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Economic Affairs Interim Committee

67th Montana Legislature

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July 7, 2021

TO: Economic Affairs Interim Committee
FROM: Jameson Walker, Staff Attorney
RE: Administrative Rulemaking and Rule Review, July 2021

The Economic Affairs Interim Committee (Committee) is required to review administrative rules promulgated by the 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 for compliance with the Montana Administrative Procedure Act (MAPA). 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: 8-94-187

Subject: Amendment of rules pertaining to the Montana Coal Endowment Program Planning Grants.

Summary: The department proposes to amend 8.94.3817 to remove references to the Treasure State Endowment Program. The changes are in relation to Senate Bill 258 from the 2021 legislative session.

Notes/Hearing: The department held a public hearing on June 17, 2021, to consider the notice.

Department of Labor and Industry and administratively attached entities

MAR Notice Number: 24-183-44

Subject: Amendment of rules pertaining to the Board of Professional Engineers and Professional Land Surveyors.

Summary: The board proposes to amend 24.183.303 (definitions), 24.183.411 (teaching of land surveying subjects), and 24.183.2105 (continuing professional competency – continuing

education). The board proposes to define "progressive land survey experience" by identifying experience with the Public Land Survey System that is guided by the Bureau of Land Management Survey Manual. Other changes are proposed to have the continuing education requirements align with the Department's standardized procedures for license renewal, administrative suspension, and auditing.

Notes/Hearing: The board held a public hearing on May 11, 2021, to consider the notice.

MAR Notice Number: 24-156-91

Subject: Amendment and repeal of rules pertaining to the Board of Medical Examiners.

Summary: The board proposes to amend 24.156.1410 (audit and CE reporting requirements) to align the rule with standardized department procedures. The board proposes to repeal 24.156.1414 because the relevant sections are being relocated to a different rule.

Notes/Hearing: The department held a public hearing on May 25, 2021, to consider the notice.

MAR Notice Number: 24-165-25

Subject: Amendment and repeal of rules pertaining to the Board of Occupational Therapy Practice.

Summary: The board proposes to amend 24.165.302 by deleting the definitions for "deep modalities" and "deep modality endorsement". The board also proposes to remove a reference to 37-1-101, MCA in the rule. The board states that these amendments are intended to have the rule comply with Senate Bill 59 from 2019. The board also intends to repeal 24.165.505 (deep modality endorsement) in compliance with Senate Bill 59.

Notes/Hearing: The department held a public hearing on June 24, 2021, to consider the notice.

MAR Notice Number: 24-301-353

Subject: Amendment of rules pertaining to modifications to the International Building Code applicable to both the department's and local government code enforcement programs.

Summary: The board proposes to amend 24.301.146. The amendment is to make the rules comply with Senate Bill 178, which prohibited building codes from requiring mandatory installation of fire sprinkler systems in certain residential buildings. The department states that it was reasonably necessary to amend the rule to implement Senate Bill 178 by clarifying the buildings that must have automatic sprinkler systems under the law.

Notes/Hearing: The department held a public hearing on June 22, 2021, to consider the notice.

MAR Notice Number: 24-159-89

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

Summary: The board proposes to amend 24.159.301 (definitions), 24.159.401 (fees), 24.159.416 (qualifications for executive director of the board), 24.159.502 (nurse licensure compact rules), 24.159.604 (program standards), 24.159.612 (program annual report), 24.159.625 (establishment of a new program), 24.159.650 (program director), 24.159.655 (program faculty), 24.159.663 (waiver of faculty qualifications), 24.159.910 (general requirements for licensure as medication aide I), 24.159.911 (general requirements for licensure as medication aide II), 24.159.1011 (prohibited intravenous (IV) therapies), 24.159.1021 (temporary practice permit), 24.159.1029 (LPN licensure by examination for internationally educated applicants), 24.159.1221 (temporary practice permit), 24.159.1229 (RN licensure by examination for internationally educated applicants), 24.159.1418 (licensure by endorsement), 24.159.1427 (renewals), 24.159.1463

(application for prescriptive authority), 24.159.1464 (prescribing practices), 24.159.1469 (APRN competence development), 24.159.1601 (purpose), 24.159.1611 (criteria for delegation of nursing tasks), 24.159.1625 (general nursing functions and tasks that may not be delegated), 24.159.2301 (conduct of nurses). The board proposes to repeal of 24.159.1023, 24.159.1223, and 24.159.1416 (grounds for denial of a license). Generally, the rule notice is the result of the board's rules committee's recommendations.

Notes/Hearing: The department held a public hearing on July 2, 2021, to consider the notice.

MAR Notice Number: 24-2-373

Subject: In the matter of active supervision of the Board of Dentistry regarding designation of public health facilities for limited access permits.

Summary: The Department of Labor and Industry is seeking public comment on a rule provision, 24.138.509, which designates public health facilities at which services under a limited access permit may be provided, under the Board of Dentistry's authority to "identify, by rule, other public health facilities and programs, in addition to those listed [...] at which services under a limited access permit may be provided. Administrative rule 24.138.509 then identifies: Dodson School; Great Falls Rescue Mission; Harlem Elementary School; Harlem Junior/Senior High School; and Paris Gibson Education Center as places for which a limited access permit may be provided.

Notes/Hearing: The department will hold a public hearing on July 29, 2021, to consider the notice.

MAR Notice Number: 24-114-39

Subject: Amendment of rules pertaining to the Board of Architects and Landscape Architects.

Summary: The board proposes to amend 24.114.401 to change the license renewal fee for architects from \$55 to \$40. The board also proposes to change the license renewal fee for landscape architects from \$250 to \$170.

Notes/Hearing: The department will hold a public hearing on July 16, 2021, to consider the notice.

MAR Notice Number: 24-114-38

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

Summary: The board proposes to amend 24.126.910 to clarify language, processes and accepted standards. This results from the American Medical Association standards having not been updated since 2008 relating to continuing education. The board proposes to repeal 24.126.415 and 24.126.501. The board states that the repeal is necessary in light of the department's attempts to standardize application procedures across all licensing boards.

Notes/Hearing: The department will hold a public hearing on July 23, 2021, to consider the notice.

MAR Notice Number: 24-189-42

Subject: Amendment and repeal of rules pertaining to the Board of Psychologists.

Summary: The board proposes to amend 24.189.401 (fee schedule), 24.189.607 (required supervised experience), 24.189.913 and 24.189.2101 (continuing education requirements), 24.189.916 and 24.189.2107 (continuing education implementation), and 24.189.2301 (representation of self and services). The amendments seek to generally streamline and

standardize application processes, revise continuing education requirements, and implement Senate Bill 90 from the 2021 session. The board proposes to repeal 24.189.601 (psychologist application procedures) and 24.189.630 (licensure as a psychologist by experience, senior) because Senate Bill 90 repealed authorizing licensure of senior psychologists. The board states that the senior psychologist license is being replaced by the psychologist by experience license. Notes/Hearing: The department will hold a public hearing on July 20, 2021, to consider the notice.

Department of Revenue, Liquor Control Division

There are no pending rules.

Department of Livestock and administratively attached entities

MAR Notice Number: 32-21-317

Subject: Amendment of rules pertaining to diagnostic laboratory fees.

Summary: The board proposes to amend 32.2.403 to remove a 50% surcharge on accessions from out of state submitters and adding nine new tests and associated fees. The department states that amending the rule will add improved quality of work for clients, decreased turnaround time for test results, clients being offered more diagnostically reliable and cost-effective testing options, the potential for more federal funding, lowered overhead costs, and greater operational flexibility and efficiency.

Notes/Hearing: The department did not anticipate the need to conduct a public hearing.

State Auditor's Office

MAR Notice Number: 6-263

Subject: Amendment of rules pertaining to the establishment, deletion, or revision of classifications for various industries for supplementing the National Council on Compensation Insurance Basic Manual for Workers' Compensation and Employers Liability Insurance

Summary: The Classification Review Committee proposes to amend 6.6.8301 to remove a reference to the 2001 edition of the NCCI Basic Manual for Workers Compensation and Employers Liability Insurance. The committee states that there have been no changes or eliminations to any class codes or phraseologies in the current version of the basic manual. The committee states that the updated manual is intended to make the content more usable, discoverable, and valuable.

Notes/Hearing: The Classification Review Committee did not anticipate the need for a public hearing. As of this memo, the rule change had not been adopted.

Division of Banking & Financial Institutions

There are no pending rules.

Governor's Office of Economic Development

There are no pending rules.