MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF ADOPTION

MAR NOTICE NO. 2026-322.2

Summary

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

Previous Notice(s) and Hearing Information

On March 6, 2026, the Department of Public Health and Human Services published MAR Notice No. 2026-322.1 pertaining to the public hearing on the proposed adoption of the above-stated rules in the 2026 Montana Administrative Register, Issue No. 5.

A hearing was held on March 30, 2026.

Final Rulemaking Action – Effective August 22, 2026

ADOPT AS PROPOSED

The agency has adopted the following rules as proposed:

NEW RULE 1 (37.106.3201) PURPOSE

NEW RULE 2 (37.106.3202) DEFINITIONS

NEW RULE 3 (37.106.3203) APPLICATION OF OTHER RULES

NEW RULE 4 (37.106.3204) LICENSING FEES

NEW RULE 5 (37.106.3205) ISSUANCE AND RENEWAL OF A LICENSE

NEW RULE 6 (37.106.3206) LICENSE DENIAL, SUSPENSION, RESTRICTION, AND REVOCATION

NEW RULE 7 (37.106.3207) WRITTEN POLICY AND PROCEDURES

NEW RULE 8 (37.106.3208) ADMISSIONS

NEW RULE 9 (37.106.3209) WRITTEN AGREEMENT

NEW RULE 10 (37.106.3210) DISCHARGE

NEW RULE 11 (37.106.3211) CASE PLAN

NEW RULE 12 (37.106.3212) RIGHTS AND GRIEVANCES

NEW RULE 13 (37.106.3213) BACKGROUND CHECKS

NEW RULE 14 (37.106.3214) CHILD ABUSE OR NEGLECT AND SERIOUS INCIDENTS

NEW RULE 15 (37.106.3215) PHYSICAL ENVIRONMENT

NEW RULE 16 (37.106.3216) WATER SUPPLY

NEW RULE 17 (37.106.3217) SEWAGE SYSTEM AND SOLID WASTE

NEW RULE 18 (37.106.3218) FIRE SAFETY

NEW RULE 19 (37.106.3219) EMERGENCY AND EVACUATION PLANS

NEW RULE 20 (37.106.3220) SAFETY

NEW RULE 21 (37.106.3221) CASE RECORDS

NEW RULE 22 (37.106.3222) CONFIDENTIALITY OF RECORDS AND INFORMATION

NEW RULE 23 (37.106.3223) REPORTS

NEW RULE 25 (37.106.3225) PERSONNEL RECORDS

NEW RULE 26 (37.106.3226) QUALITY ASSESSMENT

NEW RULE 27 (37.106.3227) ADMINISTRATOR

NEW RULE 28 (37.106.3228) STAFFING

NEW RULE 29 (37.106.3229) STAFF TRAINING

NEW RULE 30 (37.106.3230) PHYSICAL CARE

NEW RULE 31 (37.106.3231) MEDICATION STORAGE AND ADMINISTRATION

NEW RULE 32 (37.106.3232) CARE AND GUIDANCE

NEW RULE 33 (37.106.3233) NUTRITION

NEW RULE 34 (37.106.3234) FOOD PREPARATION AND HANDLING

NEW RULE 35 (37.106.3235) PERSONAL NEEDS

NEW RULE 36 (37.106.3236) BEHAVIOR MANAGEMENT POLICIES

NEW RULE 37 (37.106.3237) TIME-OUT

NEW RULE 38 (37.106.3238) USE OF CRISIS INTERVENTION AND PHYSICAL RESTRAINT STRATEGIES

NEW RULE 39 (37.106.3239) SEARCHES

NEW RULE 40 (37.106.3240) CONTRABAND AND WEAPONS

NEW RULE 41 (37.106.3241) MONEY AND ADOLESCENT TRAINING AND EMPLOYMENT

NEW RULE 42 (37.106.3242) RECREATION

NEW RULE 43 (37.106.3243) INFECTION CONTROL

NEW RULE 44 (37.106.3244) RELIGIOUS AND CULTURAL BELIEFS

NEW RULE 45 (37.106.3245) TRANSPORTATION

ADOPT WITH CHANGES

The agency has adopted the following rule with changes from the original proposal, stricken matter interlined, new matter underlined:

NEW RULE 24 (37.106.3224)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~~ 19 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

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: A written comment was received suggesting a Joint Commission, CARF, or COA accreditation be a requirement.

Response #1: The department thanks the commenter for this comment. The department does not agree with this addition as it would be cumbersome and costly to some programs. Additionally, residential treatment centers are a newly added type of health care facility, and through 50-5-103, MCA, health care facilities may seek accreditation from an accreditation

agency approved by the U.S. Centers for Medicare and Medicaid Services and have that survey recognized and accepted by the licensure bureau in lieu of a renewal survey by the department. This accreditation is optional as it is not required for other health care facilities or for Private Alternative Adolescent Residential or Outdoor Programs (PAARPs).

Comment #2: A written comment was received suggesting that the department add a requirement for a medical director, as many insurance companies require one to oversee billing.

Response #2: The department thanks the commenter for this response. The department cannot confirm whether this requirement applies to insurance companies. However, adding this requirement for licensing purposes would put an unnecessary burden on facilities; therefore, the department declines to make this amendment. However, the department acknowledges that facilities can go above and beyond the licensing requirements and acquire and retain a medical director to meet an insurance requirement, should one exist.

Comment #3: A written comment was received requesting that the licensing fee be lowered and recommending a licensing fee for a PRTF of $25.00.

Response #3: The department thanks the commenter for this comment. Licensing fees for health care facilities are set forth in 50-5-202, MCA, which establishes a flat fee for facilities with 20 beds or fewer and an increase for those with more than 20 beds. During the 2025 Legislative Session hearings on Senate Bill 191 (SB 191), for the licensing of residential treatment centers (RTCs), there were some concerns that Private Alternative Adolescent Residential or Outdoor Programs (PAARPs) may seek to change their designation to RTCs and therefore be dismissed from the requirements and oversight of PAARPs. These concerns lead to statutory amendments requiring that the rules for RTCs align with the PAARP regulations. The department has concerns that not aligning RTC licensing fees with the PAARP licensing fees and instead aligning them with the health care facility licensing fees, which are significantly less, could be viewed as an incentive for programs to get licensed as an RTC and close their PAARP license. Therefore, the department declines to change the license fee.

Comment #4: A written comment was received requesting that the department not grant variances to the fire suppression systems requirement.

Response #4: The department thanks the commenter for this comment. Variances or waivers to regulations are determined by the Office of Inspector General, the Licensure Bureau construction consultant, and the bureau chief on a case-by-case basis. The department believes this rule provides the opportunity for regulatory flexibility while balancing health and safety.

Comment #5: A written comment was received indicating that the department's requirement that RTCs serve youth over the age of 10 be amended to allow for services to any youth under 19 years of age. The same commenter again makes this suggestion specific to NEW RULE 2 on

definitions and requests that there be no limitation on serving youth under 10. An additional written comment was received requesting that the age range be changed from 10 to 19 to 5 to 19.

Response #5: The department thanks the commenters for this suggestion. Senate Bill 191 requires the rules for RTCs to align with the PAARP regulations. The services provided by PAARPs are specific to 10 to 19-year-olds. Therefore, the department declines to make this suggested change.

Comment #6: A written comment was received regarding NEW RULE 12, specific to the requirement that written parental consent be required before a licensure candidate may provide mental health professional services to an RTC resident. The commenter indicates this is prohibitive to the facility's operations, stating that Montana already has professional licensing standards that dictate how a licensed candidate can perform, including oversight by a licensed clinician. The commenter states that requiring parental consent may unduly burden facilities financially and operationally, given the costs of delivering care and/or recruiting licensed staff for all open positions. The commenter suggests that the language be modified to include parental notification of the use of licensure candidates (if applicable), with an explanation of how candidates are supervised in the facility, rather than requiring parental consent. The commenter also suggests that a facility's grievance processes should include parental concerns and complaints.

Response #6: The department thanks the commenter for this comment, and declines to make the suggested amendment. Just as an individual adult has the right to choose a professional by whom they are seen and treated, so does a parent or legal guardian of a youth. There is nothing preventing a facility from recommending a licensure candidate or professional, but ultimately, the parent or legal guardian of a youth or adolescent should consent to who treats and sees the youth or adolescent.

Comment #7: Two comments were received specific to NEW RULE 24, requesting that the age requirement for staff be lowered from 20 to 19. The commenters suggest that this aligns with therapeutic youth group home rules and promotes consistency across organizations that operate multiple license types.

Response #7: The department appreciates this suggestion. The department's minimum age of 20 years is intended to ensure that individuals working with these youth and adolescents are older than the youth and adolescents they are caring for and enforcing authority over. The department understands that there are minimal conflicts with 19-year-olds serving in therapeutic youth group homes, and with this understanding, the department agrees with this change to set the minimum staff age at 19. The department notes that it is likely that licensed PAARPs will request a waiver of the rule requiring staff to be 20 years of age.

Comment #8: A written comment was received specific to NEW RULE 28(6), indicating that the commenter appreciates the facility's discretion to determine residents' nursing care needs, allowing scheduling to meet program and client needs.

Response #8: The department appreciates the support.

Comment #9: A written comment was received specific to NEW RULE 38(4), suggesting that the physical restraint language mirror language in youth care facility rules, ARM 37.97.172, allowing for uniform compliance and applicability in organizations that maintain multiple license types.

Response #9: The department thanks the commenter for this suggestion. The department declines to make this change as the intent of this facility type is to mirror the requirements of PAARP facilities.

Comment #10: A written comment was received specific to NEW RULE 22(2), suggesting the department change the proposed rule language stating, “all records pertaining to a resident are available upon request” to “all records pertaining to a resident will be provided upon request within 10 business days.”

Response #10: The department thanks the commenter for this comment. The department declines to make this change. When the Office of Inspector General (OIG) Licensure Bureau staff conduct unannounced inspections, the intent is to capture a snapshot of whether the licensing requirements are being met. Allowing facilities 10 days to provide resident information for OIG review does not facilitate capturing a true snapshot of the facility’s compliance at the time of inspection. This time lapse would also allow the requested documentation to be reviewed and potentially altered by facility staff before being received by the OIG.

Comment #11: A written comment was received specific to NEW RULE 21, requesting that documented attempts be sufficient to satisfy the requirement that case records must include education records and reports as there are frequent difficulties obtaining these from non-compliant school districts.

Response #11: The department thanks the commenter for this comment. The department does not feel it is necessary to include this allowance in this rule as OIG staff already considers documented attempts by a facility to obtain the required documentation.

Comment #12: A written comment was received specific to NEW RULE 26. The commenter seeks clarification from the department on whether surveys maintained electronically are allowable.

Response #12: The department thanks the commenter for this question. The rule states that surveys must be maintained at the facility, but it does not dictate how they are maintained. Regardless of how surveys are conducted and filed, accessibility and confidentiality must be

maintained, and the OIG staff must have access to review them to ensure compliance with the rule.

Comment #13: A written comment was received specific to NEW RULE 32, asking if a referral to a targeted case management provider would satisfy NEW RULE 32(3) and (4).

Response #13: The department thanks the commenter for this question. A referral to targeted case management would meet the intent of NEW RULE 32(3) and (4), as long as there was agreement to services/provider. Additionally, the department notes that a resident of a residential treatment center may need referrals beyond targeted case management to achieve full compliance with (4). It is anticipated that referrals be made based on the individual resident's needs, which may involve more than one entity/service.

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Approval

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