



**Economic Affairs Interim Committee**  
**65th Montana Legislature**

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August 29, 2017

To: Economic Affairs Interim Committee  
From: Jameson Walker, Legislative Attorney  
Re: Administrative Rule Report, September 2017

The Economic Affairs Interim Committee is responsible for reviewing administrative rules promulgated by several state agencies for compliance with the Montana Administrative Procedure Act (MAPA).<sup>1</sup> 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:** 4-17-240

**Subject:** Adoption of a rule pertaining to pesticides.

**Summary:** The department proposes to adopt a rule setting an annual pesticide registration fee at \$130 and a pesticide registration special needs fee at \$8.

**Notes/Hearing:** The department will hold a public hearing on September 7, 2017.

**Department of Commerce and administratively attached entities**

There are no pending rules.

**Department of Labor and Industry and administratively attached entities**

**MAR Notice Number:** 24-159-84

**Subject:** Repeal of rules pertaining to the Board of Nursing.

**Summary:** The department proposes to repeal 24.159.1006 and 24.159.1206 (pertaining to direct supervision and standards related to the practical nurse's and registered nurse's role in cosmetic procedures).

**Notes/Hearing:** The department held a public hearing on August 25, 2017.

<sup>1</sup> 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, Montana State Fund, 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.

**MAR Notice Number:** 24-174-69

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

Summary: The department proposes to amend 24.174.401 (fee schedule), 24.124.602 (internship requirements), and 24.174.605 (foreign intern requirements). The board determined that it was reasonably necessary to amend the rule to reduce fee revenue collected from licensees.

Notes/Hearing: The department held a public hearing on August 25, 2017.

**MAR Notice Number:** 24-189-37

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

Summary: The department proposes to amend 24.189.301 (definitions), 24.189.401 (fee schedule), 24.189.601 (application procedures), 24.189.633 (temporary permit), and 24.189.2104 (continuing education program options). The department proposes to adopt new rules I through XII (pertaining to behavior analysts and assistant behavior analysts licensure, continuing education, and unprofessional conduct).

Notes/Hearing: The department held a public hearing on August 25, 2017.

**MAR Notice Number:** 24-29-323

Subject: Amendment of a rule pertaining to workers' compensation.

Summary: The department proposes to amend 24.29.1591. The amendment updates workers' compensation utilization and treatment guidelines.

Notes/Hearing: The department will hold a public hearing on September 8, 2017.

**MAR Notice Number:** 24-121-15

Subject: Amendment of a rule pertaining to the Board of Barbers and Cosmetologists.

Summary: The department proposes to amend 24.121.601 (licensure by examination), 24.121.805 (school operating standards), 24.121.807 (school curricula), and 24.121.808 (credited hours for Montana-licensed individuals in a cosmetology or barbering program). The proposed rules implement House Bill 393 from 2017.

Notes/Hearing: The department will hold a public hearing on September 8, 2017.

**MAR Notice Number:** 24-182-35

Subject: Adoption, amendment, and repeal of rules pertaining to the Board of Private Security.

Summary: The department proposes to amend 24.182.101 (organization), 24.182.201 (procedural rules), 24.182.202 (public participation), 24.182.301 (definitions), 24.182.401 (fee schedule), 24.182.403 (identification pocket card), 24.182.405 (insurance and surety bond requirements), 24.182.407 (regulations of uniform), 24.182.420 (qualification of firearms for armed endorsement), 24.182.421 (requalification required annually), 24.182.501 (required information for application), 24.182.504 (military training or experience), 24.182.505 (written examination), 24.182.507 (temporary practice permit), 24.182.511 (private investigator trainee), 24.182.520 (certified firearms instructor), 24.182.525 (company licensure and branch offices), 24.182.801 (firearms training courses). The department proposes to adopt new rule I (private investigator training program), II (private security guard training program), III (security alarm installer

training program), IV (alarm response runner training program), V (standards for continuing education), VI (annual continuing education requirements), VII (non-approved activities), VIII (auditing of continuing education hours), IX (inactive status and conversion to active status), X (alarm response runner), XI (private investigator), XII (private security guard), XIII (process server), XIV (resident manager), XV (security alarm installer), XVI (nonroutine applications). The department proposes to repeal 24.182.503 (experience requirements).

Notes/Hearing: The department held a public hearing on July 18, 2017 to consider public comment on the notice. This summary appeared in the July 7, 2017, email to the EAIC.

**MAR Notice Number:** 24-114-36

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

Summary: The proposed amendments are to 24.114.101 (board organization), 24.114.202 (public participation), 24.114.301 (definitions), 24.114.401 (fee schedule), 24.114.402 (architect seal), 24.114.408 (fee abatement), 24.114.411 (military training or experience), 24.114.501 (architect examination), 24.114.502 (architect licensure by examination), 24.114.503 (licensure of applicants registered in another state), 24.114.515 (architect emeritus status), 24.114.1401 (landscape architect licensure by examination), 24.114.1402 (education and experience required for landscape architect licensure), 24.114.1403 (landscape architect examinations), 24.114.1404 (landscape architect licensure by endorsement), 24.114.1410 (landscape architect seal), 24.114.2105 (architect continuing education requirements), 24.114.2301 (unprofessional conduct), 24.114.2402 (screening and adjudication panels). The department proposes to repeal 24.114.406 (solicitation of business by nonresident architects), 24.114.510 (architects-in-training), 24.114.2101 (renewals), and 24.114.2103 (replacement licenses).

Notes/Hearing: The department held a public hearing on August 1, 2017, to consider the proposed rules. This summary appeared in the August 18, 2017, email to the EAIC.

**MAR Notice Number:** 24-189-36

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

Summary: The proposed amendments are to 24.189.601 (application procedures), 24.189.602 (exemptions), 24.189.604 (minimum standards), 24.189.625 (licensure of foreign-trained psychologists), 24.189.810 (competency), 24.189.813 (limits of confidentiality), 24.189.2104 (continuing education program options), 24.189.2107 (continuing education implementation), and 24.189.2305 (practice of psychology).

Notes/Hearing: The department held a public hearing on August 1, 2017, to consider the proposed rules. This summary appeared in the August 18, 2017, email to the EAIC.

**MAR Notice Number:** 24-155-6

Subject: Amendment of rules pertaining to the Board of Massage Therapy.

Summary: The proposed amendments are to 24.155.604 (licensure by examination), 24.155.608 (licensure of out-of-state applicants), and 24.155.613 (nonroutine applications).

Notes/Hearing: The department held a public hearing on August 16, 2017, to consider the proposed rule amendments. This summary appeared in the August 18, 2017, email to the EAIC.

**MAR Notice Number: 24-201-50**

Subject: Amendment, adoption, and repeal of rules pertaining to the Board of Public Accountants.

Summary: The proposed amendments are to 24.201.301 (definitions), 24.201.535 and 24.201.537 (licensing), 24.201.2101 (renewals), 24.201.2106, 24.201.2120, 24.201.2124, 24.201.2136, 24.201.2137, 24.201.2138, and 24.201.2139 (pertaining to continuing education), and 24.201.2410 (complaint procedures). The department proposes to adopt a rule relating to credit for blended learning. The department proposes to repeal 24.201.704, 24.201.705, 24.201.706, 24.201.707, 24.201.708, 24.201.709, 24.201.710, 24.201.718, 24.201.720, and 24.201.726 (relating to professional conduct).

Notes/Hearing: The department held a public hearing on August 16, 2017, to consider the proposed rules. This summary appeared in the August 18, 2017, email to the EAIC.

**Department of Revenue, Liquor Control Division**

MAR Notice Number: 42-2-974

Subject: Amendment of rules pertaining to breweries.

Summary: The department proposes to amend 42.13.601 (conditions for operating a brewery), 42.13.701 (production threshold), and 42.13.702 (beer reporting requirements). The amendments implement the changes made by House Bill 541 in 2017.

Notes/Hearing: The department held a public hearing on August 24, 2017.

**Department of Livestock and administratively attached entities**

There are no pending rules.

**State Auditor's Office**

**MAR Notice Number: 6-232**

Subject: Amendment of rules pertaining to insurance.

Summary: The department proposes to amend 6.6.304, 6.6.311, 6.6.312, 6.6.313 (pertaining to replacement of life insurance), 6.6.608 (Medicare Select), 6.6.712 (life insurance illustrations), 6.6.1006 (funeral insurance), 6.6.2202 (title insurance), 6.6.2403 (group coordination of benefits), 6.6.3001, 6.6.3007 (loss cost advisory rate filings), 6.6.3401 (hazardous financial conditions), 6.6.3501, 6.6.3515, 6.6.3520 (pertaining to audited reports and annual statements), 6.6.3715 (holding company systems), 6.6.4603 (guaranty association), 6.6.6501, 6.6.6502, 6.6.6503, 6.6.6504, 6.6.6505, 6.6.6508, 6.6.6509 (pertaining to actuarial opinions), 6.6.6805, 6.6.6820 (pertaining to captive insurers), 6.6.7101, 6.6.7102 (pertaining to mortality tables), and 6.6.8504 and 6.6.8505 (pertaining to viatical settlement agreements). The rule notice generally serves to update older rules.

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

**MAR Notice Number: 6-233**

Subject: Amendment, transfer, and repeal of rules pertaining to insurance regulation.

Summary: The department proposes to amend 6.2.101, 6.2.120, and 6.2.121 (pertaining to

clarification of agency rulemaking and contested case procedures). The department proposes to repeal 6.2.103, 6.2.104, 6.2.107, 6.2.123, and 6.2.124 (pertaining to agency contested case procedures). The department proposes to transfer 6.6.4401 through 6.6.4404 (pertaining to agency debt collection practices).

Notes/Hearing: The department held a public hearing on August 24, 2017 to consider the rule notice.

**MAR Notice Number: 6-234**

Subject: Repeal of rules pertaining to insurance regulation.

Summary: The department proposes to repeal 6.6.101, 6.6.102, 6.6.104, and 6.6.105 (pertaining to insurance producer licensing), 6.6.4301, 6.6.4302, and 6.6.4303 (pertaining to electronic filing of the appointment and termination of insurance producers).

Notes/Hearing: The department does not contemplate the need to hold a public hearing.

**MAR Notice Number: 6-235**

Subject: Amendment of rules pertaining to workers' compensation insurance.

Summary: The department proposes to amend 6.6.8301 and 6.6.8401. These rules relate to the NCCI manual for workers' compensation insurance. The amendments incorporate changes from SB 123 (2015).

Notes/Hearing: The department will hold a public hearing on September 11, 2017.

**MAR Notice Number: 6-230**

Subject: Adoption of rules pertaining to air ambulance and hold harmless dispute resolution.

Summary: The Commissioner of Securities and Insurance proposes several new rules to implement Senate Bill 44 from the 2017 legislative session. The proposed rules include: a purpose statement, MAPA inapplicability, confidentiality, notice of dispute, independent reviewer selection and substitution, preliminary hearing, discovery procedures, evidence and procedure procedures, preparation for hearing, hearing procedures, non-compliance with order procedures, and final determination.

Notes/Hearing: The department held a public hearing on August 14, 2017 to consider the proposed rules. This summary appeared in the August 18, 2017, email to the EAIC.

**MAR Notice Number: 6-231**

Subject: Repeal of rules pertaining to insurance.

Summary: The Commissioner of Securities and Insurance proposes to repeal 6.6.1804 (unfair discrimination); 6.6.4101 (accreditation fees); 6.6.5101 (small employer reinsurance); 6.6.5201, 6.6.5202, 6.6.5203, 6.6.5204, 6.6.5207, 6.6.5208, 6.6.5210, 6.6.5211, 6.6.5212, 6.6.5215, 6.6.5216, 6.6.5219, 6.6.5220, 6.6.5221, 6.6.5224 (pertaining to the Insure Montana program); 6.6.5801, 6.6.5802, 6.6.5803, 6.6.5804, and 6.6.5805 (pertaining to managed care community networks). The department states that the notice serves to update outdated administrative rules that are no longer supported by statutes.

Notes/Hearing: The department does not anticipate the need for a public hearing. This summary appeared in the August 18, 2017, email to the EAIC.

**Montana State Fund**

There are no pending rules.

**Division of Banking & Financial Institutions**

**MAR Notice Number:** 2-59-559

**Subject:** Adoption of rules pertaining to banking.

**Summary:** The proposed new rule provides a definition of "alter" for mortgage licensees. The department states that recent cases have involved mortgage brokers altering documents and the definition provides enforcement clarity.

**Notes/Hearing:** The department does not contemplate the need for an administrative hearing and proposes to adopt the rules on August 28, 2017. This summary appeared in the August 18, 2017, email to the EAIC.

**Governor's Office of Economic Development**

There are no pending rules.

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