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**MONTANA  
ADMINISTRATIVE  
REGISTER**

**DOES NOT  
CIRCULATE**

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*Administrative Register*

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 4

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 found at the back of each register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Administrative Rules Bureau at (406) 444-2055.

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BEFORE THE WEIGHTS AND MEASURES BUREAU  
DEPARTMENT OF COMMERCE  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PROPOSED AMENDMENT  
amendment of a rule pertaining ) OF A RULE PERTAINING TO THE  
to the Weights and Measures ) WEIGHTS AND MEASURES BUREAU  
Bureau )

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On March 27, 1999, the Weights and Measures Bureau proposes to amend a rule pertaining to the Weights and Measures Bureau.

2. The Bureau is proposing to amend ARM 8.77.103. This amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.77.103 NIST HANDBOOK 44 - SPECIFICATIONS, TOLERANCES AND ~~USER~~ OTHER TECHNICAL REQUIREMENTS FOR WEIGHING AND MEASURING DEVICES (1) The bureau of weights and measures with the advice and counsel of the NIST hereby adopts the specifications, tolerances and regulations requirements for commercial weighing and measuring devices published in NIST Handbook 44 - 1998~~2~~ Edition, as the specifications, tolerances and regulations requirements for commercial weighing and measuring devices for the state of Montana.

(a) remains the same."

Auth: Sec. 30-12-202, MCA; IMP, Sec. 30-12-202, MCA

**REASON:** The reason for adopting the 1999 Edition is that there were changes made to several different codes, ie. scales, belt-conveyer, liquid measuring, etc. While these changes were mostly minor, they will have some impact on the way the Bureau conducts examinations. Additionally, in reviewing this rule, clerical errors were found and need to be corrected.

3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Weights and Measures Bureau, Department of Commerce, 1424 Ninth Avenue, P.O. Box 200512, Helena, Montana 59620-0512, no later than 5:00 p.m., March 26, 1999.

4. If a person who is directly affected by the proposed amendment wishes to present their data, views or arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit the request along with any comments they have to the Weights and Measures Bureau, Department of Commerce, 1424 Ninth Avenue, P.O. Box 200512, Helena, Montana 59620-0512, or by facsimile (406) 444-4305, to be received no later than 5:00 p.m., March 26, 1999.

5. Persons who wish to be informed of all Weights and Measures administrative rule-making hearings or other

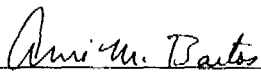
administrative hearings may be placed on a list of interested persons by advising the Bureau in writing to the Weights and Measures Bureau, Department of Commerce, 1424 Ninth Avenue, P.O. Box 200512, Helena, Montana 59620-0512.

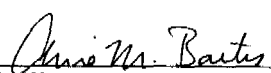
6. If the Bureau receives requests for a public hearing on the proposed amendment from either 10 percent or 25 whichever is less, of those persons who are directly affected by the proposed amendment, from the Administrative Code Committee of the legislature, from a governmental agency or subdivision or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 15 based on the number of registered service agencies that do installations and repairs on weighing and measuring devices.

7. Persons who wish to be informed of all Weights and Measures administrative rulemaking hearings or other administrative hearings may be placed on a list of interested persons by advising the Bureau in writing to the Weights and Measures Bureau, Department of Commerce, 1424 9th Avenue, P.O. Box 200512, Helena, Montana 59620-0512.

WEIGHTS AND MEASURE BUREAU  
JACK KANE, BUREAU CHIEF

BY:

  
ANNIE M. BARTOS, CHIEF COUNSEL  
DEPARTMENT OF COMMERCE

  
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, February 12, 1999.

TO: All Interested Persons:

2. The proposed amendment to ARM 8.119.101 will read as follows: (new matter underlined, deleted matter interlined)

(2) The tourism advisory council hereby incorporates by reference the guide entitled "Regulations and Procedures for Regional/CVB Tourism Organizations, February 19992," setting forth the regulations and procedures pertaining to the distribution of accommodation tax revenue. The guide is available for public inspection during normal business hours at the Montana Travel Promotion and Development Division, Department of Commerce, 1424 - Ninth Avenue, Helena, Montana 59620. Copies of the guide are available on request.

Auth: Sec. 2-15-1816, MCA; IMP, Sec. 2-15-1816, MCA

**REASON:** The reason the Regulation and Procedures for Regional/CVB Tourism Organizations were changed was that several items were changed to clarify their meaning. Additionally, several new sections on convention/event subsidies were added. Convention/event subsidies had not been previously addressed within these regulations.

3. Interested persons may submit their data, views or arguments, either orally or in writing at the hearing. Written data, views or argument may also be submitted to the Montana Travel Promotion and Development Division, Department of Commerce, 1424 Ninth Avenue, Helena, Montana 59620, no later than 5:00 p.m., April 6, 1999.

4. The Division will make reasonable accommodations for persons with disabilities who wish to participate in the public

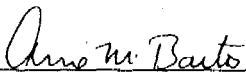
hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., March 30, 1999, to advise us of the nature of the accommodation that you need. Please contact Anna Marie Moe, Montana Travel Promotion and Development Division, Department of Commerce, 1424 Ninth Avenue, Helena, Montana 59620; telephone (406) 444-2669; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1800. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Anna Marie Moe at the above-stated address.

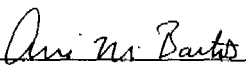
5. Persons who wish to be informed of all Montana Travel Promotion and Development Division administrative rule-making hearings or other administrative hearings may be placed on a list of interested persons by advising the Division at the rule-making hearing or in writing to the Montana Travel Promotion and Development Division, Department of Commerce, 1424 Ninth Avenue, Helena, Montana 59620.

6. Peter B. Ohman, Legal Counsel, will preside over and conduct the hearing.

TRAVEL PROMOTION AND DEVELOPMENT  
DIVISION  
MATTHEW COHN, DIRECTOR

BY:

  
ANNIE M. BARTOS, CHIEF COUNSEL  
DEPARTMENT OF COMMERCE

  
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, February 12, 1999.

BEFORE THE DEPARTMENT  
OF PUBLIC SERVICE REGULATION  
OF THE STATE OF MONTANA

In the Matter of Proposed        ) NOTICE OF PROPOSED  
Amendment and Adoption of        ) AMENDMENT OF RULE 38.5.3801  
Rules Pertaining to Slamming     ) AND ADOPTION OF RULES

NO PUBLIC HEARING  
CONTEMPLATED

TO: All Interested Persons

1. On April 23, 1999, the Department of Public Service Regulation proposes to adopt new rules pertaining to the above description.

2. The rules proposed for amendment and adoption provide as follows:

38.5.3801 CHANGE IN TELECOMMUNICATIONS PROVIDER

(1) through (1)(d) remains the same.

(2) The independent third party may not be owned, managed, controlled, or directed by the carrier or the carrier's marketing agent; and may not have any financial incentive to confirm preferred carrier change orders for the carrier or the carrier's marketing agent. Any letter of agency, electronic authorization or verbal authorization verified by an independent third party that does not conform with this rule is invalid. Documentation of valid verbal authorization must demonstrate compliance with each element required by (1)(c) above.

(3) An executing carrier shall not verify the submission of a change in a subscriber's selection of a provider of telecommunications service received from a submitting carrier. For an executing carrier, compliance with the procedures prescribed in this rule shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a submitting carrier. The submitting carrier shall maintain and preserve records of verification of subscriber authorization for a minimum period of two years after obtaining such verification.

(4) Where a telecommunications carrier is selling more than one type of telecommunications service (e.g., local exchange, intralATA/intrastate toll, interLATA/interstate toll, and international toll) that carrier must obtain separate authorization from the subscriber for each service sold, although the authorizations may be made within the same solicitation. Each authorization must be verified separately from any other authorizations obtained in the same solicitation.



Each authorization must be verified in accordance with the verification procedures prescribed in this rule.

AUTH: Sec. 69-3-822 and 69-3-1304, MCA; IMP: Sec. 69-3-102, 69-3-201 and 69-3-1303, MCA.

38.5.3802 LETTER OF AGENCY FORM AND CONTENT

(1) and (2) remain the same.

(3) The letter of agency shall not be ~~a part of any sweepstakes, contest or similar promotional program combined on the same document with inducements of any kind.~~

(4) through (7) remain the same.

AUTH: Sec. 69-3-822 and 69-3-1304, MCA; IMP: Sec. 69-3-102, 69-3-201 and 69-3-1303, MCA.

RULE I. DEFINITIONS For the purpose of this subchapter 38, the following definitions are applicable:

(1) "Executing carrier" means generally any telecommunications carrier that effects a request that a subscriber's telecommunications carrier be changed. A carrier may be treated as an executing carrier if it is responsible for any unreasonable delays in the execution of carrier changes or for the execution of unauthorized carrier changes, including fraudulent authorizations.

(2) "Submitting carrier" means generally any telecommunications carrier that:

(a) requests on the behalf of a subscriber that the subscriber's telecommunications carrier be changed; and

(b) seeks to provide retail services to the end user subscriber. A carrier may be treated as a submitting carrier if it is responsible for any unreasonable delays in the submission of carrier change request or for the submission of unauthorized carrier change request, including fraudulent authorizations.

AUTH: 69-3-822 and 69-3-1304, MCA; IMP: 69-3-102, 69-3-201 and 69-3-1303, MCA.

RULE II. PREFERRED CARRIER FREEZE (1) A preferred carrier freeze (or freeze) prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express consent. All local exchange carriers who offer preferred carrier freezes must comply with the provisions of this rule.

(2) All local exchange carriers who offer preferred carrier freezes shall offer freezes on a nondiscriminatory basis to all subscribers, regardless of the subscriber's carrier selections.

(3) Preferred carrier freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) subject to a preferred carrier freeze. The carrier offering the freeze must

obtain separate authorization for each service for which a preferred carrier freeze is requested.

AUTH: 69-3-822 and 69-3-1304, MCA; IMP: 69-3-102, 69-3-201 and 69-3-1303, MCA.

RULE III. SOLICITATION AND IMPOSITION OF PREFERRED CARRIER FREEZES (1) All carrier-provided solicitation and other materials regarding preferred carrier freezes must include:

(a) An explanation, in clear and neutral language, of what a preferred carrier freeze is and what services may be subject to a freeze;

(b) A description of the specific procedures necessary to lift a preferred carrier freeze, including an explanation that:

(i) these steps are in addition to the commission's verification rules in ARM 38.5.3801 and 38.5.3802 for changing a subscriber's preferred carrier selections; and

(ii) the subscriber will be unable to make a change in carrier selection unless he or she lifts the freeze; and

(c) An explanation of any charges associated with the preferred carrier freeze.

(2) No local exchange carrier shall implement a preferred carrier freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with one of the following procedures:

(a) The local exchange carrier has obtained the subscriber's written and signed authorization in a form that meets the requirements of (3); or

(b) The local exchange carrier has obtained the subscriber's electronic authorization, placed from the telephone number(s) on which the preferred carrier freeze is to be imposed, to impose a preferred carrier freeze. The electronic authorization should confirm appropriate verification data (e.g., the subscriber's date of birth or social security number) and the information required by (3)(b)(i) through (iv). Telecommunications carriers electing to confirm preferred carrier freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a subscriber to a voice response unit, or similar mechanism that records the required information regarding the preferred carrier freeze request, including automatically recording the originating automatic numbering identification; or

(c) An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the preferred carrier freeze and confirmed the appropriate verification data (e.g., the subscriber's date of birth or social security number) and the information required by (3)(b)(i) through (iv). The independent third party must:

(i) not be owned, managed, or directly controlled by the carrier or the carrier's marketing agent;

(ii) not have any financial incentive to confirm preferred carrier freeze requests for the carrier or the carrier's marketing agent; and

(iii) operate in a location physically separate from the carrier or the carrier's marketing agent. The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a preferred carrier freeze;

(3) Written authorization is required to impose a preferred carrier freeze. A local exchange carrier may accept a subscriber's written and signed authorization to impose a freeze on his or her preferred carrier selection. Written authorization that does not conform with this rule is invalid and may not be used to impose a preferred carrier freeze.

(a) The written authorization shall comply with ARM 38.5.3802(2), (3) and (7) concerning the form and content for letters of agency.

(b) At a minimum, the written authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

(i) the subscriber's billing name and address and the telephone number(s) to be covered by the preferred carrier freeze;

(ii) the decision to place a preferred carrier freeze on the telephone number(s) and particular service(s). To the extent that a jurisdiction allows the imposition of preferred carrier freezes on additional preferred carrier selections (e.g., for local exchange, intraLATA/intrastate toll, interLATA/interstate toll service, and international toll), the authorization must contain separate statements regarding the particular selections to be frozen;

(iii) that the subscriber understands that she or he will be unable to make a change in carrier selection unless she or he lifts the preferred carrier freeze; and

(iv) that the subscriber understands that any preferred carrier freeze may involve a charge to the subscriber.

AUTH: 69-3-822 and 69-3-1304, MCA; IMP: 69-3-102, 69-3-201 and 69-3-1303, MCA.

#### RULE IV. PROCEDURES FOR LIFTING PREFERRED CARRIER FREEZES

(1) All local exchange carriers who offer preferred carrier freezes must, at a minimum, offer subscribers the following procedures for lifting a preferred carrier freeze:

(a) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's written and signed authorization stating her or his intent to lift a preferred carrier freeze; and

(b) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's oral authorization stating her or his intent to lift a preferred carrier freeze and must offer a mechanism that allows a submitting carrier to conduct a three-way conference call with the carrier

administering the freeze and the subscriber in order to lift a freeze. When engaged in oral authorization to lift a preferred carrier freeze, the carrier administering the freeze shall confirm appropriate verification data (e.g., the subscriber's date of birth or social security number) and the subscriber's intent to lift the particular freeze.

AUTH: 69-3-822 and 69-3-1304, MCA; IMP: 69-3-102, 69-3-201 and 69-3-1303, MCA.

3. The practice of making unauthorized changes to customers' long distance carriers (slamming) is prevalent and should not be tolerated by the commission. Until recently, such changes affected only interLATA long distance services. The commission required U S WEST to implement intraLATA dialing parity as of February 8, 1999, and other incumbent local exchange carriers have implemented or are preparing to implement intraLATA dialing parity.

With implementation of intraLATA dialing parity, there is considerable risk that the same practices will become widespread in the intraLATA long distance market. The Federal Communications Commission has adopted new rules that address slamming in both the interLATA and intraLATA long distance markets. These rules will be effective 70 and 90 days following publication in the Federal Register. The commission adopted emergency rules effective March 11, 1999 to address the harm that will result for Montana consumers from this delay in the effective date for these rules, and acted to prevent the further opportunity for slamming with the implementation of intraLATA dialing parity before customers are sufficiently aware of the distinctions between the intraLATA and interLATA long distance markets. Emergency action was required to deter slamming, to protect consumers from unauthorized changes in their preferred carriers, and to ensure that competition in the interLATA, intraLATA and local markets is fair and not fraudulent or deceptive.

The emergency rules remain in effect for 120 days pursuant to 2-4-303, MCA. The commission initiates this formal rule-making proceeding to adopt the emergency rules as permanent rules.

4. Interested persons may submit their data, views, or arguments in writing (an original and 10 copies) to Karen Hammel, Public Service Commission, Legal Division, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, no later than March 25, 1999. (PLEASE NOTE: Do not address to Utility Division. When filing comments pursuant to this notice please reference "Docket No. L-99.1.1-RUL.")

5. If a person who is directly affected by the proposed adoption wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has (original and 10 copies) to Karen

Hammel, Public Service Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, no later than March 25, 1999.

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

7. The Montana Consumer Counsel, 616 Helena Avenue, P.O. Box 201703, Helena, Montana 59620-1703, phone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

8. The bill sponsor notification requirements of Section 2-4-302, MCA, are not applicable in this rulemaking.

9. The Public Service Commission maintains a list of persons interested in Commission proceedings and the subject or subjects in which each person is interested. Any person wishing to be on the list must make a written request to the Commission, providing a name, address, and description of the subject or subjects which the person is interested. Direct the request to the Public Service Commission, Legal Division, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601.

  
\_\_\_\_\_  
Dave Fisher, Chairman

  
\_\_\_\_\_  
Reviewed By Robin A. McHugh

CERTIFIED TO THE SECRETARY OF STATE FEBRUARY 12, 1999.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

IN THE MATTER OF THE PROPOSED )	NOTICE OF PUBLIC HEARING
AMENDMENT of ARM 42.12.106, )	ON PROPOSED AMENDMENT,
42.12.302, 42.12.303, 42.12. )	ADOPTION AND REPEAL
306, and 42.12.401; ADOPTION )	
of NEW RULES I, II and III; )	
and REPEAL of ARM 42.12.127, )	
42.12.304, and 42.12.305 )	
relating to Liquor Licenses )	

TO: All Interested Persons:

1. On March 24, 1999, at 9:00 a.m., a public hearing will be held in the Fourth Floor Conference Room of the Mitchell Building, at Helena, Montana, to consider the amendments to ARM 42.12.106, 42.12.302, 42.12.303, 42.12.306, and 42.12.401; adoption of New Rules I through III; and repeal of ARM 42.12.127, 42.12.304, and 42.12.305 relating to Liquor Licenses.

2. The Department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. Accommodation requests should be received no later than 5:00 p.m., March 8, 1999. Requests should specify the nature of the accommodation and be sent to: Cleo Anderson, Department of Revenue, Policy and Administrative Rules Office, P.O. Box 202701, Helena, Montana 59620-2701; telephone (406)444-2460; fax (406) 444-3696; or e-mail canderson@state.mt.usa. An alternative accessible format of this Notice of Public Hearing for any person needing it to participate in this rule-making action is available upon request.

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

42.12.106 DEFINITIONS The following terms will be used in this chapter.

(1) through (4) remain the same.

(5) "Conditional approval" means a letter that is issued upon completion of the investigation and public protest period, but prior to completion of the premises.

(a) A conditional approval designation is not to be confused with a license that is issued with conditions written on the face of the license itself pursuant to 16-1-302, MCA.

(b) The conditions referred to in (5)(a) above, are permanent and last through the existence of the license itself.

(5) through (12) remain the same, but are renumbered (6) through (13).

~~(13)~~(14) "Special event" as it relates to an application for a special beer and wine permit means any occasion including but not limited to an out of the ordinary, infrequent occurrence which is short in duration and can be construed to be either a picnics, fairs, conventions, receptions, civic or community enterprises, or sporting events lasting one or more consecutive days. A business promotion, with the exception of a grand opening for a new business, is not a special event. For example, a business year-end inventory sale or a wine tasting at

a special sale would not be considered a special event.

(15) "Substantially different use" means a change great enough to create a new type of business operation at an establishment which is easily distinguishable from the business currently operated or previously planned to be operated at the same establishment.

(14)(16) "Undisclosed ownership interest" means a person with an ownership interest in a license who is not identified as an applicant, shareholder or member of an applicant on an application for the license or as a licensee on the face of the license.

AUTH: Sec. 16-1-303, MCA; IMP: Sec. 16-3-311, 16-4-105, 16-4-205, 16-4-207, 16-4-301, 16-4-402, 16-4-404, 16-4-413, 16-4-420, and 16-4-423, MCA

42.12.302 TERMINOLOGY DEFINITIONS The following terms will be used in this chapter.

(1) "Association" means an organization of people having a common interest.

(2) "Civic or community enterprise" means an activity organized for the public at large.

(3) "Conduct" means to develop, direct, manage and control the event.

(4) "Consideration" means the receiving of money or other compensation for providing a service, such as a charge for admission or other refreshments at the event where alcoholic beverages are provided.

(5) "Contiguous" means touching along a boundary.

(6) "Enclosure" means an area with definable boundaries such as a fair grounds or baseball stadium grounds.

(7) "Recreational or sporting activity" means an activity in which the visitors to the resort actively participate. This includes but is not limited to hiking, skiing, boating, swimming, horseback riding and golfing.

(11)(8) "Resort area" means a location or site in Montana comprising a minimum of 15 50 contiguous acres where a recreational development, either proposed or existing, is located. The primary purpose of the resort area must be to provide a suitable location and the necessary facilities where the general public may engage in recreational or sporting activity. The resort development may not qualify as a resort area until it has been approved as such by the department.

(9) "Special event" is defined in ARM 42.12.106.

(10) "Structure" means the buildings and facilities constructed within the recreational development to house the overnight lodging, food and alcoholic beverage service accommodations, and/or facilities constructed for use in recreational or sporting activity.

AUTH: Sec. 16-1-303, MCA; IMP: Sec. 16-4-201, 16-4-202, and 16-4-301, MCA

42.12.303 VALUATION CERTIFICATE APPRAISAL (1) When the proposed resort area plat is filed with the liquor division department, an appraisal must also be prepared and filed by the

resort developer which contains a detailed analysis of the current actual valuation of:

- (a) the real property within the proposed resort area; and
- (b) the structure or structures within the proposed resort area.

(2) and (3) remain the same.

AUTH: Sec. 16-1-303, MCA; IMP: Sec. 16-4-201 and 16-4-202, MCA

42.12.306 FINANCIAL RESPONSIBILITY (1) When an application for determination of a resort area is filed with the liquor division department, the applicant must be prepared to provide information relating to:

- (a) the overall plan for the recreational development;
- (b) the financial condition, experience, and name and address of the resort developer and operators of proposed establishments within the resort area; and
- (c) any additional information the department may request.

AUTH: Sec. 16-1-303, MCA; IMP: Sec. 16-4-201 and 16-4-202, MCA

42.12.401 DEFINITIONS The following terms will be used in this chapter.

(1) ~~"Conditional license approval" means one that is issued upon completion of the investigation and public protest period, but prior to completion of the premises. A conditional license can be revoked by the Montana department of revenue if the premises do not meet the required specifications upon completion. This designation is not to be confused with a license that is issued with conditions written on the face of the license itself pursuant to 16-1-302, MCA. Such conditions are permanent and last throughout the existence of the license itself is defined in ARM 42.12.106.~~

(2) through (9) remain the same.

AUTH: Sec. 16-1-303, MCA; IMP: 16-4-420, MCA

4. The proposed rules do not replace or modify any section currently found in the Administrative Rules of Montana. The rules as proposed to be adopted provide as follows:

NEW RULE 1 RESORT AREA DETERMINATION APPLICATION PROCESS

(1) As required by 16-4-202, MCA, the department must schedule a hearing within 7 days of receipt of the resort plat.

(2) The following plat documents are necessary to determine if the resort area meets the minimum requirements to schedule a hearing:

- (a) a completed application for resort determination;
- (b) the resort plat verified as accurate by the resort area developer or landowner;
- (c) an appraisal of the resort area accompanied by a sworn statement from the appraiser attesting to the accuracy;
- (d) processing fees;
- (e) financial statement of resort developer and all known operators of proposed establishments within the resort area; and



(f) overall plan for resort development including a statement from resort developer verifying control of the resort area.

(3) If the documents in (2) are not provided, the department will notify the applicant of the missing items and request submission by a specific deadline. If the documents are not received timely, the application will be returned and not considered for licensing.

(4) If the documents in (2) are provided, a hearing will be scheduled and public notice will be provided as required in 16-4-202, MCA.

AUTH: Sec. 16-1-303, MCA; IMP: Sec. 16-4-202, MCA

NEW RULE II SPECIAL PERMITS (1) A special permit application must be completed and approved by the department when requesting the ability to sell beer and wine to patrons attending a special event. The holder of a special permit must abide by all applicable laws governing the retail sale of beer and wine for on-premises consumption.

(2) The length of time for which a special permit can be issued is determined by the fact that there is an outcome, conclusion or result. For example, the winner of a baseball tournament or the end of a concert.

(3) An association or corporation in good standing with the secretary of state can apply for a special permit, except those who have an ownership interest in a manufacturer, importer, bottler or distributor of alcoholic beverages or ownership in an agency liquor store.

(4) The applicant for the special permit must be conducting the event or be a member of a group conducting the event.

(5) A special permit cannot be substituted for a retail on-premises consumption alcoholic beverages license.

(6) Only one permit is required for multiple locations where beer and wine are sold within the enclosure where the event is held. All locations must be described on the permit application. A copy of the permit must be posted at each location.

(7) A special permit cannot be issued to a location where another permit or license is issued.

(8) Private parties where no money or other consideration is exchanged such as weddings or office parties are not required to obtain a special permit.

AUTH: Sec. 16-1-303, MCA; IMP: Sec. 16-4-301, MCA

RULE III SUBSTANTIALLY DIFFERENT USE (1) If an applicant has been denied a license under 16-4-405, MCA, a new application cannot be considered for 5 years unless the department determines there has been a change great enough to be easily recognizable. The department will consider applications where the proposed use is noticeably and substantially different from the use that was previously rejected. The following examples constitute a substantially different use but are not all inclusive of the types of changes the department would consider:

(a) A situation where the new business operation has changed significantly enough to change the primary source of revenue generated by the business or the operation previously planned to be operated on the premises. Such a change would be where a business changed from primarily a casino/bar operation to a restaurant operation with all the necessary facilities to accommodate a restaurant setting. An example would be where the primary source of income results from the restaurant operation rather than the previous casino/bar operation; or

(b) The zoning designation of the proposed location has changed by local government action.

(2) The following examples do not constitute substantially different use:

(a) a change in business hours;

(b) a change in the type of alcoholic beverages offered for on-premises consumption; or

(c) a newly constructed or remodeled building which will be used for the same primary purpose as the proposed use that was rejected.

AUTH: Sec. 16-1-303, MCA; IMP: Sec. 16-4-405 and 16-4-413, MCA

5. The Department proposes to repeal the following rules:

42.12.127 WINE LICENSE AMENDMENT found at page 42-1225 of the Administrative Rules of Montana.

AUTH: Sec. 16-1-303, MCA; IMP: Sec. 16-4-105, MCA

42.12.304 PLAT VERIFICATION found at page 42-1262 of the Administrative Rules of Montana.

AUTH: Sec. 16-1-303, MCA; IMP: Sec. 16-4-201 and 16-4-202, MCA

42.12.305 REQUIRED ACCOMMODATIONS found at page 42-1262 of the Administrative Rules of Montana.

AUTH: Sec. 16-1-303, MCA; IMP: Sec. 16-4-201 and 16-4-202, MCA

6. The Department is proposing the amendments to ARM 42.12.106 to further define the terms in the law and clarify the meaning of the terms as they relate to the alcoholic beverages regulations. The rule clarifies the meaning of special event and provides examples of occurrences which are not considered special events. The term conditional license is currently defined in ARM 42.12.401 but applies to all types of licenses. It also applies to sub-chapter 1 rules so it is being referenced in ARM 42.12.106. Section 16-4-413, MCA, places a 5 year moratorium on a location which was denied licensing. An exception was made in the law allowing a new application to be considered by the department if the use proposed in the new application is considered substantially different from the rejected use. Therefore, the department is defining substantially different use in ARM 42.12.106. The Department is adopting New Rule III to show examples of changes between the

proposed use and the rejected use that would allow the department to consider a subsequent application for a location previously denied within the past 5 years.

Amendments to ARM 42.12.303 and 42.12.306 are general housekeeping amendments replacing division, which no longer exists, with department.

Amendment to ARM 42.12.401 is necessary to reference the definition of "conditional license" found in ARM 42.12.106.

New rule I explains the information needed to consider a request for a resort determination and the steps taken by the license bureau to schedule a hearing when the information is received and to return the application when the information is not received.

New rule II explains when a special permit must be issued. It also explains to whom and where the permit can be issued.

The department intends to repeal ARM 42.12.127 because the rule goes beyond the scope of the law. Section 16-4-105, MCA, requires the applicant to satisfactorily show that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared food business. ARM 42.12.304 is being repealed as the rule restates the language in the law. ARM 42.12.305 is being repealed because the rule goes beyond the requirement of law by requiring a restaurant and overnight accommodations.

7. 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:

Cleo Anderson  
Department of Revenue  
Director's Office  
P.O. Box 202701  
Helena, Montana 59620

no later than April 2, 1999.

8. Cleo Anderson, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

9. All parties interested in receiving notification of any change in rules pertaining to this subject should contact the Rule Reviewer in writing at the address shown in section 7 above.

10. The notice requirements of 2-4-302(2)(d), MCA, have been satisfied.

Cleo Anderson

Mary Bryson

CLEO ANDERSON  
Rule Reviewer

MARY BRYSON  
Director

Certified to the Secretary of State February 12, 1999

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PUBLIC HEARING
proposed amendment of ARM	)	ON PROPOSED AMENDMENT OF
44.14.101 and 44.14.102	)	ARM 44.14.101 and
pertaining to the retention	)	44.14.102 RECORDS
of records stored on digital	)	RETENTION
media.	)	

TO: All Interested Persons.

1. On April 2, 1999, a public hearing will be held at 9:00 a.m. in the Secretary of State's Office Conference Room at room 225 of the Capitol Building at Helena, Montana, to consider the proposed amendment of ARM 44.14.101 and 44.14.102 regarding the retention of records stored on digital media.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you request an accommodation, contact the Secretary of State no later than 5:00 p.m. on March 24, 1999, to advise us the nature of the accommodation that you need. Please contact Lynn Keller, Secretary of State's Office, P.O. Box 202805, Helena, MT 59620-2805; telephone (406) 444-9009; FAX (406) 444-9002.

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

44.14.101 RECORDS WITH A RETENTION PERIOD OF TEN YEARS OR LESS (1) Originals of government records reproduced on optical disk or any other digital medium or government records for which optical disk or digital medium is the original medium may be authorized for destruction or other disposition. Government agencies should use the record disposal request form RM5 for authority to dispose.

(2) When the retention period is less than ten years the information may be kept on a digital medium. After seven years any information kept on a digital medium must be migrated to what is then the current prevailing digital format, ensuring backward compatibility with older generations of technology.

AUTH: Sec. 2-6-111 and 2-6-203, MCA

IMP: Sec. 2-6-111, 2-6-203, 2-6-206, 2-6-211, 2-6-213, 2-6-214, 2-6-302, 2-6-304 and 2-15-1003, MCA

44.14.102 RECORDS WITH A RETENTION PERIOD OF MORE THAN TEN YEARS (1) Originals of government records reproduced on optical disk or any other digital medium may be authorized for destruction or other disposition if a paper or an archival quality microform copy, as defined in the Records Management Manual is maintained. Government agencies should use the record disposal request form RM5 for authority to dispose.

(2) A paper or archival quality microform copy, as defined in the Records Management Manual must be maintained for government records for which optical disk or any other digital medium is the original medium.

(3) ~~Recognizing that optical disk is just one element the availability of a wide variety of digital media~~ in the rapid development of new information technologies, the state records committee will continue to consider issues that affect the availability of government information and the retention or disposition of records in various formats.

AUTH: Sec. 2-6-111 and 2-6-203, MCA

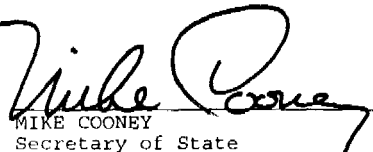
IMP: Sec. 2-6-111, 2-6-203, 2-6-206, 2-6-211, 2-6-213, 2-6-214, 2-6-302, 2-6-304 and 2-15-1013, MCA

4. The rules are proposed to be amended to include new information technologies and to add migration language to ensure backward compatibility with older generations of technology.

5. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Lynn Keller, Records Management Bureau, Secretary of State's Office, 1320 Bozeman Street, P.O. Box 202805, Helena, Montana 59620-2805, and must be received no later than April 9, 1999.

6. Daniel Whyte, Chief Legal Counsel, Secretary of State's Office, Room 225, State Capitol, P.O. Box 202801, Helena, Montana 59620-2801 has been designated to preside over and conduct the hearing.

7. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies whether the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Bureau, 1236 Sixth Avenue, P.O. Box 202801, Helena, MT 59620-2801, faxed to the office at (406) 444-5833, or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.

  
MIKE COONEY  
Secretary of State

  
DANIEL WHYTE  
Rule Reviewer

Dated this 8th day of February 1999.

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

In the matter of the amendment )	NOTICE OF AMENDMENT OF
of rules pertaining to unpro- )	8.20.408 UNPROFESSIONAL
fessional conduct and continuing )	CONDUCT AND 8.20.501
educational requirements )	CONTINUING EDUCATIONAL
)	REQUIREMENTS

TO: All Interested Persons:

1. On September 10, 1998, the Board of Hearing Aid Dispensers published a notice of public hearing on the proposed amendment of the above-stated rules at page 2350, 1998 Montana Administrative Register, issue number 17. The hearing was held on October 5, 1998 in Helena, Montana.

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

3. No comments or testimony were received.

BOARD OF HEARING AID DISPENSERS  
DUDLEY ANDERSON, 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, February 12, 1999.

BEFORE THE BOARD OF PHARMACY  
DEPARTMENT OF COMMERCE  
STATE OF MONTANA

In the matter of the amendment, ) CORRECTED NOTICE OF AMENDMENT  
repeal and adoption of rules )  
pertaining to the practice of )  
pharmacy )

TO: All Interested Persons:

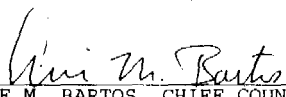
1. On September 10, 1998, the Board of Pharmacy published a notice of proposed amendment, repeal and adoption of rules pertaining to the practice of pharmacy at page 2353, 1998 Montana Administrative Register, issue number 17. On November 19, 1998, the Board published its notice of adoption of those rules at page 3103, 1998 Montana Administrative Register, issue number 22. In that notice of adoption, the Board amended, repealed and adopted the rules exactly as proposed.

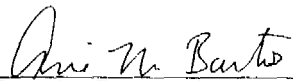
2. In the original notice, the Board amended ARM 8.40.1215 by deleting (1) through (5), adding a new (1) and inadvertently stating "(a) through (6)(s) will remain the same." The language following (1) should have stated "(a) through (e)(ii) will remain the same" and then stated "(6) will remain the same, but will be renumbered (2)" and "(a) through (s) will remain the same."

3. Replacement pages for the corrected notice of amendment will be submitted to the Secretary of State on March 31, 1999.

BOARD OF PHARMACY  
SHIRLEY BAUMGARTNER, PRESIDENT

BY:

  
ANNIE M. BARTOS, CHIEF COUNSEL,  
DEPARTMENT OF COMMERCE

  
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, February 12, 1999.

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the transfer	)	NOTICE OF TRANSFER AND
and amendment of rules	)	AMENDMENT AND REPEAL
16.29.101, 16.29.102,	)	
16.29.103, 16.29.104 and	)	
16.29.106 and the repeal of	)	
16.29.105 pertaining to	)	
public health control	)	
measures for dead human	)	
bodies	)	

TO: All Interested Persons

1. On September 10, 1998, the Department of Public Health and Human Services published notice of the proposed amendment and transfer of the above-stated rules at page 2428 of the 1998 Montana Administrative Register, issue number 17.

2. The Department has repealed rule 16.29.105 as proposed.

3. The department has transferred and amended the following rules as proposed, with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

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

(1) "Alternative container" means any receptacle or enclosure which:

(a) is of sufficient strength to be used to hold and to transport a dead human body;

(b) is able to be closed to provide a complete covering for the human remains;

(c) is resistant to leakage or spillage;

(d) minimizes the exchange of air between the inside and outside of the container; and

(e) is able to provide protection for the health and safety of persons handling the container.

(1) through (4) remain as proposed but are renumbered (2) through (5).

~~(5)(6). "Embalming" has the meaning provided in 37-19-101; MCA means the preservation and disinfection of the dead human body by application of chemicals, externally, internally, or both.~~

(6) through (12) remain as proposed but are renumbered (7) through (13).

AUTH: Sec. 50-1-202, 50-16-701 and 50-16-705, MCA

IMP: Sec. 50-1-202, 50-16-701 and 50-16-705, MCA



37.116.102 DEATH OF A PERSON WITH AN INFECTIOUS DISEASE AND NOTIFICATION OF MORTUARY (1) When a person dies, the person's health care provider, the local coroner who certifies the death, or, if the death occurs in a health care facility, a facility staff member designated by the facility must notify the mortuary receiving the person's body, at the time of transfer of the body to the mortuary or as soon after transfer as possible, whether or not the person had or was suspected of having an infectious disease at the time of death. If the person did have or was suspected of having an infectious disease, the notice must also include what infectious disease the deceased individual had at the time of death and the nature of the disease. A sample form is available from the department's communicable disease control and prevention bureau, which may be used to provide the notice in writing to a mortuary.

(2) If a person has or is suspected by the person's health care provider or the ~~local health officer~~ coroner of having an infectious disease at the time of death, the local health officer ~~must~~, immediately after receiving notification of the infectious disease, must inform the mortician or any other person handling the body (before or after death) of that fact and of the appropriate measures which should be taken to prevent transmission.

(3) As soon as reasonably possible following death or the conclusion of further examination required to determine the cause of death, the body of a person who had or is suspected by the person's health care provider, the coroner, or the local health officer of having a viral hemorrhagic fever (lassa, ebola, Marburg, Congo-Crimean) or any other undiagnosable febrile disease occurring shortly after returning from international travel must be placed in an airtight a hermetically sealed bag or other airtight alternative container, handled only to the extent necessary, and either cremated, subject to the restriction in 37-19-705(2), MCA, or buried immediately, unless an exception is granted pursuant to ARM 37.116.105.

(4) and (5) remain as proposed.

AUTH: Sec. 50-1-202, 50-16-701 and 50-16-705, MCA

IMP: Sec. 50-1-202, 50-16-705 and 50-16-712, MCA

37.116.103 TRANSPORTATION OF DEAD HUMAN BODIES (1) The body of a person who died or is suspected by the person's health care provider, the coroner, or the local health officer of dying with a disease listed in ARM 37.116.102(3) may not be transported unless enclosed in a hermetically sealed casket or equivalent airtight alternative container and the plans for transporting the container are approved by the local health officer.

(2) The body of a person who, at the time of death, did not have a disease listed in ARM 37.116.102(3):

(a) when removed from the place of death to a mortuary,

must be transported by removal cot, transport stretcher or alternative container;

(b) must be placed in a casket or ~~equivalent airtight~~ alternative container in order to be transported by common carrier. If such body is en route more than 8 hours, or if the termination of common carrier transport occurs more than 36 hours after the time of death, the body must be either embalmed, or refrigerated at 35°F or colder, ~~or otherwise treated prior to transport~~ so as to prevent or substantially retard decomposition and the resultant effluents and odors.

(2) (c) ~~When the body of a person who did not have a disease listed in ARM 16.29.102(3) is~~ when 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 either embalmed, or refrigerated at 35°F or colder, or otherwise treated~~ so as to prevent or substantially retard decomposition and the resultant effluents and odors.

~~(a) Such a body must, at a minimum, be transported on a cot or stretcher and with a covering.~~

AUTH: Sec. 50-1-202, MCA

IMP: Sec. 50-1-202, MCA

37.116.104. PROHIBITIONS (1) A disinterred human body of a person who died with a disease listed in ARM 37.116.102(3) may not be accepted for transportation by a common carrier or private conveyer unless the remains are enclosed in an airtight alternative container approved by the local health officer or the department's director or designee.

AUTH: Sec. 50-1-202, MCA

IMP: Sec. 50-1-202, MCA

37.116.105. EXCEPTIONS (1) The department or a local health officer may grant an exception to the provisions of:

(a) ARM 37.116.103(2), ~~16.29.103(2)~~, or 37.116.104(1) if such exception is requested prior to transportation of the dead human body and if such exception does not constitute a hazard to public health, create a public nuisance, or violate the provisions of Title 50, chapter 15, part 4, MCA;

(1)(b) remains as proposed.

AUTH: Sec. 50-1-202, MCA

IMP: Sec. 50-1-202, MCA

4. Although no specific comment was directed to the definition of "embalming", there is legislation (House Bill 153) pending before the current legislature that expands the statutory definition of "embalming" in 37-19-101, MCA beyond the physical preparation of the body commonly understood by that term. The definition has been amended to keep the meaning it had when the original notice of proposed rulemaking was filed.

5. The department has thoroughly considered all commentary received. The comments received and the department's response to each follow:

COMMENT #1: The requirement in ARM 16.29.103 [37.116.103] for a body to be in an "airtight" container during transportation should be changed because (a) the equipment to absolutely prevent an air exchange does not exist and there is no standardization of the commercial products available; (b) damage could occur if a truly "airtight" container were transported in aircraft and depressurization occurred; (c) the increased costs to the consumer of requiring a special casket for transporting a body were not justified by any added public health protection; and (d) if a body is embalmed, single-use containers are routinely used on common carriers since the embalming eliminates most of any hazard. It was also suggested that a definition used by the Board of Funeral Service for acceptable containers for cremation, with appropriate modification, could be used as a substitute for the airtight container requirement.

RESPONSE: The department agrees with the comments. An alternative container is now allowed, and a definition of "alternative container" added to ARM 16.29.101 [37.116.101] that is adapted as recommended by the Board of Funeral Service.

COMMENT #2: The definition of "infectious disease" is vague as proposed; difficult to use when reference to the Control of Communicable Diseases Manual is necessary; does not encompass viral infections; and should include non-life threatening diseases such as pinkeye and impetigo, other "new" diseases which are yet to be identified, and possibly even head lice.

RESPONSE: The department is bound by the statutory definition of "infectious disease" in 50-16-701, MCA, which the definition in ARM 16.29.101 [37.116.101] implements. The statutory definition limits "infectious diseases" to those that are transmittable by aerosol or via blood or other body fluids, but includes any disease in that category. Since a list of every such disease would be prohibitively long and difficult to determine, using the manual as a catchall was necessary. Also, the definition includes any agent, including viruses, recognized as transmittable by aerosol or blood or body fluids, and is inclusive of diseases posing a significant risk to morticians or others handling the body. Since infestation with head lice does not fit the statutory definition of an infectious disease, it cannot be included, nor can any infectious disease transmittable by means other than aerosol or blood or body fluid exposure. New diseases not on the list or included in the manual can be added to the definition of "infectious disease" through future rulemaking. Therefore, no changes will be made to the rule.

COMMENT #3: The definition of common carrier is too narrow and

omits several means of transportation such as private vehicles; and the definition of "private conveyer" needs to be inclusive rather than exclusive.

RESPONSE: The department felt the distinction between a private conveyer and a common carrier was reasonable. A private vehicle as referenced in the rules would be by definition a private conveyer, not a common carrier. The definition of a private conveyer is in fact an inclusive one, including every mode of transportation not defined as a common carrier. Therefore, no changes have been made to the rule.

COMMENT #4: Using a reference manual for listing of diseases which are notifiable would result in information that should be provided to morticians being withheld simply because verification that the disease in question was reportable to the mortician would be too time-consuming or difficult. The commentor also suggested requiring that if a health care provider's representative is uncertain whether circumstances require reporting, the known disease information should be provided to the mortuary personnel anyway.

RESPONSE: The response to Comment #2 indicates why use of the manual is necessary. However, to deal with cases of diagnosis uncertainty, language has been added to ARM 16.29.102 [37.116.102] to require notification whenever an infectious disease is suspected. Also, the optional written communication tool developed by the department and referred to in ARM 16.29.102(1) [37.116.102] will contain a spot to check "uncertain if reportable".

COMMENT #5: The phrase "or suspected of having [an infectious disease]" in ARM 16.29.102 [37.116.102] should not have been deleted, since sometimes a confirmed diagnosis may not be made until days following death.

RESPONSE: The phrase was originally deleted to parallel the language contained in 50-16-712, MCA, added in 1995 to mandate notice to morticians. However, since the intent of the statute was to protect morticians and others handling the dead body from infectious disease, notification of suspected as well as confirmed disease is appropriate and the recommended language has been reinserted.

COMMENT #6: A form with standardized language should be developed to assist those charged under the law with the responsibility and obligation of reporting to mortuaries. In addition, many hospitals do not have a person dedicated after hours to release information to morticians, making compliance difficult.

RESPONSE: Although 50-16-712, MCA, does not require written

notification, making an optional form available for coroners and health care providers to use for notification to mortuaries may be helpful. It would serve an educational purpose as well as allow health care personnel to release information for anticipated after hours situations when mortuary personnel are picking up the dead body. An optional form is now referred to in ARM 16.29.102(1) [37.116.102] for information only, and does not represent a requirement of the rules. The form itself will be distributed with the finalized rules to morticians, coroners, local health officers, and the Montana Hospital and Montana Health Care Associations.

COMMENT #7: Compliance with ARM 16.29.102(2) [37.116.102] may be difficult because a local health officer would not usually be aware immediately of a human death with an infectious disease, since a death certificate can be filed up to 10 days following death.

RESPONSE: The department agrees. "Coroner" has been substituted for local health officer in ARM 16.29.102(2) [37.116.102], to be consistent with the process outlined in ARM 16.29.102(1) [37.116.102] of that rule. The requirement that a health officer notify persons handling the body immediately was made contingent upon the officer's receiving notification of the infectious disease.

COMMENT #8: Communication by local health officers with morticians is minimal to non-existent, making questionable the availability of health officers to notify mortuaries or other persons handling the dead body at all hours as outlined in ARM 16.29.102(2) [37.116.102].

RESPONSE: The rule, even prior to its proposed amendment, provided for local health officers to notify those handling the dead body regarding appropriate control measures to prevent contracting infectious disease. It was in part this perceived failure of notification by local health officers that prompted the passage of 50-16-712, MCA. Neither the law nor the rules require local health officers to be the first persons notifying mortuaries of persons who have died with infectious diseases, especially if a death of a person with an infectious disease occurs, for instance, at 3:00 a.m. Saturday morning. However, the health officers are responsible under the current general rules concerning communicable disease control to take steps, after being notified of a reportable disease, to notify contacts and take any other action needed to prevent the spread of disease (see ARM 16.28.306).

COMMENT #9: The requirement in ARM 16.29.102(3) [37.116.102] for immediate cremation may conflict with the statutory requirement in 37-19-705(2), MCA, for a 24 hour holding period after death before cremation may take place.

RESPONSE: The department agrees and the rule has been amended to incorporate the statutory restriction.

COMMENT #10: The use of embalming for disinfection purposes was advocated, and special handling requirements for shipping unembalmed bodies by common carrier suggested.

RESPONSE: Available evidence does not support the necessity to embalm in all cases to prevent infection. The department does specify special handling requirements for persons dying with diseases listed in ARM 16.29.102(3) [37.116.102], and the requirement for embalming has been retained only in those instances where transportation, by common carrier or private conveyer, exceeded certain time frames, thereby increasing the danger to public health.

COMMENT #11: The vague and confusing language in the existing rules allowing bodies to be "otherwise treated" prior to transport should be deleted or more specifically defined.

RESPONSE: Since ARM 16.29.106 [37.116.105] provides for the department or local health officer to grant an exception to specific parts of the rules for a family or mortuary requesting it, the words "or otherwise treated" have been deleted.

COMMENT #12: How can a local health officer approve the container for the body of someone dying with a disease listed in ARM 16.29.102(3) [37.116.102] when he or she often may not have received notice of the disease?

RESPONSE: The diseases listed in ARM 16.29.102(3) [37.116.102] are very rare and serious diseases that require strict public health surveillance and control measures, making it extremely likely that the health officer would have been informed about the disease. ARM 16.29.102(3) [37.116.102] requires the body to "be placed in a hermetically sealed bag or alternative container, handled only to the extent necessary, and either cremated...or buried immediately..." There are limited numbers of crematories in Montana. Given this fact and other circumstances associated with transportation of persons dying with these rare diseases, it is felt that strict public health control measures must be required during transit, requiring health department supervision. As an aid to health officers, one mortician indicated that some casket manufacturers offer caskets that come with certification that an "airtight" test has been performed on each casket under certain production conditions. Other specifications concerning body containers are also available from the manufacturers.

COMMENT #13: The phrase "hermetically sealed", utilized by the Center for Disease Control and Prevention, could be used in place of the word "airtight" to provide flexibility to a

mortuary, while still providing public health protection.

RESPONSE: The word "airtight" has been eliminated from the rules. In both ARM 16.29.102 [37.116.102] and 16.29.103(1) [37.116.103], there are now references to "hermetically sealed" bags and caskets, but in both cases, an alternative container, as noted in the response to Comment #1, may now be utilized.

COMMENT #14: In regard to ARM 16.29.103(3)(a) [37.116.103], what constitutes a "covering" for transporting a body?

RESPONSE: The department agrees the provision is vague and unnecessary for public health purposes, and has deleted it from the rule.

COMMENT #15: It is difficult to transport a dead body on a stretcher or cot when the body is being transported in a small plane.

RESPONSE: The department agrees, and the requirement to transport a body on a cot or stretcher has been removed from ARM 16.29.103 [37.116.103] as a blanket requirement, but has been added as an alternative when the mortuary removes a body from the place of death.

COMMENT #16: In ARM 16.29.103 [37.116.103], the requirement for "airtight" containers should be retained for transportation of bodies that have not been embalmed.

RESPONSE: As noted in the response to Comment #1, due to the numerous expressed concerns about cost and the feasibility of transporting bodies in an "airtight container", this language has been modified in ARM 16.29.103(1) [37.116.103] to allow "hermetically sealed" caskets or alternative containers. As noted in the response to Comment #13, the term "hermetically sealed casket" is now used instead of "airtight" in that rule. This language change, it should be noted, does not prohibit the use of airtight containers in transporting unembalmed bodies, although it does not require them.

COMMENT #17: Do the transport requirements of ARM 16.29.103 [37.116.103] apply to removal of a body from the place of death to the funeral home? If so, it would be ridiculous for morticians to have to transport a casket around from place to place to remove bodies. In addition, a body would have to be handled more to be placed into a casket than to be moved onto one of the mortuary's removal cots, increasing health risk.

RESPONSE: The rule previously did not address the question of whether the "transportation" encompassed by the rule was meant to include transport to the funeral home. Such transport is intended to be included, but the department agrees that the

standards should be different in that case, and has added language in ARM 16.29.103(2) [37.116.102] to clarify that when the body is being removed from the place of death, a removal cot, transport stretcher, or alternative container is to be used.

COMMENT #18: The requirement in ARM 16.29.104 [37.116.104] for an airtight container for disinterred bodies is impractical in many instances.

RESPONSE: For the reasons previously noted, "alternative container" has been substituted for an "airtight" container for disinterring those bodies dying with a rare disease listed in ARM 16.29.102(3) [37.116.102]. The alternative container used in this situation must be approved by the local or state health officer.

COMMENT #19: The type of transportation intended in ARM 16.29.104 [37.116.104] needs clarification.

RESPONSE: For clarification, the terms "common carrier" and "private conveyer" have been added following "transportation."

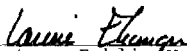
COMMENT #20: The rulemaking process should be stopped at this point in time and the proposal withdrawn, and reconsideration of the rules should commence again with input from the Board of Funeral Service, Montana Funeral Director's Association and possibly others.

RESPONSE: Prior to the public hearing, the proposed rules were distributed to the Board of Funeral Service, the Montana Funeral Directors' Association, Montana's state medical examiner, local funeral homes, all local health officers, the Montana Hospital Association, the Montana Health Care Association, the Montana Family Practitioners Association, the Montana Hospice Association, the Montana Nurses Association, the Montana Chapter of the American Society of Internal Medicine, and the Montana Medical Association. In addition, at the request of the Montana Funeral Directors' Association, a representative of the department met with their southwestern district branch to explain the proposed rules and hear additional comments. Nine letters with comments were received during the comment period and significant changes have been made to the proposal. Changes in the rules are clearly needed now, especially to reflect the statutory changes made since they were originally adopted. In addition, the substantial effort already put in by the department and by commentators would be wasted if the rulemaking process was stopped now. Therefore, the department has decided to go forward with these final rules. The department welcomes continued comment on the rules and is open to discussion with interested parties on future rule changes.



A number of other statements, opinions, and comments were determined to deal with operational matters and issues not related to the proposed rules. Therefore, it is not appropriate to address them in this context, and the Department has elected not to respond.

  
Rule Reviewer

  
Director, Public Health and  
Human Services

Certified to the Secretary of State February 12, 1999.

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the ) NOTICE OF AMENDMENT  
amendment of rules 46.20.106, )  
46.20.117, 46.20.120 and )  
46.20.123 pertaining to the )  
Montana mental health access )  
plan )

TO: All Interested Persons

1. On December 17, 1998 the Department of Public Health and Human Services published notice of the proposed amendment of the above-stated rules at page 3252 of the 1998 Montana Administrative Register, issue number 24.

2. The Department has amended rules 46.20.117 and 46.20.123 as proposed. The Department, at this time, is not adopting the proposed changes to 46.20.120 in this particular notice.

3. The Department has amended the following rule as proposed with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

46.20.106 MENTAL HEALTH ACCESS PLAN, MEMBER ELIGIBILITY

(1) and (1)(a) remain as proposed.

(2) Individuals that have not been determined by the department to be eligible for medicaid are eligible for covered services under the plan if:

(2)(a) remains as proposed.

(b) the family of which the individual is a member has a total family income, without regard to other family resources, at or below 150% of the most recently published federal poverty level (FPL); or

(c) the individual is a patient of the Montana state hospital or the Montana mental health nursing care center and the family of which the individual is a member has a total family income, without regard to other family resources, at or below 200% of the FPL.

(3) through (10) remain as proposed.

AUTH: Sec. 41-3-1103, 53-2-201, 53-6-113, 53-6-131,  
53-6-701 and 53-6-706, MCA

IMP: Sec. 41-3-1103, 53-2-201, 53-1-601, 53-6-101,  
53-6-113, 53-6-116, 53-6-117, 53-6-131, 53-6-701,  
53-6-705, 53-6-706, 53-21-139 and 53-21-202, MCA

4. The Department has chosen at this time to delay the adoption of the proposed amendments to ARM 46.20.120 as was proposed in the proposal notice. Due to the existence of a

prior rule adoption notice providing for contingent adoption of certain amendments to ARM 46.20.120, there is some question at this time as to the appropriate text for adoption of further changes to ARM 46.20.120. The proposed changes in this notice would have removed provisions from ARM 46.20.120 as it existed prior to the previous notice of rule adoption. The provisions that were to be removed provided for the imposition of copayments. While those provisions will remain in the rule at this time, the Department does not intend to continue or further implement copayments in the immediate future.

5. The amendments adopted in this rule notice are effective March 1, 1999.

6. The Department has thoroughly considered all commentary received. The comments received and the Department's response to each follow:

COMMENT #1: Excluding consumers who earn from 150% to 200% of the federal poverty level (FPL) from the Montana Mental Health Access Plan (MHAP) coverage will irreparably harm mental health consumers and their families and cost Montana far more than it will save mental health managed care.

Consumers dropped from MHAP eligibility under the proposed amendment will be unable to afford psychotropic medications and will be hospitalized.

RESPONSE: The Department is cognizant of the potential harm that may occur to some persons with mental illness currently receiving services through MHAP if they do not receive appropriate and effective treatment. The choice in this case is between maintaining the gains achieved under MHAP for a goodly number of the consumers or losing those gains altogether. The Department believes that termination of MHAP program will follow if needed reductions in costs for MHAP are not realized. The proposed change in the eligibility income criterion is the most viable means of realizing the reductions.

If termination of MHAP were to occur, the Department would then implement its contingency plan which calls for a modified fee-for-service system with care-management components. Under the contingency plan the Department would not have sufficient budgetary authority to continue the complete array of services being delivered under MHAP to the current population of consumers. Instead, the Department anticipates that it may have to limit coverage of such things as psychotropic medications and significantly reduce coverage of consumers who do not have medicaid eligibility. The coverage based on a person's income as a percent of the federal poverty level could not be more than 150% of FPL and would likely be less than that percentage.

COMMENT #2: At the administrative rule hearing, the Department noted and explained that it had determined that it would be necessary to maintain the current 200% of FPL eligibility criterion for consumers receiving intensive residential services at the Montana State Hospital and the Montana Mental Health Nursing Care Center. This exception is unacceptable because it would make treatment in the most restrictive setting the only funded mental health service for consumers in this income group.

RESPONSE: The Department has adopted along with the proposed amendments, another amendment that provides that the MHAP eligibility income criterion for consumers who are residing at the Montana State Hospital and the Montana Mental Health Nursing Care Center is to be at 200% of FPL.

The funds appropriated by the Legislature for MHAP purposes are based in part on an estimated sum total for possible coverage through MHAP of a certain percentage of consumers entering Montana State Hospital and the Montana Mental Health Nursing Care Center for services. The funding otherwise available to those two intensive residential settings is not adequate to fund services for the consumers currently receiving services at those settings funded through MHAP. With the revision of the eligibility criterion for MHAP, many consumers currently receiving services in those settings funded with MHAP, while still meeting the level of care and receiving services in those settings, would have to be funded with monies other than those available through MHAP.

While the Department could remove the funds necessary for the treatment of the consumers who would be excluded from the contract with the managed care provider for MHAP and directly place the monies into the budget for the two facilities, that would then likely be a disincentive for the managed care provider to foster community services that can meet the needs of those consumers.

Under the structure of the MHAP managed care system of services the provider could realize financial gain by fostering effective community services to meet some of the intensive needs that now can only be addressed in an intensive residential service setting such as the Montana State Hospital. Once those services are fostered then there can be further financial gain in that nonplan consumers may also benefit from those community services and thereby avoid residency in the more costly intensive residential services settings.

Placement of both plan eligible consumers and nonplan consumers into the Montana State Hospital and the Montana Mental Health Nursing Care Center will remain predicated upon level of care and statutory admission criteria. Excluding consumers receiving services from the two facilities from the change in MHAP

eligibility criterion, along with the placement criteria for both facilities, should preclude increases in the populations at the facilities.

COMMENT #3: Since the proposed reduction in the maximum income for MHAP eligibility is proposed as a response to financial difficulties in the program, it is premature to reduce the number of eligible members until the Department knows what level of funding will be appropriated for this program.

The action proposed by the Department is premature because everything has not been tried.

RESPONSE: The Department has an obligation to act on the best information available. The Governor's budget currently before the Legislature does not include significant additional funding for MHAP which would allow continuation of eligibility for the consumers who now fall between 150% and 200% of FPL. The Department will not know the actual legislated level of appropriations available for MHAP until the end of the legislative session in April 1999, and any increased funding would not be available until July 1, 1999 and later.

The Department previously proposed the imposition of a graduated monthly premium payment and pharmacy copayment as a means of avoiding reductions in MHAP coverage. The passage of Constitutional Initiative 75 in November 1998 made this solution impractical. Public comment on that proposal indicated widespread opposition because of the possibility that those consumers with the lowest incomes and the greater dysfunction would be eliminated from MHAP. The Department believes that it has seriously considered all available options and chosen the one which, while it will result in the loss of eligibility for several hundred consumers, will affect those most likely to be able to afford continued treatment. The only option for changes to MHAP that will realize adequate cost savings and that is feasible in light of the limitations resulting from CI-75, is a change to the eligibility income criterion from 200% to 150% of FPL.

COMMENT #4: The proposed reduction in the number of consumers eligible for MHAP will not achieve the predicted savings. Those who no longer receive treatment will quit or cut back on their employment in order to qualify.

Losing eligibility acts as a strong disincentive to recover and gain employment.

The proposed reduction in the financial eligibility criterion will result in cost-shifts to other publicly-funded programs.

Jails will become the new safety net for those with mental illness.

RESPONSE: The Department acknowledges the possibility that consumers just above the income criterion for MHAP may choose to lower their income to qualify for benefits available through the plan. This potential always exists where such limits are in effect and will occur at whatever criterion is established. To the degree this happens, the managed care provider will be obligated to pay for the provision of services to those consumers.

It is unclear why other programs would suffer potential cost-shifts. By definition, the nonmedicaid members of MHAP, the group affected by this amendment, do not qualify for other public assistance programs. If they have an existing third-party payment source for mental health treatment, that source is already billed before the managed care provider pays for services.

In crisis or emergency situations those consumers who lose eligibility due to this amendment remain potentially eligible for treatment under MHAP presumptive eligibility provisions. Community hospital emergency rooms will be available in that those settings are required to treat consumers regardless of the availability of a payment source. The Montana State Hospital will still be available to those who need that level of care, regardless of income.

COMMENT #5: Those consumers who are affected by this reduction in eligibility should be "grand fathered" until the end of their current eligibility period.

There should be a graduation of eligibility on a case-by-case basis.

RESPONSE: The gradual reduction in the number being served resulting from "grand fathering" would require that the eligibility criterion be set still lower in order to accomplish the cost reductions necessary to maintain MHAP. The Department elects to not use the grand fathering method.

COMMENT #6: Other human service programs administered by the Department have eligibility criterion up to 200% of FPL and some do not closely examine an applicant's income.

RESPONSE: Those programs are funded separately and operate under different federal or state statutes and regulations. The proposed changes in the financial eligibility criterion is proposed in large part to affect those consumers who can best afford to pay for their own treatment. The Department believes strongly that publicly-funded services should be reserved for

those who can least afford treatment otherwise.

COMMENT #7: It is not clear that the financial losses claimed by the managed care provider, Montana Community Partners (MCP), as justification for the proposed change in the eligibility criterion and therefore in the number of consumers required to be served are real.

The State should ensure MCP is appropriately managing care and reducing administrative expenses prior to implementing the proposed eligibility reduction.

RESPONSE: The Department has relied upon independently audited financial statements that document the first-year loss and will require independently audited statements for each year. Quarterly and monthly statements submitted by MCP are not audited, but must reconcile with the audited annual statement, and there is no reason to believe MCP's financial results are not accurate.

MCP has made significant reductions in administrative expenses and MCP's ratio of administrative expenses is well within acceptable industry standards. The Department has established requirements that MCP reduce the utilization of intensive services and continues to monitor the progress of these efforts. It is clear that by itself, reasonable decreases in the use of inpatient and other high-cost services will not sufficiently reduce MCP costs.

The Department believes that the funding allocated for the MHAP is not sufficient to support the increased level of members and services which have ensued with the implementation of the MHAP. More non Medicaid members have been served than were served with the same level of funding that was available for this group prior to MHAP implementation. Those consumers have received an array of services, including psychotropic medications and community inpatient hospitalization, that were not previously available. In order to maintain this increased array of benefits, it is necessary to reduce the number of consumers required to be served.

COMMENT #8: The implementation of this initiative was objectionable.

Notification to consumers of this change in December was inappropriate, insensitive, alarming, cold and confusing.

Providers were not notified which consumers would be dropped from eligibility prior to consumers receiving notification.

RESPONSE: The Department encouraged the managed care provider to notify affected consumer members quickly in order to allow

them as much time as possible to plan for service continuation following the proposed loss of MHAP eligibility. The Department and MCP failed to recognize the need to notify providers that their clients would receive this notification. The Department acknowledges that this notification should have been furnished to providers.

The Department recognized that the change in the eligibility income criterion would be difficult on those who lost coverage as a result. The Department did ask a consumer and a family member to review and comment on a draft of the letter prior to finalizing it in an effort to make it as clear, non-threatening and sensitive as possible.

Dawn Silva  
Rule Reviewer

Lauri Flanagan  
Director, Public Health and  
Human Services

Certified to the Secretary of State February 12, 1999.



BEFORE THE DEPARTMENT  
OF PUBLIC SERVICE REGULATION  
OF THE STATE OF MONTANA

In the Matter of the Emergency)	NOTICE OF
Amendment and Adoption of )	EMERGENCY AMENDMENT
Emergency Rules Pertaining to )	AND ADOPTION OF RULES
Slamming )	

TO: All Interested Persons

1. The Public Service Commission believes the following reasons constitute the necessity for implementation of these emergency rules:

a) The practice of making unauthorized changes to customers' long distance carriers (slamming) is prevalent and should not be tolerated by the commission. Until recently, such changes affected only interLATA long distance services. However, the commission required U S WEST to implement intraLATA dialing parity as of February 8, 1999, and with this implementation, there is considerable risk that the same practices will become widespread in the intraLATA long distance market. Other local exchange carriers in Montana will also be implementing intraLATA dialing parity soon.

b) The Federal Communications Commission has adopted new rules that address slamming in both the interLATA and intraLATA long distance markets. These rules will be effective 70 and 90 days following publication in the Federal Register. The delay in the effective date for these rules will cause harm to Montana consumers.

c) If the commission does not act immediately to prevent slamming, the result would be the further opportunity for slamming along with the implementation of intraLATA dialing parity before customers are sufficiently aware of the distinctions between the intraLATA and interLATA long distance markets.

d) The high probability of widespread slamming in the Montana intraLATA long distance market constitutes imminent peril. Emergency action is required to deter slamming, to protect consumers from unauthorized changes in their preferred carriers, and to ensure that competition in the interLATA, intraLATA and local markets is fair and not fraudulent or deceptive. Without these emergency rules, the public welfare may be substantially harmed. Thirty days is a reasonable notice period to allow for changes to the current business practices of carriers.

e) Therefore, the commission intends to amend and adopt the following emergency rules. The existing rules as amended and the new rules will be mailed electronically to all

registered interexchange carriers and mailed to all persons on the commission's general telecommunications mailing list and the commission's rulemaking service list and published as emergency rules in the Montana Administrative Register.

2. The emergency rules will be effective March 11, 1999.

3. The text of the emergency amendment is as follows:

38.5.3801 CHANGE IN TELECOMMUNICATIONS PROVIDER

(1) through (1)(d) remains the same.

(2) The independent third party may not be owned, managed, controlled, or directed by the carrier or the carrier's marketing agent; and may not have any financial incentive to confirm preferred carrier change orders for the carrier or the carrier's marketing agent. Any letter of agency, electronic authorization or verbal authorization verified by an independent third party that does not conform with this rule is invalid. Documentation of valid verbal authorization must demonstrate compliance with each element required by (1)(c) above.

(3) An executing carrier shall not verify the submission of a change in a subscriber's selection of a provider of telecommunications service received from a submitting carrier. For an executing carrier, compliance with the procedures prescribed in this rule shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a submitting carrier. The submitting carrier shall maintain and preserve records of verification of subscriber authorization for a minimum period of two years after obtaining such verification.

(4) Where a telecommunications carrier is selling more than one type of telecommunications service (e.g., local exchange, intralATA/intrastate toll, interLATA/interstate toll, and international toll) that carrier must obtain separate authorization from the subscriber for each service sold, although the authorizations may be made within the same solicitation. Each authorization must be verified separately from any other authorizations obtained in the same solicitation. Each authorization must be verified in accordance with the verification procedures prescribed in this rule.

AUTH: Sec. 69-3-822 and 69-3-1304, MCA; IMP: Sec. 69-3-102, 69-3-201 and 69-3-1303, MCA.

38.5.3802 LETTER OF AGENCY FORM AND CONTENT

(1) and (2) remain the same.

(3) The letter of agency shall not be a part of any sweepstakes, contest or similar promotional program combined on the same document with inducements of any kind.

(4) through (7) remain the same.

AUTH: Sec. 69-3-822 and 69-3-1304, MCA; IMP: Sec. 69-3-102, 69-3-201 and 69-3-1303, MCA.

4. The text of the emergency rules is as follows:

RULE I. DEFINITIONS For the purpose of this subchapter 38, the following definitions are applicable:

(1) "Executing carrier" means generally any telecommunications carrier that effects a request that a subscriber's telecommunications carrier be changed. A carrier may be treated as an executing carrier if it is responsible for any unreasonable delays in the execution of carrier changes or for the execution of unauthorized carrier changes, including fraudulent authorizations.

(2) "Submitting carrier" means generally any telecommunications carrier that:

(a) requests on the behalf of a subscriber that the subscriber's telecommunications carrier be changed; and

(b) seeks to provide retail services to the end user subscriber. A carrier may be treated as a submitting carrier if it is responsible for any unreasonable delays in the submission of carrier change request or for the submission of unauthorized carrier change request, including fraudulent authorizations.

AUTH: 69-3-822 and 69-3-1304, MCA; IMP: 69-3-102, 69-3-201 and 69-3-1303, MCA.

RULE II. PREFERRED CARRIER FREEZE (1) A preferred carrier freeze (or freeze) prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express consent. All local exchange carriers who offer preferred carrier freezes must comply with the provisions of this rule.

(2) All local exchange carriers who offer preferred carrier freezes shall offer freezes on a nondiscriminatory basis to all subscribers, regardless of the subscriber's carrier selections.

(3) Preferred carrier freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) subject to a preferred carrier freeze. The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested.

AUTH: 69-3-822 and 69-3-1304, MCA; IMP: 69-3-102, 69-3-201 and 69-3-1303, MCA.

RULE III. SOLICITATION AND IMPOSITION OF PREFERRED CARRIER FREEZES (1) All carrier-provided solicitation and other materials regarding preferred carrier freezes must include:

(a) An explanation, in clear and neutral language, of what a preferred carrier freeze is and what services may be subject to a freeze;

(b) A description of the specific procedures necessary to lift a preferred carrier freeze, including an explanation that:

(i) these steps are in addition to the commission's verification rules in ARM 38.5.3801 and 38.5.3802 for changing a subscriber's preferred carrier selections; and

(ii) the subscriber will be unable to make a change in carrier selection unless he or she lifts the freeze; and

(c) An explanation of any charges associated with the preferred carrier freeze.

(2) No local exchange carrier shall implement a preferred carrier freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with one of the following procedures:

(a) The local exchange carrier has obtained the subscriber's written and signed authorization in a form that meets the requirements of (3); or

(b) The local exchange carrier has obtained the subscriber's electronic authorization, placed from the telephone number(s) on which the preferred carrier freeze is to be imposed, to impose a preferred carrier freeze. The electronic authorization should confirm appropriate verification data (e.g., the subscriber's date of birth or social security number) and the information required by (3)(b)(i) through (iv). Telecommunications carriers electing to confirm preferred carrier freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a subscriber to a voice response unit, or similar mechanism that records the required information regarding the preferred carrier freeze request, including automatically recording the originating automatic numbering identification; or

(c) An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the preferred carrier freeze and confirmed the appropriate verification data (e.g., the subscriber's date of birth or social security number) and the information required by (3)(b)(i) through (iv). The independent third party must:

(i) not be owned, managed, or directly controlled by the carrier or the carrier's marketing agent;

(ii) not have any financial incentive to confirm preferred carrier freeze requests for the carrier or the carrier's marketing agent; and

(iii) operate in a location physically separate from the carrier or the carrier's marketing agent. The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a preferred carrier freeze.

(3) Written authorization is required to impose a preferred carrier freeze. A local exchange carrier may accept a subscriber's written and signed authorization to impose a freeze on his or her preferred carrier selection. Written authorization that does not conform with this rule is invalid and may not be used to impose a preferred carrier freeze.

(a) The written authorization shall comply with ARM 38.5.3802(2), (3) and (7) concerning the form and content for letters of agency.

(b) At a minimum, the written authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

(i) the subscriber's billing name and address and the telephone number(s) to be covered by the preferred carrier freeze;

(ii) the decision to place a preferred carrier freeze on the telephone number(s) and particular service(s). To the extent that a jurisdiction allows the imposition of preferred carrier freezes on additional preferred carrier selections (e.g., for local exchange, intraLATA/intrastate toll, interLATA/interstate toll service, and international toll), the authorization must contain separate statements regarding the particular selections to be frozen;

(iii) that the subscriber understands that she or he will be unable to make a change in carrier selection unless she or he lifts the preferred carrier freeze; and

(iv) that the subscriber understands that any preferred carrier freeze may involve a charge to the subscriber.

AUTH: 69-3-822 and 69-3-1304, MCA; IMP: 69-3-102, 69-3-201 and 69-3-1303, MCA.

#### RULE IV. PROCEDURES FOR LIFTING PREFERRED CARRIER FREEZES

(1) All local exchange carriers who offer preferred carrier freezes must, at a minimum, offer subscribers the following procedures for lifting a preferred carrier freeze:

(a) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's written and signed authorization stating her or his intent to lift a preferred carrier freeze; and

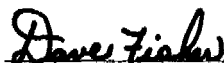
(b) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's oral authorization stating her or his intent to lift a preferred carrier freeze and must offer a mechanism that allows a submitting carrier to conduct a three-way conference call with the carrier administering the freeze and the subscriber in order to lift a freeze. When engaged in oral authorization to lift a preferred carrier freeze, the carrier administering the freeze shall confirm appropriate verification data (e.g., the subscriber's date of birth or social security number) and the subscriber's intent to lift the particular freeze.

AUTH: 69-3-822 and 69-3-1304, MCA; IMP: 69-3-102, 69-3-201 and 69-3-1303, MCA.

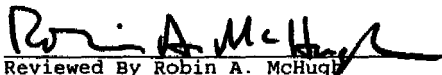
5. The rationale for the emergency amendment and rule is set forth in paragraph 1.

6. A standard rule-making procedure will be undertaken prior to the expiration of these emergency rules.

7. Interested persons are encouraged to submit their comments during the upcoming standard rule-making process. If interested persons wish to be personally notified of that rule-making process, they should submit their names and addresses to the Montana Public Service Commission, Legal Division, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601.



Dave Fisher, Chairman



Reviewed By Robin A. McHugh

CERTIFIED TO THE SECRETARY OF STATE FEBRUARY 9, 1999.

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.<br>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, 1998. This table includes those rules adopted during the period January 1, 1999 through March 31, 1999 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, 1998, 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 1998 and 1999 Montana Administrative Registers.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number. These will fall alphabetically after department rulemaking actions.

### GENERAL PROVISIONS, Title 1

- 1.2.419 Filing, Compiling, Printer Pickup and Publication of the Montana Administrative Register, p. 2701, 3138
- 1.2.519 Basic Format Instructions, p. 2856

### ADMINISTRATION, Department of, Title 2

- 2.21.812 and other rules - Sick Leave Fund, p. 2133, 53
- 2.21.6401 and other rules - Performance Appraisal, p. 1452, 2258

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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 January 1999, appear. Vacancies scheduled to appear from March 1, 1999, through May 31, 1999, 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 necessary qualifications.

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 February 2, 1999.

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 JANUARY, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Appellate Defender Commission</b>	(Administration)		
Ms. Randi Hood	Governor	reappointed	1/12/1999
Heleena			1/1/2002
Qualifications (if required):	public defender and an attorney		
Mr. Daniel Donovan	Governor	reappointed	1/12/1999
Great Falls			1/1/2002
Qualifications (if required):	public defender and an attorney		
<b>Board of Aeronautics (Transportation)</b>			
Mr. John Rabenberg	Governor	Ford	1/19/1999
Fort Peck			1/1/2003
Qualifications (if required):	public member		
Ms. Josephine Eisenzimer	Governor	reappointed	1/19/1999
Cascade			1/1/2003
Qualifications (if required):	engaged in aviation education		
Mr. Craig Denney	Governor	Hector	1/19/1999
Billings			1/1/2003
Qualifications (if required):	commercial airline representative		
Mr. Bob Palmersheim	Governor	Lindberg	1/19/1999
Fromberg			1/1/2003
Qualifications (if required):	fixed base operator		
<b>Board of Chiropractors (Commerce)</b>			
Dr. Patrick Montgomery	Governor	reappointed	1/1/1999
Missoula			1/1/2002
Qualifications (if required):	practicing chiropractor		

BOARD AND COUNCIL APPOINTEES FROM JANUARY, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Crime Control (Justice)			
Mr. Craig Anderson	Governor	reappointed	1/1/1999
Glendive			1/1/2003
Qualifications (if required):	chief probation officer		
Mr. Gary Buchanan	Governor	reappointed	1/1/1999
Billings			1/1/2003
Qualifications (if required):	public member		
Ms. Jani McCall	Governor	reappointed	1/1/1999
Billings			1/1/2003
Qualifications (if required):	serves on the Youth Justice Council		
Ms. Sherry Matteucci	Governor	reappointed	1/1/1999
Billings			1/1/2003
Qualifications (if required):	U.S. attorney		
Sen. Debbie Shea	Governor	reappointed	1/1/1999
Butte			1/1/2003
Qualifications (if required):	state senator		
Rep. Sylvia Bookout-Reinicke	Governor	reappointed	1/1/1999
Alberton			1/1/2003
Qualifications (if required):	state representative		
Mayor Laurel Hegstad-Deschamps	Governor	reappointed	1/1/1999
Hamilton			1/1/2003
Qualifications (if required):	representative of local government		
Board of Environmental Review	(Environmental Quality)		
Ms. Kim Lacey	Governor	reappointed	1/12/1999
Glasgow			12/31/2003
Qualifications (if required):	public member		

BOARD AND COUNCIL APPOINTEES FROM JANUARY, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Horse Racing (Commerce)</b>			
Dr. Sheldon John "Skip" Score	Governor	reappointed	1/20/1999
Helena			1/20/2002
Qualifications (if required):	representative of District 4		
<b>Board of Housing (Commerce)</b>			
Mr. Bob Thomas	Governor	reappointed	1/1/1999
Stevensville			1/1/2003
Qualifications (if required):	public member		
<b>Ms. Waneeta Farris</b>			
Forsyth	Governor	reappointed	1/1/1999
Qualifications (if required):	public member		1/1/2003
<b>Ms. Teresa Lightbody</b>			
Helena	Governor	Hamlin	1/1/1999
Qualifications (if required):	public member		1/1/2003
<b>Board of Investments (Commerce)</b>			
Ms. Maureen J. Fleming	Governor	reappointed	1/12/1999
Missoula			1/1/2003
Qualifications (if required):	labor representative		
<b>Mr. F. Lee Robinson</b>			
Malta	Governor	reappointed	1/12/1999
Qualifications (if required):	business representative		1/1/2003
<b>Mr. Douglas Bardwell</b>			
Missoula	Governor	reappointed	1/12/1999
Qualifications (if required):	financial community representative		1/1/2003

BOARD AND COUNCIL APPOINTEES FROM JANUARY, 1999

Appointee	Appointed by	Succeeds	Appointment/End Date
Board of Investments (Commerce) cont.			
Mr. Calvin Wilson	Governor	reappointed	1/12/1999
Busby			1/1/2003
Qualifications (if required):	attorney		
Board of Labor Appeals (Labor and Industry)			
Ms. Carol Donaldson	Governor	reappointed	1/1/1999
Billings			1/1/2003
Qualifications (if required):	attorney		
Board of Milk Control (Livestock)			
Dr. Robert Greer	Governor	reappointed	1/8/1999
Bozeman			1/1/2003
Qualifications (if required):	Independent		
Mr. Michael F. Kleese	Governor	reappointed	1/8/1999
Stevensville			1/1/2003
Qualifications (if required):	Democrat and an attorney		
Board of Oil and Gas Conservation (Natural Resources and Conservation)			
Mr. Denzil Young	Governor	reappointed	1/20/1999
Baker			1/1/2003
Qualifications (if required):	landowner with no mineral rights and an attorney		
Mr. Jack King	Governor	Swanson	1/20/1999
Billings			1/1/2003
Qualifications (if required):	representative of the oil and gas industry		
Ms. Elaine Mitchell	Governor	Ross	1/20/1999
Cut Bank			1/1/2003
Qualifications (if required):	public member		

BOARD AND COUNCIL APPOINTEES FROM JANUARY, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Pardons and Parole (Corrections)</b>			
Mr. Patrick T. Fleming	Governor	reappointed	1/1/1999
Butte			1/1/2003
Qualifications (if required): attorney			
<b>Board of Personnel Appeals (Labor and Industry)</b>			
Ms. Mary Wagner	Governor	Hagan	1/5/1999
Missoula			1/1/2003
Qualifications (if required): representative of management in collective bargaining			
<b>Mr. Lloyd Doney</b>			
East Helena	Governor	reappointed	1/5/1999
Qualifications (if required): substitute management representative			
<b>Mr. Joe Dwyer</b>			
Billings	Governor	not listed	1/5/1999
Qualifications (if required): substitute labor representative			
<b>Board of Realty Regulation (Commerce)</b>			
Ms. Vicky Hammond	Governor	Berry	1/5/1999
Missoula			5/9/2001
Qualifications (if required): real estate broker and a Democrat			
<b>Board of Science and Technology Development (Commerce)</b>			
Mr. Larry Gianchetta	Governor	reappointed	1/1/1999
Missoula			6/30/1999
Qualifications (if required): representing the public			
<b>Dr. Rebecca Mahurin</b>			
Bozeman	Governor	reappointed	1/1/1999
Qualifications (if required): representing the public			



BOARD AND COUNCIL APPOINTEES FROM JANUARY, 1999

Appointee	Appointed by	Succeeds	Appointment/End Date
Board of Science and Technology Development (Commerce) cont.			
Mr. Dolph Harris	Governor	reappointed	1/1/1999
Sidney			6/30/1999
Qualifications (if required):	representing the private sector		
Ms. Susan Riplett	Governor	reappointed	1/1/1999
Billings			6/30/1999
Qualifications (if required):	representing private business and finance		
Coal Board (Commerce)			
Ms. Janice Riebhoff	Governor	reappointed	1/1/1999
Beigrade			1/1/2003
Qualifications (if required):	expertise in education and residing in District 2		
Ms. Linda Price	Governor	reappointed	1/1/1999
Lewistown			1/1/2003
Qualifications (if required):	expertise in education and residing in District 3		
Mr. John Sutton	Governor	reappointed	1/1/1999
Butte			1/1/2003
Qualifications (if required):	engineer and residing in District 2		
Commission on Human Rights (Labor and Industry)			
Mr. Jack Copps	Governor	reappointed	1/1/1999
Seeley Lake			1/1/2003
Qualifications (if required):	public member		
Ms. Kathy Ogren	Governor	reappointed	1/1/1999
Missoula			1/1/2003
Qualifications (if required):	public member		

BOARD AND COUNCIL APPOINTEES FROM JANUARY, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Commissioner of Political Practices (Political Practices)</b>			
Ms. Linda Vaughney	Governor	Argenbright	1/1/1999
Helena			1/1/2005
Qualifications (if required): not listed			
<b>Developmental Disabilities Planning and Advisory Council (Public Health and Human Services)</b>			
Rep. Bea McCarthy	Governor	Estrada	1/25/1999
Anaconda			1/1/2000
Qualifications (if required): state senator			
Rep. Bob Lawson	Governor	reappointed	1/25/1999
Whitefish			1/1/2000
Qualifications (if required): state representative			
<b>Family Support Services Advisory Council (Public Health and Human Services)</b>			
Rep. Mary Anne Guggenheim	Governor	not listed	1/12/1999
Helena			9/14/2000
Qualifications (if required): legislator and a medical services provider			
Ms. Patti Russ	Governor	not listed	1/12/1999
Helena			9/14/2000
Qualifications (if required): state agency representative and a child care/adoption issues representative			
Ms. Liz Harter	Governor	not listed	1/21/1999
Helena			9/14/2000
Qualifications (if required): representative of state agency concerned with foster care and licensing			
Ms. Kelly Johnson	Governor	not listed	1/21/1999
Kalispell			9/14/2000
Qualifications (if required): parent representative			

BOARD AND COUNCIL APPOINTEES FROM JANUARY, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Fish, Wildlife and Parks Commission (Fish, Wildlife and Parks)			
Ms. Darlyne Dascher	Governor	reappointed	1/8/1999
Port Peck			1/1/2003
Qualifications (if required):	representative of District 4 and a rancher		
Mr. Tim Mulligan	Governor	reappointed	1/8/1999
Whitehall			1/1/2003
Qualifications (if required):	representative of District 2		
Hard-Rock Mining Impact Board (Commerce)			
Ms. Mary Taylor	Governor	Young	1/21/1999
Thompson Falls			1/1/2003
Qualifications (if required):	school district trustee and residing in District 1		
Ms. Betty Aye	Governor	reappointed	1/21/1999
Broadus			1/1/2003
Qualifications (if required):	public member residing in District 4		
Independent Living Council (Public Health and Human Services)			
Ms. Shelly Laing	Director	Miller	1/1/1999
Kalispell			1/1/2001
Qualifications (if required):	none specified		
Ms. Flo Kiewel	Director	Hermanson	1/1/1999
Columbia Falls			1/1/2001
Qualifications (if required):	none specified		
Mr. Wilfred "Max" Bear	Director	not listed	1/1/1999
Poplar			1/1/2001
Qualifications (if required):	none specified		

BOARD AND COUNCIL APPOINTEES FROM JANUARY, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Judicial Nomination Commission (Justice)</b>			
Mr. Frank Stock	Governor	reappointed	1/20/1999
Poison			1/1/2003
Qualifications (if required):	public member		
<b>Montana Arts Council (Education)</b>			
Ms. Jennifer Earle Seifert	Governor	Hines	1/12/1999
Troy			2/1/2000
Qualifications (if required):	public member		
<b>Montana Health Facility Authority (Commerce)</b>			
Mr. Sidney K. Brubaker	Governor	reappointed	1/1/1999
Terry			1/1/2003
Qualifications (if required):	public member		
<b>Mr. Greg Hanson</b>	Governor	reappointed	1/1/1999
Missoula			1/1/2003
Qualifications (if required):	public member		
<b>Ms. Sheryl Hayden</b>	Governor	Flynn	1/1/1999
Kalispell			1/1/2003
Qualifications (if required):	public member		
<b>Montana Higher Education Student Assistance Corporation (Education)</b>			
Ms. Jean Hagan	Governor	Dundas	1/14/1999
Bigfork			1/1/2003
Qualifications (if required):	public member		
<b>Peace Officers Standards and Training Advisory Council (Justice)</b>			
Commissioner Gary Fjelstad	Governor	Mathew	1/19/1999
Forsyth			2/13/2000
Qualifications (if required):	representative of the Montana Association of Counties		

BOARD AND COUNCIL APPOINTEES FROM JANUARY, 1999

Appointee	Appointed by	Succeeds	Appointment/End Date
State Employee Group Benefits Advisory Council (Administration)			
Mr. William Salisbury	Director	not listed	1/1/1999
Helena			1/1/2001
Qualifications (if required):	none specified		
Mr. Thomas Schneider	Director	not listed	1/1/1999
Helena			1/1/2001
Qualifications (if required):	none specified		
Mr. Dale Taliaferro	Director	not listed	1/1/1999
Helena			1/1/2001
Qualifications (if required):	none specified		
Ms. Nancy Ellery	Director	not listed	1/1/1999
Helena			1/1/2001
Qualifications (if required):	none specified		
Mr. Curt Nichols	Director	not listed	1/1/1999
Helena			1/1/2001
Qualifications (if required):	none specified		
Mr. Jim Penner	Director	not listed	1/1/1999
Helena			1/1/2001
Qualifications (if required):	none specified		
Mr. Mark Cress	Director	not listed	1/1/1999
Helena			1/1/2001
Qualifications (if required):	none specified		
Ms. Cathy Kendall	Director	not listed	1/1/1999
Helena			1/1/2001
Qualifications (if required):	none specified		

BOARD AND COUNCIL APPOINTEES FROM JANUARY, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Employee Group Benefits Advisory Council (Administration) cont.			
Mr. Tom Burgess	Director	not listed	1/1/1999
Helena			1/1/2001
Qualifications (if required): none specified			
Mr. John W. Northey	Director	not listed	1/1/1999
Helena			1/1/2001
Qualifications (if required): none specified			
Ms. Angela McDannel	Director	not listed	1/1/1999
Helena			1/1/2001
Qualifications (if required): none specified			
State Tax Appeal Board (Administration)			
Rep. Jan Brown	Governor	Vaughy	1/14/1999
Helena			1/1/2001
Qualifications (if required): public member			
Transportation Commission (Transportation)			
Ms. Nancy Espy	Governor	Smith	1/1/1999
Broadus			1/1/2003
Qualifications (if required): Republican from District 4			
Mr. Dan Larson	Governor	reappointed	1/1/1999
Libby			1/1/2003
Qualifications (if required): Democrat from District 1			

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 1999 through MAY 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Architects (Commerce)</b> Mr. Eugene Vogl, Billings Qualifications (if required): architect	Governor	3/27/1999
<b>Board of Athletics (Commerce)</b> Mr. John Kinna, Bozeman Qualifications (if required): public member	Governor	4/25/1999
<b>Board of Clinical Laboratory Science Practitioners (Commerce)</b> Ms. JoAnn Schneider, Clancy Qualifications (if required): clinical laboratory science practitioner	Governor	4/16/1999
<b>Ms. Eileen Flynn, Townsend</b> Qualifications (if required): public member	Governor	4/16/1999
<b>Board of County Printing (Commerce)</b> Mr. Verle Rademacher, White Sulphur Springs Qualifications (if required): member of the printing industry	Governor	4/1/1999
<b>Ms. Nancy Clark, Ryegate</b> Qualifications (if required): public member	Governor	4/1/1999
<b>Ms. Fern Hart, Missoula</b> Qualifications (if required): county commissioner	Governor	4/1/1999
<b>Mr. Roy Aafedt, Great Falls</b> Qualifications (if required): county commissioner	Governor	4/1/1999
<b>Mr. Curtis Starr, Malta</b> Qualifications (if required): member of the printing industry	Governor	4/1/1999

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 1999 through MAY 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Dentistry (Commerce) Dr. Mary Youngbauer, Forsyth Qualifications (if required): dentist	Governor	3/29/1999
Ms. Kim Anderson, Great Falls Qualifications (if required): dental hygienist	Governor	3/29/1999
Board of Directors of the State Compensation Mutual Fund (Fund) Ms. Lorretta Lynde, Helena Qualifications (if required): public member	(State Compensation Insurance Governor)	4/28/1999
Board of Hail Insurance (Agriculture) Ms. Rebecca McCabe, Ekalaka Qualifications (if required): public member	Governor	4/18/1999
Board of Livestock (Livestock) Mr. Jerry E. Leep, Amsterdam Qualifications (if required): represents dairy and poultry producers	Governor	3/1/1999
Mr. Leonard Grove, Judith Gap Qualifications (if required): sheep producer	Governor	3/1/1999
Mr. Duane Braaten, Kalispell Qualifications (if required): swine producer	Governor	3/1/1999
Board of Nursing Home Administrators (Commerce) Ms. Arline Rabenberg, Wolf Point Qualifications (if required): public member of age 55	Governor	5/28/1999



VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 1999 through MAY 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Optometry (Commerce)</b> Ms. Charlene Staffanson, Deer Lodge Qualifications (if required): public member	Governor	4/3/1999
<b>Board of Plumbers (Commerce)</b> Mr. Robert Nault, Havre Qualifications (if required): master plumber	Governor	5/4/1999
Mr. Donald Kent, Bozeman Qualifications (if required): journeyman plumber	Governor	5/4/1999
Mr. Elmer Lazure, Helena Qualifications (if required): public member	Governor	5/4/1999
Mr. Terry Campbell, Helena Qualifications (if required): representing the Department of Environmental Quality	Governor	5/4/1999
Ms. Jo Hawkins, Helena Qualifications (if required): public member	Governor	5/4/1999
Mr. Richard Knatterud, Helena Qualifications (if required): sanitary engineer	Governor	5/4/1999
Mr. Greg Butts, Helena Qualifications (if required): sanitary engineer	Governor	5/4/1999
<b>Board of Real Estate Appraisers (Commerce)</b> Mr. Roger Jacobson, Kalispell Qualifications (if required): real estate appraiser	Governor	5/1/1999

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 1999 through MAY 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Realty Regulation</b> (Commerce)		
Mr. John Beagle, Sidney	Governor	5/9/1999
Qualifications (if required): realtor and an Independent		
<b>Ms. Shelly Noe, Absarokee</b>		
Qualifications (if required): public member and a Republican	Governor	5/9/1999
<b>Board of Veterans' Affairs</b> (Military Affairs)		
Mr. Johnny Buck, Glendive	Governor	5/18/1999
Qualifications (if required): veteran		
<b>Executive Board of Montana College of Mineral Science and Technology</b> (Education)		
Ms. Constance B. Lord, Philipsburg	Governor	4/15/1999
Qualifications (if required): public member		
<b>Executive Board of Montana State University</b> (Education)		
Mr. Jim Sites, Billings	Governor	4/15/1999
Qualifications (if required): public member		
<b>Mr. Todd Murphy, Clancy</b>		
Qualifications (if required): public member	Governor	4/15/1999
<b>Executive Board of Northern Montana College</b> (Education)		
Mr. David G. Rice, Havre	Governor	4/15/1999
Qualifications (if required): public member		
<b>Executive Board of University of Montana</b> (Education)		
Colonel Sam A. Roberts, Missoula	Governor	4/15/1999
Qualifications (if required): public member		

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 1999 through MAY 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Executive Board of Western Montana College (Education)</b>		
Mr. Kelly Flynn, Townsend	Governor	4/15/1999
Qualifications (if required): public member		
<b>Montana State Veterans Cemetery Advisory Council (Military Affairs)</b>		
Mr. James W. Duffy, Helena	Director	5/1/1999
Qualifications (if required): none specified		
Mr. Mickey Nelson, Helena	Director	5/1/1999
Qualifications (if required): none specified		
Ms. Alma Dickey, Helena	Director	5/1/1999
Qualifications (if required): none specified		
Ms. Irma Paul, Helena	Director	5/1/1999
Qualifications (if required): none specified		
Ms. Rose Marie Storey, Helena	Director	5/1/1999
Qualifications (if required): none specified		
Mr. Herb Ballou, Helena	Director	5/1/1999
Qualifications (if required): none specified		
Mr. George Paul, Helena	Director	5/1/1999
Qualifications (if required): none specified		
Mr. Jim Heffernan, Helena	Director	5/1/1999
Qualifications (if required): none specified		
Mr. Ruddy Reilly, Helena	Director	5/1/1999
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 1999 through MAY 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana State Veterans Cemetery Advisory Council Mr. Ray Read, Helena Qualifications (if required): none specified	(Military Affairs) cont. Director	5/1/1999
Mr. M. Herbert Goodwin, Helena Qualifications (if required): none specified	Director	5/1/1999
Mr. Robert C. McKenna, Helena Qualifications (if required): none specified	Director	5/1/1999
Mr. James F. Jacobsen, Helena Qualifications (if required): none specified	Director	5/1/1999
Mr. Edward Mosier, Missoula Qualifications (if required): none specified	Director	5/1/1999
Mr. Al Kirkeby, Helena Qualifications (if required): none specified	Director	5/1/1999
Mr. Hugh "Tony" Cummings, Helena Qualifications (if required): none specified	Director	5/1/1999
Major Steve Martinka, Helena Qualifications (if required): none specified	Director	5/1/1999
Public Employees' Retirement Board (Administration) Ms. Jean Thompson, Billings Qualifications (if required): active member of Public Employees' Retirement System	Governor	4/1/1999
Reserved Water Rights Compact Commission (Natural Resources and Conservation) Mr. Chris D. Tweeken, Helena Qualifications (if required): none specified	Attorney General	5/1/1999

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 1999 through MAY 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>State Compensation Mutual Insurance Fund (Administration)</b>		
Ms. Laurie Shadcan, Bozeman	Governor	4/28/1999
Qualifications (if required): representative of private enterprise		
<b>Mr. Tom Horn, Cohagen</b>		
Qualifications (if required): representing state fund policyholders	Governor	4/28/1999
<b>Mr. Dale Mahlum, Bigfork</b>		
Qualifications (if required): representing private enterprise	Governor	4/28/1999
<b>State Library Commission (Education)</b>		
Mr. Harold G. Stearns, Helena	Governor	5/22/1999
Qualifications (if required): public member		
<b>Ms. Dorothy Laird, Whitefish</b>		
Qualifications (if required): public member	Governor	5/22/1999
<b>Vocational Rehabilitation Advisory Council (Public Health and Human Services)</b>		
Mr. Bill Jones, Great Falls	Director	4/15/1999
Qualifications (if required): none specified		
<b>Mr. Scotty MacLeod, Billings</b>		
Qualifications (if required): none specified	Director	4/15/1999
<b>Ms. JoAnn Null, Great Falls</b>		
Qualifications (if required): none specified	Director	4/28/1999