

BEFORE THE BOARD OF NURSING HOME ADMINISTRATORS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 24.162.301 definitions,) AMENDMENT AND REPEAL
24.162.501 application and)
documentation for licensure,) NO PUBLIC HEARING
24.162.506 temporary license,) CONTEMPLATED
24.162.510 licensure by credential,)
and the repeal of 24.162.402 public)
information)

TO: All Concerned Persons

1. On August 20, 2018, the Board of Nursing Home Administrators (board) proposes to amend and repeal 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 the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the board no later than 5:00 p.m., on August 3, 2018, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdnha@mt.gov (board's e-mail).

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

24.162.301 DEFINITIONS ~~(1) "Experience in health care administration" shall mean having management responsibility, which shall include supervision of at least three staff persons, of a health care facility.~~

~~(2) "Education in health care administration" shall mean the completion of a course of instruction designed to teach the elements of health care facility administration and management, including training regarding the protection of the rights of residents or patients therein.~~

~~(3)~~ (2) "Health care facility" shall mean licensed long-term facility, or licensed acute care facility, as defined by 50-5-301~~(3)~~ (2)(b)(i), MCA.

(4) remains the same but is renumbered (1).

AUTH: 37-9-203, MCA

IMP: 37-9-203, 37-9-301, MCA

REASON: The board determined it is reasonably necessary to amend this rule to remove terms not contained in statute or rule and correct an erroneous statutory citation. Implementation citations are being amended to accurately reflect all

statutes implemented through the rule.

24.162.501 APPLICATION AND DOCUMENTATION FOR LICENSURE

(1) through (4) remain the same.

~~(5) The applicant must submit three statements of good moral character from individuals not related to the applicant.~~

AUTH: 37-1-131, 37-9-203, MCA

IMP: 37-1-131, 37-9-203, 37-9-301, 37-9-304, MCA

REASON: The board is amending this rule to no longer require statements of good moral character and align with standardized department application procedures. Noting that a letter from a friend or someone with knowledge of an applicant is not an accurate indication of "good moral character," the board concluded that an applicant's moral character is better evidenced through the application's disciplinary/criminal history questions. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.162.506 TEMPORARY PERMIT (1) remains the same.

(2) ~~The temporary license shall be permit is valid for 120 days or until the applicant either fails the first passes the national examination for which the applicant is eligible or passes the examination and is granted a license, whichever comes first.~~

(3) Only one temporary license permit will be issued per applicant.

AUTH: 37-1-319, ~~37-9-203~~, MCA

IMP: 37-1-305, ~~37-9-203~~, ~~37-9-302~~, MCA

REASON: The board determined it is reasonably necessary to amend this rule to utilize the correct terminology for temporary permits. While the requirements to receive a temporary permit are not changing, the board is further amending this rule to align with the timeline provisions in the implemented statute, 37-1-305, MCA.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.162.510 LICENSURE BY CREDENTIAL (1) ~~An application applicant for licensure by credential without examination must include a signed statement from the examining board of another jurisdiction attesting documents to prove:~~

(a) that the applicant attained a passing scaled score on an examination, as ~~determined~~ approved by the National Association of Boards of Examiners for Nursing Home Administrators; and

(b) that the applicant holds a currently valid license as a nursing home administrator in that any jurisdiction.

~~(2) An application for license by credential may be filed at any time and must be accompanied by the required fees, which shall not be refunded.~~

~~(3) The applicant must submit three statements of good moral character from individuals not related to the applicant.~~

AUTH: 37-1-131, 37-9-203, MCA
IMP: 37-1-131, 37-1-304, 37-9-203, MCA

REASON: The board is amending this rule to align with and facilitate the department's current standardized application procedures for all licensing boards. Because other jurisdictions no longer issue signed statements to verify licensure, the requirement in (1) was unreasonable for applicants and unworkable for staff.

The board is striking (3) to no longer require statements to prove an applicant's good moral character. The board concluded that adequate information to demonstrate this is obtained through the application's disciplinary/criminal history questions, rather than letters of reference from people an applicant selects.

4. The board proposes to repeal the following rule:

24.162.402 PUBLIC INFORMATION

AUTH: 37-9-201, MCA
IMP: 37-9-201, MCA

REASON: The board is repealing this unnecessary rule because the department administers a standardized public information procedure for all professional and occupational licensure boards, and this rule contains outdated provisions and processes that are no longer followed.

5. Concerned persons may submit their data, views, or arguments concerning the proposed amendment and repeal in writing to the Board of Nursing Home Administrators, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdnha@mt.gov, to be received no later than 5:00 p.m., August 17, 2018.

6. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Linda Grief at the above address no later than 5:00 p.m., August 17, 2018.

7. If the board receives requests for a public hearing on the proposed amendment and repeal from either 10 percent or 25, whichever is less, of the persons who are directly affected by the proposed rules; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 19 persons based on 189 active/inactive licensees.

8. An electronic copy of this notice of public hearing is available at www.nha.mt.gov (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

9. 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 that 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 Nursing Home Administrators, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdnha@mt.gov, or made by completing a request form at any rules hearing held by the agency.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.162.301, 24.162.501, 24.162.506, and 24.162.510 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.162.402 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Nursing Home Administrators, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; facsimile (406) 841-2305; or to dlibsdnha@mt.gov.

BOARD OF NURSING HOME
ADMINISTRATORS
KATHRYN BEATY, PRESIDING OFFICER

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

/s/ GALEN HOLLENBAUGH
Galen Hollenbaugh, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State July 10, 2018.