



Economic Affairs Interim Committee

66th Montana Legislature

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October 25, 2019

To: Economic Affairs Interim Committee
From: Jameson Walker, Legislative Attorney
Re: Administrative Rule Report, October 2019

The Economic Affairs Interim Committee (EAIC) is responsible for reviewing administrative rules promulgated by several state agencies for compliance with the Montana Administrative Procedure Act (MAPA).¹ The following notices are filed with the Secretary of State's Office for publication in the Montana Administrative Register (MAR). Notices are available at <http://www.mtrules.org> (search by notice number).

PROPOSAL NOTICES

Department of Agriculture and administratively attached entities

There are no pending rules.

Department of Commerce and administratively attached entities

MAR Notice Number: 8-94-172

Subject: Adoption of rules pertaining to the Community Development Block Grant (CDBG) planning grants.

Summary: The department proposes to adopt New Rule I approving a second application cycle for the fall of 2019. The department states that the new rule is based on public comments requesting additional time to submit a CDBG planning grant.

Notes/Hearing: The department will hold a hearing on October 24, 2019, to consider the notice.

MAR Notice Number: 8-111-173

Subject: Amendment of rules pertaining to housing credit allocation.

Summary: The department proposes to amend 8.111.602 and 8.111.603. The rule amendments

¹ The Committee reviews rules promulgated by the following entities: Department of Agriculture, Department of Commerce, Department of Labor and Industry, Department of Livestock, State Auditor's Office, Division of Banking & Financial Institutions, Governor's Office of Economic Development, and Department of Revenue, Liquor Control Division. This report does not represent any action or opinion of the Committee and does not preclude additional action that may be taken by the Committee pursuant to its authority under the Montana Administrative Procedure Act, Title 2, chapter 4, MCA.

update the reference to the Board's Housing Credit Program 2021 Qualified Allocation Plan.
Notes/Hearing: The department will hold a hearing on November 7, 2019, to consider the notice.

Department of Labor and Industry and administratively attached entities

MAR Notice Number: 24-29-348

Subject: Amendment of rules pertaining to the drug formulary in the Utilization and Treatment Guidelines for Workers' Compensation and Occupational Disease.

Summary: The department proposes to amend 24.29.1616 to update the rule for prescriptions written in 2019 and 2020. The department states that it there is reasonable necessity to amend the rule because the department has adopted a commercial fee schedule and the annual rule amendments serve to "catch up" the amendments.

Notes/Hearing: The department will hold a hearing on November 1, 2019, to consider the notice.

MAR Notice Number: 24-35-349

Subject: Adoption of rules pertaining to registration of home inspectors.

Summary: The department proposes to adopt New Rules I through XII to implement Senate Bill 269 (2019). This bill created home inspection licensing and registration requirements. The following new rules are proposed:

New Rule #	Title
I	DEFINITIONS
II	FEE SCHEDULE
III	INITIAL APPLICATION FOR HOME INSPECTION BUSINESS REGISTRATION
IV	APPROVAL OF APPLICATIONS
V	REGISTRATION REQUIRED FOR SUBCONTRACTORS AND INDEPENDENT CONTRACTORS
VI	MINIMUM INITIAL QUALIFICATIONS FOR A HOME INSPECTION WORKER
VII	DUTY TO UPDATE ROSTER AND BUSINESS INFORMATION – SUSPENSION – REINSTATEMENT OF REGISTRATION
VIII	RENEWAL OF BUSINESS REGISTRATION
IX	RECOGNITION OF CONTINUING EDUCATION COURSES
X	PENALTIES – CIVIL FINES – INJUNCTIVE RELIEF
XI	DISPUTE RESOLUTION PROCESS
XII	EDUCATION AND OUTREACH PROGRAM

Notes/Hearing: The department will hold a hearing on October 25, 2019, to consider the notice.

MAR Notice Number: 37-898

Subject: Amendment of rules pertaining to the Board of Pharmacy.

Summary: The board proposes to amend 24.174.503 (Administration of Vaccines by Pharmacists) and 24.174.1712 (Prescription Drug Registry Fee). The board states that the rules implement Senate Bill 61 (2019). The board states that it is reasonably necessary the rule to expand the licensees required to pay the Montana Prescription Drug Registry fee.

Notes/Hearing: The department will hold a hearing on November 1, 2019, to consider the notice.

MAR Notice Number: 24-17-350

Subject: Amendment of rules pertaining to prevailing wage rates for public works projects.

Summary: The board proposes to amend 24.17.127 to update the rule references to 2020 publications.

Notes/Hearing: The department will hold a hearing on November 8, 2019, to consider the notice.

MAR Notice Number: 24-147-40

Subject: Amendment and adoption of rules pertaining to the Board of Funeral Service.

Summary: The board proposes to amend 24.147.302 (definitions), 24.147.401 (fee schedule), 24.147.407 (name change, closure, transfer, or change of ownership – mortuary, branch establishment, crematory, or cemetery), 24.147.507 (mortician licenses), 24.147.1105 (crematory records), 24.147.1107 (cremation authorizations), 24.147.1110 (integrity of identification of human remains), 24.147.1111 (cremation procedures), 24.147.1112 (crematory prohibitions), 24.147.1503 (requirements for sale of at-need, preneed, and prepaid funeral arrangements), 24.147.2101 (continuing education requirements – morticians), 24.147.2301 (unprofessional conduct). The board proposes to adopt New Rule I (preneed agreements – notification of closure or change of ownership – mortuary, branch establishment, or crematory). Generally, the board states that the rule notice is reasonably necessary to eliminate outdated, redundant, and unnecessary provisions. Additionally the rule notice seeks to administer Senate Bill 63 (2019) which created an exemption for licensure for students currently enrolled in an accredited or approved funeral service or mortuary science degree program and House Bill 196 (2019) that amended education requirements. The rule notice also increases fees.

Notes/Hearing: The department will hold a hearing on November 13, 2019, to consider the notice.

MAR Notice Number: 24-219-34

Subject: Amendment, adoption, and repeal of rules pertaining to the Board of Behavioral Health.

Summary: The board proposes to amend 24.219.301, 24.219.415, 24.219.421, 24.219.501, 24.219.504, 24.219.505, 24.219.512, 24.219.601, 24.219.604, 24.219.605, 24.219.612, 24.219.701, 24.219.704, 24.219.705, 24.219.712, 24.219.907, 24.219.912, 24.219.923, 24.219.5005, 24.219.5006, 24.219.5007, 24.219.5008, 24.219.5010, and 24.219.5013. The board proposes to adopt NEW RULES I through VII. The board proposes to repeal 24.219.506, 24.219.603, 24.219.703, 24.219.707, 24.219.901, 24.219.902, 24.219.903, 24.219.916, 24.219.5001, 24.219.5003, 24.219.5004, 24.219.5009, 24.219.5011, and 24.219.5014. Generally, all amendments are pertaining to application and licensing rules for licensed clinical social workers (LCSW), licensed clinical professional counselors (LCPC), licensed marriage and family therapists, (LMFT), licensed addiction counselors (LAC), and certified behavioral health peer support specialists (CBHPSS). The board states that it is reasonably necessary to amend the rules to eliminate outdated, redundant, and unnecessary provisions, provide consistency, simplicity, better organization, and ease of use for licensees, educators, program administrators, and the public. Additionally, the rule notice seeks to make the rules align with current standardized department application and renewal procedures in addition to updating authority and implementation citations.

Notes/Hearing: The department will hold a hearing on November 13, 2019, to consider the notice.

Department of Revenue, Liquor Control Division

MAR Notice Number: 42-1003

Subject: Extension of comment period on proposed rules.

Summary: The department is extending the comment period for its proposed rules implementing a point-based penalty system and revising procedures relating to revocation, lapse, or suspension of alcoholic beverage licenses.

Notes/Hearing: In addition to the comment period extension, the EAIC objected to this rule notice and will consider the objection at its next meeting.

MAR Notice Number: 42-1008

Subject: Amendment of rules pertaining to beer wholesaler and table wine distributor limited delivery exceptions.

Summary: The department proposes to amend 42.13.1202 by allowing exceptions to beer wholesaler and table wine distributors who deliver alcoholic beverages using their own employees, trucks, and equipment. The exception applies when these entities are incapable of delivering alcoholic beverages to a retail licensee's premises due to the unique physical location of the retail licensee's premises. Examples given include retail licensees located on an island or on a mountain.

Notes/Hearing: The department will hold a hearing on November 8, 2019, to consider the notice.

Department of Livestock and administratively attached entities

There are no pending rules.

State Auditor's Office

There are no pending rules.

Division of Banking & Financial Institutions

MAR Notice Number: 2-59-587

Subject: Amendment of rules pertaining to the semiannual assessment for banks.

Summary: The department proposes to amend 2.59.104 by putting a \$600,000 limit on the fee for the assessment period. The division states that the rule amendment is attempting to keep fees commensurate with costs.

Notes/Hearing: The department will hold a hearing on December 7, 2019, to consider the notice.

Governor's Office of Economic Development

There are no pending rules.

Rules of Interest Not Under the EAIC

The State Administration and Veterans' Affairs Committee (SAVA) has rule review authority over the Department of Administration. SAVA is currently reviewing MAR Notice Number: 2-

63-580, promulgated by the State Lottery and Sports Wagering Commission. Ginger Aldrich, Staff Attorney for SAVA, summarized the rule notice:

<https://leg.mt.gov/content/Committees/Interim/2019-2020/State-Administration-and-Veterans-Affairs/Rules/2-63-580-rule-reviewb.pdf>.

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