



Economic Affairs Interim Committee

68th Montana Legislature

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June 28, 2023

TO: Economic Affairs Interim Committee
FROM: Jameson Walker, Staff Attorney
RE: Administrative Rulemaking and Rule Review, June 2023

The Economic Affairs Interim 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 and Financial Institutions, Governor's Office of Economic Development, and Department of Revenue, Alcoholic Beverage Control Division and Cannabis 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 new rules.

Department of Commerce and administratively attached entities

There are no new rules.

Department of Labor and Industry and administratively attached entities

MAR Notice Number: 24-23-404

Subject: Amendment and repeal of rules pertaining to job growth incentive tax credits.

Summary: The department proposes to amend 24.23.301 (credit for employer job growth) and 24.23.304 (required documentation). The department states that it is amending these rules to provide that deadlines for applications are for the benefit of the party applying, to clarify unemployment tax records establish the standard for the number of employees working for the employer, clarifying that an employer may hire employees over the course of multiple years which may eventually culminate in sufficient employee growth to qualify for certification, and to remove references to full time employee references in the rule that are no longer referenced in the enabling statutes. The department proposes to repeal 24.23.313 because the underlying statute was repealed in House Bill 601 (2023).

Notes/Hearing: The department will hold a public meeting on June 29, 2023, to consider the notice.

MAR Notice Number: 24-12-405

Subject: Amendment and repeal of rules pertaining to the displaced homemaker program.

Summary: The department proposes to amend 24.12.102 and 24.12.107. The department states that the amendments remove definitions that either were not used or were duplicative of statutes and therefore unnecessary. Additionally, the amendments include a new subsection for underemployed individuals to recognize that workers who exit the job market to care for children and seek to reenter it as a pediatric complex care assistant may be served by the displaced homemaker program. Finally, the department states that there is reasonable necessity to strike the program name because it is an archaic practice. The department proposes to repeal 24.12.101, 24.12.103, 24.12.104, 24.12.105, 24.12.106, 24.12.108, 24.12.109, and 24.12.110. The department states that these rules are generally unnecessary, duplicative, and repeat existing statutory language

Notes/Hearing: The department will hold a public meeting on July 13, 2023, to consider the notice.

MAR Notice Number: 24-111-28

Subject: Adoption and amendment of rules pertaining to midwife prescribing and the Alternative Health Care Board.

Summary: The board proposes to adopt New Rules I through IV:

<i>Rule Number</i>	<i>Short Title</i>
New Rule I, Educational Requirements for administration of drugs	(1) Midwives may become endorsed to obtain and administer prescription drugs per 37-27-302, MCA, by submitting an application that demonstrates the applicant either: <ul style="list-style-type: none"> (a) holds the certified professional midwife (CPM) credential through MEAC accreditation (obtained after January 1, 2021); or (b) completed both: <ul style="list-style-type: none"> (i) an MEAC approved, pharmacology specific to midwives training course covering all drugs listed in the formulary of 37-27-302(2), MCA; and (ii) an IV therapy course having a practical component that is: <ul style="list-style-type: none"> (A) provided by the Montana Health Network; (B) provided by MEAC; or (C) another eight-hour course having a practical component.
New Rule II, Obtaining, Storing, and Disposing of Drugs	(1) Endorsed midwives may obtain formulary drugs as allowed by law, including from: <ul style="list-style-type: none"> (a) a person or entity licensed as a wholesale distributor by the Montana Board of Pharmacy; and (b) a retail pharmacy, in minimal quantities for office use. (2) Endorsed midwives must: <ul style="list-style-type: none"> (a) store all formulary drugs in secure areas suitable for preventing unauthorized access and for ensuring a proper environment for the preservation of the drugs; and

	<p>(b) dispose of drugs using means that are reasonably calculated to guard against unauthorized access by persons and harmful excretion of the drugs into the environment. The means that may be used include, without limitation:</p> <p>(i) transferring the drugs to a reverse distributor who is registered to destroy drugs with the U.S. Drug Enforcement Agency;</p> <p>(ii) removing the drugs from their original containers, mixing them with an undesirable substance such as coffee grounds or kitty litter, putting them in impermeable, non-descript containers such as empty cans or sealable bags, and throwing the containers in the trash; or</p> <p>(iii) flushing the drugs down the toilet if the accompanying patient information instructs that it is safe to do so.</p> <p>(3) Endorsed midwives may carry drugs to the home setting while providing care within the course and scope of the practice of midwifery.</p>
New Rule III, Use of Formulary Drugs	[See Department's Table for New Rule III providing categories for Drugs, Indication, Dose-in conformance ACOG guidelines, Route of Administration, and Duration of Treatment]
New Rule IV, Circumstances Constituting a Low Risk of Adverse Birth Outcomes	<p>(1) A low risk of adverse birth outcomes indicates a clinical scenario for which there is not clear demonstrable benefit for a medical intervention or transfer to a physician's care under ARM 24.111.610 or 24.111.611.</p> <p>(2) Consultation with a physician as required by ARM 24.111.611(1)(a) does not preclude a low risk of adverse birth outcomes.</p> <p>(3) Preexisting arrangements for emergency transportation to a nearby hospital if needed do not preclude a low risk of adverse birth outcomes.</p>

The board also proposes the amendment of 24.111.502, 24.111.503, 24.111.511, 24.111.610, 24.111.611, and 24.111.2301. The board states that the proposed new rules and amendments are to implement Senate Bill 100 (revise laws on naturopaths and natural substances), House Bill 392 (generally revise midwifery laws), and House Bill 655 (require Medicaid to cover midwife-attended home births). The board states that the rule changes will establish requirements for midwives to expand their administration of prescription medications, outline circumstances constituting low risk for planned home births, and update education requirements and prescribing abilities for naturopathic physicians.

Notes/Hearing: The board will hold a public meeting on July 14, 2023, to consider the notice.

MAR Notice Number: 24-159-93

Subject: Amendment and repeal of rules pertaining to the board of nursing and continuing education.

Summary: The board proposes to amend 24.159.670, 24.159.1468, and 24.159.1469. Generally, the proposed amendments will allow prelicensure programs in Montana to continue to report intermittent difficulties with specialty clinical access and allow programs the flexibility to address clinical access shortages over the duration of the program rather than by course.

Additionally, the board states that the rule amendments will allow the board to consider expanding options for continuing education. The board proposes to repeal 24.159.2101, 24.159.2102, 24.159.2104, and 24.159.2106. The board states that the proposed repeal of the rules will lessen continuing education requirements for maintaining licensure while still ensuring competent practice and maintaining the public's protection.

Notes/Hearing: The department will hold a public meeting on July 21, 2023, to consider the notice.

Department of Livestock and administratively attached entities

There are no new rules.

State Auditor's Office

MAR Notice Number: 6-277

Subject: Amendment of rules pertaining to bail bond documents.

Summary: The department proposes to amend 6.6.6006 (bail bond documents) to require surety bail insurance producers to notify the department within seven business days or an arrest or surrender. The department proposes to require certain information to be provided to the department. The department states that the rule amendment is necessary to implement House Bill 62 from the 2023, session.

Notes/Hearing: The department will hold a public meeting on July 20, 2023, to consider the notice.

Division of Banking and Financial Institutions

There are no new rules.

Department of Revenue, Alcoholic Beverage Control Division and Cannabis Control Division

There are no new rules.

Governor's Office of Economic Development

There are no new rules.