Sen. Ethel Harding	Governor	Rager	2/7/1995
Polson			1/1/1996
Qualifications (if required): Senator			
Mr. Kenneth Kaline			
Ashland	Governor	Clincher	2/7/1995
Qualifications (if required): Native American with disabled family member			
Rep. Betty Lou Kasten			
Brockway	Governor	reappointed	2/7/1995
Qualifications (if required): Representative			
Executive Board of Northern Montana College (Education)			
Mr. Doug Ross	Governor	Wink	2/2/1995
Havre			4/15/1998
Qualifications (if required): public member			
Montana Arts Council (Education)			
Mr. Bill Frazier	Governor	Williams	2/5/1995
Livingston			2/1/2000
Qualifications (if required): public member			
Montana Highway Commission (Transportation)			
Mr. Don Larson	Governor	Duff	2/22/1995
Libby			1/1/1999
Qualifications (if required): Democrat in District 1			
Montana Highway Commission (Transportation)			
Mr. Ed Smith	Governor	reappointed	2/22/1995
Helena			1/1/1999
Qualifications (if required): Republican in District 4			

BOARD AND COUNCIL APPOINTEES FROM FEBRUARY, 1995

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana State Lottery Commission	(Commerce)		
Mr. Robert Crippen	Governor	Iverson	2/7/1995
Butte			1/1/1999
Qualifications (if required):	certified public accountant		
Petroleum Tank Release Compensation Board	(Health and Environmental Sciences)		
Ms. Laura Nordahl	Governor	South	2/13/1995
Helena			6/30/1998
Qualifications (if required):	representative of the industry		

VACANCIES ON BOARDS AND COUNCILS -- April 1, 1995 through June 30, 1995

Board/current position holder	Appointed by	Term end
Board of Athletics (Commerce) Dr. John Halseth, Great Falls Qualifications (if required): public member	Governor	4/25/1995
Mr. Gary Langley, Helena Qualifications (if required): public member	Governor	4/25/1995
Dr. Andrew Vandolah, Conrad Qualifications (if required): public member	Governor	4/25/1995
Board of County Printing (Commerce) Mr. Roy Aafedt, Great Falls Qualifications (if required): county commissioner	Governor	4/1/1995
Ms. Nancy Clark, Ryeagate Qualifications (if required): public member	Governor	4/1/1995
Ms. Fern Hart, Missoula Qualifications (if required): county commissioner	Governor	4/1/1995
Mr. Verle L. Rademacher, White Sulphur Springs Qualifications (if required): represents printing industry	Governor	4/1/1995
Mr. Curtis Starr, Malta Qualifications (if required): represents publisher-printer	Governor	4/1/1995
Board of Hail Insurance (Agriculture) Mr. Louis Beirwaggon, Big Sandy Qualifications (if required): public member	Governor	4/18/1995
Board of Nursing Home Administrators (Commerce) Ms. Joyce Asay, Forsyth Qualifications (if required): nursing home administrator	Governor	5/28/1995

VACANCIES ON BOARDS AND COUNCILS -- April 1, 1995 through June 30, 1995

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Optometrists (Commerce) Dr. P.L. Kathrein, Great Falls Qualifications (if required): optometrist	Governor	4/3/1995
Ms. Charlene Staffanson, Deer Lodge Qualifications (if required): public member	Governor	4/3/1995
Board of Plumbers (Commerce) Mr. Terry Campbell, Helena Qualifications (if required): represents Department of Health	Governor	5/4/1995
Mr. Donald L. Kent, Bozeman Qualifications (if required): Journeyman Plumber	Governor	4/28/1995
Mr. Elmer Lazurs, Helena Qualifications (if required): public member	Governor	5/4/1995
Mr. Lloyd Linden, Helena Qualifications (if required): public member	Governor	5/4/1995
Mr. Robert R. Nault, Havre Qualifications (if required): Master Plumber	Governor	4/28/1995
Board of Professional Engineers and Land Surveyors (Commerce) Mr. David F. Gibson, Bozeman Qualifications (if required): engineering instructor	Governor	4/30/1995
Mr. J.G. Shockley, Victor Qualifications (if required): public member	Governor	4/30/1995

VACANCIES ON BOARDS AND COUNCILS -- April 1, 1995 through June 30, 1995

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Real Estate Appraisers (Commerce) Ms. Connie G. Clarke, Miles City Qualifications (if required): public member	Governor	5/1/1995
Ms. Janet Davis, Ballings Qualifications (if required): licensed appraiser	Governor	5/1/1995
Board of Realty Regulation (Commerce) Mr. Steven E. Cummings, Kalispell Qualifications (if required): public member and from Western Congressional District	Governor	5/9/1995
Mr. Rocky Zindars, Glasgow Qualifications (if required): in realty business and Democrat from Western Congressional District	Governor	5/9/1995
Board of Regents of Higher Education (Education) Mr. Jim Brown, Libby Qualifications (if required): student representative	Governor	6/1/1995
Education Advisory Council (Office of Public Instruction) Mr. Bob Deming, Great Falls Qualifications (if required): represents institutions of higher education	Governor	5/1/1995
Mr. J.K. Kuzara, Roundup Qualifications (if required): school board member	Governor	5/1/1995
Ms. Wilma Mad Plume, Browning Qualifications (if required): represents classroom teachers	Governor	5/1/1995
Ms. Robin McCallum, Helena Qualifications (if required): school counselor	Governor	5/1/1995

VACANCIES ON BOARDS AND COUNCILS -- April 1, 1995 through June 30, 1995

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Education Advisory Council (Office of Public Instruction) cont. Rep. Scott T. McCulloch, Billings Qualifications (if required): legislator	Governor	5/1/1995
Ms. Carol McElwain, Butte Qualifications (if required): school board member	Governor	5/1/1995
Ms. Martha H. Parrish, Rexford Qualifications (if required): represents elementary school librarians	Governor	5/1/1995
Ms. Kathy Seacat, Helena Qualifications (if required): represents parents of elementary students	Governor	5/1/1995
Ms. Mary Wagner, Missoula Qualifications (if required): represents school administrators	Governor	5/1/1995
Mr. R. Stephen White, Helena Qualifications (if required): represents home schoolers	Governor	5/1/1995
Sister Elizabeth Youngs, Billings Qualifications (if required): represents private school	Governor	5/1/1995
Executive Board of MT College of Mineral Science & Technology (University System) Mr. Truxton Fisher, Butte Qualifications (if required): resides in county where unit is located	Governor	4/17/1995
Executive Board of Eastern Montana College (University System) Mr. Bill Tierney, Billings Qualifications (if required): resides in the county where unit is located	Governor	4/17/1995
Executive Board of Montana State University (University System) Mr. Dick Roehm, Bozeman Qualifications (if required): resides in county where unit is located	Governor	4/17/1995

VACANCIES ON BOARDS AND COUNCILS -- April 1, 1995 through June 30, 1995

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Executive Board of Western Montana College (University System) Ms. Patricia J. Blade, Dillon Qualifications (if required): resides in county where unit is located	Governor	4/17/1995
Executive Board of the University of Montana (University System) Ms. Arlene Breum, Missoula Qualifications (if required): resides in county where unit is located	Governor	4/17/1995
Library Services Advisory Council (Education) Ms. Greta Chapman, Libby Qualifications (if required): represent public libraries	Director	6/1/1995
Ms. Beverly Knapp, Bozeman Qualifications (if required): represents users of public library service in Broad Valleys Federation	Director	6/1/1995
Reserved Water Rights Compact Commission (Governor) Ms. Tara DePuy, Livingston Qualifications (if required): member appointed by Governor	Governor	6/1/1995
Mr. Gene Etchart, Glasgow Qualifications (if required): member appointed by Governor	Governor	6/1/1995
Sen. Lorents Grosfield, Big Timber Qualifications (if required): member appointed by Senate	Senate	6/1/1995
Mr. Dennis Iverson, Helena Qualifications (if required): member appointed by Governor	Governor	6/1/1995
Attorney General Joseph P. Mazurek, Helena Qualifications (if required): member appointed by Senate	Senate	6/1/1995

VACANCIES ON BOARDS AND COUNCILS -- April 1, 1995 through June 30, 1995

Board/current position holder	Appointed by	Term end
Reserved Water Rights Compact Commission (Governor) cont.		
Mr. Jack Salmond, Choteau	Governor	6/1/1995
Qualifications (if required): member appointed by Governor		
Rep. Bob Thoft, Stevensville	House of Rep.	6/1/1995
Qualifications (if required): member appointed by House of Representatives		
Mr. Chris D. Tweeten, Helena	Attorney General	6/1/1995
Qualifications (if required): member appointed by Attorney General		
State Compensation Mutual Insurance Fund (Administration)		
Mr. Les Hirsch, Miles City	Governor	4/28/1995
Qualifications (if required): representative of private for profit enterprise		
Mr. Robert Holman, Kalispell	Governor	4/28/1995
Qualifications (if required): state fund policy holder		
State Library Commission (Education)		
Ms. Mary Doggett, White Sulphur Springs	Governor	5/22/1995
Qualifications (if required): public member		
Veterans Cemetery Advisory Council (Military Affairs)		
Mr. Herb Ballou, Helena	Director	5/1/1995
Qualifications (if required): none specified		
Mr. Dick Baumberger, Helena	Director	5/1/1995
Qualifications (if required): none specified		
Mr. Joel Cusker, Helena	Director	5/1/1995
Qualifications (if required): none specified		
Ms. Alma Dickey, Helena	Director	5/1/1995
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- April 1, 1995 through June 30, 1995

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Veterans Cemetery Advisory Council (Military Affairs) cont.		
Mr. Lee Dickey, Helena Qualifications (if required): none specified	Director	5/1/1995
Mr. James W. Duffy, Helena Qualifications (if required): none specified	Director	5/1/1995
Mr. M. Herbert Goodwin, Helena Qualifications (if required): none specified	Director	5/1/1995
Mr. Jim Heffernan, Helena Qualifications (if required): none specified	Director	5/1/1995
Mr. James F. Jacobson, Helena Qualifications (if required): none specified	Director	5/1/1995
Mr. Robert C. McKenna, Helena Qualifications (if required): none specified	Director	5/1/1995
Mr. Mickey Nelson, Helena Qualifications (if required): none specified	Director	5/1/1995
Mr. Carl L. Nordberg, Helena Qualifications (if required): none specified	Director	5/1/1995
Mr. Fred Olson, Fort Harrison Qualifications (if required): none specified	Director	5/1/1995
Mr. George Paul, Helena Qualifications (if required): none specified	Director	5/1/1995
Ms. Irma Paul, Helena Qualifications (if required): none specified	Director	5/1/1995

VACANCIES ON BOARDS AND COUNCILS -- April 1, 1995 through June 30, 1995

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Veterans Cemetery Advisory Council (Military Affairs) cont.		
Mr. Ray Read, Helena	Director	5/1/1995
Qualifications (if required): none specified		
Mr. Ruddy Reilly, Helena	Director	5/1/1995
Qualifications (if required): none specified		
Ms. Rose Marie Storey, Helena	Director	5/1/1995
Qualifications (if required): none specified		
Vocational Education Advisory Council (Governor)		
Mr. Fred "Rocky" Clark, Butte	Governor	5/1/1995
Qualifications (if required): none specified		
Mr. Jeff Dietz, Billings	Governor	5/1/1995
Qualifications (if required): none specified		
Ms. Aleta Ann Haagenstad, Clancy	Governor	5/1/1995
Qualifications (if required): none specified		
Dr. Jon Jourdonnais, Great Falls	Governor	5/1/1995
Qualifications (if required): none specified		
Dr. August "Gus" Korb, Havre	Governor	5/1/1995
Qualifications (if required): none specified		
Dr. Dennis Lerum, Missoula	Governor	5/1/1995
Qualifications (if required): none specified		
Mr. Jesse O'Hara, Great Falls	Governor	5/1/1995
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- April 1, 1995 through June 30, 1995

Board/current position holder	Appointed by	Term end
Vocational Education Advisory Council (Governor) cont.		
Dr. Robert Schaal, Kalispell	Governor	5/1/1995
Qualifications (if required): none specified		
Mr. James Schultz, Lewistown	Governor	5/1/1995
Qualifications (if required): none specified		
Colonel Gordon Simmons, Missoula	Governor	5/1/1995
Qualifications (if required): none specified		
Rep. Chuck Swysgood, Dillon	Governor	5/1/1995
Qualifications (if required): none specified		
Ms. Avis Ann Tobin, Helena	Governor	5/1/1995
Qualifications (if required): none specified		
Mr. Howard Williams, Helena	Governor	5/1/1995
Qualifications (if required): none specified		
Vocational Rehabilitation Divisions Advisory Council (Social and Rehabilitation Services)		
Mr. Jim Betty, Missoula	Director	4/15/1995
Qualifications (if required): none specified		
Mr. Mark Bowlds, Helena	Director	4/15/1995
Qualifications (if required): none specified		
Ms. Sally Cerny, Great Falls	Director	4/15/1995
Qualifications (if required): none specified		
Mr. Ken Christensen, Helena	Director	4/15/1995
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- April 1, 1995 through June 30, 1995

Board/current position holder	Appointed by	Term end
Vocational Rehabilitation Divisions Advisory Council (Social and Rehabilitation Services) cont.		
Ms. Ladonna Fowler, Pablo Qualifications (if required): none specified	Director	4/15/1995
Ms. Sandra Jarvie, Helena Qualifications (if required): none specified	Director	4/15/1995
Mr. Robert Lemieux, Great Falls Qualifications (if required): none specified	Director	4/15/1995
Mr. Ralph Martin, Bozeman Qualifications (if required): none specified	Director	4/15/1995
Ms. Kelly Moorse, Helena Qualifications (if required): none specified	Director	4/15/1995
Ms. Gail Neal, Billings Qualifications (if required): none specified	Director	4/15/1995
Ms. Anita Nelson, Missoula Qualifications (if required): none specified	Director	4/15/1995
Mr. Pat Pope, Helena Qualifications (if required): none specified	Director	4/15/1995
Ms. Nancy Staigmiller, Miles City Qualifications (if required): none specified	Director	4/15/1995
Ms. Virginia Sutich, Sand Coulee Qualifications (if required): none specified	Director	4/15/1995

VACANCIES ON BOARDS AND COUNCILS -- April 1, 1995 through June 30, 1995

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Vocational Rehabilitation Divisions Advisory Council (Social and Rehabilitation Services) cont.		
Ms. Raelen Williard, Helena	Director	4/15/1995
Qualifications (if required): none specified		
Ms. Lynn Winslow, Helena	Director	4/15/1995
Qualifications (if required): none specified		