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Economic Affairs Interim Committee

68th Montana Legislature

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November 1, 2023

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

MAR Notice Number: 8-94-204

Subject: Amendment of rules relating to the Montana Historic Preservation Grant Program.

Summary: The department proposes to amend 8.94.3101 and 8.94.3102. The department provided this reason for the proposed rule amendment: "The Montana Historic Preservation Grant (MHPG) has modified the application and guidelines to adhere to amendments during the 68th Legislature. Specifically, the Legislature wrote in HB 12 two additional criteria: the degree of local contribution and anticipated public benefit, including the extent the site or building will be open to the public and the degree of immediate facility use after project completion. Administrators of the grant have also provided an application eligibility screening checklist (Appendix A) and modified the scoring process."

Notes/Hearing: The department held a public hearing on October 27, 2023, to consider the notice.

Department of Labor and Industry and administratively attached entities

MAR Notice Number: 24-17-407

Subject: Amendment of rules relating to prevailing wages and the Board of Medical Examiners.
Summary: The department proposes to amend 24.17.127 to generally update 2023 references to 2024.

Notes/Hearing: The department will hold a public hearing on November 9, 2023, to consider the notice.

MAR Notice Number: 24-156-97

Subject: Repeal of rules relating to supervision of physician assistants and the Board of Medical Examiners.

Summary: The board proposes to repeal 24.156.1622. The board provided that the proposed rule notice: “The board proposed to substantially repeal this rule in MAR Notice No. 24-156-94, broadly implementing House Bill (HB) 313. On September 26, 2023, the Economic Affairs Interim Committee voted to object informally to that rulemaking, due to the continued presence of this rule, as well as comments received from the sponsor of HB 313. In light of that objection, as well as the limited function and importance of the rule following HB 313, the board proposes to repeal the rule.”

Notes/Hearing: The board will hold a public hearing on November 9, 2023, to consider the notice.

MAR Notice Number: 24-189-44

Subject: Amendment, adoption, and repeal of rules relating to the Board of Psychologists.

Summary: The board proposes to amend 24.189.301, 24.189.401, 24.189.602, 24.189.610, 24.189.613, and 24.189.614. The board proposes to adopt NEW RULES I through X. Additionally, the board proposes to repeal 24.189.205, 24.189.411, 24.189.415, 24.189.603, 24.189.604, 24.189.607, 24.189.625, 24.189.633, 24.189.901, 24.189.904, 24.189.907, 24.189.910, 24.189.911, 24.189.912, 24.189.913, 24.189.916, 24.189.919, 24.189.922, 24.189.925, 24.189.928, 24.189.931, 24.189.934, 24.189.2101, 24.189.2104, 24.189.2107, 24.189.2301, 24.189.2305, 24.189.2309, 24.189.2314, 24.189.2318, and 24.189.2405. Generally, the board states that the rule notice implements the Governor’s Red Tape Relief Initiative by updating rules to current standards and procedures. The rules additionally eliminate unnecessary, redundant, and overburdensome regulations and that are duplicated in statute. The board states that other changes replace out-of-date terminology for current language and processes, and amend rules and catchphrases for accuracy, consistency, simplicity, better organization, and ease of use for customers and staff. Finally, the board states that the rule notice implements Senate Bill 357 from the 2021, session.

Notes/Hearing: The board will hold a public hearing on November 9, 2023, to consider the notice.

MAR Notice Number: 24-222-29

Subject: Repeal of rules relating to the Board of Speech-Language Pathologists and Audiologists.

Summary: The board proposes to amend 24.222.401, 24.222.509, and 24.222.904. The board proposes to adopt NEW RULES I through IX. The board proposes to repeal 24.222.301, 24.222.502, 24.222.504, 24.222.506, 24.222.510, 24.222.513, 24.222.520, 24.222.525, 24.222.701, 24.222.703, 24.222.706, 24.222.907, 24.222.910, 24.222.913, 24.222.916,

24.222.920, 24.222.2102, and 24.222.2301. The board provided the following general statement of reasonable necessity:

GENERAL REASONABLE NECESSITY STATEMENT: The 2021 Montana Legislature enacted House Bill (HB) 210, an act providing for the licensure of speech-language pathology assistants or audiology assistants. The bill provided minimum licensure qualifications for assistants, including passage of a board-approved examination equal to or greater than generally accepted national standards. It was subsequently discovered that no national examination was available to Montana applicants. The board then sought vendors to develop an examination in two requests for proposal but received no responses. It was decided to consider legislation in the 2023 session to eliminate the examination requirement and align assistants' licensure requirements with current national standards.

The 2023 Montana Legislature enacted Chapter 457, Laws of 2023 (Senate Bill (SB) 300), an act revising qualifications for licensure as speech-language pathology assistants or audiology assistants. The bill was signed by the Governor on May 8, 2023, and will be effective on January 1, 2024. The board is adopting two new rules and amending certain existing rules to implement the legislation by updating language and establishing licensure standards for assistants.

The 2023 Montana Legislature enacted Chapter 349, Laws of 2023 (SB 214), an act enacting the audiology and speech-language pathology interstate compact. The bill was signed by the Governor on May 2, 2023, and will be effective on October 1, 2023. The board is amending certain existing rules to implement the legislation and coordinate with the compact's statutory language.

The 2021 Montana Legislature enacted Chapter 497, Laws of 2021 (SB 357), an act that generally revised laws relating to the provision of telehealth services in Montana. The bill was signed by the Governor on May 12, 2021, and became effective October 1, 2021. The board is amending and repealing several rules to implement the bill.

In support of the Governor's Red Tape Relief Initiative, the Department of Labor and Industry (department) is conducting comprehensive reviews of the administrative rules of the professional licensing boards administratively attached to the department. This review focuses on updating rules to current standards and procedures, and eliminating unnecessary, redundant, and overburdensome regulations and those duplicated in statute. Other changes replace out-of-date terminology for current language and processes, and amend rules and catchphrases for accuracy, consistency, simplicity, better organization, and ease of use for customers and staff.

It is reasonably necessary to amend the authority and implementation citations to accurately reflect all statutes implemented through the rule, provide the complete sources of the board's rulemaking authority, and delete references to repealed statutes. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

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

Department of Livestock and administratively attached entities

MAR Notice Number: 32-23-342

Subject: Amendment of rules relating to testing within the Designated Surveillance Area (DSA).

Summary: The department proposes to amend 32.3.435. The department states that the rule notice seeks to correct to a previous rule change that failed to include the extended duration of brucellosis test validity during the period of minimal wildlife spillover transmission to livestock risk from July 16 to February 15. The allowance of a long test duration validity outside of the risk period is a longstanding and foundational part of Montana's brucellosis program, consistent with no test requirement for animals that use the DSA outside of the risk period.

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

MAR Notice Number: 32-23-343

Subject: Repeal of rules relating to garbage feeding.

Summary: The department proposes to repeal 32.6.201, 32.6.202, 32.6.203, 32.6.204, 32.6.205, and 32.6.206. The department states that the proposed rule repeal implements House Bill 84 from 2023. This bill prohibited garbage feeding to swine and other animals.

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

MAR Notice Number: 32-23-344

Subject: Amendment of rules pertaining to Animal Health Division Fees.

Summary: The department proposes amend 32.2.401 to remove licenses, permits, and forms that are no longer offered by the department and to update available quantities and pricing of some remaining forms and tags. The department states that under 81-1-102, all fees are commensurate with costs and no fiscal impacts are expected.

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

State Auditor's Office

There are no new rules.

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.