

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

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 37.95.102, 37.95.140,)	PROPOSED AMENDMENT
37.95.160, 37.95.184, 37.95.622,)	
37.95.703, 37.95.704, and)	
37.95.1130 pertaining to)	
immunization requirements and)	
exemptions for children and staff at)	
child care facilities)	

TO: All Concerned Persons

1. On August 25, 2022, at 11:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/89227115511?pwd=VXZ5aE9MbjBGc2lqQ3dBcTlrd1Y2QT09>, Meeting ID: 892 2711 5511, and Password: 361381; or

(b) Dial by Telephone: +1 646 558 8656, Meeting ID: 892 2711 5511, and Password: 361381.

Find your local number: <https://mt-gov.zoom.us/j/kcA1RxKVcx>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on August 11, 2022, to advise us of the nature of the accommodation that you need. Please contact Kassie Thompson, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.95.102 DEFINITIONS (1) "ACIP" means the Advisory Committee on Immunization Practices, ~~of the U.S. Public Health Service~~ which provides advice to the U.S. Centers for Disease Control and Prevention on routine administration of vaccines to pediatric and adult populations.

(2) remains the same.

(3) "Child care center" is the same as "Day-care center," as defined in 52-2-703, MCA.

(4) "Child care facility" is the same as "Day-care facility," as defined in 52-2-703, MCA.

(5) "Conditional attendance" means that children are allowed to attend child care on a conditional basis until they meet the requirements of an established vaccination schedule.

(6) "Conditional Attendance Form (HES 103)" means the form used by parents or guardians and a physician, physician's designee, or school or public health official to allow children to attend child care on a conditional basis until the children meet the requirements of an established vaccination schedule.

(7) "CLIA" means the federal Clinical Laboratory Improvement Amendments of 1988.

(5) through (9) remain the same, but are renumbered (8) through (12).

~~(10)~~(13) "DT vaccine" means a vaccine containing a combination of diphtheria and tetanus toxoids ~~for pediatric use.~~

(11) through (13) remain the same, but are renumbered (14) through (16).

~~(14)~~(17) "Early childhood teacher (ECT)" or "teacher" means a facility staff member who is responsible for the direct care, teaching, and supervision of children in a day care or child care facility. This term includes directors, substitutes, ECATs, and ECLTs.

(15) remains the same, but is renumbered (18).

~~(16)~~(19) "Family child care facility" is the same as a "Family day care home," as defined in 52-2-703, MCA. The department may refer to a family day-care home as a family child care home. ~~In addition to the previous definitional language found at 52-2-703, MCA, the~~ The term also means a day care facility providing care to no more than three children under two years of age unless care is provided exclusively for children under age two. For facilities providing care exclusively to children under age two, a family child care home means a place in which supplemental parental care is provided for up to four children under the age of two. No other children shall be in attendance.

(17) remains the same, but is renumbered (20).

~~(18)~~(21) "Group child care facility" is the same as "Group ~~day-care~~ day care home," as defined in 52-2-703, MCA.

(19) and (20) remain the same, but are renumbered (22) and (23).

~~(21)~~(24) "Health care provider" means a licensed physician, a physician assistant-certified, a nurse practitioner, a registered nurse, or a naturopathic physician practicing within the scope of ~~the license~~ licensing.

(22) through (26) remain the same, but are renumbered (25) through (29).

(30) "Medical exemption" means a vaccination exemption from a health care provider indicating that the physical condition of the child is such that one or more vaccinations would endanger life, health, or is medically contraindicated.

(31) "Medical Exemption Statement Form (HES 101A)" means the form provided by the department to establish medical exemption from vaccinations.

(27) remains the same, but is renumbered (32).

(33) "Montana Certificate of Immunization Form (HES 101)" means the form provided by the department to consolidate immunization history.

(28) and (29) remain the same, but are renumbered (34) and (35).

(36) "MR vaccine" means a vaccine containing a combination of measles and rubella vaccines.

(30) remains the same, but is renumbered (37).

~~(31)~~(38) "Nonprescription medication" means any over the counter medication that is not specifically prescribed by a physician health care provider, but is recommended by a health care provider or a parent, or guardian for a specific child.

(39) "Official immunization record" means a standard electronic or paper record maintained by the department, another state's principal health agency, or a health care provider to record the immunization status of a child, and includes the following:

(a) child's legal name;

(b) birthdate;

(c) sex; and

(d) vaccination date (month, day, and year) by vaccine type, or in the case of a postsecondary record, the month and year of vaccine administration.

(32) through (34) remain the same, but are renumbered (40) through (42).

(43) "Polio vaccine" means a trivalent polio vaccine.

(35) through (38) remain the same, but are renumbered (44) through (47).

~~(39)~~(48) "Probationary license" means a day care facility license or registration certificate whose status has been reduced for a specified period of time for a licensing violation and which will be reinstated to regular status upon successful completion of and compliance with remedial measures identified by the department to address specific deficiencies.

~~(40)~~(49) "Provider" means the applicant for license or registration, or the licensee or registrant.

~~(41)~~ (50) "Provisional certificate" means a registration or license status that is given to a day care provider, if the provider does not meet all the registration or license requirements but is attempting to comply. This status can be granted for a period of up to three months. A second three month certificate may be issued at the discretion of the day care licensing program manager.

(42) and (43) remain the same, but are renumbered (51) and (52).

~~(44)~~(53) "Regular certificate" means a license status that is given upon determination that the day care provider is meeting all requirements set forth for family day care homes, or group day care homes, or day care centers.

(45) remains the same, but is renumbered (54).

(55) "Religious exemption" means a vaccination exemption based on an affidavit of exemption on religious grounds attesting that receipt of a vaccine or vaccines is contrary to an individual's religious belief, observance, or practice.

(56) "Religious exemption form" means a notarized affidavit of exemption on religious grounds from vaccine administration.

~~(46)~~(57) "Remote means of egress" means escape routes in the day care which consist of two exits whose distance apart is equal to or greater than one-half the diagonal distance of the space occupied to minimize the possibility that both exits will be blocked off by a fire or other emergency condition.

(47) through (55) remain the same, but are renumbered (58) through (66).

(67) "Td vaccine" means a vaccine containing tetanus and diphtheria toxoids.

(68) "Tdap vaccine" means a vaccine containing tetanus and diphtheria toxoids, and acellular pertussis.

(56) and (57) remain the same, but are renumbered (69) and (70).

~~(58)~~(71) "Vaccine" means one of the following:

(a) if administered in the United States, an immunizing agent recommended by ACIP and approved licensed by the Bureau of Biologics, U.S. Food and Drug Administration, United States Public Health Services; or

(b) remains the same.

~~(59)~~(72) "Varicella vaccine" means an attenuated, live virus vaccine to prevent chicken pox disease.

(60) remains the same, but is renumbered (73).

AUTH: 52-2-704, 53-4-212, MCA

IMP: 52-2-702, 52-2-703, 52-2-704, 52-2-713, 52-2-723, 52-2-725, 52-2-731, 52-2-735, 52-2-736, 53-2-201, 53-4-211, 53-4-212, 53-4-611, MCA

37.95.140 IMMUNIZATION (1) Children attending Montana child care programs are required to be vaccinated against certain diseases. The minimum number and spacing of doses are set forth in the Advisory Committee on Immunization Practices (ACIP) Child and Adolescent Immunization Schedules. Minimum child immunization requirements apply to children in all child care programs with exceptions described in (8). Before a child may attend a any Montana day child care program facility, that facility the program must be provided with the documentation required by (5) that the child has been immunized as required for the child's age group against measles, rubella, mumps, poliomyelitis, diphtheria, pertussis (whooping cough), tetanus, varicella, hepatitis B, pneumococcal, and Haemophilus influenza type B, unless the child qualifies for conditional attendance in accordance with ~~(7)~~(8) or has a medical or religious exemption:

<u>Age at Entry</u>	<u>Number of Doses-Vaccine Type</u>
under 2 months old	no vaccinations required
by 3 months of age	1 dose of polio vaccine 1 dose of DTP vaccine 1 dose of Hib vaccine 1 dose of Hep B vaccine 1 dose of PCV vaccine
by 5 months of age	2 doses of polio vaccine 2 doses of DTP vaccine 2 doses of Hib vaccine 2 doses of Hep B vaccine 2 doses of PCV vaccine
by 7 months of age	2 doses of polio vaccine

	3 doses of DTP vaccine *2 or 3 doses of Hib vaccine 2 doses of Hep B vaccine 3 doses of PCV vaccine
by 16 months of age	2 doses of polio vaccine 3 doses of DTP vaccine 1 dose of varicella vaccine 1 dose of MMR vaccine *3 or 4 doses of Hib vaccine 2 doses of Hep B vaccine *4 doses of PCV vaccine
by 19 months of age	1 dose of varicella vaccine 3 doses of polio vaccine 4 doses of DTP vaccine 1 dose of MMR vaccine *3 or 4 doses of Hib vaccine 3 doses of Hep B vaccine *4 doses of PCV vaccine
By 6 years of age	3 doses of polio vaccine, one given after the 4th birthday 4 doses of DTP vaccine, one given after the 4th birthday 2 doses of varicella vaccine 2 doses of MMR vaccine 3 doses of Hep B vaccine
By 12 years of age	3 doses of polio vaccine, one given after the 4th birthday 1 dose of Tdap vaccine 2 doses of varicella vaccine 2 doses of MMR vaccine 3 doses of Hep B vaccine

(*) varies depending on vaccine type used or the ACIP catch-up schedule.

(2) and (3) remain the same.

(4) Vaccines immunizing against diphtheria, pertussis, and tetanus must be administered as follows:

(a) remains the same.

(b) DT vaccine administered to a child less than seven years of age is acceptable for purposes of this rule only if accompanied by a medical or religious exemption meeting the requirements of ARM 37.114.715 that exempt the child from pertussis vaccination; and

(c) remains the same.

~~(5) Immunization history must be recorded on the Montana certificate of immunization form (HES-101) provided by the department or on a physician or clinic provided immunization record, which must include:~~

- ~~(a) the name of the physician or clinic;~~
- ~~(b) the name and birth date of the child; and~~
- ~~(c) the date and type of immunization.~~

(5) The following are considered adequate documentation of vaccination for the purposes of this subchapter:

(a) a record from any local health department in the United States, signed by a local health officer or nurse;

(b) a certificate signed by a local health officer or nurse;

(c) any official immunization record, if information has been recorded and signed by a physician, physician's designee, local health officer, or that officer's designee; or an official report from the statewide immunization information system, or a health care provider's medical record system;

(d) immunization recorded on a form approved by the U.S. government;

(e) any state's official parent-maintained immunization record;

(f) the international certificates of vaccination approved by the World Health Organization; or

(g) in the case of a vaccine administered outside of the United States, a record of the vaccination signed by an official of the principal public health agency of the country where the vaccination occurred.

(6) Vaccine administration data may not be filled out by a parent, guardian, or other person unless they are a health care provider, health department official, or person otherwise authorized to do so by this subchapter.

~~(6)~~(7) In order to continue to attend a day child care program facility, a child must continue to be immunized on the schedule described in (1) and must be immediately excluded from attendance in the day care facility if the child is not vaccinated on that schedule with all of the required vaccines, or does not have on file at the day child care program facility a record of medical exemption, religious exemption, or a conditional enrollment form which indicates that no vaccine dose is past due, or meet the exemption for a child experiencing homelessness or a child in the foster care system.

~~(7)~~(8) A child may initially conditionally attend a day child care program facility if:

(a) remains the same.

(b) a form documentation prescribed by the department documenting of the child's conditional immunization status is on file at the day child care program facility and is attached to the department's Montana certificate of immunization (HES-101); and

(c) remains the same.

~~(8) If a child in attendance at the day care facility, a resident of the day care facility, or a staff member, or volunteer contracts any of the diseases for which this rule requires immunization, all individuals infected and all persons attending the day care facility who are not completely immunized against the disease in question or who are exempted from immunization must be excluded from the day care facility~~

until the local health authority indicates to the day care facility that the outbreak is over.

(9) The following are considered completed immunization documentation in lieu of receiving required vaccines:

(a) the conditional enrollment form prescribed by the department;

(b) a medical exemption;

(c) a religious exemption; or

(d) documentation of immunity from varicella, measles, mumps, or rubella by laboratory evidence or diagnosis/verification of disease by a physician, nurse practitioner, or physician's assistant. The tests must indicate serological evidence of immunity and must be performed by a CLIA-certified laboratory. A copy of the test results must be attached to the child's official immunization record.

~~(9)~~(10) All child care programs must have completed immunization documentation, in accordance with (9), on file before a child can be enrolled or entered into a child care program. The day child care program facility must maintain a written record of immunization status of each staff member, for each enrolled child, and each any child of a staff member who resides at the day child care program facility as limited to child immunizations under this rule's vaccine schedule. The facility must make those records available during normal working hours to representatives of the department or the local health authority.

~~(10) A child under five years of age seeking to attend a day care facility is not required to be immunized against Haemophilus influenzae type B if the parent or guardian of the child objects thereto in a signed, written statement indicating that the proposed immunization interferes with the free exercise of the religious beliefs of the person signing the statement. A claim of exemption on religious grounds must be notarized and maintained on an Affidavit of Exemption on Religious Grounds form (HES-113) provided by the department.~~

(11) A child is exempt from receiving the required vaccinations when the requirements of any of the following are met:

(a) Medical exemption: A child is not required to have any immunizations vaccinations which are medically contraindicated. A written and signed statement from a physician health care provider that an immunization a vaccination otherwise required by (1) of this rule is medically contraindicated will exempt a child from those immunization vaccination requirements as deemed necessary by the physician health care provider. It is preferred, but not mandatory, that a physician's health care provider's medical exemption be recorded on HES-101A. Medical exemption documentation must include:

(a)(i) which specific immunization vaccination is contraindicated;

(b)(ii) the period of time during which the immunization vaccination is contraindicated;

(c) remains the same, but is renumbered (iii).

(d)(iv) when deemed necessary by a physician health care provider, the results of immunity testing. The tests must indicate serological evidence of immunity and must be performed by a CLIA approved lab.

(b) Religious exemption: A child seeking to attend a child care program is not required to be vaccinated if the child's parent or guardian attests that vaccination is contrary to their religious belief, observance, or practice. An exemption on

religious grounds must be notarized and maintained on an Affidavit of Exemption on Religious Grounds Form (HES-113) prescribed by the department.

(i) Prior to a child's kindergarten entry, and at each interval in the ACIP birth-18 years immunization schedule at which vaccinations are due, an Affidavit of Exemption on Religious Grounds Form (HES-113) must be submitted if the child seeks exemption from any vaccine(s) due at such intervals. The documentation is required only for the required vaccines listed in (1).

~~(12)(c)~~ (c) A child experiencing homelessness or a child in foster care is exempt from required ~~immunizations~~ vaccinations outlined in (1) for a 30-day grace period beginning the first day the child attends a child care facility program as verified on the sign-in/sign-out records.

~~(a)(i)~~ (i) The child experiencing homelessness must meet the definition in ~~Section 725 of Subtitle VII-B of the McKinney-Vento Act (42 U.S.C. 11434a) (98.2)~~ 42 U.S.C. 11434a(2).

(b) remains the same, but is renumbered (ii).

~~(e)(iii)~~ (iii) A child must meet the ~~immunization~~ vaccination requirement for conditional enrollment ~~outlined in (7)~~ before the end of the 30-day period.

(d) remains the same, but is renumbered (iv).

(12) Children in a sibling group receiving FFN care in their home are not subject to the immunization requirements.

(13) Children receiving care through relative care exempt providers are not subject to vaccination requirements.

(14) Family child care programs, group child care programs, and FFN caregivers may choose whether to enroll children who are not vaccinated according to the minimum immunization schedule included in (1) because of a medical or religious exemption. These providers must have written policies and procedures to notify parents and legal guardians of prospective and enrolled children of this choice.

AUTH: 52-2-704, 52-2-735, MCA

IMP: 52-2-704, 52-2-735, MCA

37.95.160 CHILD CARE FACILITIES: STAFF RECORDS (1) The director must maintain records regarding each staff member, according to their role type, which include:

(a) and (b) remain the same.

(c) health statement and contact information; and

~~(d) immunization records that establish compliance with ARM 37.95.184; and~~

~~(e)(d)~~ (d) acknowledgement acknowledgment of and agreement to follow the child care facility's policy on identifying and preventing shaken baby syndrome and abusive head trauma.

AUTH: 52-2-704, MCA

IMP: 52-2-704, 52-2-723, 52-2-732, MCA

37.95.184 CHILD CARE FACILITIES: HEALTH HABITS (1) remains the same.

(2) Every employee, volunteer, or resident at a day care facility must:

(a) be excluded from the day care facility if the person has a communicable disease, a sore throat or cold that is accompanied by a fever of 101°F or greater, or if the person exhibits any of the symptoms outlined in ARM 37.95.139(4)(3) for which a child would be excluded;

(b) through (b)(vi) remain the same.

(vii) after engaging in other activities that contaminate the hands; and

~~(c) provide documentation of at least one dose of Tdap vaccine, and for all adults born in 1957 or after, one dose of MMR vaccine unless they have a medical contraindication to the vaccines or laboratory evidence of immunity to each of the three diseases.~~

(3) remains the same.

AUTH: 52-2-704, MCA

IMP: 52-2-704, 52-2-723, 52-2-731, MCA

37.95.622 CHILD CARE CENTERS: STAFFING QUALIFICATIONS (1) All staff members must:

~~(a) meet immunization requirements pursuant to ARM 37.95.184;~~

(b) and (c) remain the same, but are renumbered (a) and (b).

(2) An early childhood lead teacher must meet the following requirements:

(a) and (b) remain the same.

(c) be current on the Montana ECP Practitioner Registry;

(d) through (f)(i) remain the same.

(ii) level 2 or higher on the Montana ECP Practitioner Registry.

(3) through (5) remain the same.

(6) Only directors, early childhood lead teachers, assistant teachers, trainees, and substitute teachers may provide direct care.

AUTH: 52-2-704, MCA

IMP: 52-2-704, 52-2-723, 52-2-731, MCA

37.95.703 GROUP AND FAMILY CHILD CARE FACILITIES: DIRECTOR RESPONSIBILITIES AND QUALIFICATIONS (1) remains the same.

(2) The director must meet the following requirements:

(a) remains the same.

~~(b) be immunized pursuant to ARM 37.95.160;~~

(c) through (h) remain the same, but are renumbered (b) through (g).

(3) In the absence of the director, a staff member must be designated to oversee the operation of the facility. The director or designee must be in charge and physically available while children are present, and must ensure there are sufficient, qualified, and approved staff so that the care, wellbeing, health, and safety needs of children are met at all times.

(4) and (5) remain the same.

(6) The director or designee must review every incident or accident causing injury to a child resulting in medical or dental care, and document the appropriate corrective action taken to avoid a reoccurrence.

AUTH: 52-2-704, MCA

IMP: 52-2-704, 52-2-723, 52-2-731, MCA

37.95.704 GROUP AND FAMILY CHILD CARE: STAFFING QUALIFICATIONS AND RESPONSIBILITIES (1) All staff members and adult household members must:

- (a) ~~meet immunization requirements pursuant to ARM 37.95.160;~~
- (b) and (c) remain the same, but are renumbered (a) and (b).
- (2) Directors and early childhood teachers must:
 - (a) and (b) remain the same.
 - (c) be current on the Montana ECP Practitioner Registry;
 - (d) through (5) remain the same.

AUTH: 52-2-704, MCA

IMP: 52-2-704, 52-2-723, 52-2-731, MCA

37.95.1130 EMERGENCY CARDS AND HEALTH HISTORY FORMS

- (1) remains the same.
- ~~(2) If the center allows enrollment of children without medical verification of immunization status, then the center must post notification of such in a place that is easily visible to parents and legal guardians.~~
- ~~(3) If the center does not allow enrollment of children without medical verification of immunization status, and the parent or legal guardian does not have verification of the child's immunization status, then the parent or legal guardian shall indicate in writing that to the best of the parent's or legal guardian's knowledge and belief, the child is up to date with the schedule of immunizations for the child's age. This acknowledgement may suffice as verification of immunization status.~~
- (4) remains the same, but is renumbered (2).

AUTH: 52-2-704, MCA

IMP: 52-2-702, 52-2-723, 52-2-731, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) has taken a proactive approach to reviewing child care licensing rules; over the course of four months, 780 child care stakeholders were contacted. Based on the input provided by these stakeholders, the department intends to simplify licensing regulations and reduce the burden imposed by these regulations. This rulemaking is the first installment of a comprehensive rule revision.

The department proposes to amend ARM 37.95.102, 37.95.140, and 37.95.1130 to comply with House Bill (HB) 702 and Senate Bill (SB) 215 from the 2021 Montana Legislative session, to align with school immunization policy, and to add a religious exemption for a child in a child care program.

HB 702 excludes, from the bar on discrimination based on vaccination status, vaccination requirements set forth for day care facilities pursuant to Title 52, chapter 2, part 7, MCA (Montana Child Care Act). No rule changes are required as a result of HB 702 as they relate to required vaccinations for children and staff. SB 215, the Montana Religious Freedom Restoration Act (Montana RFRA), prohibits state action that substantially burdens a person's exercise of religion, unless the action is essential to further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest. Many religiously observant families object to certain childhood vaccines on religious grounds. To comply with SB 215, the department proposes adding a religious exemption for children attending child care.

The department proposes to amend ARM 37.95.160, 37.95.184, 37.95.622, 37.95.703, and 37.95.704 to remove staff vaccination requirements and align with vaccination requirements for staff in public school settings. Minor grammatical changes are made throughout for clarity.

ARM 37.95.102

The department proposes to add missing vaccination definitions and align the terms used in Child Care Licensing with those used in ARM Title 37, chapter 114, subchapter 7: Immunization of School Children. By aligning with the terms and exemptions used in schools, it provides consistency for parents and guardians as children transition from child care facilities to school. Parents and guardians will also have exemption options that are consistent between child care facilities and school. These proposed changes will make the rule easier to understand.

ARM 37.95.140

The department proposes to update language to clarify minimum vaccination requirements and exceptions for family, friend, and neighbor (FFN) providers and relative care exempt (RCE) providers. The department proposes to revise language to align with ARM Title 37, chapter 114, subchapter 7: Immunization of School Children and the proposed changes to ARM 37.95.102.

The department proposes to update its regulatory provisions on vaccine exemptions. The department proposes to add a religious exemption for all vaccines. These changes will bring the rule into compliance with SB 215. It also proposes to clarify the requirements and applicability of medical exemptions. The department prefers using the medical exemption form, HES-101A.

The department proposes to align document requirements with ARM 37.114.703: Requirements for Adequate Documentation of Immunization Status, which applies to immunization of school children. The department believes these changes are necessary to simplify documentation requirements for parents and guardians because the same document could be used when a child who is in child care transitions into a school setting.

The department proposes to clarify that vaccine records for children at a child care program are limited to child immunizations under the vaccine schedule listed in ARM 37.95.140(1). There are no additional vaccine requirements for a child care program outside of the vaccines listed in (1). This provides clarity as to the minimum requirements for children attending child care and allows for parental choice in any additional vaccines.

The department proposes adding language that a home-based child care provider must have policies and procedures to inform parents and guardians if the child care provider accepts children with medical or religious exemptions from required vaccines. Home-based child care providers include FFN, family home, and group home child care facilities. A parent or guardian determines the child care setting that best suits the needs of their child(ren). If the parent or guardian is informed of the child care provider's policy, they can make the best decision for their child(ren). Child care centers were not included to ensure there are child care settings supporting parents' and guardians' needs and choices regarding vaccinations.

ARM 37.95.160, 37.95.622, 37.95.703, and 37.95.704

The department proposes to remove staff vaccination and associated record requirements. The department believes this will support streamlined staff hiring and align with vaccination requirements for staff in public school settings.

ARM 37.95.184

The department proposes to remove staff vaccination and associated record requirements. The department believes this will support streamlined staff hiring and align with vaccination requirements for staff in public school settings. The department also proposes updating the cross reference to ARM 37.95.139 for clarity.

ARM 37.95.1130

The department proposes to remove vaccination requirements to align with proposed changes in ARM 37.95.140. A parent or guardian of a child enrolled at a licensed child care center can submit the appropriate form to indicate that child is entitled to a medical or religious exemption to a vaccine. The department intends to allow the same option to a child attending a drop-in child care center.

Fiscal Impact

The department does not anticipate any fiscal impact associated with these proposed rule amendments.

5. The department intends to adopt the amendments effective upon the day after the date of publication of the adoption notice.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kassie Thompson, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-

9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., September 2, 2022.

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

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, does not apply.

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

/s/ HEIDI SANDERS

Heidi Sanders
Rule Reviewer

/s/ CHARLES T. BRERETON

Charles T. Brereton, Director
Department of Public Health and Human
Services

Certified to the Secretary of State July 26, 2022.