



Economic Affairs Interim Committee

67th Montana Legislature

SENATE MEMBERS

KENNETH BOGNER
CYNDIE (CARLIE) BOLAND
JASON ELLSWORTH
SHANE MORIGEAU

HOUSE MEMBERS

ALICE BUCKLEY
DEREK HARVEY
JOSH KASSMIER
BRANDON LER
MARK NOLAND
KATIE SULLIVAN

COMMITTEE STAFF

ERIN SULLIVAN, Lead Staff
JAMESON WALKER, Staff Attorney
FONG HOM, Secretary

September 15, 2023

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

MAR Notice Number: 4-23-277

Subject: Amendment of rules relating to nonrefundable application fees.

Summary: The department proposes to amend 4.3.602 to provide state that there is a \$75 nonrefundable application fee. This increases the fee from \$35. The department states that the fee increase is expected to affect 10 to 20 people per year.

Notes/Hearing: The department will hold a public hearing on September 28, 2023, to consider the notice.

MAR Notice Number: 4-23-279

Subject: Amendment of rules relating to annual report and assessment fees.

Summary: The department proposes to amend 4.17.107 to decrease the maximum producer assessment from \$5,000 to \$3,000. The department states that the assessment is higher than the standard and reducing the amount will still bring in adequate revenue to make the lower fee sustainable.

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

MAR Notice Number: 4-23-280

Subject: Amendment of rules relating to the State Grain Lab Fee Schedule.

Summary: The department proposes to amend 4.13.1001B to amend various fees. The department states that the rule notice aligns grading activities with the actual costs of services and the United States Department of Agriculture, Federal Grain Inspection Service has and approved all requested changes.

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

Department of Commerce and administratively attached entities

MAR Notice Number: 8-111-202

Subject: Amendment and repeal of rules relating to the Board of Housing Temporary Assistance to Needy Families and the Coal Trust Multifamily Homes Loan Programs.

Summary: The department proposes to amend 8.111.501, 8.111.502, 8.111.503, 8.111.505, 8.111.506, 8.111.802, 8.111.803, 8.111.804, 8.111.805 and 8.111.806. The department proposes to repeal of 8.111.508 through 8.111.510 and 8.111.512 through 8.111.515. The rule notice generally implements House Bill 244.

Notes/Hearing: The department will hold a public hearing on September 28, 2023, to consider the notice.

MAR Notice Number: 8-111-203

Subject: Adoption of rules relating to the administration of the Emergency Shelter Facility Grant Program.

Summary: The department proposes to adopt New Rule I:

NEW RULE I INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE EMERGENCY SHELTER FACILITY GRANT (ESFG) PROGRAM

- (1) The Department of Commerce adopts and incorporates by reference the Application Guidelines for the Emergency Shelter Facility Grant (ESFG) Program.
- (2) The rules incorporated by reference in (1) relate to the scope, standards, and procedures for eligibility, application, award, administration, compliance monitoring, and related requirements for grants to nonprofit corporations that provide emergency shelter for the homeless.
- (3) Copies of the regulations adopted by reference in (1) may be obtained from the Department of Commerce, Montana Housing Division, 301 South Park Avenue, P.O. Box 200528, Helena, Montana 59620-0528, or on the web site at <https://housing.mt.gov/>.

The department states that the proposed rule is necessary to implement and administer the program as required by House Bill 5. House Bill 5 authorized the Department of Commerce to award up to \$5 million in grants to domestic nonprofit corporations to fund acquisition, construction, and capital improvements of emergency shelter facilities for homeless individuals and families. The bill requires that interested nonprofit corporations submit grant proposals to the department and further provides that disbursement of grant funds is subject to certain conditions and that grant awards must be prioritized based upon the extent to which applicants satisfy such conditions. House Bill 5 also established certain matching fund requirements and imposed a cap on the amount of funding that may be allocated to entities within any individual county.

Notes/Hearing: The department will hold a public hearing on September 28, 2023, to consider the notice.

Department of Labor and Industry and administratively attached entities

MAR Notice Number: 24-101-406

Subject: Amendment of rules relating to renewal dates and requirements.

Summary: The department proposes to amend 24.101.413 to clarify, simplify, and shorten the rule to eliminate unnecessary language. Additionally, the department proposes to strike renewal requirements from the Board of Medical Examiners and place renewal requirements for acupuncturists in the Alternative Health Care Board to implement Senate Bill 453. Additionally, House Bill 449 established licensure for pediatric complex care assistants, which is reflected in the rule amendments.

Notes/Hearing: The department held a public hearing on August 25, 2023, to consider the notice.

MAR Notice Number: 24-111-29

Subject: Amendment, adoption, and repeal of rules relating to the Alternative Health Care board.

Summary: The board proposes to amend 24.111.401, 24.111.402, 24.111.403, and 24.111.2301. The board proposes to amend and transfer of 24.156.1408, 24.156.1409, and 24.156.1410. The board proposes to transfer of ARM 24.156.1403 and 24.156.1416. The board proposes to adopt two new rules. The board proposes to repeal 24.111.412, 24.111.2105, 24.111.2401, 24.111.2402, and 24.156.1406. Generally, the rule notice implements Senate Bill 453, pertaining to acupuncturist licensing. The board proposes changes to the rules to include fees for acupuncturists, transfer rules to the purview of the alternative Health Care Board, remove references to the Board of Medical Examiners, revise continuing education requirements, remove outdated requirements in rule that were duplicative of statutes. Additionally, the board proposes to adopt new Rules I and II:

- NEW RULE I ADMINISTRATIVE SUSPENSION (1) The board authorizes the department to:
- (a) administratively suspend licenses for deficiencies set forth in 37-1-321(1)(a) through (e), MCA; or
 - (b) file a complaint pertaining to the deficiencies in (1) that are based on repeated or egregious conduct, or that have co-occurring misconduct allegations that directly implicate public safety and may warrant formal disciplinary action.
- (2) An administrative suspension is not a negative, adverse, or disciplinary action under Title 37, MCA, and is not reportable under federal law and regulations implementing the Healthcare Practitioner Databank or the department's licensee lookup and license verification databank.

NEW RULE II APPLICATION FOR LICENSURE (1) Each application for licensure from the board must include:

- (a) a completed application form;
 - (b) the initial license fee; and
 - (c) verification of applicable educational requirements.
- (2) An applicant licensed in any other jurisdiction at any time shall cause the other jurisdictions to submit a current verification of licensure directly to the board.
- (3) An applicant may voluntarily withdraw their application by written request if the application has not appeared on a board agenda. Application fees are not refundable

The board proposes to repeal several rules stating that the rules are duplicative of statutory requirements.

Notes/Hearing: The board held a public hearing on August 25, 2023, to consider the notice.

MAR Notice Number: 24-159-95

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

Summary: The board proposes to amend 24.159.301, 24.159.915, and 24.159.916. The board proposes to adopt New Rules I and II. The board proposes to repeal 24.159.404, 24.159.407, 24.159.408, 24.159.409, 24.159.502, 24.159.901, 24.159.911, and 24.159.912. The board states that the rule notice is necessary to include definitions of "General supervision" and "Supervision" in the existing rules.

NEW RULE I ADMINISTRATIVE SUSPENSION

(1) The board authorizes the department to:

(a) administratively suspend licenses for deficiencies set forth in 37-1-321(1)(a) though (e), MCA;

or

(b) file a complaint pertaining to the deficiencies in (1) that are based on repeated or egregious conduct, or that have co-occurring misconduct allegations that directly implicate public safety and may warrant formal disciplinary action.

(2) An administrative suspension is not a negative, adverse, or disciplinary action under Title 37, MCA, and is not reportable under federal law and regulations implementing the Healthcare Practitioner Databank or the department's licensee lookup and license verification databank.

NEW RULE II CIRCUMSTANCES CONSTITUTING A LOW RISK OF ADVERSE HOMEBIRTH

OUTCOMES (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.

(2) Consultation with a physician does not preclude a low risk of adverse birth outcomes.

(3) Preexisting arrangements for emergency transportation to a nearby hospital if needed do not preclude a low risk of adverse birth outcomes.

(4) The following conditions preclude a low risk of adverse birth outcomes.

(a) Pre-existing conditions (not gynecological):

(i) subarachnoid hemorrhage, aneurysm;

(ii) recent or acute herniated nucleus pulposus;

(iii) active tuberculosis or ongoing treatment;

(iv) human immunodeficiency virus, acquired immunodeficiency syndrome, hepatitis B or hepatitis C;

(v) heart defect with hemodynamic consequences;

(vi) clotting disorders;

(vii) kidney dysfunction;

(viii) hypertension;

(ix) diabetes mellitus;

(x) unmedicated thyroid disorders with present TSH receptor antibodies;

(xi) inflammatory bowel disease, including ulcerative colitis and Crohn's disease;

(xii) systemic and rare disorders, including Addison's disease, Cushing's syndrome, systemic lupus erythematosus, antiphospholipid syndrome, scleroderma, rheumatoid arthritis, polyarteritis nodosa, Raynaud's disease, and Marfan syndrome;

(xiii) illegal drug use; or

(xiv) alcoholism.

(b) Pre-existing gynecological conditions:

(i) pelvic floor reconstruction;

(ii) conization;

(iii) myomectomy or other uterine surgery; or

(iv) uterine distortion, including bicornuate, septate, unicornuate, or didelphic conditions.

(c) Obstetric history:

(i) blood group antagonism, including Rhesus, Kell, Duffy, and Kidd glycoproteins;

(ii) previous pre-term (before 34 weeks) birth. If a normal pregnancy occurred after the premature birth, the current birth may be considered to be low risk;

(iii) cervical insufficiency or cerclage;

(iv) placental abruption;

- (v) caesarean section - must transfer current pregnancy at 37 weeks if no reason for transfer prior;
- (vi) dysmaturity;
- (vii) uncontrolled post-partum hemorrhage;
- (viii) manual placental removal;
- (ix) placenta accreta; and
- (x) total uterine rupture with no functional recovery; or
- (xi) history of intrauterine fetal demise.
- (d) Occurring or diagnosed during pregnancy:
 - (i) rubella;
 - (ii) cytomegalovirus;
 - (iii) genital herpes (primo infection);
 - (iv) parvovirus;
 - (v) tuberculosis;
 - (vi) human immunodeficiency virus or acquired immunodeficiency syndrome;
 - (vii) syphilis;
 - (viii) illegal drug use;
 - (ix) alcoholism;
 - (x) maternal anemia;
 - (xi) extrauterine pregnancy;
 - (xii) amniotic fluid loss or preterm labor before 37 weeks;
 - (xiii) uncontrolled diabetes mellitus;
 - (xiv) gestational diabetes mellitus;
 - (xv) gestational hypertension with diastolic blood pressure above 100 or systolic blood pressure above 60;
 - (xvi) preeclampsia, superimposed preeclampsia, hemolysis, or elevated liver enzymes and low platelets (HELLP) syndrome;
 - (xvii) blood group antagonism;
 - (xviii) deep vein thrombosis;
 - (xix) clotting disorders;
 - (xx) vasa previa;
 - (xxi) velamentous cord insertion;
 - (xxii) placenta previa;
 - (xxiii) placental abruption;
 - (xxiv) serotonin syndrome;
 - (xxv) cervical insufficiency prior to 37 weeks of gestation;
 - (xxvi) multiple pregnancy;
 - (xxvii) breech or abnormal position at term; or
 - (xxviii) fetal mortality; or
 - (xxix) prolonged gestation > 42 weeks.

The Board states that the new rules are necessary to implement 37-1-321, which authorizes the board to take non-disciplinary actions regarding licensees who are out of compliance with administrative licensure requirements and to implement House Bill 665, requiring Medicaid coverage of midwife-attended home births. The Board proposes to repeal several rules stating that the rules are unnecessary based on the proposed rulemaking, the rules unnecessarily repeat statutory language, and revising continuing education requirements.

Notes/Hearing: The board held a public hearing on August 30, 2023, to consider the notice.

MAR Notice Number: 24-207-47

Subject: Amendment, adoption, and repeal of rules relating to the Board of Real Estate Appraisers.

Summary: The board proposes to amend 24.207.401 and 24.207.502 pertaining to fees and application requirements. The board proposes to adopt New Rule I:

NEW RULE I ADMINISTRATIVE SUSPENSION (1) The board authorizes the department to:
(a) administratively suspend licenses for deficiencies set forth in 37-1-321(1)(a) through (e), MCA; or
(b) file a complaint pertaining to the deficiencies in (1) that are based on repeated or egregious conduct, or that have co-occurring misconduct allegations that directly implicate public safety and may warrant formal disciplinary action.

(2) An administrative suspension is not a negative, adverse, or disciplinary action under Title 37, MCA, and is not reportable under the department's licensee lookup and license verification databank. The board proposes to repeal 24.207.408 pertaining to fees and the practical application of real estate appraisal.

The board states that 37-1-321 permits the board to take certain non-disciplinary actions regarding licensees who are out of compliance with administrative licensure requirements. The board proposes to repeal 24.207.408 (Military Training or Experience) to implement House Bill 583. This bill eliminated the requirement for adoption by the Board of a specific military training rule, setting forth specific obligations for the board to accept military experience for granting licensure.

Notes/Hearing: The board held a public hearing on August 30, 2023, to consider the notice.

MAR Notice Number: 24-156-94

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

Summary: The board proposes to amend 24.156.403, 24.156.405, 24.156.813, 24.156.1622, and 24.156.1623. The board proposes to repeal 24.156.1621, 24.156.1624, and 24.156.1701.

Generally, the board states that the proposed rule changes implement House Bill 313, which allows the independent practice of physician assistants upon reaching 8,000 hours of postgraduate clinical experience.

Notes/Hearing: The board held a public hearing on September 15, 2023, to consider the notice.

MAR Notice Number: 24-156-95

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

Summary: The board proposes to amend 24.156.401, 24.156.403, 24.156.405, 24.156.409, 24.156.450, 24.156.612, 24.156.613, 24.156.615, 24.156.617, 24.156.2711, and 24.156.2751.

The board proposes to adopt New Rule I:

NEW RULE I ADMINISTRATIVE SUSPENSION (1) The board authorizes the department to: (a) administratively suspend licenses for deficiencies set forth in 37-1-321(1)(a) through (e), MCA; or

(b) file a complaint pertaining to the deficiencies in (1) that are based on repeated or egregious conduct, or that have co-occurring misconduct allegations that directly implicate public safety and may warrant formal disciplinary action.

(2) An administrative suspension is not a negative, adverse, or disciplinary action under Title 37, MCA, and is not reportable under federal law and regulations implementing the Healthcare Practitioner Databank or the department's licensee lookup and license verification databank.

The board proposes to repeal 24.156.415, 24.156.604, 24.156.608, 24.156.609, 24.156.616, 24.156.628, 24.156.801, and 24.156.2715. The board states that the rule notice is consistent with the Red Tape Relief initiative by shortening, simplifying, and clarifying its own rules for improved usability by the public. The board also states that additional changes implement Senate Bill 453 relating to the Alternative Health Care Board.

Notes/Hearing: The board held a public hearing on September 15, 2023, to consider the notice.

MAR Notice Number: 24-156-96

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

Summary: The board proposes to amend 24.156.630 and 24.156.635. The board proposes to repeal 24.156.632, 24.156.633, 24.156.634, 24.156.636, and 24.156.637. The rule notice pertains to the Montana Health Corps and implements Senate Bill 564. The board states that Senate Bill 564 primarily expanded the range of individuals who may perform services under the act as physicians as well as the individuals who could receive services from Health Corps physicians and the rule amendments are reasonably necessary to carry out the purposes of this legislation.

Notes/Hearing: The board held a public hearing on September 15, 2023, to consider the notice.

MAR Notice Number: 24-160-1

Subject: Adoption of rules relating to pediatric complex care assistant licenses.

Summary: The department proposes to adopt New Rules I through V:

NEW RULE I DEFINITIONS (1) "Certified" refers to documentation accepted by the department setting forth completed training of a licensee or license applicant by an approved provider.

NEW RULE II TRAINING PROGRAM (1) The department approves training of a licensee or license applicant by:

(a) the primary care provider of the individual for whom the licensee will provide care; or
(b) a training provider specially equipped to provide training for pediatric complex care, in which case the training provider must register with the department.

(2) Training must be certified by the training provider and identify, on a form provided by the department, what services the licensee or license applicant has been trained to provide.

(3) A licensee may receive additional training from a training provider to increase the scope of care they are permitted to provide. The licensee may only perform services for which training has been certified.

NEW RULE III PEDIATRIC COMPLEX CARE SERVICES (1) In addition to those services defined in [House Bill 449, Section 1], a licensee may perform:

- (a) bowel care, including enema administration and ostomy care;
- (b) wound care;
- (c) central line care or IV fluid administration; and
- (d) airway management, including oxygen management.

NEW RULE IV FEES (1) Initial and renewal application fees are \$25.

NEW RULE V UNPROFESSIONAL CONDUCT (1) It is unprofessional conduct for a licensee or applicant to violate any statute, rule, or standard of care governing their scope of practice, or exceeding the scope of practice for which they are licensed, trained, and educated to perform. The following additionally constitutes unprofessional conduct by licensees or license applicants:

- (a) failing to cooperate with an investigation by or request for information from the department;
- (b) performing services not trained and certified following [NEW RULE II].

The department states that the rule notice is to implement legislation establishing licensure for pediatric complex care assistants. This new license type recognizes individuals providing care for individuals under the age of 21 who are under the care of the licensee. The rules define the initial parameters of licensure for this license type.

Notes/Hearing: The board held a public hearing on September 15, 2023, to consider the notice.

MAR Notice Number: 24-182-36

Subject: Amendment and repeal of rules relating to the Board of Private Security.

Summary: The department proposes to amend 24.182.301, 24.182.401, 24.182.403, 24.182.405, 24.182.407, 24.182.420, 24.182.501, 24.182.505, 24.182.507, 24.182.512, 24.182.514, 24.182.516, 24.182.518, 24.182.520, 24.182.525, 24.182.801, 24.182.804, 24.182.807, 24.182.810, and 24.182.2301. The board proposes to repeal 24.182.101, 24.182.201, 24.182.202, 24.182.421, 24.182.504, 24.182.508, 24.182.509, 24.182.510, 24.182.511, 24.182.513, 24.182.519, 24.182.523, 24.182.813, 24.182.2101, 24.182.2103, 24.182.2105, and 24.182.2108. Generally, the rule notice implements Senate Bill 454, which changed the regulatory governing model of private security from a board to a department program; repealed branch office, resident manager, and alarm response runner license types; merged contract security companies and proprietary security organizations into a single license type; and narrowed the required licensure of certified firearms instructors to instructing in the private security field only, rather than all firearms instructing. The department states that other rule amendments reorganize information and apply consistent and simple word choice and parallel construction to make the rules easier to read and understand.

Notes/Hearing: The department held a public hearing on September 14, 2023, to consider the notice.

MAR Notice Number: 24-150-42

Subject: Adoption and repeal of rules relating to the Licensed Hearing Aid Dispenser Program.

Summary: The department proposes to adopt New Rules I through VII:

NEW RULE I FEE SCHEDULE

- (1) Application
 - (a) Hearing aid dispenser \$300
 - (b) Trainee \$600
- (2) Active renewal - Hearing aid dispenser \$550
- (3) Additional standardized fees are in ARM 24.101.403.
- (4) All fees are nonrefundable.
- (5) Examination fees are set by the examination administrator and paid by the applicant directly to the examination administrator.

NEW RULE II EXAMINATION (1) Hearing aid dispenser applicants must pass the International Hearing Society (IHS) written examination or its equivalent.

NEW RULE III BILLS OF SALE/RECEIPTS (1) In addition to provisions of 37-16-303, MCA, each bill of sale and receipt must contain a plain and simple notice of those hearing aids that must be programmed or adjusted only by authorized dealers or dispensers and must be signed by the licensee and purchaser.

- (2) For trainee-provided services, all bills of sale and receipts must clearly show:
 - (a) trainee's designation, name, and license number; and
 - (b) supervisor's name and license number.

NEW RULE IV TRAINEE LICENSURE – SUPERVISED TRAINING

- (1) Hearing aid dispenser applicants must complete 1,000 hours of supervised training while licensed as hearing aid dispenser trainees.
- (2) Trainee licenses are valid for one year unless renewed and may be renewed only once without prior department approval.
- (3) Trainees must be supervised by qualified licensed hearing aid dispensers who are available for regular and prompt observation, instruction, consultation, and treatment.
- (4) To supervise, hearing aid dispensers must:
 - (a) be currently licensed and actively practicing in Montana for at least one year; and

(b) have no final discipline in any state against the dispenser's license or a related license such as audiologist, in the two years preceding the request to supervise.

(5) The supervisor and trainee shall immediately notify the department and provide the reasoning for any pause in or termination of the training.

(6) Unsupervised trainees may not practice and must receive department approval before continuing in trainee status.

(7) Credit toward the training is only given when trainees have documented supervision.

(8) Trainees must maintain and submit to the department every 90 days, a dated log documenting their daily tasks and duties that is signed by the trainee and supervisor.

(9) Trainees must submit the final log upon conclusion of the supervised training to obtain approval to sit for the examination per [NEW RULE II].

NEW RULE V RECORD RETENTION (1) As applicable, patient records must include:

(a) dates, locations, and methods for all patient contacts;

(b) description of services;

(c) a record of and receipt for any hearing aids returned; and

(d) a copy of all final bills of sale.

(2) Dispensers shall maintain patient records for a minimum of seven years from the last recorded date of service. Deceased patient records may be discarded one year after the date of death.

NEW RULE VI UNPROFESSIONAL CONDUCT (1) It is unprofessional conduct for licensed hearing aid dispensers to:

(a) violate a federal, state, or local law or rule relating to the conduct of the profession;

(b) initiate telephone contact without first identifying the dispenser's name and company, or making more than one contact, unless the person specifically requests further contact;

(c) contact a person more than once who has a hearing aid still under warranty, unless:

(i) contact is made by the original dispenser; or

(ii) the person specifically requests the additional contact;

(d) perform services outside the licensee's area of training, expertise, competence, or scope of practice or licensure;

(e) fail to adequately supervise, manage, train, or control auxiliary staff or supervisees;

(f) discontinue professional services, unless:

(i) services are completed;

(ii) the person requests the discontinuation;

(iii) alternative or replacement services are arranged; or

(iv) the person is given reasonable opportunity to arrange alternative or replacement services;

(g) delegate a professional task to an unqualified person;

(h) fail to obtain informed consent when warranted;

(i) physically or verbally abuse a patient; and

(j) fail to account for funds received in connection with any services rendered or to be rendered.

The department proposes to repeal 24.150.101, 24.150.201, 24.150.202, 24.150.301, 24.150.401, 24.150.402, 24.150.404, 24.150.501, 24.150.503, 24.150.505, 24.150.507, 24.150.512, 24.150.513, 24.150.601, 24.150.602, 24.150.2201, and 24.150.2301. The department states that the rule notice implements the Red Tape Relief Initiative in addition to implementing Senate Bill. 456, which generally revised laws related to hearing aid dispensers and transferring oversight from a board to a department program.

Notes/Hearing: The department will hold a public hearing on October 3, 2023, to consider the notice.

MAR Notice Number: 24-168-45

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

Summary: The board proposes to amend 24.168.301, 24.168.402, 24.168.2101, 24.168.2104, and 24.168.2301. The board proposes to adopt NEW RULE I:

NEW RULE I ADMINISTRATIVE SUSPENSION (1) The board authorizes the department to:

(a) administratively suspend licenses for deficiencies set forth in 37-1-321(1)(a) though (e), MCA; or

(b) file a complaint pertaining to the deficiencies in (1) that are based on repeated or egregious conduct, or that have co-occurring misconduct allegations that directly implicate public safety and may warrant formal disciplinary action.

(2) An administrative suspension is not a negative, adverse, or disciplinary action under Title 37, MCA, and is not reportable under federal law and regulations implementing the Healthcare Practitioner Databank or the department's licensee lookup and license verification databank.

The board proposes to repeal 24.168.406, 24.168.411, and 24.168.2307. The board states that the rule notice removes unnecessary and duplicative rule language. The rule notice also amends continuing education requirements to include asynchronous approved continuing education requirements. The board also states that the rule notice implements House Bill 583.

Notes/Hearing: The department held a public hearing on October 3, 2023, to consider the notice.

Department of Livestock and administratively attached entities

MAR Notice Number: 32-23-340

Subject: Amendment of rules relating to records to be kept.

Summary: The department proposes to amend 32.15.102 (Records to be Kept) to include livestock video auctions or livestock dealers to the rule. The department states that the rule notice implements House Bill 153.

Notes/Hearing: The Committee doesn't anticipate the need to hold a public hearing.

State Auditor's Office

MAR Notice Number: 6-279

Subject: Amendment of rules relating to the Classification Review Committee (Committee).

Summary: The Committee proposes to amend 6.6.8001 (Classification Review Committee Agency Organization), 6.6.8202 (administrative appeal of a classification decision), 6.6.8206 (telephone and electronic hearings), and 6.6.8301 (establishment, deletion, or revision of classifications for various industries for supplementing the NCCI Basic Manual for Workers' Compensation and Employers Liability). The rule amendments update contact information and information relating to digital technology. The rule amendments also update rules relating to remote hearings and appeals processes.

Notes/Hearing: The Committee doesn't anticipate the need to hold a public hearing.

MAR Notice Number: 6-280

Subject: Amendment of rules relating to continuing education.

Summary: The department proposes to amend 6.6.4202, 6.6.4203, 6.6.4204, 6.6.4211, and 6.6.4212. These rules pertain to the continuing education program for insurance producers and consultants. The amendments implement House Bill 61, which revised review and approval of continuing education courses.

Notes/Hearing: The Committee doesn't anticipate the need to hold a public hearing.

MAR Notice Number: 6-281

Subject: Adoption of rules relating to regulatory sandbox waivers.

Summary: The department proposes to adopt New Rules I through V to implement House Bill 836:

NEW RULE I APPLICATION REQUIREMENTS (1) An application for a waiver under [HB 836, Section 1] must include the following information:

- (a) the identity of the insurer applying for the waiver;
- (b) the identity of the directors and executive officers of the insurer, any persons who are beneficial owners of 10% or more of the voting securities of the insurer, and any officers of the insurer;
- (c) a description of the product or service to be offered if the waiver is granted, including how the product or service functions and the manner and terms on which it must be offered;
- (d) a description of the potential benefits to consumers of the product or service;
- (e) a description of the potential risks, including but not limited to financial risks, to consumers posed by the product or service or approval of the proposed waiver and how the applicant proposes to mitigate the risks;
- (f) a statement that the insurer has a physical presence in the state and has a certificate of authority issued by the commissioner to write insurance in the state;
- (g) a filing fee of \$1,000 unless the submission is complex and lengthy, in which case the commissioner will provide an estimate of the fee that is commensurate with regulatory costs for consideration of the submission. The insurer may withdraw the submission after receiving the estimate;
- (h) a specific explanation of how the waiver sought would meet each of the criteria set forth in [HB 836, Section 1(1)];
- (i) certification that the waiver sought does not fall into any of the prohibited categories set forth in [HB 836, Section 1(7)]; and
- (j) a description of the insurer's plan for winding down the proposed program or activity pursuant to [HB 836, Section 1(12)].

(2) The application shall be submitted on a form designated by the commissioner and made available to applicants on the Montana State Auditor's website.

(3) At the time of submission, an applicant may request to protect confidential trade secrets contained in an application. The request must include an affidavit that clearly states the facts supporting the claim to trade secret protection with sufficient specificity to enable the reviewer to clearly understand the nature and basis of the claims to confidentiality, including an explanation of how the information meets the definition of "trade secret" under 30-14-402(4), MCA.

NEW RULE II WAIVER MONITORING (1) At the time of granting a waiver, the commissioner shall provide an insurer granted a waiver under [HB 836, Section 1] with a list of reporting requirements and dates for reporting.

NEW RULE III WAIVER REVOCATION (1) The commissioner may revoke a waiver if the insurer who obtains the waiver fails to comply with any terms, conditions, or limitations established by the commissioner, the requirements of [HB 836, Section 1], or if the waiver is causing harm to a consumer or causes material harm to the insurer's solvency.

(2) The commissioner shall give the insurer written notice of intent to revoke the waiver, and the insurer shall have ten days to respond to the notice.

(3) Following the insurer's response, if the commissioner is not satisfied that the condition warranting revocation is cured, the commissioner shall send final written notice revoking the waiver.

(4) If the reasons described in (1) of this rule pose a threat of harm in the absence of immediate action, the commissioner may immediately revoke the waiver pending the insurer's response.

NEW RULE IV WAIVER EXTENSION (1) An extension request under [HB 836, Section 1(3)(b)] must be submitted to the commissioner within 45 days of the expiration of the waiver period. This request must include the length of the extension period requested and the specific reasons why the extension is necessary. These specific reasons must include an analysis of the effectiveness of the waiver in meeting the goals set forth in the initial waiver application.

NEW RULE V EXPEDITED WAIVER APPLICATIONS (1) Where a product or service has been granted a waiver by the Commissioner, any applicant wishing to offer a substantially similar product or service may file an expedited application meeting the following requirements:

(a) An application must be submitted on the same form described in [New Rule I](2). The applicant must indicate that the application is an expedited application under this rule.

(b) An application must specifically identify the previously granted waiver and explain in detail how the product or service it anticipates offering is substantially similar to those offered under the previously-granted waiver.

(c) An application under the expedited process does not need to comply with [New Rule I(1)(d), (e), and (i)].

Notes/Hearing: The held a public hearing on September 14, 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.