

BEFORE THE BOARD OF PRIVATE ALTERNATIVE ADOLESCENT
RESIDENTIAL OR OUTDOOR PROGRAMS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.181.401, registration fee)
schedule, 24.181.402, licensing fee)
schedule, and 24.181.2101 renewals,)
pertaining to private alternative)
adolescent residential and outdoor)
programs)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On April 16, 2009, at 10:00 a.m., a public hearing will be held in room B-07, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Private Alternative Adolescent Residential or Outdoor Programs (board) no later than 5:00 p.m., on April 10, 2009, to advise us of the nature of the accommodation that you need. Please contact Cyndi Breen, Board of Private Alternative Adolescent Residential or Outdoor Programs, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2392; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdpap@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The Board of Private Alternative Adolescent Residential or Outdoor Programs (board) has determined it is reasonably necessary to amend fees to comply with 37-1-134, MCA, and keep the board's fees commensurate with costs. The Department of Labor and Industry (department), in providing administrative services to the board, has determined that unless the licensure fees are increased as proposed, the board will have a shortage of operating funds by the 2009 renewal period.

The 2005 Montana Legislature created the board to register programs and gather data regarding the feasibility of program licensure. In FY 2005, 24 programs registered with the department and fees were collected to support the work of the board. The 2007 Legislature mandated full licensure of the programs. The ending cash balance in FY 2007 was \$4,865.

In FY 2008 the board set fees for registration, provisional licensing, and licensure renewal based on average daily census. Expenses for the board in FY 2008 totaled \$47,331, with revenue of \$23,626, which resulted in an ending cash balance of negative \$18,840. This required the board to obtain a loan to maintain operations until accruing additional revenue.

At the end of February 2009, total revenue received was \$56,240, total expenses were \$30,520, and the present cash balance was \$6,880.

Although the department and board anticipated that the number of licensed programs would increase during the 2008-2009 biennium, the number has decreased. Several programs have ceased operation over the past few months, including the largest and only program having 101 or more participants. The closures and resultant loss of revenue will critically impact the board and its ability to function. The board determined it is necessary to redistribute and increase fees as proposed to meet expenses and counter the anticipated decrease in annual revenue as a result of the program closures. The board is also adding a category to the fee structure to reallocate fees across five groups instead of four. The board estimates that approximately 17 programs will be affected by the proposed fee changes and will result in a cumulative increase in annual revenue of \$14,480.

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

24.181.401 REGISTRATION FEE SCHEDULE (1) and (2) remain the same.

(3) Registration fees are calculated ~~according to~~ by each program being assessed a base fee of \$500 to which is added an amount based on the program's average daily census: . Registration fees are collected at the time of application and allow an applicant to apply for a provisional license.

(a) 0-10 participants	\$ 500 <u>1080</u>
(b) 11- 50 <u>25</u> participants	3000 <u>2780</u>
(c) <u>26-50</u> participants	<u>5210</u>
(e) (d) 51-100 participants	6000 <u>8520</u>
(d) (e) 101 and more participants	9000

Programs with 101 and more participants must submit the base fee and contact the board for current information on the average daily census rate to determine the registration fee balance.

~~(4) For any program previously registered under the 2005 legislation and which registers between May 23, 2008 and June 30, 2008, such program will have until June 30, 2009, in which to complete the registration requirements.~~

~~(5) All programs registering between May 23, 2008 and June 30, 2008, are required, at the same time they submit their registration application and registration fee, to submit their provisional licensing fee.~~

(6) through (8) remain the same but are renumbered (4) through (6).

AUTH: 37-1-131 37-48-103, MCA

IMP: 37-1-134, 37-48-103, 37-48-107, MCA

24.181.402 LICENSING FEE SCHEDULE (1) remains the same.

(2) Licensing fees are ~~calculated according to~~ based on the program's average daily census at the time of application and are paid at 20% of the combined registration and licensing fees:

(a) 0-10 participants	\$ 260 <u>270</u>
(b) 11- 50 <u>25</u> participants	800 <u>695</u>

(c) <u>26-50 participants</u>	1300
(e) (d) 51-100 participants	1600 <u>2130</u>
(d) (e) 101 and more participants	2400

Programs with 101 and more participants must contact the board for current information on the average daily census rate to determine the licensing fee balance.

(4) remains the same but is renumbered (3).

AUTH: 37-1-131 37-48-103, MCA

IMP: 37-1-134, 37-48-103, 37-48-106, MCA

REASON: The board is renumbering (4) to (3) to correct an error in previous notice MAR 24-181-2.

24.181.2101 RENEWALS (1) and (2) remain the same.

(3) The licensing renewal fees are calculated according to by each program being assessed a base fee of \$500 to which is added an amount based on the program's average daily census:

(a) 0-10 participants	\$ 760 <u>1350</u>
(b) 11-50 <u>25</u> participants	3800 <u>3475</u>
(c) <u>26-50 participants</u>	6510
(e) (d) 51-100 participants	7600 <u>10650</u>
(d) (e) 101 and more participants	11,400

Programs with 101 and more participants must submit the base fee and contact the board for current information on the average daily census rate to determine the renewal fee total.

(4) through (7) remain the same.

AUTH: 37-1-131, 37-48-103, MCA

IMP: 37-1-131, 37-1-134, 37-1-141, MCA

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Private Alternative Adolescent Residential or Outdoor Programs, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdpap@mt.gov, and must be received no later than 5:00 p.m., April 24, 2009.

6. An electronic copy of this Notice of Public Hearing is available through the department and board site on the World Wide Web at www.paarp.mt.gov. The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical

problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. 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 the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Private Alternative Adolescent Residential or Outdoor Programs, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdpap@mt.gov, or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

9. Mike McCabe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PRIVATE ALTERNATIVE
ADOLESCENT RESIDENTIAL OR
OUTDOOR PROGRAMS
JOHN SANTA, CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State March 16, 2009