Children, Families, Health, and Human Services Interim Committee

PO BOX 201706

69th Montana Legislature

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September 09, 2026

Director Charles Brereton
Department of Public Health and Human Services
111 North Sanders, Suite 301
Helena, Montana 59601

Dear Director Brereton:

Pursuant to 5-5-225, MCA, the Children, Families, Health, and Human Services Interim Committee (Committee) reviewed MAR Notice No. 2026-847.1, pertaining to trauma center designation criteria. At its September 09, 2026, meeting, a majority of the members of the Committee objected to MAR Notice No. 2026-847.1 pursuant to 2-4-406(2), MCA.

This letter constitutes notice to the Department that the Committee files a formal objection, pursuant to 2-4-406(2), MCA to MAR Notice No. 2026-847.1. A copy of this notification is included in the Committee's records.

Under 2-4-406(2), MCA, the Committee may object to the proposed rulemaking if the Committee considers the proposed rulemaking to not have been proposed in substantial compliance with 2-4-302, 2-4-303, and 2-4-305, MCA. The Committee objects to MAR Notice No. 2026-48.1 as outlined below.

1. *The proposed rule is not in substantial compliance with 2-4-305(5), MCA, because the adopted rule is not within the scope of the authority conferred.*

Under 2-4-305(5), MCA, for a rule to be effective, the rule "must be within the scope of authority conferred." Under 50-6-402(2), MCA, the department is authorized to adopt rules for "quality improvement standards for emergency medical services and trauma care facilities".

Section 50-6-401, MCA, defines "quality improvement" as "the process of defining trauma care system performance standards, collecting data against which the standards may be applied, using the data to determine compliance with the standards, and using the data and compliance

The updated language essentially creates two categories of providers, those who work more than 21 days and those who work less than 21 days. Those who work less than 21 days, including locum or temporary employees, are still required to attend "any trauma peer review committee meeting in which a case they were involved in is presented or discussed."

The proposal's statement of reasonable necessity merely explains that the proposed changes are necessary to reflect the "continued advancement of medical practice and to conform with nationally recognized best practices." It further states that the "proposed rule amendment is necessary to ensure that the Montana Trauma Facility Designation Criteria remain relevant, practical, and supportive of high-quality trauma care across all facilities in the state." The Department fails to provide any rationale for why employees who work less than 21 days, even those who may be temporary employees who have moved on to different employment, must attend certain peer review committee meetings. It is a substantial burden on part-time employees and health care facilities to require attendance for these events.

The Department failed to provide a rationale for these changes and thus failed to provide an adequate statement of reasonable necessity as required by 2-4-305(6)(b), MCA.

If a rule is objected to under 2-4-406(2), MCA, before the rule is adopted, as is the case here, the rule is not effective until the day after final adjournment of the regular session of the Legislature that begins after the notice proposing the rule was published by the Secretary of State unless the Committee withdraws its objection pursuant to 2-4-306(3)(c), MCA.

Please note that the Department is required to respond in writing to the Committee's objection within 14 days of the mailing of this objection pursuant to 2-4-406(3), MCA. After receipt of the response, the Committee may withdraw or modify its objection.

If the Committee fails to withdraw or substantially modify its objection, it may vote to send the objection to the Secretary of State for publication in the MAR and ARM. Under 2-4-406(5), MCA, if the objection is published, the Department would bear the burden, in any action challenging the legality of the rule objected to by the Committee of proving that the rule objected to was adopted in substantial compliance with 2-4-302, 2-4-303, and 2-4-305, MCA.

Thank you for your attention to this matter.

Sincerely,

Representative Jodee Etchart

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