

BEFORE THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 37.104.3025 pertaining to ) PROPOSED AMENDMENT  
trauma facility designation )

TO: All Concerned Persons

1. On September 22, 2020, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/91528178800>; meeting ID: 915 2817 8800; or

(b) Dial by telephone +1 646 558 8656; meeting ID: 915 2817 8800. Find your local number: <https://mt-gov.zoom.us/u/ad9jml0eKl>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on September 11, 2020, to advise us of the nature of the accommodation that you need. Please contact Heidi Clark, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.104.3025 ~~LENGTH OF DESIGNATION PERIOD~~ (1) through (4) remain the same.

(5) The department may waive any designation expiration dates if the facility provides sufficient written justification and/or the department determines a waiver is necessary due to an emergency or disaster declaration by the governor, county, or city, or in the event of an unforeseen natural disaster. A waiver will be issued only if the following criteria are met:

(a) the waiver is necessary to avoid significant financial or other hardship to the facility; and

(b) granting the waiver would not jeopardize patient care or public health and safety.

(6) A waiver issued under (5) will be issued on a temporary basis not to exceed a period of 12 months.

AUTH: 50-6-402, MCA  
IMP: 50-6-402, MCA

#### 4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.104.3025 to allow for a temporary waiver of designation requirements for trauma facilities in limited circumstances. Renewal of a trauma facility's designation requires the department to perform an on-site review and assessment of the facility. During the COVID-19 pandemic it has become clear that a rule change is needed to allow for a waiver under certain limited circumstances such as a public health emergency or disaster when the department is unable to physically perform designations due to the safety of persons involved in the designation review.

The State Trauma Care Committee (STCC) met on May 13, 2020, and recommended the department pursue a rule amendment to address this issue. The STCC is comprised of members of various medical groups across the state including: Montana Trauma Coordinators; Central Regional Trauma Advisory Committee (RTAC), Eastern RTAC; Committee on Trauma/American College of Surgeons (ACS); Montana Medical Association; MT Hospital Association; MT Emergency Nurses Association; Emergency Medical Services (EMS) Association; Indian Health Service, Western RTAC; Private Ambulance Operators; and American College of Emergency Physicians.

The proposed rule permits a temporary waiver to be granted when it will not jeopardize patient care or public health and safety. The proposed rule allows for flexibility in the event of an emergency or disaster and ensures continuity of trauma care facility designations during an emergency or disaster that temporarily precludes the department from conducting on-site assessments of such facilities.

#### Fiscal Impact

There is no anticipated fiscal impact with respect to this rulemaking.

The department intends for these amendments to be effective upon adoption.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Heidi Clark, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [dphslegal@mt.gov](mailto:dphslegal@mt.gov), and must be received no later than 5:00 p.m., September 25, 2020.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Robert Lishman  
Robert Lishman  
Rule Reviewer

/s/ Sheila Hogan  
Sheila Hogan, Director  
Public Health and Human Services

Certified to the Secretary of State August 18, 2020.