

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

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 24.159.501 definitions, the)	AMENDMENT, ADOPTION, AND
adoption of New Rule I enhanced)	REPEAL
nurse licensure compact rules, and the)	
repeal of ARM 24.159.504 issuance of)	NO PUBLIC HEARING
a license by a compact state,)	CONTEMPLATED
24.159.507 limitations on multistate)	
licensure privilege - discipline, and)	
24.159.510 information system)	

TO: All Concerned Persons

1. On April 30, 2018, the Board of Nursing (board) proposes to amend, adopt, 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 April 13, 2018, to advise us of the nature of the accommodation that you need. Please contact Sharon Peterson, Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2375; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or nurse@mt.gov (board's e-mail).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The 2017 Montana Legislature enacted Chapter 445, Laws of 2017 (Senate Bill 166), an act adopting the enhanced Nurse Licensure Compact (eNLC). Codified at 37-8-501, MCA, the eNLC became effective upon the twenty-sixth party state enacting the eNLC, thereby authorizing the Interstate Commission of Nurse Licensure Compact Administrators (commission) to adopt rules to implement the eNLC. The eNLC became effective on July 20, 2017, and provided that final rules adopted by the commission would become effective and binding on party states six months after the eNLC was enacted. The compact rules thus became effective January 19, 2018. Further, the eNLC implementation effectively repealed the prior nurse licensure compact (prior compact), codified at 37-8-451 and 37-8-452, MCA.

The board determined it is reasonably necessary to amend ARM 24.159.501 and repeal several rules enacted under the prior compact to reduce confusion and recognize that the commission's final eNLC rules are binding on Montana as a party state. The board is also adopting one new rule to clearly provide the web site address where the commission's final eNLC rules are maintained.

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

24.159.501 DEFINITIONS (1) For the purpose of the enhanced Nurse Licensure Compact:

~~(a) "Board" means the Montana Board of Nursing.~~

~~(b) "Information system" means the coordinated licensure information system.~~

~~(c) "Primary state of residence" means the state of a person's declared fixed permanent and principal home for legal purposes; domicile.~~

~~(d) "Public" means any individual or entity other than designated staff or representatives of party state boards or the National Council of State Boards of Nursing, Inc.~~

(a) "Commission" means the Interstate Commission of Nurse Licensure Compact Administrators.

(b) "Compact" means the nurse licensure compact that became effective on July 20, 2017, and implemented on January 19, 2018.

(c) "Convert" means to change the status of a multistate license or privilege to practice.

(d) "Deactivate" means to change the status of a multistate license or privilege to practice.

(e) "Disqualifying event" means an incident which results in a person becoming disqualified or ineligible to retain or renew a multistate license. This includes but is not limited to the following:

(i) any adverse action resulting in an encumbrance;

(ii) current participation in an alternative program;

(iii) a misdemeanor offense related to the practice of nursing (which includes, but is not limited to, an agreed disposition); or

(iv) a felony offense (which includes, but is not limited to, an agreed disposition).

(f) "Independent credentials review agency" means a nongovernmental evaluation agency that verifies and certifies that foreign nurse graduates have graduated from nursing programs that are academically equivalent to nursing programs in the United States.

(g) "Licensure" includes the authority to practice nursing granted through the process of examination, endorsement, renewal, and/or reinstatement.

(h) "Prior compact" means the nurse licensure compact that was in effect until January 19, 2018.

(i) "Unencumbered license" means a license in good standing with no current discipline, conditions, or restrictions.

AUTH: ~~37-8-202, 37-8-451~~, MCA

IMP: ~~37-8-451, 37-8-452~~, 37-8-501, MCA

5. The proposed new rule is as follows:

NEW RULE I ENHANCED NURSE LICENSURE COMPACT RULES

(1) As a party state to the compact, the board is bound by the compact rules, adopted by the commission.

(2) The compact rules can be found at <https://www.ncsbn.org/enlcrules.htm>.

AUTH: 37-8-202, MCA

IMP: 37-8-501, MCA

6. The rules proposed to be repealed are as follows:

24.159.504 ISSUANCE OF A LICENSE BY A COMPACT STATE

AUTH: 37-8-451, MCA

IMP: 37-8-451, 37-8-452, MCA

24.159.507 LIMITATIONS ON MULTISTATE LICENSURE PRIVILEGE -
DISCIPLINE

AUTH: 37-8-451, MCA

IMP: 37-8-451, 37-8-452, MCA

24.159.510 INFORMATION SYSTEM

AUTH: 37-8-451, MCA

IMP: 37-8-451, 37-8-452, MCA

7. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to the Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to nurse@mt.gov, to be received no later than 5:00 p.m., April 27, 2018.

8. 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 Sharon Peterson at the above address no later than 5:00 p.m., April 27, 2018.

9. If the board receives requests for a public hearing on the proposed actions 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 2,077 persons based on 20,765 active licensees.

10. An electronic copy of this notice of public hearing is available at nurse.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.

11. 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, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to nurse@mt.gov, or made by completing a request form at any rules hearing held by the agency.

12. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on February 23, 2018, by electronic mail.

13. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.159.501 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the adoption of NEW RULE I 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 24.159.504, 24.159.507, and 24.159.510 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, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2375; facsimile (406) 841-2305; or to nurse@mt.gov.

BOARD OF NURSING
N. GREGORY KOHN, PRESIDENT

/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 March 20, 2018.