



MONTANA
ADMINISTRATIVE
REGISTER



DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2026-324.1

Summary

Amendment of ARM 37.100.302, 37.100.307, 37.100.308, 37.100.312, 37.100.316, 37.100.320, 37.100.321, 37.100.322, 37.100.325, 37.100.331, 37.100.335, and 37.100.340 and adoption of NEW RULES 1 through 4 pertaining to community homes for persons with developmental disabilities

Hearing Date and Time

Thursday, February 26, 2026, at 10:00 a.m.

Virtual Hearing Information

Join Zoom Meeting: <https://mt-gov.zoom.us/j/81870146845?pwd=2r5XlurZRS9fHlhre2bfeABzLDU8i1.1>

Meeting ID: 818 7014 6845 and Password: 023728

Dial by Telephone: +1 646 558 8656

Meeting ID: 818 7014 6845 and Password: 023728

Find your local number: <https://mt-gov.zoom.us/j/81870146845?pwd=2r5XlurZRS9fHlhre2bfeABzLDU8i1.1>

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, March 6, 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 Thursday, February 12, 2026, at 5:00 p.m.

Contact

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

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

37.100.302 COMMUNITY HOMES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES: DEFINITIONS

For purposes of this subchapter, the following definitions apply:

- (1) "Applicant" means a non-profit or state-operated entity which has completed and submitted to the department a license application/renewal request for the operation of a community home for persons with developmental disabilities.
- (2) "Community home" means a family-oriented residence or home designed to provide facilities for persons with developmental disabilities, as defined in 53-20-302, MCA.
- (3) "Community home staff" means those persons employed by a provider to directly participate in the care, supervision and guidance of the residents in a community home for persons with developmental disabilities.
- (4) "Department" means the ~~d~~Department of ~~p~~Public ~~h~~Health and ~~h~~Human ~~s~~Services.
- (5) "Developmentally disabled person" means a person who has a developmental disability as defined in 53-20-202(3), MCA.
- (6) "Habilitation" means the process by which the staff assists developmentally disabled persons to acquire and maintain skills, to enable them to cope with their own demands, and to raise the level of their physical, mental and social functioning.

- (7) "Individual habilitation plan (IHP)" means a written plan of intervention and action developed ~~as provided for in ARM 46.8.105~~ by an interdisciplinary team of persons on the basis of a skill assessment and determination of the status and the needs of a developmentally disabled person.
- (8) "Provider" means the person, corporation or other entity furnishing community home services to developmentally disabled persons.
- (9) "Resident" means a developmentally disabled person who lives in and receives services from a community home.
- (10) "Service plan (SP)" means a written plan for services developed by the facility with the resident, the resident's legal representative, and/or other interdisciplinary team members, which reflects the resident's capabilities, choices, and if applicable, measurable goals and risk issues. The plan is developed on admission and is reviewed and updated annually and if there is a significant change in the resident's condition.
- ~~(10)~~(11) "Training" means an organized program for assisting developmentally disabled persons in acquiring, improving or maintaining particular skills.

Authorizing statute(s): 53-20-305, MCA

Implementing statute(s): 53-20-305, MCA

37.100.307 COMMUNITY HOMES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES: LICENSE REQUIRED

- (1) The department will issue a license for a community home to any license applicant meeting requirements established by these rules. ~~However, the~~The department may waive in whole or in part procedures for verifying compliance with the requirements of these rules upon receiving written documentation that a national or state recognized certification process has already been completed and has resulted in certification, accreditation, or other approval of the operation of the community home.
 - ~~(a) another state agency has already licensed or otherwise approved the operation of the community home, or~~
 - ~~(b) a national or state recognized certification process has already been completed and has resulted in certification, accreditation, or other approval of the operation of the community home.~~

- ~~(c)~~(a) Waiver of procedures for checking compliance as provided in this subsection may occur only where procedures proposed to be waived are clearly already provided for in the accreditation or approval process relied on by the licensing representative. Waiver of procedures must not result in the reduction of standards imposed through licensing requirements.
- (2) The department will determine based upon a licensing ~~study~~ inspection whether an applicant meets the requirements.
- (3) The department ~~will~~ may deny a license to any applicant that fails to meet the requirements established by these rules unless ~~circumstances require that a temporary license be issued or~~ the department determines it is appropriate to issue a provisional license.
- (4) The department will issue a license annually on the expiration date of the previous year's license if:
- (a) the provider ~~makes written~~ completes an application for ~~issuance~~ licensure at least 30 days prior to the expiration date of its current license; and
 - (b) the provider continues to meet all standards established by these rules, as determined by the department after a licensing ~~study~~ inspection and upon receipt of certification by the state fire marshal and local health authority.
- (5) A community home may be licensed for two or more residents not to exceed ~~eight six~~ eight, and, ~~with special written permission from the department, may be licensed for nine to twelve residents.~~
- (a) Any provider licensed prior to October 1, 2025, that is approved for more than six residents is grandfathered to maintain their licensed bed count as of October 1, 2025, under the current ownership and license number as was existing as of October 1, 2025.
- ~~(6) The department may give special permission for a community home license for 9 to 12 residents if the state fire marshal verifies in writing that:~~
- ~~(a) a manually operated fire alarm system is installed;~~
 - ~~(b) all sleeping rooms below street floor level have direct access to the outside of the building; and~~
 - ~~(c) any corridor or space necessary for safe exit does not pass an exposed vertical opening; or~~
 - ~~(d) there are suitable alternatives to (a), (b) or (c) already in place and approved in writing by the state fire marshal.~~
- ~~(7) The department may issue a temporary license not to exceed 60 days to any applicant or provider who has not received a fire marshal or health department certification because of unavoidable delays in the certification process.~~

~~(8)(6)~~ The department may in its discretion issue a provisional license for any period, not to exceed 6 months, to any license applicant that has met all applicable requirements for fire safety and has submitted a written plan approved by the department to comply fully with all minimum requirements established by these rules within the time period covered by the provisional license pursuant to 53-20-205(5), MCA.

~~(a)~~ The department may renew a provisional license if the license applicant shows good cause for failure to comply fully with all minimum requirements within the time period covered by the prior provisional license, but the total time period covered by the initial provisional license and renewals may not exceed 1 year.

Authorizing statute(s): 53-20-305, MCA

Implementing statute(s): 53-20-305, MCA

37.100.308 COMMUNITY HOMES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES: LICENSING PROCEDURES

- (1) An applicant ~~shall~~ must apply for a community home license prior to the operation of such home or to the expiration of a current license. Applications ~~shall~~ must be made submitted to the department ~~upon forms provided by the department~~ through the electronic licensing system.
- (2) The department will review upon receipt of the application and supplemental documentation upon receipt, ~~conduct a study and evaluation of the applicant.~~
- (3) If the department determines that an application or accompanying information is incomplete or erroneous, the applicant will be notified ~~of the specific deficiencies or errors~~ and shall submit the required or corrected information within 60 days. The department will not issue a license until it receives and approves all required information.
- (4) Each applicant shall promptly report to the department changes ~~which~~ that would affect the current accuracy of information provided on the application.
- (5) The department may waive in whole or in part the requirements of (2) ~~of this rule,~~ and/or any other procedures for checking compliance with the requirements of this subchapter, based on a proper waiver of the such procedures in ~~under (1) of ARM 37.100.307(1).~~

Authorizing statute(s): 53-20-305, MCA

Implementing statute(s): 53-20-305, MCA

**37.100.312 COMMUNITY HOMES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES:
LICENSE REVOCATION, DENIAL, OR SUSPENSION**

- (1) The department may deny, revoke, or suspend a community home license by written notification to the provider if the department determines that:
 - (a) the facility is not in compliance with fire safety requirements as evidenced in writing by the state fire marshal; ~~or~~
 - (b) the program is not in substantial compliance with health rules or any other licensing requirements established by this subchapter; ~~or~~
 - (c) the provider has made misrepresentations to the department, either negligent or intentional, regarding any aspect of its operations or facility; or
 - (d) the actions of the provider or any staff significantly affect the health, safety, and welfare of the residents within the facility.
- (2) If any violation ~~places a resident in a life threatening situation~~ puts a resident in a life-threatening situation, the license may be immediately revoked.

Authorizing statute(s): 53-20-305, MCA

Implementing statute(s): 53-20-305, MCA

37.100.316 FAIR HEARING

- (1) Any person, corporation or other entity aggrieved by an adverse department action denying, revoking, or suspending a license may request a fair hearing in accordance with ARM ~~37.5.304, 37.5.305, 37.5.307, 37.5.310, 37.5.311, 37.5.313, 37.5.316, 37.5.318, 37.5.322, 37.5.325, 37.5.328, 37.5.331, 37.5.334 and 37.5.337~~ Title 37, chapter 5, subchapter 3.
- (2) The provider shall cease operation of the community home pending the fair hearing in those instances where the revocation or suspension of the license is based upon actions that the department has determined are imminent life or health endangering situations.

Authorizing statute(s): 53-20-305, MCA

Implementing statute(s): 53-20-305, MCA

37.100.320 COMMUNITY HOMES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES: FIRE, HEALTH, AND SAFETY CERTIFICATION

- (1) Community homes are required by the Montana ~~department of justice~~ Department of Justice to comply with the fire safety requirements and procedures found in ARM ~~23.7.110~~ 23.12.408. A community home must comply with the certification requirements of ARM ~~23.7.110~~ 23.12.408 to obtain licensure, and during licensure, the community home must remain current on its fire safety certification under ARM ~~23.7.110~~ 23.12.408.
- (2) A community home will only be licensed by the department if there is written certification from the local or state health authority that the home meets the following requirements:
 - (a) For an adequate and potable water supply, a community home must:
 - (i) connect to a public water supply system approved by the ~~department of environmental quality~~ Department of Environmental Quality (DEQ); or
 - (ii) ~~for community homes utilizing a non-public water system, the department hereby adopts and incorporates by reference the following circulars prepared by the department of environmental quality: follow~~ ARM 37.111.110, which sets forth requirements for construction and maintenance of water supply systems, for community homes utilizing a nonpublic water supply;
 - ~~(A) circular #11 for springs;~~
 - ~~(B) circular #12 for water wells;~~
 - ~~(C) circular #17 for cisterns;~~
 - ~~(D) the circulars mentioned in (A), (B) and (C) set forth the relevant water quality standards and are available from the Department of Environmental Quality, 1520 East Sixth Avenue, Helena, Montana 59620.~~
 - (iii) if a non-public water supply is used, submit a water sample for analysis at least-quarterly to a laboratory licensed by ~~the department of environmental quality~~ DEQ;
 - (iv) repair or replace the water system when the supply:
 - (A) contains microbiological contaminants; or

- (B) does not have the capacity to provide adequate water for drinking, cooking, personal hygiene, laundry, and water carried waste disposal.
- (b) For sewage to be safely disposed of, a community home must:
 - (i) connect to a public sewage system approved by ~~the department of environmental quality~~ DEQ; or
 - (ii) ~~if a non-public system is utilized, the department hereby adopts and incorporates by reference bulletin 332, which sets forth standards for sewage disposal. A copy of bulletin 332 may be obtained from the Department of Environmental Quality, 1520 East Sixth Avenue, Helena, Montana 59620~~ follow ARM 37.111.116, which sets forth requirements for construction and maintenance of wastewater systems, if a nonpublic system is utilized; and
 - ~~(iii) repair or replace the sewage system whenever:~~
 - ~~(A) it fails to accept sewage at the rate of application;~~
 - ~~(B) seepage of effluent from or ponding of effluent on or around the system occurs;~~
 - ~~(C) contamination of a potable water supply or state waters is traced to the system; or~~
 - ~~(D) a mechanical failure occurs.~~
- (c) For solid waste to be safely stored and disposed of, a provider must:
 - (i) store all solid waste between collections in containers which have lids and are corrosion-resistant, flytight, watertight, and rodent-proof;
 - (ii) clean all solid waste containers as needed; and
 - (iii) utilize a private or municipal hauler to transport the solid waste at least weekly to a landfill site approved by ~~the department of environmental quality~~ DEQ.
- ~~(d)~~ (3) For safety and sanitation, a provider must comply with the following structural requirements:
 - ~~(i)~~ (a) All rooms and hallways must be provided with at least 10-foot candles of light, and bathrooms and areas used for reading must be provided with at least 30-foot candles of light.
 - ~~(ii)~~ (b) Floors and walls of rooms subject to large amounts of moisture must be smooth and non-absorbent.

- ~~(iii)~~(c) Floor and wall mounted furnishings must be easily moved or mounted in such a way as to allow for easy cleaning.
- ~~(iv)~~(d) Adequate toilet and bathing facilities must be provided:
 - ~~(A)~~(i) one toilet and one sink for every six residents;
 - ~~(B)~~(ii) one tub and shower for every eight residents;
 - ~~(C)~~(iii) drying space for wash cloths and towels; and
 - ~~(D)~~(iv) bathing facilities and stairs must be provided with anti-slip surfaces.
- ~~(v)~~(e) Food preparation facilities must be equipped with at least the following:
 - ~~(A)~~(i) facilities to adequately wash utensils and equipment;
 - ~~(B)~~(ii) refrigeration equipment capable of maintaining foods at or below 45° ~~E~~ F;
 - ~~(C)~~(iii) cooking facilities;
 - ~~(D)~~(iv) adequate and clean food preparation and storage areas;
 - ~~(E)~~(v) equipment to ~~insure~~ ensure all food is transported, stored, covered, prepared, and served in a sanitary manner.
- ~~(vi)~~(f) Separate storage of clean and dirty linen shall be provided.
- ~~(vii)~~(g) Storage space shall be available for the personal belongings of residents and for food, linen, equipment and other household supplies.
- ~~(viii)~~(h) There shall be hot and cold water available in the home. Water temperature for hot water must be limited to 120° ~~E~~ F or below.
- ~~(e)~~(4) For adequate housekeeping, a provider must ~~insure~~ ensure that:
 - ~~(i)~~(a) the building and grounds are free, to the extent possible, of harborage for insects, rodents, and other vermin;
 - ~~(ii)~~(b) the floors, walls, ceilings, furnishings, and equipment are in good repair, free of hazards, clean and free from ~~offensive~~ odors without the use of sprays or perfumes;
 - ~~(iii)~~(c) cleaning equipment and supplies are provided in sufficient quantity to meet housekeeping needs of the facility; and
 - ~~(iv)~~(d) every provider must have and adhere to a maintenance policy and schedule which describes the regular maintenance of the home and yard. The maintenance policy shall include ~~type of~~ duties, methods, and timelines

relating to housekeeping, repairs, and general prevention of accidents and health dangers.

- ~~(f)~~(5) Poisonous compounds shall not be stored in food preparation areas or food storage areas or in any areas where residents may initiate unsupervised contact.
- ~~(g)~~ ~~Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security. Outdated and deteriorated drugs and drugs not being used must be removed and disposed of.~~
- ~~(h)~~(6) Use of home canned products other than jams, jellies, and fruits is prohibited unless the home is approved as a commercial food processor.
- ~~(3)~~ ~~Local health sanitarians are permitted to charge a reasonable fee for their inspection services to the applicant.~~
- (7) The facility must conduct two fire drills per year no closer than four months apart. The fire drills must include documentation of all staff and residents who participated. Records of the drills must be kept for two years.
- (8) The facility must conduct a review of the disaster plan or conduct a disaster drill, separate from the required fire drills, annually. The drill must include documentation of all staff and residents who participated. Records of the drills must be kept for two years.
- (9) All resident room doors and all exit doors, if locked, must have single-motion locks from the egress side.
- (10) All resident rooms, common rooms, kitchens, and hallways must have smoke detectors that are tested annually by the facility. Records of testing must be kept for two years.
- (11) Portable heaters and heating mechanisms are prohibited in all resident rooms.
- (12) Hand-cleansing soap must be present at all sinks.
- (13) Laundry services must be provided at least weekly. Separate storage containers must be provided for facility and resident soiled and clean laundry.
 - (a) The containers must be impervious to moisture or other contaminants.
 - (b) Soiled laundry may not be stored or placed where food is stored or prepared.

Authorizing statute(s): 53-20-305, MCA

Implementing statute(s): 53-20-305, MCA

**37.100.321 COMMUNITY HOMES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES:
PHYSICAL SITE REQUIREMENTS**

- (1) The community home shall be located to facilitate the use of community resources. If the home is not within walking distance of community shopping, recreational and other community services, transportation shall be available at no cost or an affordable cost to the resident.
- (2) The design, construction, and furnishings of the home shall be home-like and encourage a personalized atmosphere for residents.
- (3) Each bedroom shall be limited to not more than ~~three~~ two persons and shall include:
 - (a) floor to ceiling walls;
 - (b) one door which can be closed to allow privacy for residents;
 - (c) a minimal clear floor space of 7 feet x 9 feet shall be provided for a single bedroom; and 13 feet x 9 feet for a double room; ~~and 13 feet x 17 feet for a three bed room.~~ The space does not include closet space; and
 - (d) at least one window which can be opened.
- (4) Any facility licensed prior to October 1, 2025, that currently has three residents occupying a room may petition the department for a waiver to maintain their current occupancy if the room has a clear floor space of 13 feet x 17 feet. The department will review each petition and determine if the waiver is granted.
- (5) If the waiver in (4) is granted by the department, it is only good for the provider and license under which it was originally granted.
- ~~(4)~~(6) Lighting shall be available in all living areas as needed.
- ~~(5)~~(7) A comfortable temperature shall be maintained. In all common resident areas, temperatures may not be below 65°F, and may not exceed 90° F.
- ~~(6)~~(8) The building exterior and yard shall be in good repair and free from hazards such as protruding sharp objects, uncovered wells and cellars, and yard maintenance equipment ~~which may be used inappropriately.~~
- ~~(7)~~(9) All plumbing fixtures shall be in good repair and properly functioning.
- ~~(8)~~(10) Inspection of the heating system and hot water tank shall be made regularly.
- ~~(9)~~(11) For community homes caring for wheelchair and/or other physically handicapped residents, the department ~~hereby~~ adopts and incorporates by reference the American National Standards: Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People. A copy of the specifications is available at the ANSI website: <https://www.ansi.org/> ~~from the~~

~~Department of Public Health and Human Services, Child and Family Services
Division, Program Management Bureau, P.O. Box 202951, Helena, Montana 59620-
2951.~~

Authorizing statute(s): 53-20-305, MCA

Implementing statute(s): 53-20-305, MCA

**37.100.322 COMMUNITY HOMES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES:
STAFFING; STAFF RESPONSIBILITIES AND QUALIFICATIONS**

- (1) The provider shall have a sufficient number of appropriately qualified staff to supervise, care for, and train residents.
- (2) There shall be a minimum of one staff person present who is directly responsible for resident care and activities when any resident is in the home. This requirement is not applicable if the resident or residents present in the home have been determined by their individual habilitation planning team to be competent in self-care in such situations.
- (3) There shall be a minimum of one appropriately trained person who is directly responsible for planning, implementing and reviewing each community home service and residents' program.
- (4) The provider shall employ no staff person who has impairments to his/her ability to protect the health and safety of the residents or who would endanger the physical or psychological well being and progress of the residents.
- (5) The provider shall provide an orientation for each new employee during the first week of employment. This orientation shall include familiarization with the residents and the rules of the home, behavior deceleration programs, medical concerns of clients, abuse and neglect reporting requirements, incident reporting requirements, and emergency procedures.
- (6) The provider shall provide training for each new employee within the first 30 days of employment. This training shall include:
 - (a) familiarization with the residents, person-centered care, and the community home's philosophy, organization, policies, activities, programs, practices, and goals;
 - (b) first aid, ~~emergency procedures~~ cardiopulmonary resuscitation (CPR), and accident prevention techniques;
 - (i) first aid and CPR must be kept current;

- ~~(c)~~ the implementation of the normalization principle;
- ~~(d)~~ knowledgeably and tactfully dealing with residents, relatives or guardians and visitors;
- ~~(e)~~ meeting needs of residents through care, supervision, and training skills;
- ~~(f)~~ attaining skill areas in which the employee has not reached the level of competence for the job;
- ~~(g)~~(c) description of duties, responsibilities, limitations of authority, and principal measures of accountability and performances;
- ~~(h)~~(d) rights of residents which include at a minimum those rights as defined by the client's rights policy of the ~~d~~Developmental ~~d~~Disabilities ~~p~~Program of the ~~d~~Department of ~~p~~Public ~~h~~Health and ~~h~~Human ~~s~~Services (DD 441); and
 - ~~(i)~~ aversive and deprivation procedures policy as defined by the developmental disabilities program of the department of public health and human services (DD 442).
- (e) crisis intervention training, including de-escalation and physical interventions; and
- (f) HIPAA training.
- (7) Staff who are responsible for passing and administration of medications must receive training in the 5R's of medication administration and be certified to administer medications. An individual may not independently pass medication until they have received their certification.
- ~~(7)~~(8) The provider ~~annually~~ shall provide or obtain 12 hours annually of continuing training and education of the information listed in (5) and (6)(a) through ~~(i)~~(f) ~~above~~ for each direct care staff.
- ~~(8)~~(9) The provider shall provide documentation and attendance records of training and orientation provided for all new and continuing employees. Agendas, general outlines, narratives, and other descriptions may be provided to describe the type of content of ~~said~~ the training activities.
- (10) If a staff member of a group home has been accused or is suspected of abuse, neglect, or exploitation, the staff member may not provide direct care to any resident until an investigation has been completed, and the allegation has been found to be unsubstantiated.
- (11) The provider's administrative file shall be maintained and shall be available upon request of the department. It shall contain at least the following current information and documents:

- (a) governing structure including articles of incorporation and by-laws or other organizational documents;
- (b) name and position of persons authorized to sign agreements or official documentation;
- (c) structure and composition of the governing body of the organization with names, addresses, and terms of membership;
- (d) existing major purchases and service agreements;
- (e) insurance coverage;
- (f) procedure for notifying parties of changes in facilities policy and programs;
- (g) a current organizational chart;
- (h) current written job descriptions for all employees, and the names of persons presently employed in those positions.
- (i) records of orientation and training for each employee;
- (j) personnel and programmatic policies and procedures; and
- (k) written grievance procedures which are available to residents and staff.

Authorizing statute(s): 53-20-305, MCA

Implementing statute(s): 53-20-305, MCA

**37.100.325 COMMUNITY HOMES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES:
RESIDENT SUPPLIES AND EQUIPMENT**

- (1) The provider shall provide the following:
 - (a) a separate bed of proper size and height for the resident;
 - (b) a clean, comfortable mattress with a moisture-proof mattress pad, and appropriate bedding which shall be changed as needed and at least once a week;
 - (i) the facility must maintain two sets of full linens for each licensed bed;
 - (c) appropriate furnishings for storage of personal belongings, i.e., a chest of drawers;
 - (d) access to a mirror;

- (e) curtains or window shades which provide privacy;
 - (i) all curtains, blinds, or window shades must be made from fire-retardant material or treated with fire-retardant spray;
 - (ii) the facility must maintain documentation of fire-retardant designation or treatment application;
 - (f) tables, chairs, sofas, lamps, and other furnishings in a common living area for family-like comfort and use;
 - (g) at least two towels and wash cloths per resident, which are changed as needed and at least twice a week; and
 - (h) personal supplies and other hygienic necessities whenever the resident does not have the ability to provide these supplies.
- (2) The provider shall ~~insure~~ ensure that clothing purchases and care includes:
- (a) clothing which is appropriate to the chronological ages considering personal choice; and
 - (b) clothing which is of good quality, appropriate size, seasonable, and in good repair.

Authorizing statute(s): 53-20-305, MCA

Implementing statute(s): 53-20-305, MCA

37.100.331 COMMUNITY HOMES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES: HEALTH CARE

- (1) The provider shall assure each individual of appropriate health care by providing or arranging for:
 - (a) a primary physician for each resident to provide for health needs;
 - (b) at least an annual health check-up;
 - (c) a primary dentist for each resident for at least annual check-ups;
 - (d) an optometrist visit annually for each resident;
 - ~~(e)~~ (e) family planning, counseling, mental health and other consultation when appropriate;

- ~~(e)~~(f) medication administration through the procedures listed in 53-20-204(2), MCA, and as prescribed;
- ~~(f)~~(g) modified and therapeutic diets as prescribed;
- ~~(g)~~(h) procedures for the detection of signs of injury, disease, abuse, and emergency medical care;
- ~~(h)~~(i) drinking water throughout each day;
- ~~(i)~~(j) a variety of foods which meet the nutritional needs of the residents adjusted for age, sex and activity;
- ~~(j)~~(k) developing, reviewing, and recording weekly menus of meals served;
- ~~(k)~~(l) adequate meals in a family style manner, as appropriate to the individual residents, three times a day;
- ~~(l)~~(m) snacks at appropriate times each day;
- ~~(m)~~(n) a shower or tub bath daily at the most independent level possible and with due regard for privacy;
- ~~(n)~~(o) residents to brush their teeth daily; and
- ~~(o)~~(p) written procedures for emergency medical care.

Authorizing statute(s): 53-20-305, MCA

Implementing statute(s): 53-20-305, MCA

**37.100.335 COMMUNITY HOMES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES:
RESIDENT'S MONEY AND PERSONAL PROPERTY**

- (1) The provider shall ~~insure~~ ensure that the resident's personal money and personal property is not appropriated or misused by any other person or by the provider and its staff.
- (2) The provider is responsible for the accurate preparation and maintenance of a written record of each resident's personal property and personal money.
- (3) The provider will keep a current monthly record of each resident's income and sources of income. The monthly expenses, including room and board, ~~for~~ to the provider will be determined at the time of admission and will be shown monthly as a deduction from the resident's income received.

Authorizing statute(s): 53-20-305, MCA

Implementing statute(s): 53-20-305, MCA

**37.100.340 COMMUNITY HOMES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES:
RECORD KEEPING**

- (1) The provider shall maintain a written record at the community home for each resident ~~which shall include detailed administrative, training, and educational data.~~ The resident's record shall include at least the following:
 - (a) name, sex, birth date, address, parents/relatives, guardianship, other vital statistics, admission, and discharge;
 - (b) nature of the resident's difficulties;
 - (c) services needed by the resident and his/her family;
 - (d) the treatment plan, goals of the plan, and anticipated duration of treatment and training;
 - (e) measures taken to implement the plan, i.e., individual training programs;
 - (f) evaluation of the services the resident received;
 - (g) health records, psychiatric and psychological reports, educational information, assessments, official documentation and financial arrangements including resident's income and expenditures related to services provided to resident;
 - (h) resident's activities ~~and incident reports; and~~
 - (i) incident reports; and
 - (j) critical incidents.
 - (i) Critical incidents must be reported to the Office of Inspector General (OIG) licensing within eight hours of the incident.
- (2) Other written records kept at the community home shall include:
 - (a) fire safety requirements and compliance, evacuation of residents and staff, fire safety plans and results of monthly fire drills; and
 - (b) a list of social services and other service personnel involved with the residents.

- ~~(3)~~ The provider administrative file shall be maintained and shall be available upon request of the department. It shall contain at least the following current information and documents:
- ~~(a)~~ governing structure including articles of incorporation and by laws or other legal basis of existence;
 - ~~(b)~~ name and position of persons authorized to sign agreements of official documentation;
 - ~~(c)~~ board structure and composition with names, addresses and terms of membership;
 - ~~(d)~~ existing purchase of service agreements;
 - ~~(e)~~ insurance coverage;
 - ~~(f)~~ procedure for notifying parties of changes in facility's policy and programs;
 - ~~(g)~~ a current organizational chart;
 - ~~(h)~~ current written job descriptions for all employees, and the names of persons presently employed in those positions;
 - ~~(i)~~ records of orientation and training for each employee;
 - ~~(j)~~ personnel and programmatic policies and procedures; and
 - ~~(k)~~ written grievance procedures which are available to residents and staff.
- ~~(4)~~(3) All entries shall be in ink or ~~indelible pencil~~ in electronic form, prepared at the time or immediately following the occurrence of the event being recorded, be legible, dated, and signed by the person making the entry.
- ~~(5)~~(4) The provider is responsible for the accurate preparation, maintenance, and storage of all resident, personal, and ~~home~~ facility records.
- ~~(6)~~(5) The provider shall ~~assure~~ ensure that all resident records are confidential in accordance with all applicable laws and rules ~~and departmental policy~~.
- ~~(7)~~(6) Records for residents who have been released from the ~~home~~ facility shall be ~~transferred with the resident or~~ stored by the provider for a period of ~~5~~ five years following the release.
- ~~(8)~~(7) When the home ceases operation, the provider shall notify the department in writing as to the location and storage of resident records.

Authorizing statute(s): 53-20-305, MCA

Implementing statute(s): 53-20-305, MCA

ADOPT

The rules proposed to be adopted are as follows:

NEW RULE 1 COMMUNITY HOMES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES: STAFF BACKGROUND CHECKS

- (1) The administrator shall develop policies and procedures for conducting criminal background checks, hiring, and assessing staff, which include practices that assist the employer in identifying employees who may pose a risk or threat to the health, safety, or welfare of any resident and provide written documentation of findings and the outcome in the employee's file.
 - (a) A name-based or FBI fingerprint background check shall be conducted on all employees who have accepted employment at a Community Home for Persons with Developmental Disabilities.
 - (i) If an applicant has lived outside the state within the past five years, the facility must complete background checks in every state in which the applicant has resided within the past five years unless the name-based background check yields nationwide results, or the facility may conduct an FBI fingerprint background check.
 - (b) The administrator may allow an employee to work provisionally pending the background check results so long as there are no indications the employee poses a risk or threat to the health, safety, or welfare of the residents.
- (2) A facility may not employ a person who has been found guilty in a court of law of an offense involving abuse, neglect, exploitation, mistreatment, or misappropriation of property.

Authorizing statute(s): 53-20-302, 53-20-305, MCA

Implementing statute(s): 53-20-302, 53-20-305, MCA

NEW RULE 2 COMMUNITY HOMES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES: SERVICE PLANS

- (1) An initial service plan shall be developed for all residents within 24 hours of admission.
- (2) The service plan shall include a written description of:

- (a) what the service is;
 - (b) who will provide the service;
 - (c) when the service is performed;
 - (d) where and how often the service is provided;
 - (e) if applicable, the desired outcome; and
 - (f) an emergency contact with phone number.
- (3) The resident service plan shall be reviewed and updated annually, or at any time the resident has a significant change.
 - (4) All staff must sign off on the service plan indicating they have read, understand, and can perform all the services required for the resident. Staff must review updates and sign off on the updates.
 - (5) A copy of the resident service plan shall be given to the resident or the resident's legal representative and be made part of the resident file.

Authorizing statute(s): 53-20-302, 53-20-305, MCA

Implementing statute(s): 53-20-302, 53-20-305, MCA

**NEW RULE 3 COMMUNITY HOMES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES:
DISCHARGE**

- (1) A resident shall be given a written 30-day notice when the resident is requested to move out of the facility.
- (2) The resident's 30-day written move out notice shall, at a minimum, include the following:
 - (a) the reason for transfer or discharge;
 - (b) the effective date of the transfer or discharge; and
 - (c) optional discharge locations.
- (3) A written notice of discharge in less than 30 days may be issued for the following reasons:
 - (a) if a resident has a medical emergency; or
 - (b) the resident exhibits behavior that poses an immediate danger to self or others.

- (4) The date and circumstances of the resident's final transfer, discharge, or death must be documented and retained in the resident file. Discharge documentation must include notice to responsible parties and disposition of personal possessions and medications.

Authorizing statute(s): 53-20-302, 53-20-305, MCA

Implementing statute(s): 53-20-302, 53-20-305, MCA

NEW RULE 4 COMMUNITY HOMES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES: MEDICATIONS

- (1) Medication and treatment orders shall be carried out as prescribed. The resident has the right to consent to or refuse medications and treatments. The practitioner shall be notified if a resident refuses consent to an order.
- (2) A prescription medication for which the dose or schedule has been changed by the practitioner must be noted in the resident's medication administration record.
- (3) Current practitioners' orders shall be documented and kept in all resident files.
- (4) An accurate medication administration record for each resident shall be kept of all medications, including over-the-counter medications. The record shall include:
 - (a) name of medication, reason for use, dosage, route, and date and time given;
 - (b) name of the prescribing practitioner and their telephone number;
 - (c) any adverse reaction, unexpected effects of medication, or medication error, which must also be reported to the resident's practitioner;
 - (d) allergies and sensitivities, if any;
 - (e) resident specific parameters and instructions for PRN medications;
 - (i) documentation of when and why a PRN was administered or self-administered and follow-up documentation as to the effectiveness of the PRN;
 - (f) documentation of treatments with resident specific parameters;
 - (g) documentation of doses missed or refused by resident and why; and
 - (h) initials of the person monitoring and/or assisting with self-administration of medication.

- (5) When using paper medication administration records (MARs), the facility shall maintain legible signatures of staff who monitor and/or assist with the self-administration of medication, either on the MAR or on a separate signature page. Electronic MARs must include the names associated with the initials of those staff documenting administration of medications.
- (6) The facility shall maintain a record of all destroyed or returned medications in the resident's record or closed resident file in the case of resident transfer or discharge.

Authorizing statute(s): 53-20-302, 53-20-305, MCA

Implementing statute(s): 53-20-302, 53-20-305, MCA

General Reasonable Necessity Statement

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.100.302, 37.100.307, 37.100.308, 37.100.312, 37.100.316, 37.100.320, 37.100.321, 37.100.322, 37.100.325, 37.100.331, 37.100.335, and 37.100.340, and adopt NEW RULES 1 through 4.

The 2025 Montana Legislature enacted Senate Bill 516, which updates the licensing requirements for facilities licensed by the Department of Public Health and Human Services. The bill was signed by the Governor on May 5, 2025. The department proposes the amendments noted above and the adoption of NEW RULES 1 through 4. These amendments and the adoption of new rules are necessary to promote and ensure the health, safety, and welfare of residents within Community Homes for Persons with Developmental Disabilities, and to align licensing regulations and processes with those of other facilities licensed by the department's Office of Inspector General.

NEW RULE 1

The department proposes adopting this new rule to ensure that those who work with this very vulnerable population are safe and do not have a documented history of abuse. By requiring Community Homes for Persons with Developmental Disabilities to conduct background checks on all employees and volunteers and providing provisions under which a person may not be hired by the facility, the department reduces the risk that historically violent or unsafe individuals are not hired to work or volunteer at these facilities, which is necessary for the protection of this vulnerable population.

NEW RULE 2

The department proposes adopting this new rule to require facilities to develop, maintain, and update service plans for all residents admitted to the facility. Service plans are a tool used to

clearly identify the services a resident requires, how often these services are needed, who will provide them, and what the anticipated outcome of the service is. This is necessary so that residents at these facilities have documentation of needs that are accessible to all staff for the best continuity of care. The requirement to have all staff sign that they have reviewed each resident's service plan is necessary so there is documented attestation that staff have read and understand how to care for each resident. The requirement to include that a copy must be given to the resident or their legal representative is necessary to ensure that the resident or their legal representative is aware of the services the facility has identified as needed by the resident, as well as what assistance will be provided to ensure those services are met. This allows for continuity of care and collaboration of services and goals.

NEW RULE 3

The department proposes to adopt this new rule to ensure that, if a resident needs to be discharged from a facility, adequate notice is given to the resident and the facility maintains documentation of the discharge. Discharge is to include voluntary, involuntary, transfer, or death. This new requirement is necessary to ensure that residents within a facility are provided with proper notice, information, and options for discharge, thereby reducing the likelihood that a resident is discharged to an inappropriate or unsafe location. The requirement for documenting a discharge is necessary so that a resident's record is a complete and accurate record of their stay at the facility, from admission to discharge. It is also important, in the prevention of exploitation or theft, for a facility to have clear documentation as to what happened to a resident's personal belongings and medications.

NEW RULE 4

The department proposes adopting this new rule to ensure that medications are provided as prescribed, that current practitioner orders are on record for medication administration, and that administration records contain the required information to adequately and effectively document medication administration. This new rule is necessary to ensure that residents receive medications as prescribed by a practitioner and that a medical record is maintained of what has been administered to the resident. This is necessary for promoting the health of residents within the facility, and an adequate administration record can assist EMS and healthcare professionals in the event of a medical emergency.

ARM 37.100.302

The department proposes amending this rule to include a definition of "service plan." This added definition is necessary to clarify what a service plan entails, enabling facilities to comply with the provisions outlined in NEW RULE 2.

ARM 37.100.307

The department proposes amending this rule to remove the language "another state agency has already licensed or otherwise approved the operation of the community home." This is necessary because there is no other state agency that licenses these facilities. These facilities must be licensed, inspected, and approved by the department's Office of Inspector General (OIG). Further amendments to this rule include changing the terminology of "licensing study"

to “licensing inspection,” which is necessary to align with the true operations of the OIG. The amendment changes the standard by which the department “will” deny a license to a facility that fails to meet minimum requirements to the department “may” deny a license, and it updates the language to reflect the current process for completing an application prior to the expiration of the current license. These amendments are necessary to align with the current operations and processes of the OIG in licensing facilities. The rule is amended to identify and align with statute that the maximum number of residents allowed within a licensed facility, but includes a grandfather clause to allow for continued operations for currently licensed facilities. This is necessary to avoid a conflict between the rule and the law, while allowing facilities with more than six residents currently to retain their current capacity without having to discharge residents. Sections (6) and (7) are repealed and (8) is amended and moved to (6) to read that the department may issue a provisional license pursuant to the stipulations set forth in 53-20-205(5), MCA, which is necessary to provide continuity between rule and law.

ARM 37.100.308

The department proposes amendments to this rule to strengthen the requirement that a facility must apply and be licensed prior to operating a community home for persons with developmental disabilities. Additional amendments have been made to update the language and requirements surrounding the application process. This is necessary to align with law, and to streamline the licensing processes for this facility type with other facility types licensed by OIG.

ARM 37.100.312

The department proposes amending this rule to allow the department to deny, revoke, or suspend a license if the actions of the provider or any staff member significantly affect the health, safety, or welfare of residents within the facility. This requirement ensures that providers and staff maintain a safe and healthy living environment, providing safe and effective care to residents to maintain licensure.

ARM 37.100.316

The department’s proposed amendments to this rule clarify the list of rules that must be adhered to for a fair hearing. The proposed change removes the list and instead provides the title, chapter, and subchapter where the fair hearing information can be found, which is necessary to provide a more concise and clear reference.

ARM 37.100.320

The department proposes many amendments to this rule. The first is to capitalize the name of the Department of Justice, which is necessary as it is a professional entity. Another amendment is to provide a reference to the specific rules to which the facility must adhere for compliance with non-public water systems and wastewater systems. It requires that water samples from non-public water systems be collected and tested twice a year instead of quarterly. These requirements are necessary to align with standards that are recommended for residential homes and community settings. The requirement for medication storage and disposal is removed, as this requirement is now addressed in NEW RULE 4, thereby avoiding

duplication. The facility must conduct a fire drill twice a year. This is essential so that staff and residents can practice what to do in the event of a fire and have a better chance of getting everyone out safely. There is an added requirement for a disaster plan and drill, for the same reason as the added requirement for fire drills. The added requirement that all doorknobs be single-motion from the inside is necessary to ensure that only the knowledge of how to open the door is needed to effectively open the door and egress from the facility. There is an amendment to require that these facilities be equipped with smoke detectors, and the detectors are tested on a regular basis. This is necessary as a fire safety standard that is standard in all residential settings. Due to their known risk for tipping over and starting fires, the rule is amended to prohibit the use of portable heaters and other unstable heating mechanisms, enhancing resident safety and decreasing the risk of the initiation of fires. Standard infection control measures are implemented, including having hand-cleansing soap at sinks, providing laundry services, ensuring containers containing laundry are impervious to moisture, and prohibiting laundry from being done in areas where food is stored or prepared. Infection control amendments enhance a facility's ability to promote and maintain the health of its residents.

ARM 37.100.321

The first proposed amendment to this rule by the department limits the number of residents in a room to a maximum of two. This aligns with other residential-type settings. A grandfather clause is added to allow for the continuation of three people in a room if the facility is currently licensed as such and the room meets a certain size requirement. A minimum and maximum temperature within common areas is added as a requirement to this rule to ensure that residents are provided with a comfortable living space, which is necessary in promoting the health and well-being of the residents within a facility. Lastly, the reference to a hard copy of the American National Standards being kept and requested from the Child and Family Services Division has been removed, as the address is outdated, and documents can now be sent and received electronically from the ANSI website, <https://www.ansi.org/>.

ARM 37.100.322

The department's proposed amendments to this rule update staff training and requirements to better align with the requirements set forth by the Developmental Disabilities Program (DDP) through the Behavioral Health and Developmental Disabilities Division. The amendments require staff to be trained on reporting abuse and neglect, as well as incident reporting. Staff must also be first aid and CPR certified, maintain their certifications, receive training in crisis intervention, and undergo HIPAA training. These training requirements ensure that staff are effective in caring for residents within the facility, while also ensuring that documentation and reporting to required agencies are completed. The amendment requires that staff administering medications receive training specific to this responsibility, which enhances resident safety by ensuring that they receive the proper medication at the correct time, in the correct dose, and in the correct manner. The rule is amended to specify that 12 hours of continuing education are required annually – this aligns with the requirements of the DDP, which is necessary so that providers can meet the requirements for both divisions involved in oversight. An amendment is made to add the stipulation that a staff member accused or

suspected of abuse, neglect, or exploitation is not allowed to provide direct care to any resident pending the outcome of the investigation, and the outcome must be unsubstantiated. The developmental disabilities population can be extremely vulnerable – many individuals cannot make their needs known. Many residents within these facilities do not have family who visit often. Due to this, individuals with developmental disabilities often only interact with those who work at the facility and those who work at the day programs. Removing from direct care anyone suspected or accused of abusing, neglecting, or exploiting these vulnerable residents provides safeguards from potential continued abuse, neglect, or exploitation. The last amendment to this rule relocates the requirements of the provider's administrative file from ARM 37.100.340 to this rule, as the administrator of the facility is a staff member, and their requirements should be listed under the staffing rule. It also requires that administrative documentation, such as board members' records, job descriptions, and orientation records, be kept with staff files, which is necessary in ensuring easy and consistent access to the required records.

ARM 37.100.325

The department proposes amendments to this rule to require the provision of a moisture-proof mattress pad on all mattresses and to mandate the presence of two full sets of linens for each licensed bed. These requirements ensure that residents in the facility have access to clean mattresses and linens for sleeping. Additionally, the amendments to the rule require that curtains, blinds, or window shades be made from fire-retardant material or treated with a fire-retardant spray. This requirement ensures that windows remain an area of egress in the event of a fire.

ARM 37.100.331

The department proposes amendments to this rule to require that the facility facilitate an annual optometrist appointment for each resident. This requirement aligns with the current requirement for annual health and dental visits to ensure that resident's overall health is monitored on an annual basis. This rule is also amended to add "or requested" to the current regulation to "provide family planning, counseling, mental health, and other consultation when appropriate." This amended language ensures that it is not at the sole discretion of the facility to determine when these services are needed, but also allows for these services to be requested by the resident or their legal representative.

ARM 37.100.335

The department's proposed amendments to this rule correct a spelling and a grammatical error.

ARM 37.100.340

The department proposes amendments to this rule to remove terminology that is unclear and not measurable. Further amendments are to include the requirement that a record be kept of critical incidents and that these incidents be reported to OIG Licensing within a specified timeframe. This requirement is necessary to ensure that major events involving residents are reported to OIG Licensing, allowing for a prompt response if needed. This ensures that the

facility has taken the necessary steps to maintain the continued health and safety of all residents. A further amendment to this rule removes the provider administrative staff requirements, which were amended and transferred to ARM 37.100.322, to avoid duplication. The last amendments to this rule require the provider to maintain the confidentiality of records, as this is essential for maintaining resident safety.

Small Business Impact

Pursuant to 2-4-111, MCA, the department has determined that there may be a small business impact due to the adoption of NEW RULE 1.

NEW RULE 1 requires a name-based or FBI fingerprint background check for all employees who accept employment at a Community Home for Persons with Developmental Disabilities. Depending on which system a provider uses, a background check may cost \$20.00 plus per employee. The requirement for background checks is necessary to enhance the safety of this vulnerable population to ensure that individuals with abusive or neglectful past criminal histories do not apply for and work in these facilities.

Bill Sponsor Notification

The bill sponsor contact requirements apply and have been fulfilled. The primary bill sponsor of Senate Bill 516 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