



MONTANA  
ADMINISTRATIVE  
REGISTER



DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

---

**NOTICE OF PROPOSED RULEMAKING**

**MAR NOTICE NO. 2026-322.1**

**Summary**

Adoption of NEW RULES 1 through 45 pertaining to Residential Treatment Centers

---

**Hearing Date and Time**

Monday, March 30, 2026, at 9:00 a.m.

**Virtual Hearing Information**

Join Zoom Meeting: <https://mt-gov.zoom.us/j/88944733547?pwd=JcVw9fOx1NLwi4nl4VvClbzKvQtwVu.1>

Meeting ID: 889 4473 3547 and Password: 414943

Dial by Telephone: +1 646 558 8656

Meeting ID: 889 4473 3547 and Password: 414943

Find your local number: <https://mt-gov.zoom.us/j/88944733547?pwd=JcVw9fOx1NLwi4nl4VvClbzKvQtwVu.1>

**Comments**

Comments may be submitted using the contact information below. Comments must be received by Friday, April 3, 2026, at 5:00 p.m.

---

## Accommodations

The agency 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. Requests must be made by Monday, March 16, 2026, at 5:00 p.m.

---

## Contact

Bailey Yuhas  
(406) 329-7913  
hhsadminrules@mt.gov  
Fax: (406) 444-9744

---

## Rulemaking Actions

### ADOPT

The rules proposed to be adopted are as follows:

#### NEW RULE 1 PURPOSE

- (1) These rules establish licensing procedures and requirements for residential treatment centers.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### NEW RULE 2 DEFINITIONS

- (1) "Adolescent" means any person between the ages of 10 and 19 years old who is placed in a facility by a parent or legal guardian.
  - (a) Upon admission to the facility, the adolescent is considered a resident.
  - (b) The adolescent may remain as a resident up to the age of 20 if they are enrolled in an accredited secondary school.
- (2) "Case plan" means a specific plan for providing care, treatment, and services of any kind to a specific resident.

- (3) "Chemical restraint" means the use of a drug or medication that is used to control behavior or restrict the resident's freedom of movement, and which is not a standard treatment for the resident's medical or psychiatric condition.
- (4) "Correspondence search" means reading a resident's mail or inspecting the contents of a package.
- (5) "Department" means the Department of Public Health and Human Services.
- (6) "Direct care staff" or "staff" means facility personnel who directly participate in the care, supervision, and guidance of the resident.
- (7) "Discharge plan" means a realistic plan developed to transition the resident home or to a less restrictive and appropriate placement with specific services identified and available.
- (8) "Licensed addiction counselor" means a person licensed under Title 37, chapter 39, MCA.
- (9) "Licensed health care professional" means a licensed physician, physician assistant, or advanced practice registered nurse who is practicing within the scope of the license issued by the Department of Labor and Industry.
- (10) "Licensure bureau" means the Office of Inspector General Licensure Bureau.
- (11) "Mechanical restraint" means the use of devices as a means of restricting a person's freedom of movement.
- (12) "Mental health professional" means a person licensed pursuant to 37-39 102(18), MCA.
- (13) "Near miss" means an unplanned, unforeseen, or potentially dangerous situation where safety was compromised but that did not result in injury.
- (14) "Pat-down search" means a body search done outside of a person's clothing with the intention of locating suspected contraband.
- (15) "Personal property search" means a search which includes going through a resident's personal property and/or room including closet, bed, desk, dresser drawers, backpacks, etc., with the intention of looking for contraband.
- (16) "Physical escort" means the temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a resident to walk to a specific location.
- (17) "Physical restraint" means a personal restriction that immobilizes or reduces the ability of the free movement of an individual's arms, legs, or head. The term does not include physical escort.
- (18) "Resident-to-staff ratio" means the number of residents in care per each on-duty awake direct care staff member.

- (19) "Seclusion" means a behavior control technique involving locked isolation in which the resident is physically prevented from leaving. The term does not include time-out.
- (20) "Self-administration assistance" means providing necessary assistance to any resident in taking their medication, including:
- (a) removing medication containers from secured storage;
  - (b) providing verbal suggestions, promoting, reminding, gesturing, or providing a written guide for self-administering medications;
  - (c) handling a prefilled, labeled medication holder, labeled unit dose container, syringe, or original marked, labeled container from the pharmacy;
  - (d) opening the lid of the container described in (c) for the resident;
  - (e) guiding the hand of the resident to self-administer the medication;
  - (f) holding and assisting the resident in drinking fluids to assist in the swallowing of oral medications; and
  - (g) assisting with removal of a medication from a container for a resident with a physical disability which prevents independence in the act.
- (21) "Serious incident" means suicide attempt, use of excessive physical force by staff, use of a restraint or seclusion, physical or sexual assault of a resident by staff, or another resident, injury to a resident which requires emergency medical care, known or suspected abuse or neglect of a resident by staff or another resident, a near miss or the death of a resident, elopement, or an incident that involves law enforcement.
- (a) "Abuse" means actual or psychological harm, or substantial risk of psychological harm to a resident.
  - (b) "Neglect" means abandonment of a resident.
- (22) "Time-out" means the restriction of a resident for a period of time to a designated unlocked area from which the resident is not physically prevented from leaving for the purpose of providing the resident the opportunity to regain self-control.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### NEW RULE 3 APPLICATION OF OTHER RULES

- (1) Any facility that includes in its marketing, advertising, information packet, or other similar document reference to providing residential mental health services, assessment, counseling, co-occurring substance use disorder treatment, and behavioral health treatment 24 hours a day to youth under 19 years of age must be licensed by the department under Title 50, chapter 5, MCA.
- (2) To the extent that other licensure rules in ARM Title 37, chapter 106, subchapter 3 conflict with the terms of ARM Title 37, chapter 106, [subchapter 32], the terms of [subchapter 32] will apply to residential treatment facilities.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### NEW RULE 4 LICENSING FEES

- (1) Facilities must submit payment for licensure annually.
- (2) Licensing fees are based on the number of residents the facility is licensed to serve as shown in the table below:

Number of residents	Licensing Fees
1-10	\$1,688
11-25	\$4,345
26-50	\$8,138
51 and more	\$13,313

- (3) All fees provided for by this rule are nonrefundable and are not prorated for portions of the licensing period.
- (4) All fees must be paid in full by June 1 of each year.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

## **NEW RULE 5 ISSUANCE AND RENEWAL OF A LICENSE**

- (1) Applications for a facility license must be submitted on an application provided by the department.
- (2) Renewal applications must be received within 30 days prior to the expiration date of the current license.
- (3) The facility must submit all written facility management policies and procedures to the department for approval with the initial application. Policies and procedures must comply with requirements outlined in this subchapter.
- (4) Upon receipt of a complete initial or renewal application, the department must conduct an on-site licensing survey to determine if the applicant meets all applicable licensing requirements. The on-site licensing survey may be unannounced.
- (5) If the department determines during the survey that the applicant is out of compliance with the applicable licensing requirements, the department will notify the applicant of the specific deficiencies. The applicant must submit a written plan of correction within ten working days of the department's notification of noncompliance specifying how compliance will be made and maintained in the future.
- (6) The department must receive all required information and approve the plan of correction prior to issuing a license.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

## **NEW RULE 6 LICENSE DENIAL, SUSPENSION, RESTRICTION, AND REVOCATION**

- (1) The department, after written notice to the applicant or facility, may deny, suspend, cancel, reduce, modify, or revoke a license upon a finding of any of the following:
  - (a) the facility is not in compliance with fire safety standards;
  - (b) the facility is not in substantial compliance with other licensing requirements established by this subchapter;

- (c) the facility has made any misrepresentations to the department, either negligent or intentional, regarding any aspect of its operations or facility;
  - (d) the facility has failed to use payments for the support of the residents;
  - (e) the facility, persons associated with the facility, any staff member, or persons living at the facility have been named as the perpetrator in a substantiated report of abuse or neglect;
  - (f) the facility, persons associated with the facility, any staff member, or persons living at the facility have violated provisions of this subchapter that resulted in abuse or neglect;
  - (g) the facility, persons associated with the facility, or any staff member do not meet the requirements in [NEW RULE 24];
  - (h) the facility failed to report an incident of abuse or neglect to the department or its local affiliate as required in 41-3-201, MCA;
  - (i) it is determined on the basis of a department or law enforcement investigation that the facility, persons associated with the facility, any staff member, or anyone living in a facility may pose any risk or threat to the safety or welfare of residents;
  - (j) the facility has failed to provide an acceptable written plan of correction as specified in [NEW RULE 5(5)];
  - (k) the facility did not pay the licensure fee as required in [NEW RULE 4]; or
  - (l) the facility employs or has persons living at the facility that do not have an approved background check as required in [NEW RULE 13].
- (2) At the discretion of the department and for their protection, residents may be removed immediately upon receipt of a report of sexual or physical abuse or neglect by the facility.
- (3) Suspension or revocation of a license may be immediate upon a determination by the department that emergency action is required based on findings including, but not limited to the following situations:
- (a) upon referral of suspected child abuse or neglect regarding a facility, the initial investigation reveals that there are reasonable grounds to believe that a resident may be in danger of harm;
  - (b) the department requests and is denied access to the facility, residents, or staff; or
  - (c) through a licensing investigation, it is determined that the facility, persons associated with the facility, any staff member, or persons living at the facility have violated a licensing regulation that results in harm to a resident which

falls within the definitions of abuse and neglect as defined in [NEW RULE 2(21)(a) and (b)], whether or not a criminal prosecution is initiated.

- (4) Until the issuance of a contrary decision by the department, the denial, suspension, cancellation, reduction, modification, or revocation of a license will remain effective and enforceable.
- (5) Any person denied a license under the provisions of this subchapter, or whose license has been denied, suspended, canceled, reduced, modified, or revoked may request a hearing as provided in ARM Title 37, chapter 5, subchapter 3.
- (6) Nothing in these rules precludes the department from utilizing provisions of the Montana Administrative Procedure Act, including but not limited to summary suspension under 2-4-631(3), MCA.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 7 WRITTEN POLICY AND PROCEDURES**

- (1) A current written policy and procedure manual that includes all policies required in this subchapter and describes all services provided in the facility, must be developed, implemented, and maintained at the facility. The manual must be available to staff, residents, parents or legal guardians of residents, and the department and must be complied with by all personnel and its agents.
- (2) The policy and procedure manual must be submitted with the initial application for department approval.
- (3) Any updates to the policy and procedure manual must be submitted to the department for approval 30 days prior to implementing the policy.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 8 ADMISSIONS**

- (1) The facility will admit only those residents who meet its admissions policies.

- (2) The facility must have written policies and procedures for screening all referrals.
- (3) The facility must have a written admissions policy and procedures which include:
  - (a) the age, sex, and behavioral and/or emotional needs of adolescents served;
  - (b) verification of legal authority to place or remove a resident from the facility;
  - (c) a description of the intake process for the residents;
  - (d) a description of the orientation provided to residents; and
  - (e) an initial assessment of the resident's emotional, medical, developmental, social, and behavioral status that must be conducted at the time of admission.
- (4) The admission person or committee must review all preplacement referral information to determine the appropriateness of placement, including age and developmental needs of adolescents accepted into the facility.
- (5) The facility's policies and procedures must provide for and encourage a preplacement process with the resident and family.
- (6) Placements may only be accepted from the parent or legal guardian of the resident.
- (7) The admissions policy may not limit contact with the resident's family for no more than seven days after admission.
- (8) A facility must have written orientation policies and procedures for admission to the facility that include:
  - (a) a procedure for ensuring that each resident receives a personal orientation to the facility as soon as appropriate, but no later than 24 hours after admission;
  - (b) an inventory of each resident's belongings;
  - (c) behavioral expectations;
  - (d) information on privilege systems;
  - (e) a discipline policy;
  - (f) health and safety procedures;
  - (g) facility rules;
  - (h) information on the facility's search policies, resident rights, and grievance procedure; and
  - (i) emergency evacuation procedures, including designated escape routes.
- (9) Documentation that is signed by both the resident and the staff person(s) conducting the orientation must be placed in the resident's file.

- (10) A facility must maintain a list of current residents to ensure all residents are accounted for and that staffing requirements are met in all circumstances.
- (11) A facility must ensure compliance of each resident's placement with the Interstate Compact on the Placement of Children (ICPC), as provided in 41-4-101, MCA, and ARM 37.50.901.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### **NEW RULE 9 WRITTEN AGREEMENT**

- (1) The facility must enter into a written agreement with the resident's parent or legal guardian at the time of admission. The written agreement must include:
  - (a) the terms of the placement, the responsibilities of the facility, and the responsibility of the parent or legal guardian;
  - (b) a statement describing specific services the facility will provide;
  - (c) a statement describing the resident's rights and the facility's grievance policy;
  - (d) a statement explaining the resident's responsibilities, including house rules;
  - (e) a statement describing the communication policy, which must include a minimum of one confidential video telephonic communication contact per week between the resident and the resident's parents or legal guardians or foster parent(s), in addition to any therapeutic contact (family therapy), which:
    - (i) is confidential, i.e., in a private setting with no other individuals in the vicinity of being able to see or hear what is being discussed; and
    - (ii) is allocated a minimum of 15 minutes for confidential video communication between the resident and the resident's parents or legal guardian;
  - (f) transportation of the resident to and from medical appointments and activities;
  - (g) a statement explaining specific charges for care and an itemized statement of what expenses in addition to the cost of care will be charged, including fines, penalties, or late fees that will be assessed;
  - (h) a statement that the agreed-upon rate will not be changed unless 30 days' advance written notice is given to the resident's parent or legal guardian;

- (i) criteria for requiring transfer or discharge of the resident;
  - (j) the refund policy; and
  - (k) date and signature of the administrator and the resident's parent or legal guardian.
- (2) A copy of the agreement must be filed in the resident's file and a copy must be provided to the resident's parent or legal guardian.
- (3) When there are changes in services, financial arrangements, or requirements governing the written agreement, a new written agreement must be executed, or the original agreement must be updated by addendum. New agreements and any addenda must be signed and dated by the administrator and the resident's parent or legal guardian.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 10 DISCHARGE**

- (1) The facility must assist the resident and family in preparing for the resident's discharge from the facility.
- (2) At the time of discharge of a resident from the facility, a written discharge report must be completed, and include:
- (a) the resident's name, date of birth, admission and discharge dates, reason for placement and discharge, and name of parent or legal guardian;
  - (b) a written summary of services provided, including the resident's participation and progress in the facility, contact information of people who conducted evaluations, and condition of the resident at time of discharge;
  - (c) the resident's educational status;
  - (d) medical, dental, and psychiatric care received during placement;
  - (e) follow-up health care required;
  - (f) current medications, dosage taken, number of times per day, and name of prescribing licensed health care professional;
  - (g) the resident's reaction to discharge and whether or not the discharge was planned or unplanned;

- (h) recommendations for follow-up services;
  - (i) an up-to-date inventory of the resident's clothing and personal belongings; and
  - (j) the signature of the staff member who prepared the report and the date of preparation.
- (3) The discharge report must be maintained by the facility in the resident's file and a copy must be provided to the parent or legal guardian at the time of discharge. Written documentation that the discharge report was provided to the parent or legal guardian must be maintained in the resident's file.
- (4) A resident may only be discharged to the parent or legal guardian of the resident. The resident may be discharged to individuals other than the parent or legal guardian with written consent from the parent or legal guardian prior to discharge.
- (5) Unless otherwise prohibited by law or court order, a facility must allow a parent or legal guardian to remove a youth from the facility at any time.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 11 CASE PLAN**

- (1) Each facility must develop and implement a case plan for each resident in care.
- (2) The case plan must include:
- (a) the resident's physical and medical needs;
  - (b) behavior management issues;
  - (c) mental health services when appropriate;
  - (d) measurable goals and objectives and corresponding time frames;
  - (e) the responsibilities of the resident, staff, and parent or legal guardian for meeting the goals and objectives;
  - (f) education plans; and
  - (g) discharge plans and estimated discharge date.
- (3) The initial case plan must:
- (a) be developed within seven business days after admission; and

- (b) be updated at least every 90 days from the day of development.
- (4) The resident and the parent or guardian must be involved in developing and updating the case plan.
- (5) The resident, parent or legal guardian, and facility staff developing the case plan must sign and date the plan and plan updates.
- (6) A copy of the signed case plan must be provided to the parent or legal guardian and maintained in the resident's file.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 12 RIGHTS AND GRIEVANCES**

- (1) The facility must have a written resident rights policy that supports and protects the constitutional and statutory rights of all residents. These rights must include the right to:
  - (a) be treated with dignity and respect;
  - (b) be free from abuse, neglect, exploitation, harassment, and unnecessary physical restraint;
  - (c) be free from corporal, cruel, harsh, unnecessary punishment, name calling, infliction of pain, or excessive physical exercise;
  - (d) have adequate food, water, clothing, school supplies, and personal hygiene supplies;
  - (e) receive care and services according to individual need;
  - (f) receive educational services in accordance with Montana state law, if the facility operates during the school year;
  - (g) be free from discrimination;
  - (h) a safe environment with respect for human dignity;
  - (i) protection of the privacy of information and records regarding each resident and the resident's family;
  - (j) communication and visitation privileges with family in person, by mail, or by phone;

- (k) be allowed to contact the Montana abuse reporting hotline to report allegations of abuse and neglect;
  - (l) submit complaints and alleged violations of these rules, including a prohibition on retaliation against a resident for submitting such a complaint;
  - (m) personal privacy, when it is not contrary to the treatment and safety needs of the resident; and
  - (n) have consideration of the resident's opinions and recommendations when developing the case plan.
- (2) A facility is prohibited from:
- (a) using physical discipline or the threat of physical discipline as a punishment, deterrent, or incentive;
  - (b) unlawfully depriving a resident of a basic necessity or a constitutional or a statutory right, including education;
  - (c) admitting a resident who is under the age approved on the license or has a condition that the facility is not authorized to treat pursuant to the facility's admission policy;
  - (d) using medical, chemical, or mechanical restraints;
  - (e) using physical restraints, except in emergency circumstances to ensure the immediate physical safety of the resident, a staff member, or others, when less restrictive interventions have been determined to be ineffective;
  - (f) using a licensure candidate to provide mental health professional services if the parent or legal guardian of a resident has not provided written consent;
  - (g) using seclusion; and
  - (h) sexually abusing, exploiting, or harassing a resident.
- (3) The facility must review the resident rights policy with the resident and parent or legal guardian at the time of admission.
- (a) The facility staff reviewing the policy, the resident, and the parent or legal guardian of the resident must sign a statement acknowledging the review.
  - (b) The signed statement must be maintained in the resident's file.
- (4) The facility must have a written grievance policy which outlines the procedures to be followed by a resident or parent or legal guardian in presenting a grievance to the facility.
- (5) The facility must review the grievance policy with the resident and the parent or legal guardian at the time of admission.

- (a) The facility staff reviewing the policy, the resident, and the parent or legal guardian of the resident must sign a statement acknowledging the review.
- (b) The signed statement must be maintained in the resident's file.
- (6) Any written grievance report must be maintained in the resident's file. The report must include the nature of the complaint, the date of the complaint, and a statement indicating how the issue was resolved.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### **NEW RULE 13 BACKGROUND CHECKS**

- (1) All administrators, staff, volunteers, persons associated with the facility, and any adult living at the facility must complete a National Crime Information Center (NCIC) fingerprint-based background check from the Federal Bureau of Investigation. Results of the fingerprint-based background check must be documented prior to working or living at the facility.
  - (a) A name-based criminal background check may be completed pending the results of the fingerprint background check. The department must receive the request for the fingerprint check and the results of the name-based check must be documented prior to the staff working at the facility.
- (2) All administrators, staff, volunteers, persons associated with the facility, and any adult living at the facility must complete a Department of Public Health and Human Services child protective services background check, and, if applicable, a tribal child protective services background check, and a tribal criminal background check prior to working or living at the facility.
- (3) If an applicant has lived outside the state within the past five years, a criminal and child protective background check must be conducted in every state that the applicant has resided in within the past five years.
- (4) All administrators, staff, volunteers, persons associated with the facility, and any adult working or living at the facility must complete a Montana Sexual or Violent Offender Registry Check at <https://app.doj.mt.gov/apps/svow/search.aspx> and a National Sexual and Violent Registry Check at <https://www.nsopw.gov/>.
- (5) Results of all required criminal and child protective background checks and registry checks must be documented prior to working or living at a facility.
- (6) The department will deny or revoke a license upon finding that:

- (a) any administrator, staff, volunteer, person associated with the facility, or any adult living at the facility has been convicted by a court of competent jurisdiction of a felony or misdemeanor involving but not limited to homicide, sexual intercourse without consent, sexual assault, aggravated assault, assault on a minor, assault on an officer, assault with a weapon, kidnapping, aggravated kidnapping, prostitution, robbery, or burglary;
  - (b) any administrator, staff, volunteer, person associated with the facility, or any adult living at the facility has a conviction of a crime pertaining to children and families, including, but not limited to child abuse or neglect, incest, child sexual abuse, ritual abuse of a minor, felony partner and family member assault, child pornography, child prostitution, internet crimes involving children, felony endangering the welfare of a minor, felony unlawful transactions with children, or aggravated interference with parent-child contact;
  - (c) any administrator, staff, volunteer, person associated with the facility, or any adult living at the facility has within the previous five years a felony conviction of a drug-related offense, including but not limited to use, distribution, or possession or manufacture of dangerous drugs, criminal possession of imitation dangerous drugs with the purpose to distribute, criminal possession, manufacture of, or delivery of drug paraphernalia, or driving under the influence of alcohol or other drugs; or
  - (d) any administrator, staff, volunteer, person associated with the facility, or any adult living at the facility has within the previous five years a conviction for misdemeanor partner and family member assault, misdemeanor endangering the welfare of a child, misdemeanor unlawful transaction with a child, or for a crime involving an abuse of the public trust; or
  - (e) any administrator, staff, volunteer, person associated with the facility, or any adult living at the facility has been convicted of abuse, sexual abuse, neglect, or exploitation of an elderly person or a person with a developmental disability.
- (7) Any administrator, staff member, volunteer, person associated with the facility, or adult living at the facility, who is charged with a crime involving children, physical or sexual violence against any person, or any felony drug-related offense and awaiting trial may not provide care or be present at the facility pending the outcome of the criminal proceeding.
- (8) No administrator, staff, volunteer, person associated with the facility, or any adult living at the facility shall have been named as a perpetrator in a substantiated report of child abuse or neglect or listed on the Montana Sexual or Violent Offender Registry or the National Sex Offender Public Website.

- (9) The facility is responsible for ensuring that the persons covered by this subchapter have met these requirements prior to providing care.
- (10) No administrator, staff, volunteer, person associated with the facility, or adult living at the facility may pose any potential threat to the health, safety, and well-being of the residents.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 14 CHILD ABUSE OR NEGLECT AND SERIOUS INCIDENTS**

- (1) A facility must require each resident, person associated with the facility, and staff member to read and sign a statement that clearly defines abuse and neglect and outlines the individual's responsibility to report all known or suspected incidents of abuse or neglect of any resident to the department within 24 hours.
- (2) Any facility staff or person associated with the facility who knows or has reasonable cause to suspect that an incident of abuse or neglect has occurred must report within 24 hours of the incident to the administrator, or a person designated by the administrator, and to the state child abuse hotline, (866) 820-5437, as required in 41-3-201, MCA. The facility must fully cooperate with any investigation conducted as a result of the report.
- (3) A facility must have written policies and procedures for handling any suspected incident of abuse or neglect, including:
  - (a) a procedure for ensuring that the staff member suspected does not continue to provide direct care until an investigation is completed;
  - (b) a procedure for developing a safety plan approved by the department which protects the residents and staff until the investigation is complete;
  - (c) a procedure for taking appropriate disciplinary measures against any staff member involved in an incident of child abuse or neglect, including termination, retraining, or any other action geared towards the prevention of future incidents; and
  - (d) a procedure for reporting, investigating, and taking appropriate disciplinary measures against any staff member accused of sexually abusing, exploiting, or harassing a resident.
- (4) Any serious incident involving a resident must be reported in writing within one business day to the department's licensure bureau. The report must include:

- (a) the date and time of the incident;
  - (b) the names of all residents and staff member(s) involved;
  - (c) a description of the incident and the circumstances surrounding it;
  - (d) a statement written by the staff member that was involved in the incident or witnessed the incident; and
  - (e) documentation of the date and time the incident was reported to the parent or legal guardian.
- (5) A copy of the report must be maintained in the resident's file.
  - (6) The facility must cooperate with all licensing surveys and investigations, which may include private one-on-one interviews with staff and residents.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 15 PHYSICAL ENVIRONMENT**

- (1) Each facility must comply with all applicable federal, state, and local regulations, laws, and building codes.
- (2) Adequate space must be provided for all phases of daily living, including recreation, privacy, group activities, and visits from family, friends, and community acquaintances.
- (3) Residents must have indoor areas of at least 40 square feet of floor space per resident for quiet, reading, study, relaxing, and recreation. The minimum space requirement may not include halls, kitchens, and any rooms not used by residents.
- (4) A bedroom must contain at least 50 square feet of floor space per person. Bedrooms for single occupancy must have at least 80 square feet.
- (5) The maximum number of residents per bedroom must not exceed four. The bedrooms must have floor-to-ceiling walls.
- (6) Residents sharing a bedroom must be no more than three years in age apart.
- (7) The facility must provide:
  - (a) at least one toilet for every eight residents; and
  - (b) one bathing facility for every eight residents.

- (8) All rooms with toilets or shower and bathing facilities must have an operable window to the outside or must be exhausted to the outside by a mechanical ventilation system.
- (9) Each resident must have access to a bathroom without entering another bedroom, the kitchen, or dining areas.
- (10) Hot and cold water must be available in all kitchens, bathrooms, and laundry. The temperature of hot water supplied to hand washing and bathing facilities must not exceed 120°F.
- (11) For adequate housekeeping the facility must ensure that:
  - (a) the building and grounds are free, to the extent possible, of harborage for insects, rodents, and other vermin;
  - (b) all electrical, mechanical, plumbing, fire protection, heating, and sewage disposal systems must be kept in operational condition;
  - (c) the floors, walls, ceilings, furnishings, and other equipment are clean and in good repair, free of hazards and offensive odors;
  - (d) cleaning equipment and supplies are provided in sufficient quantity to meet the housekeeping needs of the facility; and
  - (e) a maintenance policy and schedule, which describes the regular maintenance of the facility, is adhered to.
- (12) All rooms and hallways must have adequate lighting.
- (13) Facilities must post a sign within the facility that is accessible to all residents and to the public. The sign must provide information on what agency should be contacted to report a violation of law or policy and must include contact information for the Office of Inspector General Licensure Bureau, the Montana Child Abuse and Neglect Hotline (866-820-5437), and local law enforcement.
- (14) With respect to any conditions in existence in licensed facilities prior to July 1, 2025, the specific requirements in this rule may be modified by the department to allow alternative arrangements that will provide the same level of safety to residents and staff. In no case will the modification afford less safety than that which, on the discretion of the department, would be provided by compliance with the corresponding requirement in this rule.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

## **NEW RULE 16 WATER SUPPLY**

- (1) An adequate and potable supply of water must be provided.
- (2) Before a license may be issued, a facility using an individual, shared, or multiple user water supply must submit the following to the department or its designee:
  - (a) satisfactory coliform bacteria and nitrate test results as specified in ARM Title 17, chapter 38, subchapter 2; and
  - (b) the results of an onsite sanitary survey of the water supply system to detect sanitary deficiencies.
- (3) A supplier of an individual, shared, or multiple user water supply shall conduct a coliform bacteria test of the system at least twice a year with one sample collected between April 1 through June 30 and the second sample collected between August 1 through October 31 and conduct a nitrate test of the system at least once every three years. Water tests must be analyzed at a certified laboratory. A supplier must keep sampling result records for at least three years.
- (4) A public water supply system must be constructed and operated in accordance with current applicable laws as regulated by the Montana Department of Environmental Quality.
- (5) Nonpotable water sources must be marked "not for human consumption."
- (6) Plumbing must be installed and maintained in a manner to prevent cross connections between the potable water supply and any nonpotable or questionable water supply or any source of pollution through which the potable water supply might be contaminated. The potable water system must be installed to preclude the possibility of backflow. A hose may not be attached to a faucet unless a backflow prevention device is installed.
- (7) A water supply system is determined to have failed and requires treatment, replacement, repair, or disinfection, when the water supply becomes unsafe, or when it exceeds the maximum contaminant levels specified in ARM Title 17, chapter 38, subchapter 2. A water supply system is inadequate when it is found to be less than 20 psi measured at the extremity of the distribution line during the instantaneous peak usage.
- (8) Extension, alteration, repair, or replacement of a water supply system or development of a new water supply system must be in accordance with all applicable state and local laws.
- (9) Bottled and packaged potable water must be obtained from a licensed and approved source and be handled and stored in a way that protects it from contamination.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 17 SEWAGE SYSTEM AND SOLID WASTE**

- (1) An adequate and safe wastewater system must be provided for conveying, treating, and disposing of all sewage. Immediate measures must be taken to alleviate health and sanitation hazards caused by wastewater at the facility when they occur.
- (2) All sewage, including liquid waste, must be disposed of by a public sewage treatment and disposal system constructed and operated in accordance with applicable state and local laws.
- (3) A wastewater system has failed and requires replacement or repair if any of the following conditions occur:
  - (a) the system fails to accept, treat, or dispose of wastewater as designed;
  - (b) effluent from the wastewater system contaminates a potable water supply or state waters; or
  - (c) the wastewater system is subjected to mechanical failure, including electrical outage, or collapse or breakage of a septic tank, lead line, or drain field line.
- (4) Extension, alteration, replacement, or repair of any wastewater system must be done in accordance with all applicable state and local laws.
- (5) Mop water or soiled cleaning water may not be disposed of in any sink other than a mop or utility sink or a toilet.
- (6) Solid waste must be collected, stored, and disposed of in a manner that does not create a sanitary nuisance. Solid waste must be removed from the premises at least weekly to a licensed solid waste disposal facility.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

## **NEW RULE 18 FIRE SAFETY**

- (1) The department adopts and incorporates by reference the 2012 edition of the National Fire Protection Association (NFPA) 101: Life Safety Code Handbook, which sets forth the fire safety regulations that apply to all facilities.
- (2) The local or state fire authority having jurisdiction must annually certify a facility for fire and life safety.
- (3) Smoke detectors and smoke alarms must be installed and operated in accordance with the NFPA set forth in the locally adopted NFPA.
- (4) Carbon monoxide detectors must be installed and operated in accordance with the NFPA.
- (5) A workable portable fire extinguisher, with a minimum rating of 2A10BC, must be located on each floor of the facility. Fire extinguishers must be:
  - (a) mounted on the wall not to exceed five feet from handle to floor and no closer than four inches from the floor;
  - (b) no more than 75 feet travel distance apart;
  - (c) inspected, recharged, and tagged at least once a year by a person certified by the state to perform such services; and
  - (d) not obstructed or obscured from view.
- (6) Staff must check battery operated smoke detectors at least once each month and the batteries must be replaced at least once each year. Documentation, including the date and the signature of the person checking or replacing the batteries, must be maintained at the facility.
- (7) Integrated dial-out-smoke detection systems that are monitored from an outside source must have the date showing the most recent maintenance. Maintenance must occur once per year.
- (8) Orientation for staff and residents must include instruction of the facility's fire evacuation procedure. The fire evacuation procedure must be posted in a conspicuous place in the facility.
- (9) All exits must be clear and unobstructed at all times.
- (10) Paint, flammable liquids, and other combustible material must be kept in locked storage away from heat sources or in outbuildings not used by the residents.
- (11) The facility must conduct at least one fire drill per quarter per each work shift. Drill observations must be documented and maintained in the facility files for at least three years. The documentation must include:
  - (a) time and location of the drill;

- (b) identification of participating staff;
- (c) problems identified during the drill; and
- (d) steps taken to correct such problems.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### **NEW RULE 19 EMERGENCY AND EVACUATION PLANS**

- (1) A facility must have and follow a written emergency plan developed in conjunction with emergency services in the community, and it must include specific procedures for evacuations, disasters, medical emergencies, hostage situations, casualties, missing residents, and other serious incidents identified by the facility.
- (2) The emergency plan must include:
  - (a) designation of authority and staff assignment;
  - (b) a specific evacuation plan;
  - (c) provisions for transportation and relocation of residents when necessary;
  - (d) provisions for supervision of residents after an evacuation or relocation;
  - (e) provisions for the instruction of all residents on how to respond in the case of an emergency;
  - (f) provisions for arranging medical care and notifying the resident's licensed health care professional, and parent or legal guardian; and
  - (g) maintenance and repair of essential equipment including a two-way radio.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### **NEW RULE 20 SAFETY**

- (1) A facility must have written policies and procedures on safety and equipment.

- (2) There must always be a first aid kit with sufficient supplies available. A first aid kit must:
  - (a) be readily available on site as well as in all vehicles used by the facility;
  - (b) meet the standards of an appropriate national organization for the activity being conducted and the location and environment being used;
  - (c) be reviewed with new staff for contents and use; and
  - (d) be inventoried on a quarterly basis.
- (3) Policies and procedures must be in place for the safe use and storage of fuels and all heat sources, including inaccessibility to residents when not being used under the direct supervision of staff.
- (4) Cleaning materials, flammable liquids, detergents, aerosol cans, and other poisonous and toxic materials must be kept in their original containers and in a place inaccessible to residents. They must be used in such a way that will not contaminate play surfaces, food, food preparation areas, or constitute a hazard to the residents. Bio-contaminants including blood, bodily fluids, and other infectious materials must be properly disposed of.
- (5) No extension cord will be used as permanent wiring. All appliances, lamp cords, and exposed light sockets must be suitably protected to prevent electrocution.
- (6) Any pet or animal present at the facility indoors or outdoors must be in good health, show no evidence of carrying disease, and be a friendly companion for the residents. The administrator is responsible for maintaining the animal's vaccinations and vaccination records. These records must be made available to the department upon request. The facility must make reasonable efforts to keep stray animals off the premises.
- (7) Emergency information for residents must be easily accessible at the facility. Emergency information for each resident must include:
  - (a) the name, address, telephone number, and relationship of a designated person to be contacted in case of an emergency;
  - (b) the name, address, and telephone number of the resident's licensed health care professionals or source of health care;
  - (c) the name, address, telephone number, and relationship of the person able to give consent for emergency medical treatment;
  - (d) documentation of any medical conditions that may affect care including but not limited to known allergies;
  - (e) a signed release for emergency medical treatment from the parent or legal guardian; and

- (f) a copy of the resident's current medical insurance card or insurance information when a card is not available to providers.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### **NEW RULE 21 CASE RECORDS**

- (1) A facility must maintain a written case record for each resident which contains administrative, treatment, and educational data from the time of admission until the time the resident is discharged from the facility.
- (2) The case record must include:
  - (a) the name, sex, and birth date of the resident;
  - (b) the name, address, and telephone number of the parent or legal guardian of the resident;
  - (c) date of admission;
  - (d) current immunization records and documentation of exemptions per facility policy;
  - (e) date of discharge, person, and signature whom the resident was released to, and signed discharge summary;
  - (f) all documents related to the referral of the resident to the facility;
  - (g) current custody and parent or legal guardianship documents or other documents verifying legal custody of the parent or legal guardian placing the resident per facility policy;
  - (h) the resident's court status, if applicable;
  - (i) a copy of the resident's birth certificate;
  - (j) consent forms signed by the parent or legal guardian prior to placement allowing the facility to authorize all necessary medical care, routine tests, immunization, and emergency medical or surgical treatment;
  - (k) cumulative health records including medical history provided by the parent or legal guardian;
  - (l) education records and reports, including but not limited to report cards and individual education plan reports;

- (m) treatment or clinical records and reports;
  - (n) records of physical restraints and special or serious incidents;
  - (o) case plans, treatment plans, all updates and related material;
  - (p) social assessment that is current to date of placement; and
  - (q) an immediate needs assessment and assigned responsibilities.
- (3) Resident records must be maintained at the facility for a minimum of six years.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 22 CONFIDENTIALITY OF RECORDS AND INFORMATION**

- (1) All records maintained by a facility and all personal information made available to a facility pertaining to a resident must be kept confidential and are not available to any person, agency, or organization except as specified in (2) and (3).
- (2) All records pertaining to a resident are available upon request to:
  - (a) the resident's parent or legal guardian or attorney absent specific and compelling reasons for refusing such records;
  - (b) a court with continuing jurisdiction over the placement of the resident or any court of competent jurisdiction issuing an order for such records;
  - (c) a resident to whom the records pertain, absent specific and compelling reasons for refusing specific records; or
  - (d) an adult who was formerly the resident in care to whom the records pertain.
- (3) Records pertaining to residents must be available to the department for the purposes of licensing, relicensing, or investigating a complaint of the facility.
- (4) Necessary information pertaining to the resident must be disclosed when staff are following mandatory reporting requirements as outlined in this rule and within the scope of an individual's license.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

## **NEW RULE 23 REPORTS**

- (1) The facility must submit to the department, upon its request, any reports required by federal law, state law, or regulations.
- (2) The facility must report any of the following changes in writing to the department's licensure bureau, prior to the effective date of the change:
  - (a) a change of administrator;
  - (b) a change in location of which the department must approve prior to the move;
  - (c) a change in the name of the facility; or
  - (d) any significant change in the facility policies or procedures or services.
- (3) Runaways shall be reported immediately to the police and parent or legal guardian and within the next working day to the licensure bureau.
- (4) Disasters or emergencies which require relocation of residents or closure of the facility must be reported to the licensure bureau within the next working day.
- (5) Any serious incident as defined in this subchapter must be reported in writing to the licensure bureau within 24 hours of the incident.
- (6) Any fire or other incident that caused significant damage to the property must be reported to the licensure bureau within 24 hours of the incident.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

## **NEW RULE 24 REQUIREMENTS FOR ALL ADMINISTRATORS, STAFF MEMBERS, AND VOLUNTEERS**

- (1) A facility must have written personnel and facility policies and procedures covering the following items:
  - (a) screening procedure for all applicants;
  - (b) job qualifications for all positions;
  - (c) job descriptions for all positions;

- (d) supervisory structure; and
  - (e) performance evaluations.
- (2) In addition to the specific requirements set out in this subchapter, all staff working in a facility must:
- (a) be at least 20 years of age;
  - (b) have a high school diploma or GED; and
  - (c) be physically, mentally, and emotionally competent to care for residents.
- (3) Any administrator, staff member, volunteer, or other person whose behavior or health status endangers the residents may not be allowed at the facility.
- (4) Facility volunteers must:
- (a) not be included in the resident-to-staff ratios;
  - (b) be under the supervision of staff;
  - (c) follow written policies and procedures developed by the facility defining the responsibilities, limitations, and supervision of volunteers;
  - (d) complete all required background checks; and
  - (e) be provided orientation and initial training. The training must include orientation on all facility policies and procedures.
- (5) All facility staff who transport residents must have a valid driver's license and, while transporting residents, follow all laws applicable to driving in Montana.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 25 PERSONNEL RECORDS**

- (1) The facility is responsible for maintaining a file on each administrator, person associated with the facility, staff member, or volunteer. Files may be inspected by the department at any time. If the file is not maintained at the facility, it must be available to the department within 24 hours of the request.
- (2) The file must contain:
- (a) application for employment;

- (b) written results of at least two references;
- (c) record of orientation and ongoing training;
- (d) periodic performance evaluations;
- (e) a copy of current credentials, certification, or professional licenses required to perform the duties described in the job description;
- (f) documentation of criminal background check as specified in [NEW RULE 13];
- (g) documentation of child protective services background checks as specified in [NEW RULE 13];
- (h) documentation of Montana and national registry checks as specified in [NEW RULE 13];
- (i) a copy of current driver's license for employees transporting residents; and
- (j) any other employee records required by this subchapter.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 26 QUALITY ASSESSMENT**

- (1) The facility must implement and maintain an active quality assessment program for improving policies, procedures, and services. At a minimum, the quality assessment program must include procedures for:
  - (a) conducting resident satisfaction surveys at least annually which are maintained and filed at the facility;
  - (b) maintaining records on the occurrence, duration, and frequency of physical restraints used; and
  - (c) reviewing, on an ongoing basis, serious incident reports, grievances, complaints, medication errors, and the use of physical restraints with special attention given to identifying patterns and making necessary changes in how services are provided.
- (2) The facility must prepare and maintain, on file, an annual report including improvements made as a result of the quality assessment activities specified in this rule.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### **NEW RULE 27 ADMINISTRATOR**

- (1) Each facility must employ an administrator that is responsible for the day-to-day operation of the facility.
- (2) The administrator must have formal training and/or experience in residential programs and demonstrates the ability to perform the functions and duties required in these rules.
- (3) In the absence of the administrator, a staff member must be designated to oversee the operation of the facility during the administrator's absence. The administrator or designee must be in charge, on call, and physically available daily as needed, and must ensure there are sufficient, qualified staff so that the care, well-being, health, and safety needs of the residents are always met.
  - (a) If the administrator will be absent from the facility for more than 30 continuous days, the department must be given written notice of the individual who has been appointed the designee. The appointed designee must meet the requirements for an administrator.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### **NEW RULE 28 STAFFING**

- (1) Each facility must maintain the minimum resident to awake-staff ratios:
  - (a) from 7:00 a.m. to 11:00 p.m., eight residents to one staff;
  - (b) from 11:00 p.m. to 7:00 a.m., or any other reasonable eight-hour period of time when residents are generally sleeping, 16 residents to one staff; and
  - (c) facilities must have at least one awake night staff in each building housing residents regardless of the number of residents.
- (2) During regular school hours when residents are not normally present, at least one on-call staff must be available for duty within 30 minutes of notification that they are needed.

- (3) The facility must have a policy that specifies a nighttime safety protocol that outlines staff responsibility for monitoring the residents.
- (4) Sufficient staff must be employed to meet the supervision needs of the residents and implement each resident's individualized case plan.
- (5) Mental health professionals must be licensed as defined in 53-21-102(12), MCA, and be employed in sufficient number to meet the mental health needs of residents as outlined in the facility description.
- (6) A registered nurse or licensed practical nurse must be employed to meet the needs of the residents as outlined in the facility description.
- (7) Any facility that includes in its facility description, marketing, advertising, information packet, or other similar document reference to providing chemical dependency services must employ licensed addiction counselors in sufficient number to meet the needs of the residents.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 29 STAFF TRAINING**

- (1) A facility must have written policies, procedures, and initial and ongoing training curriculum that meets the minimum requirements in this rule.
- (2) Facilities must provide adequate and timely training to ensure the safety of residents.
- (3) All staff must complete a minimum of 24 hours of orientation training consisting of the following minimum requirements:
  - (a) an overview of the facility's policies, procedures, organization, and services;
  - (b) mandatory child abuse reporting laws;
  - (c) behavioral management techniques;
  - (d) fire safety, including emergency evacuation routes;
  - (e) confidentiality;
  - (f) suicide prevention;
  - (g) emergency medical procedures;

- (h) report writing including the development and maintenance of logs and journals;
  - (i) resident rights as outlined in [NEW RULE 12]; and
  - (j) hours required for on-the-job training.
- (4) Orientation training must be completed and documented before the staff person may count in the staff ratio as specified in [NEW RULE 28].
  - (5) All staff must complete the following certification training within six months of hire:
    - (a) the use of de-escalation training and methods of managing residents as described in the facility's policies;
    - (b) first aid and hands-on CPR certification; and
    - (c) maintain and update these trainings and certifications as required.
  - (6) Staff may not work alone without completing the requirements of (5).
  - (7) The facility must provide ongoing training for staff to maintain and improve proficiency in their knowledge and skills. Training must be a minimum of 20 hours annually and appropriate for the level of care provided.
  - (8) All training must be documented and kept on file for each staff member, administrator, and volunteer.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### **NEW RULE 30 PHYSICAL CARE**

- (1) Every resident must have access to the services of at least one licensed health care professional as defined in 50-5-101, MCA.
- (2) Medical, dental, psychiatric, psychological care, and counseling services will be arranged for the resident as needed.
- (3) If a resident has not received a complete physical examination within a year prior to placement, within 30 days after admission the facility must arrange for a complete physical examination and annually thereafter.
- (4) If a resident has not had a dental examination within a year prior to placement, the facility must arrange for the resident to have a dental examination within 90 days

after admission. All necessary dental work must be completed, and checkups must be arranged for the resident at least annually.

- (5) If a resident has not had an eye examination within a year prior to placement, the facility must arrange for the resident to have an eye examination within 90 days after admission. All necessary checkups must be arranged for the resident at least annually.
- (6) Provisions for medical, dental, or vision care must be made by the facility staff immediately upon the licensed health care professional's recommendation with notification to the parent or legal guardian.
- (7) Documentation of all required services must be in the resident's file.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 31 MEDICATION STORAGE AND ADMINISTRATION**

- (1) A facility must have written policies and procedures regarding the storage, administration, and disposal of prescription, non-prescription, and over-the-counter medication.
- (2) All medication must be kept in a locked non-portable container, stored in its original container with the original prescription label. For medications taken on outings, all medication must be in the possession of a staff member trained to assist with the self-administration of medications.
- (3) Staff who assist with self-administration must be trained to assist in proper medication procedures. Training must be documented in each staff member's personnel file.
- (4) All prescription medications must be ordered by licensed health care professionals working within the scope of their practice. All prescription orders must contain the dosage to be given.
- (5) Psychotropic medication is prohibited unless a licensed health care professional working within the scope of that professional's practice determines that the medications are clinically indicated.
- (6) Under no circumstances may psychotropic or any other prescription or over-the-counter medication be given for disciplinary purposes, for the convenience of the staff, or as a substitute for other appropriate treatment services.

- (7) A written record of all medications administered to a resident must be maintained and include:
  - (a) the resident's name;
  - (b) the name and dosage of the medication;
  - (c) the date and time the medication was taken or was refused by the resident;
  - (d) the name of the staff member who assisted in the self-administration of the medication; and
  - (e) documentation of any medication errors, results of errors, and any effects observed.
- (8) Prescribed medication may not be stopped or changed in dosage or administration without first consulting with a licensed health care professional. Results of the consultation must be recorded in the medication record.
- (9) Parent or legal guardian must be notified of all medications prescribed to the resident including medication changes. Documentation of notification must be maintained in the medication record.
- (10) All unused and expired medication must be properly disposed of and documented in the medication record.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### **NEW RULE 32 CARE AND GUIDANCE**

- (1) A facility must provide to each resident sufficient staff to ensure:
  - (a) appropriate medical care, supervision, safety, treatment, and guidance;
  - (b) opportunities for educational, social, and cultural growth through suitable reading materials, toys, activities, and equipment; and
  - (c) opportunities to associate with peer groups in school and community settings.
- (2) A facility must arrange for contact with each resident's parent or legal guardian and approved family members.
- (3) The facility must assist the parent or legal guardian with referral for support services.

- (4) The provider must assist the resident and, when appropriate, the family, in preparing for the resident's discharge.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### **NEW RULE 33 NUTRITION**

- (1) A facility must provide for or serve three regular, well-balanced meals per day, and snacks. Foods must be served in amounts and a variety sufficient to meet the nutritional needs of each resident.
- (2) Special diets must be provided for residents as ordered in writing by a licensed health care professional. Such orders must be kept on file by the facility.
- (3) Food may not be altered, modified, restricted, or prohibited as a means of punishment, discipline, or as a behavioral modification technique.
- (4) Records of menus as served must be filed at the facility for three months after the date of service for review by the department.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### **NEW RULE 34 FOOD PREPARATION AND HANDLING**

- (1) Safe food handling and preparation practices must be followed in all facilities. All food must be from an approved source and must be transported, labeled, stored, covered, prepared, and served in a sanitary manner to prevent contamination.
- (2) The facility must have conveniently located hand washing facilities, supplied with liquid hand soap, disposable towels kept clean in a dispenser, and cleanable trash can.
- (3) Any staff person or resident handling or preparing food must thoroughly wash hands, wrists, and exposed arms with soap and warm running water for at least 20 seconds:
  - (a) before and after handling food;

- (b) after using the bathroom; and
  - (c) after handling raw food such as raw meat, uncooked eggs, and unwashed fruits and vegetables.
- (4) General food safety requirements must include:
- (a) all canned foods and dry ingredients must be stored in a designated area;
  - (b) food cannot be stored on the floor;
  - (c) food must be free from adulteration or other contamination and must be safe for human consumption;
  - (d) food that is not stored in original containers must be dated, labeled, and covered;
  - (e) all food must be cooked and reheated to the recommended temperature;
  - (f) milk and other dairy products must be pasteurized;
  - (g) use of home canned foods other than jams, jellies, and fruits is prohibited;
  - (h) use of thermometers is required to check food temperatures;
  - (i) cold storage of potentially hazardous food must be at 41°F or below;
  - (j) frozen food must be kept frozen;
  - (k) hot storage of potentially hazardous food must be 135°F or above;
  - (l) each type of food must be stored and arranged so that cross-contamination of one type with another is prevented; and
  - (m) raw fruits and vegetables must be thoroughly washed in potable water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form. Fruits and vegetables may be washed by using chemicals approved by the Environmental Protection Agency (EPA).
- (5) General health and safety requirements include the following:
- (a) use clean cutting boards, knives, can openers, and other equipment and utensils for each type of food preparation to prevent cross-contamination;
  - (b) a person with symptoms of a communicable disease that can be transmitted to foods or who is a carrier of such a disease may not work with food, clean equipment, or clean utensils;
  - (c) when the regulatory authority has reasonable cause to suspect possible disease transmission within a facility, the facility must take appropriate action

in accordance with ARM Title 37, chapter 114, regarding communicable disease control.

- (6) Equipment and utensil sanitation requirements include the following:
  - (a) kitchenware, tableware, and food contact surfaces must be washed, rinsed, and completely dried after each use;
  - (b) moist cloths used for wiping kitchen and dining area surfaces, equipment, and utensils must be placed in chemical sanitizer solution frequently enough and be of sufficient strength to maintain 200 to 400 parts per million available chlorine or equivalent; and
  - (c) sinks used for food preparation must be cleaned before beginning the preparation of the food.
- (7) A domestic style dishwasher may be used only if it is equipped with a heating element and the following conditions are met:
  - (a) the dishwasher must be capable of washing and sanitizing all dishware, utensils, and food service equipment normally used for the preparation and service of a meal in one cycle;
  - (b) the dishwasher must have water at a temperature of at least 165°F when it enters the machine, if it uses hot water for sanitization; and
  - (c) if it uses a heat cycle with a heating element for sanitization, the dishwasher must be allowed to run through the entire cycle before it is opened.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 35 PERSONAL NEEDS**

- (1) The facility must ensure that each resident has clothing suitable to the resident's age and size and comparable to the clothing of other adolescents in the community.
- (2) Residents must have some choice in the selection of their clothing.
- (3) A facility must provide necessary supplies and train residents in personal care, hygiene, and grooming.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### **NEW RULE 36 BEHAVIOR MANAGEMENT POLICIES**

- (1) A facility must have written behavior management policies and procedures which include a description of the model, program, or techniques to be used with residents. The facility must have policies addressing discipline, therapeutic de-escalation in crisis situations, crisis intervention and physical restraint, and time-out. Behavior management must be based on an individual assessment of each resident's needs, stage of development, and behavior. It must be designed with the goal of teaching the residents to manage their own behavior and be based on the concept of providing effective treatment by the least restrictive means.
- (2) The behavior management policies and procedures must prohibit:
  - (a) the use of physical force, mechanical, chemical, or physical restraint as discipline;
  - (b) pain compliance, aversive conditioning, and use of pressure point techniques;
  - (c) placing anything in or on a resident's mouth;
  - (d) cruel or excessive physical exercise, prolonged positions, or work assignments that produce unreasonable discomfort;
  - (e) verbal abuse, ridicule, humiliation, profanity, and other forms of degradation directed at a resident's family;
  - (f) physical discipline of any means including but not limited to hitting, shaking, biting, or pinching;
  - (g) locked confinement or seclusion;
  - (h) withholding of necessary food, water, clothing, shelter, bedding, rest, medications as prescribed, medical care, or toilet use;
  - (i) denial of visits or communication with the resident's family;
  - (j) isolation as punishment; and
  - (k) any other form of punishment or discipline which subjects a resident to pain, humiliation, or unnecessary isolation or restraint.
- (3) If facility policies and procedures allow for disciplining a group of residents for actions of one resident, the policies and procedures must clearly prescribe the circumstances and safeguards under which disciplining the group is allowed.

- (4) Any staff person involved in or witnessing an infraction of this rule shall complete an incident report clearly detailing the events of the infraction. The report must be completed prior to the end of the involved staff person's shift.
- (5) A copy of the incident report must be placed in the resident's file and the incident must be reported to the licensure bureau and parent or legal guardian within 24 hours of its occurrence.
- (6) An authorized staff person must be notified of the incident immediately and:
  - (a) begin an investigation within 24 hours of the incident; and
  - (b) complete a written report and submit it to the licensure bureau within two days of completion of the investigation.
- (7) An investigation of the incident may be conducted by the department.
- (8) A complete report of any investigation conducted by the facility must be placed in the facility's records and must be available for inspection by the department.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### **NEW RULE 37 TIME-OUT**

- (1) A facility must develop a written time-out policy and procedures which clearly provide:
  - (a) length of time the resident may remain in time-out which must be age appropriate;
  - (b) guidelines for staff observation of the resident when in time-out;
  - (c) documentation required for each time-out that is directed by staff;
  - (d) purpose of time-out; and
  - (e) staff training pertaining to the use of time-out.
- (2) Staff may direct a resident to time-out when the behavior is disruptive to the resident's ability to learn, to participate appropriately, or to function appropriately with other residents and the activity, and when the other de-escalation techniques have failed. Restraint, seclusion, or confinement may not be used as part of time-out procedures.
- (3) Time-out may not be used as punishment.

- (4) Residents placed in time-out must be reintroduced to the group in a sensitive and nonpunitive manner as soon as control is regained.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

### **NEW RULE 38 USE OF CRISIS INTERVENTION AND PHYSICAL RESTRAINT STRATEGIES**

- (1) The facility must have written policies and procedures governing the appropriate use of crisis intervention and physical restraint methods if used by the facility.
- (2) The crisis intervention and physical restraint policies and procedures must include evidence-based training and include:
  - (a) suicide prevention training for all staff to include risk identification, screening and assessment, indicated interventions, safety planning, treatment, follow-up care, and documentation;
  - (b) crisis prevention and verbal and nonverbal de-escalation techniques are the preferred methods and must be used first to manage behavior;
  - (c) all staff must be trained in the facility's crisis intervention, de-escalation techniques, and physical restraint methods;
  - (d) physical restraint may only be used to safely control a resident until the resident can regain control of their own behavior;
  - (e) physical restraint must only be used in the following circumstances:
    - (i) when the resident has failed to respond to de-escalation techniques and it is necessary to prevent harm to the resident or others; or
    - (ii) when a resident's behavior puts themselves or others at substantial risk of harm and the resident must be forcibly moved;
  - (f) physical restraint must be used only until the resident has regained control and must not exceed 15 consecutive minutes. If the resident remains a danger to self or others after 15 minutes, the resident's record must include written documentation of attempts made to release the resident from the restraint and the reasons that continuation of restraint is necessary; and
  - (g) physical restraint may be used only by staff who are documented to be specifically trained in crisis intervention and physical restraint techniques.
- (3) The facility policies and procedures must require the documentation of:

- (a) the specific behavior which required the physical restraint;
  - (b) the specific attempts to de-escalate the situation before using physical restraint;
  - (c) the length of time the physical restraint was applied including documentation of the time started and completed;
  - (d) the identity of the specific staff member(s) involved in administering the physical restraint;
  - (e) the type of physical restraint used;
  - (f) any injuries to the resident resulting from the physical restraint;
  - (g) debriefing completed with the staff and resident involved in the physical restraint; and
  - (h) notification of the parent or legal guardian within 24 hours of restraint.
- (4) The documentation required in (3) must be submitted in writing to the Office of Inspector General Licensure Bureau within one business day of the physical restraint.
- (5) Facility policies and procedures must require that whenever a physical restraint has been used on a resident more than four times within a seven-day period, the administrator or designee will review the resident's situation to determine the suitability of the resident to remain in the facility, whether modification of the case plan is warranted, or whether staff need additional training in alternative therapeutic behavior management techniques. The facility must take appropriate action as a result of the review.
- (6) Facility policies and procedures must prohibit the application of a physical restraint if a resident has a documented physical condition that would contradict its use, unless a licensed health care professional has previously and specifically authorized its use in writing. Documentation must be maintained in the resident's file.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 39 SEARCHES**

- (1) The provisions of this rule apply to all searches by facility staff of the resident's person and personal property, including searches of personal correspondence. The

facts and circumstances supporting a determination of reasonable cause for the search must be documented in the resident's file.

- (2) Residents may not be subjected to any search except as follows:
  - (a) there is reasonable cause to believe that the search will result in discovery of contraband;
  - (b) there is reasonable cause to believe that the search is necessary to alleviate a threat of harm to the resident, other individuals, or staff; or
  - (c) there is a court order/parole order in the resident's case record allowing for searches.
- (3) The facility must have written policies and procedures relating to searches, including pat-down searches, personal property searches, correspondence searches, urinalysis testing, and breathalyzer testing. The policies must include the following:
  - (a) a procedure for documenting all searches, reasons for the search, who conducted the search, and the results of the search;
  - (b) notification of the search policy to the parent or legal guardian and resident at time of admission;
  - (c) a protocol for conducting personal property searches when the resident is not available to be present for the search;
  - (d) the consequences to a resident when contraband is located;
  - (e) description of what happens to contraband which has been located; and
  - (f) pat-down searches on residents, which must be conducted by staff persons of the same sex.
- (4) Staff must be trained in the proper protocol for all searches. Training must be documented in staff's personnel record.
- (5) Residents may not be subjected to any of the following intrusive acts:
  - (a) strip searches;
  - (b) body cavity searches; or
  - (c) video surveillance except in common areas such as the living room, kitchen, and hallways.
- (6) The facility must have written policies and procedures prior to use of urinalysis testing for the purpose of determining drug and alcohol use which include:
  - (a) procedures for obtaining samples for urinalysis testing;

- (b) procedures for processing urinalysis testing; and
  - (c) consequence to the resident when a urinalysis is positive.
- (7) The facility must have written policies and procedures prior to use of breathalyzer testing for the purpose of determining drug and alcohol use which include:
- (a) procedures for operating the breathalyzer; and
  - (b) consequences to the resident when a breathalyzer is positive.
- (8) Residents may not be subjected to urinalysis or breathalyzer testing unless the testing:
- (a) has been ordered by a court;
  - (b) is required pursuant to a case plan for monitoring alcohol use, as approved by the parent or legal guardian; or
  - (c) is requested by the resident's parent or legal guardian, probation, parole, or correctional officer.
- (9) The facility must notify the resident's parent or legal guardian within 24 hours of every search, urinalysis testing, or breathalyzer testing performed on the resident and the results.
- (10) Staff shall document compliance with facility policies and procedures in connection with each search, urinalysis testing, or breathalyzer testing.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 40 CONTRABAND AND WEAPONS**

- (1) A facility must define prohibited contraband in a written policy.
- (2) Law enforcement must be notified as appropriate when illegal contraband is discovered.
- (3) All contraband that is not illegal must be returned to the resident's parent or legal guardian or destroyed in accordance with the facility's contraband policy. When contraband is disposed of, at least two staff members must be present, and the disposal must be documented in the resident's case record.
- (4) If contraband that is not illegal is stored by the facility, the facility must have written policies clearly outlining the storage procedure.

- (5) A facility must have a written policy and procedure on management of weapons and potential weapons.
- (6) Guns and ammunition must be kept in locked storage with guns stored separately from the ammunition. Guns kept in vehicles must have a staff member present and be locked in the glove compartment or gun rack, must be unloaded, and ammunition must be kept locked in a separate location in the vehicle.
- (7) A resident must have one-on-one supervision when handling a weapon or gun.
- (8) Staff shall supervise a resident's possession and use of knives, hatchets, other edged tools, or any item which may pose a danger to self or others.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 41 MONEY AND ADOLESCENT TRAINING AND EMPLOYMENT**

- (1) Money earned or received as a gift or allowance must be part of the resident's personal property and accounted for separately from the facility funds.
- (2) If the facility is partly supported by institutional production on a commercial basis, the facility must comply with state and federal child labor and minimum wage laws.
- (3) For residents aged 16 and older, a facility may assist in:
  - (a) preparing the resident for economic independence;
  - (b) referring the resident to an appropriate independent living program if applicable; and
  - (c) obtaining skills necessary for employment as determined to be appropriate to meet the individual's needs. Such skills include:
    - (i) completing applications;
    - (ii) personal appearances for employment situations;
    - (iii) attitudes toward employment; and
    - (iv) interviewing for jobs.
- (4) A facility must distinguish between tasks which residents are expected to perform as part of living together, jobs to earn spending money, and jobs performed for vocational training. Residents may not be compelled to work for the facility without prior approval of the parent or legal guardian.

- (5) Residents may be given age-appropriate, non-vocational work assignments within the resident's capabilities as a constructive experience. The work assignment must comply with all state and federal labor laws and regulations.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 42 RECREATION**

- (1) The facility may have an on-grounds recreation program that is operated by the staff. However, when available, the facility must provide the resident access to community recreation and cultural events when appropriate to the resident's needs, interests, and abilities.
- (2) Residents must have the opportunity to participate in age-appropriate recreational activities on a regular basis.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

#### **NEW RULE 43 INFECTION CONTROL**

- (1) A facility must develop and implement an infection prevention and control program. At a minimum the facility must develop, implement, and review, at least annually, written policy and procedures regarding infection prevention and control which must include procedures to identify high-risk individuals and what methods are used to protect, contain, or minimize the risk to residents and staff.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

## **NEW RULE 44 RELIGIOUS AND CULTURAL BELIEFS**

- (1) The facility must have written policies and procedures on how the resident's individual religious and cultural beliefs will be addressed.
- (2) The facility must provide residents with a reasonable opportunity to practice their respective religions. Residents must be permitted to have reasonable access to religious materials of their choice. If reasonable access is denied, the facility must have documentation of the specific reasons for the denial.
- (3) The facility must document its efforts in providing opportunity and encouragement to each resident to identify with their cultural heritage.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

**Implementing statute(s):** 50-5-101, 50-5-248, MCA

## **NEW RULE 45 TRANSPORTATION**

- (1) All staff transporting residents must possess a valid driver's license for the type of vehicle used in transporting the residents.
- (2) Any person transporting residents must comply with applicable traffic laws.
- (3) All vehicles used in transporting residents must:
  - (a) have proper Montana registration;
  - (b) have, at minimum, liability insurance coverage;
  - (c) be maintained in a safe condition;
  - (d) be equipped with a red triangle reflector device for use in an emergency; and
  - (e) be equipped with a first aid kit.
- (4) The driver and all the passengers must ride in a vehicle manufactured seat. Each person must use a seat belt.
- (5) Residents must not ride in the bed of or in the back of a truck.
- (6) Residents utilizing off road or all terrain recreational vehicles must wear a helmet and be instructed on safety procedures.

**Authorizing statute(s):** 50-5-101, 50-5-248, MCA

### **General Reasonable Necessity Statement**

The Department of Public Health and Human Services (department) is proposing to adopt NEW RULES 1 through 45.

The 2025 legislature enacted Senate Bill 191, an act providing for the creation and licensure of residential treatment centers. The bill was signed by the Governor on May 5, 2025. The department proposes to adopt NEW RULES 1 through 45. Adoption of these new rules is necessary to provide licensing regulations for these facilities that mirror those of Private Alternative Adolescent Residential Programs, which is a condition of SB 191. The initiation and application of new rules for this new designation of a health care facility is necessary to ensure that there are qualified, oriented, and continually trained staff; that the youth residing in these facilities are provided with a safe environment; and that the youth are provided with safe and appropriate treatment and care. The implementation of these rules ensures that there is documentation of a facility's policies and procedures, including its emergency procedures, staff training, and the care and treatment of the youth.

#### **NEW RULE 1**

Implementing this rule is necessary to identify the purpose of the new subchapter so that constituents or other entities researching or looking up rules understand what this rule subchapter entails.

#### **NEW RULE 2**

It is necessary to adopt this new rule to define terminology used throughout the new subchapter that is not defined in the applicable statutes.

#### **NEW RULE 3**

The department proposes to adopt this new rule to require that a facility offering specific services to a specific population be licensed by the department. The new rule also informs facilities of all applicable administrative rules that apply to licensure of residential treatment facilities. Since these facilities are classified under the health care facility designation, the rule identifies ARM Title 37, chapter 106, subchapter 3 as an applicable subchapter that may apply to these facilities.

#### **NEW RULE 4**

The department has determined that there is a reasonable necessity to set the licensure fees at a level commensurate with program costs. The department maintained the same licensure fee that was established for the Private Alternative Adolescent Residential and Outdoor Programs,

which, as directed by SB 191, these residential treatment facilities are to align with for regulations.

#### NEW RULE 5

The department proposes to adopt this new rule as it is necessary to inform applicants and licensed providers about the requirements that must be satisfied before the department issues a license.

#### NEW RULE 6

The department proposes to adopt this new rule to provide the circumstances under which the department may initiate negative licensing action. It is necessary to inform the applicant or licensee of their right to a fair hearing, and which Administrative Rules of Montana chapter describes that process.

#### NEW RULE 7

The department proposes to adopt this rule to specify the requirements for residential treatment facilities regarding written policy and procedures. This is necessary to ensure that the facilities have policies and procedures in place to guide the operations of their facility, and to serve as a reference for staff and residents on completing and following through with these operations. It is necessary for the facility to submit its policy and procedure manual as part of its application, so that the department can ensure the facility is providing the required services and has procedures in place to ensure the safety and care of residents. It is necessary for a facility to provide new policies and procedures to the department prior to implementation, so that the department can ensure changes to the originally approved manual, maintain compliance with law and regulations, and ensure the safety and treatment of residents within the facility.

#### NEW RULE 8

This proposed new rule is necessary to require facilities to develop preplacement and admission policies that clearly define the type of resident who would be appropriately served at the facility, and a procedure for screening individuals prior to admission so that a resident is not subjected to repeated admission/discharges due to improper placements. This new rule is necessary to ensure that residents are adequately informed upon admission of the provider's specific facility policies and expectations so they can understand what is expected of them and what they can expect from the facility. This understanding makes for a greater probability of successful care and treatment. This new rule requires a facility to maintain a list of current residents, which is necessary to ensure that all youth are accounted for and that staffing requirements are met in all circumstances.

#### NEW RULE 9

This proposed new rule is necessary to ensure that all parties acknowledge and agree to the terms of the placement, the facility's responsibilities, and the parent's or legal guardian's responsibilities.

#### NEW RULE 10

The department proposes to adopt this new rule to specify discharge requirements. This rule is necessary to ensure that when residents are discharged, they are safely discharged, and the resident's parent or legal guardian receives the necessary information to arrange for follow-up services. This rule also is necessary to provide protections regarding who the youth may be discharged to, which ensures that the person receiving the youth is a guardian or legal representative, or has written consent from the guardian or legal representative to receive the youth.

#### NEW RULE 11

This proposed new rule is necessary to ensure that the resident's needs are addressed by implementing measurable goals and objectives in a case plan. Because each resident has their own unique needs that the facility must address, individualized case plans are created and maintained to meet this goal for the best success of the youth served. Timelines are included to ensure that the resident's needs are being continually monitored and updated as necessary.

#### NEW RULE 12

The department proposes to adopt this new rule to ensure facility staff and residents are aware of the rights afforded to all residents. This is necessary to ensure that staff or residents have an opportunity and a procedure for voicing concerns and have the expectation to get a response to their concerns from the facility.

#### NEW RULE 13

The department proposes to adopt this new rule to implement background check requirements that align with the requirements for private alternative and adolescent residential and outdoor programs, as well as all other facilities that serve youth. It is necessary to implement reasonable guidelines for disqualifying applicants from employment due to certain convictions to safeguard residents from potential harm.

#### NEW RULE 14

The department proposes to adopt this new rule to help ensure the safety of residents from abuse or neglect. This rule is necessary to provide clear guidance on what is required for staff training, and what procedures to follow in the event of suspected abuse and neglect, ensuring that mandatory reporting requirements are met.

#### NEW RULE 15

Adopting the proposed new rule is necessary to ensure a safe and comfortable living environment for all residents and enhance their well-being.

#### NEW RULE 16

The department proposes to adopt this new rule to ensure adequate, clean, and potable water will always be available, which is necessary in reducing the risk of dehydration, illnesses, and diseases spread through contaminated water sources.

#### NEW RULE 17

The department proposes to adopt this new rule to ensure adequate and safe wastewater systems are always maintained, which is necessary in reducing the risk of spreading infectious and communicable diseases.

#### NEW RULE 18

The department proposes to adopt this new rule to increase safety by reducing the risk of fire hazards through preparation, facility implementation, and education. The requirements in this rule are necessary to ensure that the facility is equipped with mechanisms to alert individuals in the event of a fire, ensure the facility has the structural requirements to best facilitate safe evacuation during a fire, and to ensure staff and residents know what to do in the event of a fire. All these requirements are necessary to increase individuals' chances of survival. The cited guidebook, the 2012 edition of the NFPA 101: Life Safety Code, may be purchased electronically at <https://www.nfpa.org/product/nfpa-101-code/p0101code/101-lsc-12/10112>.

#### NEW RULE 19

The department proposes to adopt this new rule to ensure all staff and residents are prepared for any emergency or disaster. This proposed new rule is necessary to decrease the risk of harm and injury to residents during their placement in the event of a disaster.

#### NEW RULE 20

The department proposes to adopt this new rule to increase residents' safety by reducing the risk of harm through preparation, facility implementation, and education. It is necessary to include the supplies and resources maintained at the facility to ensure that residents receive immediate and adequate treatment in the event of an injury. Documented policies and procedures ensure that precautionary steps have been taken to avoid accidents or injuries. It is necessary to have all identifying and medical information readily available to provide medical personnel in the event that a resident must be transported. This facilitates quick and efficient treatment by other medical personnel, as well as contact information for the guardian or legal representative of their patient.

#### NEW RULE 21

The department proposes to adopt this new rule to specify information required in the residents' case records to document services provided. Accurate records are crucial for maintaining the continuity of care for residents. Adequate documentation allows all facility staff and other authorized entities to be informed of essential information needed to provide quality services to residents.

#### NEW RULE 22

This proposed new rule is necessary to ensure that all information provided to and maintained by the facility remains confidential and is released only to those authorized to receive it under state and federal laws. This is necessary to protect the personal and medical information of the residents they serve from entities that are not authorized to know information about the youth.

### NEW RULE 23

This proposed new rule is necessary to ensure that the department is informed of changes made within the facilities, as well as any disasters, serious incidents, or fires that may have occurred at the facility. This proposed new rule facilitates the department's assessment as to whether the facility is maintaining the safety of the residents in the facility.

### NEW RULE 24

This proposed new rule is necessary to ensure the safety and well-being of the staff and residents, by initiating standard conditions of employment that are used in workplaces serving children or adolescents. It is necessary for the facility to maintain personnel records to provide documentation showing compliance with these rules, so the department can verify all individuals working or volunteering at a facility are qualified, trained, and safe. The department believes it is not appropriate for staff to be the same age as or younger than the residents they are responsible for caring for, so it is necessary to apply a minimum age requirement of staff. Without an age gap between staff and residents, the likelihood of issues with boundaries and behavioral problems increases. Requiring a high school diploma or GED for staff is necessary because the job responsibilities require the basic knowledge obtained through a high school education.

### NEW RULE 25

The department proposes to adopt this new rule to ensure personnel and volunteer records maintain documentation of compliance with this rule, thereby ensuring that the staff have met all requirements to ensure that they can safely and effectively care for the residents.

### NEW RULE 26

The department proposes to adopt this new rule to ensure facilities conduct an internal audit regarding the quality of treatment, care, and services provided to residents. The internal audit is necessary to provide management recommendations for continuous improvement in conforming to standards, efficiency in service delivery, and resident satisfaction.

### NEW RULE 27

The department proposes to adopt this new rule to ensure the facility has a qualified administrator who can provide appropriate oversight of the facility staff and resident, ensuring that the necessary care and treatment for the residents is provided. It is necessary to include a requirement that there be a designated administrator on file if the actual administrator is out for more than 30 consecutive days. This ensures that there is always someone that is responsible for overseeing the facility, staff, and residents, and that there is always someone available to respond to the department or other agencies in the event of an emergency.

### NEW RULE 28

The proposed new rule is necessary to ensure the safety and well-being of residents. The nighttime safety protocol will enhance safety for all residents and staff by enabling the facility to determine the necessary measures, based on the population it serves, and the level of night supervision required. The facility determines the requirement for professional staff as outlined

in the facility description, which is necessary due to the wide range of ages and treatment services the facility could provide, along with the sizes of the facilities.

#### NEW RULE 29

The department proposes to adopt this new rule to establish the necessary training requirements for staff, ensuring they are prepared to address the ever-changing needs of the facility and its residents. The proposed new rule provides training timelines and expectations. Without these timelines, staff may not receive timely training when situations arise, which could be detrimental to the residents they serve. Requirements for continued training provide staff with the opportunity to stay current with changes in care management and enhance their knowledge and skills in dealing with challenging residents. When staff are not adequately trained to provide appropriate care, it reduces the facility's effectiveness and increases the risk of harm to residents.

#### NEW RULE 30

The department proposes to adopt this new rule to ensure residents' medical, dental, and psychological needs are identified and addressed in a timely manner. This is necessary to ensure the health needs of the residents are met while they reside in these facilities.

#### NEW RULE 31

The department proposes to adopt this new rule to clearly outline procedures for the safe administration, storage, and documentation of medication. The proposed new rule is necessary to ensure the safety of residents by providing them with the proper medication, in the appropriate dosage, at the correct time. It further prohibits the use of medication as a means of discipline. Adequate documentation of medication administration is necessary so medical professionals treating these residents know what medications and treatments are current in their system, and best analyze what is working and what is not.

#### NEW RULE 32

The proposed new rule is necessary to increase residents' safety by ensuring appropriate care, supervision, safety, treatment, and guidance. It is also necessary to ensure residents have adequate contact with family members to foster and improve relationships.

#### NEW RULE 33

The proposed new rule is necessary to ensure the nutritional needs of each resident are being identified and met, promoting physical health.

#### NEW RULE 34

The proposed new rule is necessary to ensure that facilities meet the minimum requirements for safe food handling, preparation, and sanitation to prevent contamination, and the spread of communicable diseases. This is necessary to promote resident health.

#### NEW RULE 35

The department proposes to adopt this new rule to ensure that the residents are provided with suitable clothing and hygiene supplies for their age, size, and peer groups in the surrounding communities. This is necessary to maintain residents' health by providing weather-appropriate clothes and hygienic products to keep their skin clean and healthy. This is also necessary to promote and maintain a youth's dignity and comfort.

#### NEW RULE 36

The department proposes adopting this new rule to protect the health and safety of residents served by developing appropriate behavioral management policies. Facilities must clearly define their policies so that residents understand what is expected of them and are aware of the consequences of their behaviors, enabling them to gain the most benefit from the facility.

#### NEW RULE 37

The department proposes to adopt this new rule to approve appropriate time-out procedures as outlined in the facility policy. Due to its widespread use and various implementation methods, it is necessary to specifically identify time-out as a distinct individual behavior management policy and the appropriate use of time-out.

#### NEW RULE 38

The department proposes to adopt this new rule as it provides clear guidelines for the application of crisis intervention and physical restraints. The rule incorporates standard practices and federal guidelines pertaining to physical restraints, including when the use of physical restraint is acceptable and when it is prohibited. Training on the use of techniques is necessary to ensure that staff know how to safely and effectively apply the techniques or restraints, reducing the risk of harm to themselves and the residents. Since the use of physical restraints is a serious behavioral management technique that should be used only in emergency situations, it is necessary to have strict guidelines to protect the resident, other residents, and staff.

#### NEW RULE 39

The department proposes to adopt this new rule to provide provisions for when a search of a resident's personal belongings is warranted. This is necessary to protect the resident's right to be free from unnecessary searches of their person, personal property, and correspondence.

#### NEW RULE 40

The department proposes to adopt this new rule to safeguard residents from dangerous weapons and provide guidelines for the storage and disposal of harmful items, as defined by facility policy. This is necessary as prohibiting the possession and use of firearms on the property dramatically decreases the risk of harm to residents.

#### NEW RULE 41

The department proposes adopting this new rule to ensure the separation of residents' personal funds and facility funds, as well as compliance with state and federal child labor laws.

Implementing the requirements of this rule is necessary to help residents develop the skills needed to achieve economic independence, and to protect the resident from extortion.

#### NEW RULE 42

The department proposes to adopt this new rule to enhance residents' health and social skills by requiring them to have access to recreational and cultural events when appropriate. Recreational activities are essential in promoting a resident's mental, emotional, and physical well-being, making it a necessity.

#### NEW RULE 43

The department proposes to adopt this new rule as it is necessary for a facility to have an infection control program that focuses on the prevention and spread of diseases. This is beneficial in promoting the health and safety of both staff and residents.

#### NEW RULE 44

The department proposes to adopt this new rule as it is necessary to ensure that residents are granted the individual freedom to participate in religious activities and cultural events of their choice when appropriate. Many times, religious or cultural beliefs are a significant factor in dealing with circumstances or healing from trauma. It is necessary to let residents practice in the beliefs of their choice to promote dignity and well-being.

#### NEW RULE 45

The department proposes to adopt this new rule to enhance the safety of residents and staff when operating or riding in motorized vehicles. This is necessary to ensure that residents and staff are safe when transporting and that there are resources available in the event of an emergency.

---

### **Small Business Impact**

Pursuant to 2-4-111, MCA, the department has determined that the new rules proposed in this notice will not create a significant and direct impact upon small businesses. The application for and operation of these facilities are voluntary. Since the operation of these facilities is completely optional, there is no way for the department to determine the cumulative amount for all persons, or entities, of the proposed increase, or the number of persons, or entities, affected.

---

### **Bill Sponsor Notification**

The bill sponsor contact requirements apply and have been fulfilled. The primary bill sponsor of SB 191 from the 2025 Legislative Session was notified by electronic mail on October 31, 2025.

---

## **Interested Persons**

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. 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 emailed, mailed or otherwise delivered to the contact person above.

---

## **Rule Reviewer**

Greg Henderson

## **Approval**

Charles T. Brereton, Director

Department of Public Health and Human Services