



**MONTANA  
ADMINISTRATIVE  
REGISTER**



**DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES**

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**NOTICE OF ADOPTION**

**MAR NOTICE NO. 37-1099**

**Summary**

Amendment of ARM 37.106.2602, 37.106.2603, 37.106.2606, 37.106.2609, 37.106.2616, 37.106.2620, and 37.106.2621 and repeal of ARM 37.106.2608 pertaining to adult day care facilities

**Previous Notice(s) and Hearing Information**

On August 23, 2024, the Department of Public Health and Human Services published MAR Notice No. 37-1099 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 2044 of the 2024 Montana Administrative Register, Issue Number 16.

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**Final Rulemaking Action – Effective January 11, 2025**

**AMEND AS PROPOSED**

The department has amended the following rules as proposed:

**37.106.2602 GENERAL SERVICES, ADMINISTRATION AND STAFFING**

**37.106.2603 POLICIES AND PROCEDURES**

**37.106.2606 CONSTRUCTION**

**37.106.2609 INFECTION CONTROL**

**37.106.2616 FOOD SERVICE**

**37.106.2620 CLIENT AND PERSONNEL RECORDS**

## **37.106.2621 MEDICATIONS**

### **REPEAL**

The department has repealed the following rule as proposed:

## **37.106.2608 DISASTER AND FIRE PLAN**

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### **Statement of Reasons**

The department has considered the comments and testimony received. A summary of the comments received, and the department's responses are as follows:

Comment #1: One commenter expressed the opinion that DPHHS and operators of adult day services need to enhance accessibility and programmatic options if they are able in the community. The commenter indicates that the State of Montana needs more assistive technology outreach so that the current technologies and adaptive equipment are available to adult day centers, continuing to say the best assistive technology could be utilizing the metal loan or different options to pay for equipment and supplies. The state needs navigators or ombudsman to liaison between families and adult day programs. Adult day services members should have the opportunity to participate in community activities as well. The commenter says that the State of Montana must address the wider systemic issues of how people and families access and fund adult day services or other needed services as these may not be available to families because of Medicaid spend downs and out-of-pocket expenses may be unaffordable to those on Medicare who are dually eligible.

Response #1: The department thanks the commenter for their participation in the comment process, but notes that the comments received do not address the proposed amendments to the rule set. The commenter's request for the State of Montana to boost technology assistance has no relation to Adult Day Care (ADC) facility licensure regulations. The roles and abilities of the ombudsman are not a part of licensing for ADC facilities. Lastly, the regulations for licensing adult day care centers do not include regulations pertaining to cost of care. ADC providers are private owners and operators and can charge what they deem necessary for the care they provide.

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### **Contact**

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**Rule Reviewer**

Greg Henderson

**Approval**

Charles T. Brereton, Director

Department of Public Health and Human Services