



## ADMINISTRATIVE RULES OF MONTANA



### **38.2.5008 PROTECTIVE ORDER--ISSUANCE, CHALLENGE TO CONFIDENTIALITY, BURDEN ON PROVIDER, NOTICE OF CHANGE OF STATUS OF PROTECTED INFORMATION**

- (1) Protective orders will include all or part of these rules by reference, will include a general nonconfidential description of the protected information, may waive certain of these rules and may include special terms and conditions.
- (2) Challenges to a protective order must be in accordance with (3).
- (3) Protective orders establish a procedure for handling confidential information. Issuance of a protective order means the commission has determined at least that the request for protective order conforms to these rules, and makes a prima facie showing that the information for which protection is requested is confidential information. A person with proper standing, or the commission on its own motion, may challenge a request for protective order or a protective order by using the following procedure:
  - (a) A motion and supporting memorandum challenging a protective order or a request for a protective order must be filed with the commission and served on the providing party. The providing party must file a response to the motion within ten business days of service. Service means physical delivery or deposit in the mail. If necessary, following receipt of the response the commission will set the challenge for hearing.
  - (b) If the commission determines that information should be removed from protection, the information will remain protected under the governing protective order for a reasonable period, to be established in the commission ruling, to allow the provider time to appeal the commission decision.
- (4) A provider has the burden at all times of demonstrating that information is confidential information.
- (5) On becoming aware that there is no longer a legal or factual basis to protect information covered by commission protective order, the provider must immediately notify the commission so that such information can be made public.

**Authorizing statute(s):** 69-3-103, MCA

**Implementing statute(s):** 69-3-105, MCA

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**History:** NEW, 2000 MAR p. 2037, Eff. 7/28/00; AMD, 2002 MAR p. 3330, Eff. 11/28/02; AMD, 2004 MAR p. 2592, Eff. 10/22/04; AMD, 2007 MAR p. 2135, Eff. 12/21/07.