

**NURSING BOARD LAWS
AS OF THE 2019 LEGISLATIVE SESSION**

**TITLE 37, CHAPTER 8
NURSING**

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CHAPTER 8 NURSING

Chapter Cross-References

Limits on liability for emergency care rendered at scene of accident or emergency, 27-1-714.
Limits on liability of health care provider in emergency situations, 27-1-734.
Professional service corporations, Title 35, ch. 4.
General provisions relating to health care practitioners, Title 37, ch. 2.
Limitations on dentistry and oral surgery practices involving general anesthesia, 37-4-511.
Collective bargaining for nurses, Title 39, ch. 32.
Nurses required to report child abuse, 41-3-201.
Report of fetal death that occurs outside licensed medical facility, 46-4-114.
Health care information, Title 50, ch. 16.
Duty of nurse to report violation of Montana Elder and Persons With Developmental Disabilities Abuse Prevention Act, 52-3-811.

Chapter Administrative Rules

Title 24, chapter 159, ARM Board of Nursing.

Chapter Case Notes

Crime of Sexual Assault as Unprofessional Conduct and Crime Relating to Public Health, Welfare, and Safety — Lack of Rehabilitation: Gilpin was convicted of two counts of sexual assault. After his nursing license was revoked, Gilpin appealed, claiming that there was insufficient connection between the reason for his criminal conviction and the practice of nursing to warrant revocation of the license. The Supreme Court affirmed the hearing examiner's finding that the sexual assaults related to the public health, welfare, and safety and that Gilpin was guilty of unprofessional conduct. *Gilpin v. Bd. of Nursing*, 254 M 308, 837 P2d 1342, 49 St. Rep. 831 (1992), overruled in *Erickson v. St.*, 282 M 367, 938 P2d 625, 54 St. Rep. 395 (1997).

Part 1 General

37-8-101. Purpose. To safeguard life and health, a person practicing or offering to practice:

- (1) professional nursing in this state shall submit evidence that the person is qualified to practice and is licensed as provided in this chapter;
- (2) practical nursing in this state shall submit evidence that the person is qualified to practice and is licensed as provided in this chapter;
- (3) as a medication aide in this state shall submit evidence that the person is qualified to practice and is licensed as provided in this chapter.

History: En. Sec. 1, Ch. 243, L. 1953; amd. Sec. 1, Ch. 291, L. 1967; R.C.M. 1947, 66-1221(part); amd. Sec. 1, Ch. 448, L. 2003; amd. Sec. 28, Ch. 126, L. 2005.

Compiler's Comments

2005 Amendment: Chapter 126 in (1) and (2) after "state" substituted "shall" for "for compensation or personal gain is required to"; and made minor changes in style. Amendment effective July 1, 2005.

2003 Amendment: Chapter 448 in (2) at beginning deleted "In order to safeguard life and health, any person practicing or offering to practice"; inserted (3) requiring a person practicing or offering to practice as medication aide to submit evidence that the person is qualified and licensed; and made minor changes in style. Amendment effective October 1, 2003.

Attorney General's Opinions

Board of Nursing — Authority Over Nursing — Related Subjects: The Board of Nursing lacks authority to require approval of schools and courses which teach nursing-related subjects but which do not prepare students for licensure as registered or licensed practical nurses. 38 A.G. Op. 24 (1979).

37-8-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advanced practice registered nurse" means a registered professional nurse who has completed educational requirements related to the nurse's specific practice role, in addition to basic nursing education, as specified by the board pursuant to 37-8-202.

(2) "Board" means the board of nursing provided for in 2-15-1734.

(3) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(4) "Medication aide I" means a person who in an assisted living facility uses standardized procedures in the administration of drugs, as defined in 37-7-101, that are prescribed by a physician, naturopathic physician, physician assistant, optometrist, advanced practice registered nurse, dentist, osteopath, or podiatrist authorized by state law to prescribe drugs.

(5) "Medication aide II" means a person who in a long-term care facility licensed to provide skilled nursing care, as defined in 50-5-101, uses standardized procedures in the administration of drugs, as defined in 37-7-101, that are prescribed by a physician, naturopathic physician, physician assistant, optometrist, advanced practice registered nurse, dentist, osteopath, or podiatrist authorized by state law to prescribe drugs.

(6) "Nursing education program" means any board-approved school that prepares graduates for initial licensure under this chapter. Nursing education programs for:

(a) professional nursing may be a department, school, division, or other administrative unit in a junior college, college, or university;

(b) practical nursing may be a department, school, division, or other administrative unit in a vocational-technical institution or junior college.

(7) "Practice of nursing" embraces the practice of practical nursing and the practice of professional nursing.

(8) (a) "Practice of practical nursing" means the performance of services requiring basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing procedures. The practice of practical nursing uses standardized procedures in the observation and care of the ill, injured, and infirm, in the maintenance of health, in action to safeguard life and health, and in the administration of medications and treatments prescribed by a physician, naturopathic physician, physician assistant, optometrist, advanced practice registered nurse, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. These services are performed under the supervision of a registered nurse or a physician, naturopathic physician, physician assistant, optometrist, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments.

(b) These services may include a charge-nurse capacity in a long-term care facility that provides skilled nursing care or intermediate nursing care, as defined in 50-5-101, under the general supervision of a registered nurse.

(9) "Practice of professional nursing" means the performance of services requiring substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment, nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health, the prevention, casefinding, and management of illness, injury, or infirmity, and the restoration of optimum function. The term also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice and the administration of medications and treatments prescribed by physicians, naturopathic physicians, physician assistants, optometrists, advanced practice registered nurses, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection (9):

(a) "nursing analysis" is the identification of those client problems for which nursing care is indicated and may include referral to medical or community resources;

(b) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish defined goals.

History: En. Sec. 2, Ch. 243, L. 1953; amd. Sec. 2, Ch. 291, L. 1967; amd. Sec. 114, Ch. 350, L. 1974; amd. Sec. 1, Ch. 180, L. 1975; R.C.M. 1947, 66-1222; amd. Sec. 4, Ch. 248, L. 1981; amd. Sec. 3, Ch. 274, L. 1981; amd. Sec. 1, Ch. 504, L. 1989; amd. Sec. 1, Ch. 584, L. 1993; amd. Sec. 25, Ch. 308, L. 1995; amd. Sec. 1, Ch. 136, L. 1997; amd. Sec. 117, Ch. 483, L. 2001; amd. Sec. 12, Ch. 54, L. 2003; amd. Sec. 1, Ch. 317, L. 2003; amd. Sec. 2, Ch. 448, L. 2003; amd. Sec. 42, Ch. 467, L. 2005; amd. Sec. 12, Ch. 502, L. 2007; amd. Sec. 1, Ch. 392, L. 2011.

Compiler's Comments

2011 Amendment: Chapter 392 substituted "Medication aide I" for "Medication aide" as defined term and near middle after "by a physician" substituted reference to naturopathic physician and other medical providers for "an advanced practice registered nurse with prescriptive authority, a dentist, an osteopath, or a podiatrist"; inserted definition of medication aide II; and made minor changes in style. Amendment effective October 1, 2011.

2007 Amendment: Chapter 502 in definition of practice of practical nursing in second and third sentences near middle after "physician" inserted "naturopathic physician, physician assistant, optometrist"; in definition of practice of professional nursing in third sentence near middle after "physicians" inserted "naturopathic physicians, physician assistants, optometrists"; and made minor changes in style. Amendment effective October 1, 2007.

Saving Clause: Section 52, Ch. 502, L. 2007, was a saving clause.

2005 Amendment: Chapter 467 in definition of advanced practice registered nurse at end after "37-8-202" deleted "(5)(a)"; and made minor changes in style. Amendment effective July 1, 2005.

2003 Amendments — Composite Section: Chapter 317 in definition of practice of nursing at end substituted "the practice of practical nursing and the practice of professional nursing" for "two classes of nursing service and activity, as follows"; in definition of practice of practical nursing in (a) and in definition of practice of professional nursing near beginning after "the performance" deleted "for compensation"; and made minor changes in style. Amendment effective April 14, 2003.

Chapter 448 inserted definition of medication aide; and made minor changes in style. Amendment effective October 1, 2003.

Name Change: Pursuant to sec. 12, Ch. 54, L. 2003, a name change section, the code commissioner in definition of medication aide substituted "assisted living facility" for "personal-care facility".

2001 Amendment: Chapter 483 in definition of department substituted reference to department of labor and industry for reference to department of commerce and substituted "part 17" for "part 18"; and made minor changes in style. Amendment effective July 1, 2001.

1997 Amendment: Chapter 136 in definition of practice of practical nursing inserted last sentence referring to services of a charge-nurse capacity in certain long-term care facilities. Amendment effective March 25, 1997.

1995 Amendment: Chapter 308 in definition of nursing education program, in (b), substituted "vocational-technical institution" for "vocational-technical center"; and made minor changes in style. Amendment effective July 1, 1995.

1993 Amendment: Chapter 584 inserted definition of advanced practice registered nurse; in definition of practice of practical nursing, in second sentence near middle, inserted "advanced practice registered nurse"; and in definition of practice of professional nursing, in third sentence near middle, inserted "advanced practice registered nurses" and in fifth sentence substituted "subsection (5)(b)" for "subsection (4)(b)".

1989 Amendment: In second sentence of (3)(b), after "procedures", deleted "leading to predictable outcomes".

1981 Amendments: Chapter 248 completely rewrote this section. For former text, see sec. 1, Ch. 180, L. 1975.

Chapter 274 substituted "department of commerce" for "department of professional and occupational licensing" in (2); changed internal references to the department and the board.

Administrative Rules

ARM 24.159.301 Definitions.

Attorney General's Opinions

Board of Nursing — Authority Over Nursing — Related Subjects: The Board of Nursing lacks authority to require approval of schools and courses which teach nursing-related subjects but which do not prepare students for licensure as registered or licensed practical nurses. 38 A.G. Op. 24 (1979).

Paramedical Specialist to Be Licensed to Practice Nursing: A paramedical specialist may not engage in the practice of nursing without being licensed under the provisions of the Montana Nursing Practice Act. If a paramedical specialist practices nursing without being licensed, he is subject to the penal provisions of this Act. 36 A.G. Op. 18 (1975).

37-8-103. Exemptions — limitations on authority conferred. (1) This chapter may not be construed as prohibiting:

- (a) gratuitous nursing by friends or members of the family;
- (b) incidental care of the sick by domestic servants or persons primarily employed as housekeepers;
- (c) nursing assistance in the case of an emergency;
- (d) the practice of nursing by students enrolled in approved nursing education programs;
- (e) the practice of nursing in this state by any legally qualified nurse of another state whose engagement requires the nurse to accompany and care for a patient temporarily residing in this state during the period of one engagement not to exceed 6 months in length, provided that person does not represent to the public that the person is a nurse licensed to practice in this state;
- (f) the practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency of the United States while in the discharge of that nurse's official duties;
- (g) nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of any well-established religion or denomination by adherents of the religion or denomination;
- (h) nursing or care of a minor who is in the care of a licensed foster parent, to the same extent that the care may be provided by a parent or guardian;
- (i) the execution of a death sentence pursuant to 46-19-103;
- (j) nursing tasks delegated by licensed nurses to unlicensed persons according to rules adopted by the board; and
- (k) the provision of nutrition, inclusive of supplements and medications prescribed by a physician, an advanced practice registered nurse, or a physician assistant, to be administered to an individual through a gastrostomy or jejunostomy tube by a parent, guardian, foster parent, surrogate parent, other family member, or individual, regardless of compensation, who is authorized and trained by the individual receiving the nutrition, inclusive of supplements and prescribed medications, or who is authorized and trained by a parent, guardian, foster parent, surrogate parent, or other adult family member. The exemption in this subsection (1)(k) does not apply to provision of nutrition, inclusive of supplements and prescribed medications, in a licensed facility that provides skilled nursing care as provided in Title 50, chapter 5.

(2) This chapter may not be construed:

- (a) as conferring any authority to practice medicine, surgery, or any combination of medicine or surgery;
- (b) to confer any authority to practice any of the healing arts prescribed by law to be practiced in the state of Montana; or
- (c) to permit any person to undertake the treatment of disease by any of the methods employed in the healing arts unless the licensee has been qualified under the applicable law or laws licensing the practice of those professions or healing arts in the state of Montana.

(3) (a) This chapter may not be construed to apply to a personal assistant performing health maintenance activities and acting at the direction of a person with a disability.

(b) The following definitions apply to this subsection:

- (i) "Health care professional" means an individual licensed pursuant to Title 37 as a physician assistant, advanced practice registered nurse, registered nurse, or occupational therapist or a medical social worker working as a member of a case management team for the purposes of the home and community-based services program of the department of public health and human services.

(ii) "Health maintenance activities" includes urinary systems management, bowel treatments, administration of medications, and wound care if the activities in the opinion of the physician or other health care professional for the person with a disability could be performed by the person if the person were physically capable and if the procedure may be safely performed in the home.

(iii) "Physician" means an individual licensed pursuant to Title 37, chapter 3.

History: En. Sec. 22, Ch. 243, L. 1953; amd. Sec. 7, Ch. 291, L. 1967; amd. Sec. 4, Ch. 101, L. 1977; R.C.M. 1947, 66-1242; amd. Sec. 1, Ch. 148, L. 1979; amd. Sec. 5, Ch. 248, L. 1981; amd. Sec. 2, Ch. 411, L. 1983; amd. Sec. 2, Ch. 584, L. 1993; amd. Sec. 2, Ch. 525, L. 1995; amd. Sec. 1, Ch. 454, L. 2001; amd. Sec. 5, Ch. 519, L. 2005.

Compiler's Comments

2005 Amendment: Chapter 519 in (1)(k) and (3)(b)(i) substituted "physician assistant" for "physician assistant-certified". Amendment effective October 1, 2005.

2001 Amendment: Chapter 454 inserted (1)(k) concerning the provision of nutrition, including prescribed supplements and medications administered by a gastrostomy or jejunostomy tube; in definition of health care professional substituted "advanced practice registered nurse" for "nurse practitioner"; and made minor changes in style. Amendment effective April 30, 2001.

1995 Amendment: Chapter 525 inserted (3) providing that this chapter may not be construed to apply to a personal assistant performing health maintenance activities and acting at the direction of a person with a disability and defining health care professional, health maintenance activities, and physician for purposes of the subsection; and made minor changes in style.

Code Commissioner Change: Pursuant to sec. 1, Ch. 546, L. 1995, the Code Commissioner substituted Department of Public Health and Human Services for Department of Social and Rehabilitation Services.

1993 Amendment: Chapter 584 inserted (1)(j) concerning delegated nursing tasks; and made minor changes in style.

1983 Amendment: Inserted (1)(i) referring to execution of death sentence.

1981 Amendment: Substituted "nursing education programs" for "schools of nursing or approved courses or by the graduates of such schools or courses pending the results of the first licensing examination scheduled by the board following their graduation" in (1)(d).

Cross-References

Exemptions from physician's licensing requirements, 37-3-103.

Administrative Rules

ARM 24.159.1021 Temporary practice permit for licensed practical nurses.

ARM 24.159.1221 Temporary practice permit for registered nurses.

Part 2 Board of Nursing

Part Cross-References

Right to know, Art. II, sec. 9, Mont. Const.

Seal defined, 1-4-201.

Manner of making seal, 1-4-202.

Meeting defined, 2-3-202.

Adoption and publication of rules, Title 2, ch. 4, part 3.

Contested case procedure, Title 2, ch. 4, part 6.

Public records, Title 2, ch. 6.

Allocation of boards for administrative purposes, 2-15-121.

Quasi-judicial boards, 2-15-124.

Duties of Attorney General, 2-15-501.

Board established, 2-15-1734.

Open meetings, Title 3, ch. 3, part 2.

Preservation of records, Title 22, ch. 3, part 2.

Duties of Department, Director, and boards, Title 37, ch. 1, part 1.

Duty of Department to keep records, 37-1-101.

Disrupting meeting as disorderly conduct, 45-8-101.

Part Administrative Rules

Title 24, chapter 159, subchapter 1, ARM Organizational rules.

Title 24, chapter 159, subchapter 2, ARM Procedural rules.

Title 24, chapter 159, subchapter 16, ARM Delegation and assignment.

37-8-201. Seal — board records public — legal counsel. (1) The board shall have a seal which shall be used to authenticate its acts. The seal shall have inscribed the words "Board of Nursing—Official Seal" and a device or legend designated by the board.

(2) The records and files of the board kept by the department are at all times open to public inspection.

(3) The attorney general is the attorney and legal counsel for the board, but the department may, with the approval of the attorney general, appoint additional legal counsel to assist the board and department in the administration and enforcement of this chapter.

History: En. Sec. 3, Ch. 243, L. 1953; amd. Sec. 115, Ch. 350, L. 1974; R.C.M. 1947, 66-1223; amd. Sec. 6, Ch. 248, L. 1981.

Compiler's Comments

1981 Amendment: Deleted "under each administration" following "its acts" in (1).

Attorney General's Opinions

Right to Know: The Board of Nursing must issue lists of registered nurses and licensed practical nurses to members of the public who wish to purchase them. 35 A.G. Op. 27 (1973).

37-8-202. Organization — meetings — powers and duties. (1) The board shall:

- (a) meet annually and elect from among the members a president and a secretary;
- (b) hold other meetings when necessary to transact its business;
- (c) prescribe standards for schools preparing persons for registration and licensure under this chapter;
- (d) provide for surveys of schools at times the board considers necessary;
- (e) approve programs that meet the requirements of this chapter and of the board;
- (f) conduct hearings on charges that may call for discipline of a licensee, revocation of a license, or removal of schools of nursing from the approved list;
- (g) cause the prosecution of persons violating this chapter. The board may incur necessary expenses for prosecutions.
- (h) adopt rules regarding authorization for prescriptive authority of advanced practice registered nurses. If considered appropriate for an advanced practice registered nurse who applies to the board for authorization, prescriptive authority must be granted.
- (i) adopt rules to define criteria for the recognition of registered nurses who are certified through a nationally recognized professional nursing organization as registered nurse first assistants; and
- (j) establish a medical assistance program to assist licensees who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness. The program must provide for assistance to licensees in seeking treatment for mental illness or substance abuse and monitor their efforts toward rehabilitation. The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state. For purposes of funding this medical assistance program, the board shall adjust the renewal fee to be commensurate with the cost of the program.

(2) The board may:

- (a) participate in and pay fees to a national organization of state boards of nursing to ensure interstate endorsement of licenses;
- (b) define the educational requirements and other qualifications applicable to recognition of advanced practice registered nurses. Advanced practice registered nurses are nurses who must have additional professional education beyond the basic nursing degree required of a registered nurse. Additional education must be obtained in courses offered in a university setting or the equivalent. The

applicant must be certified or in the process of being certified by a certifying body for advanced practice registered nurses. Advanced practice registered nurses include nurse practitioners, nurse-midwives, nurse anesthetists, and clinical nurse specialists.

(c) establish qualifications for licensure of medication aides, including but not limited to educational requirements. The board may define levels of licensure of medication aides consistent with educational qualifications, responsibilities, and the level of acuity of the medication aides' patients. The board may limit the type of drugs that are allowed to be administered and the method of administration.

(d) adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons;

(e) adopt rules necessary to administer this chapter; and

(f) fund additional staff, hired by the department, to administer the provisions of this chapter.

History: En. Sec. 5, Ch. 243, L. 1953; amd. Sec. 116, Ch. 350, L. 1974; amd. Sec. 2, Ch. 180, L. 1975; R.C.M. 1947, 66-1225; amd. Sec. 7, Ch. 248, L. 1981; amd. Sec. 2, Ch. 282, L. 1987; amd. Sec. 1, Ch. 430, L. 1989; amd. Sec. 3, Ch. 444, L. 1989; amd. Sec. 1, Ch. 290, L. 1991; amd. Sec. 3, Ch. 584, L. 1993; amd. Sec. 1, Ch. 422, L. 1995; amd. Sec. 16, Ch. 492, L. 2001; amd. Sec. 3, Ch. 448, L. 2003; amd. Sec. 43, Ch. 467, L. 2005; amd. Sec. 41, Ch. 44, L. 2007; amd. Sec. 22, Ch. 109, L. 2009; amd. Sec. 8, Ch. 122, L. 2011; amd. Sec. 3, Ch. 173, L. 2011; amd. Sec. 2, Ch. 406, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 406 in (1)(j) near beginning substituted "licensees" for "licensed nurses". Amendment effective October 1, 2015.

2011 Amendments — Composite Section: Chapter 122 in (1)(j) in first sentence after "establish a" inserted "medical assistance", substituted "physically or mentally impaired" for "impaired by mental illness", substituted "addictive" for "narcotic", and at end inserted "or by mental illness or chronic physical illness", inserted third sentence regarding in-state participation of licensee in medical assistance program, and in last sentence after "funding this" inserted "medical assistance"; and made minor changes in style. Amendment effective October 1, 2011.

Chapter 173 inserted (1)(i) providing rulemaking authority to define criteria for recognition of registered nurses. Amendment effective July 1, 2011.

2009 Amendment: Chapter 109 in (1)(i) near beginning after "found to be" deleted "physically or mentally", after "impaired by" inserted "mental illness", and in second sentence after "treatment for" inserted "mental illness or"; and made minor changes in style. Amendment effective October 1, 2009.

Saving Clause: Section 53, Ch. 109, L. 2009, was a saving clause.

Severability: Section 54, Ch. 109, L. 2009, was a severability clause.

2007 Amendment: Chapter 44 in (1)(h) in two places substituted reference to advanced practice registered nurse for reference to nurse specialist. Amendment effective October 1, 2007.

2005 Amendment: Chapter 467 in (1)(a) before "members" deleted "nine"; in (1)(b) deleted former second sentence that read: "The department shall keep complete minutes and records of the meetings and rules and orders promulgated by the board"; deleted former (2) that read: "(2) The board may make rules necessary to administer this chapter"; in (1)(e) deleted former second sentence that read: "The department shall, subject to 37-1-101, examine and issue to and renew licenses of qualified applicants"; deleted former (3) that read: "(3) The board may adopt and the department shall publish forms for use by applicants and others, including license, certificate, and identity forms and other appropriate forms and publications convenient for the proper administration of this chapter. The board may fix reasonable fees for incidental services, within the subject matter delegated by this chapter"; inserted (1)(h) requiring the board to adopt rules regarding authorization for prescriptive authority of nurse specialists; inserted (1)(i) requiring the board to establish a program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of narcotic drugs, alcohol, or any other drug or substance; deleted former (5)(b) that read: "(b) The board shall adopt rules regarding authorization for prescriptive authority of nurse specialists. If considered appropriate for a nurse specialist who applies to the board for authorization, prescriptive authority must be granted"; deleted former (7) that read: "(7) The board shall establish a program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of narcotic drugs, alcohol, or any other drug or substance. The program must provide assistance to licensees in seeking treatment for substance abuse and monitor their efforts toward rehabilitation. For purposes of funding this program, the board shall adjust the license fee provided for in 37-8-431 commensurate with the cost of the program"; inserted (2)(e) allowing the board to adopt rules necessary to administer this chapter; and made minor changes in style. Amendment effective July 1, 2005.

2003 Amendment: Chapter 448 inserted (6) authorizing board to establish qualifications for licensure of medication aides, to define levels of licensure, and to limit the types of drugs that may be administered and the method of administration; and made minor changes in style. Amendment effective October 1, 2003.

2001 Amendment: Chapter 492 deleted former third sentence that read: "A majority of the board constitutes a quorum at any meeting"; in (5)(b) near beginning after "The board" deleted "of nursing and the board of medical examiners, acting jointly"; and made minor changes in style. Amendment effective October 1, 2001.

1995 Amendment: Chapter 422 in (5)(a), in first sentence after "applicable to", inserted "recognition of" and in fourth sentence, after "certified", inserted "or in the process of being certified". Amendment effective April 13, 1995.

1993 Amendment: Chapter 584 throughout (5)(a) substituted references to advanced practice registered nurses for references to specialty areas of nursing and at end inserted "and clinical nurse specialists"; inserted (7) concerning adoption of rules for delegation of nursing tasks; inserted (8) concerning funding of additional staff; and made minor changes in style.

1993 Statement of Intent: The statement of intent attached to Ch. 584, L. 1993, provided: "A statement of intent is required for this bill because it delegates to the board of nursing the authority to adopt rules regarding the delegation of nursing tasks to unlicensed persons.

The legislature intends that the board of nursing adopt rules that would regulate the situations in which a licensed nurse may delegate tasks to an unlicensed person. This rulemaking authority is necessary in order to distinguish between situations in the nursing practice when it is appropriate to delegate tasks, on the one hand, and situations when delegation is inappropriate due to the nature of the task under consideration. It is not intended that the board of nursing regulate the unlicensed individuals themselves."

1991 Amendment: In second sentence of (5)(b) substituted "board" for "boards"; and made minor changes in style. Amendment effective April 1, 1991.

1989 Amendments: Chapter 430 inserted (6) relating to a program to assist licensed nurses with alcohol or drug problems. Amendment effective July 1, 1989.

Chapter 444 inserted (5)(b) authorizing prescriptive authority; and made minor changes in phraseology. Amendment effective July 1, 1989.

1989 Statement of Intent: The statement of intent attached to Ch. 444, L. 1989, provided: "A statement of intent is required for this bill because it grants authority to the board of nursing [and board of medical examiners, acting jointly] to adopt rules regarding prescriptive authority for certain nurse specialists. At a minimum, it is intended that the rules address:

(1) criteria for granting prescriptive authority to an applicant for recognition as a nurse specialist who requests prescriptive authority as a condition of practice;

(2) a procedure for granting prescriptive authority to nurse specialists already recognized by the board on July 1, 1989, upon request of the nurse specialist;

(3) a process to notify the board of pharmacy when prescriptive authority is granted to a nurse specialist;

(4) continuing education requirements for nurse specialists who are granted prescriptive authority, with respect to the use of medical therapeutics in the area of practice; and

(5) appropriateness of the authority to prescribe specific drugs based on the nurse's area of specialty."

The bracketed language was added to the first sentence of the statement of intent by the annotator to reflect the amendment to the title of Ch. 444, L. 1989, and the substance of 37-8-202 that was not amended into the statement of intent. The bracketed language is unofficial but has been inserted to avoid misinterpretation by the code user.

1987 Amendment: In (5) substituted "The applicant must be certified by a specialty area certifying body" for "certified by the American nurses' association".

1981 Amendment: Completely rewritten. For former text, see sec. 2, Ch. 180, L. 1975.

1981 Statement of Intent: The statement of intent attached to SB 427 (Ch. 248, L. 1981) provided: "A statement of intent is required for this bill because it delegates rulemaking authority to the Board of Nursing in sections 7, 8, 10, 14, 16, and 19. Section 7 allows the board of nursing to approve certain programs related to registration and licensure and the section also permits the board to define the educational requirements and other qualifications applicable to specialty areas of nursing. It is the intent

of the legislature that the rules adopted by the board pursuant to these delegations of rulemaking power be sufficient to ensure the competency of those practicing nursing in Montana. Program approval rules are intended to be as described in the following paragraph. Rules concerning specialty areas should address the overall nature of the required courses, the approval of such courses through American Nurses' Association certification or by other means, and the prohibition of the use of a title indicating a nursing specialty by a person not approved by the board as such a specialist. . . ."

Case Notes

Amendment to Board of Nursing Rule Not Redefining or Expanding Scope of Practice of Certified Registered Nurse Anesthetists — No MAPA Violation in Adoption of Rule: Plaintiffs asserted that the Board of Nursing improperly revised ARM 8.32.303 regarding the scope of practice of certified registered nurse anesthetists (CRNAs) and violated provisions of the Montana Administrative Procedure Act (MAPA) regarding an inadequate statement of reasonable necessity and improper notice. The Supreme Court disagreed. The notice for the rule in question stated that amendments would address the independent practice of CRNAs, but the actual amendment merely clarified existing CRNA practice and dealt with prescriptive authority. Nevertheless, even though the Board of Nursing did not fully comply with the requirement for a statement of necessity reflecting the proposed amendment, the Board substantially complied by putting the public on notice of the proposed amendment and permitting observation of and participation in the amendment process. Plaintiffs had notice of the proposed amendment and actively participated in the process by attending the public hearing and voicing their opposition to the amendment. Thus, the District Court did not err in holding that the amendments to ARM 8.32.303 did not redefine or expand the scope of practice of CRNAs or violate MAPA. *Mont. Soc'y of Anesthesiologists v. Bd. of Nursing*, 2007 MT 290, 339 M 472, 171 P3d 704 (2007).

Attorney General's Opinions

Board of Nursing — No Authority to Require College Degree for Licensure: The Legislature did not intend to require nursing license applicants to hold a specific college degree, as is evidenced by the fact that the Legislature did not set forth this requirement in statute as it did for other license qualifications statutes, and by the fact it permits nursing educational programs to be located in educational institutions which could not confer the minimum proposed degrees. Therefore, the Board of Nursing does not have authority to adopt a rule requiring a specific college degree as a qualification for licensure. 41 A.G. Op. 23 (1985).

Board of Nursing — Authority Over Nursing — Related Subjects: The Board of Nursing lacks authority to require approval of schools and courses which teach nursing-related subjects but which do not prepare students for licensure as registered or licensed practical nurses. 38 A.G. Op. 24 (1979).

37-8-203. Compensation of members — expenses. Each member of the board shall receive compensation and travel expenses as provided in 37-1-133.

History: En. Sec. 6, Ch. 243, L. 1953; amd. Sec. 117, Ch. 350, L. 1974; amd. Sec. 3, Ch. 180, L. 1975; amd Sec. 31, Ch. 439, L. 1975; R.C.M. 1947, 66-1226; amd. Sec. 13, Ch. 474, L. 1981.

Compiler's Comments

1981 Amendment: Substituted "receive compensation" for "be paid mileage"; and substituted "37-1-133" for "2-18-501 through 2-18-503 and, in addition, \$25 per day for each day actually engaged in the discharge of duties under this chapter, including the time spent in actual attendance at a meeting of the board and in direct travel to and from meetings and a reasonable number of days for the preparation and administration of examinations".

Board Compensation and Travel Expenses — Preamble: The preamble of SB 463 (Ch. 474, L. 1981), which provided for uniform compensation and travel expenses for Board members, is located in the compiler's comments under 37-1-133.

37-8-204. Executive director. (1) The department shall hire an executive director to provide services to the board in connection with the board's duties of:

(a) prescribing curricula and standards for nursing schools and making surveys of and approving schools and courses;

(b) evaluating and approving courses for affiliation of student nurses; and

(c) reviewing qualifications of applicants for licensure.

(2) The department shall hire as the executive director an individual who:

(a) is a graduate of an approved school of nursing and who has at least a master's degree with postgraduate courses in nursing;

(b) is licensed as a registered professional nurse in Montana; and

(c) has experience in teaching or administration in an approved school of nursing and who has completed at least 3 years in the clinical practice of nursing.

History: En. Sec. 19, Ch. 243, L. 1953; amd. Sec. 126, Ch. 350, L. 1974; amd. Sec. 6, Ch. 180, L. 1975; R.C.M. 1947, 66-1239(3); amd. Sec. 2, Ch. 83, L. 1981; amd. Sec. 4, Ch. 584, L. 1993; amd. Sec. 17, Ch. 492, L. 2001; amd. Sec. 44, Ch. 467, L. 2005.

Compiler's Comments

2005 Amendment: Chapter 467 inserted (2) establishing qualifications for the executive director; and made minor changes in style. Amendment effective July 1, 2005.

2001 Amendment: Chapter 492 deleted former (2) that read: "(2) The executive director must be:

(a) a citizen of the United States;

(b) a graduate of an approved school of nursing;

(c) a holder of at least a master's degree with postgraduate courses in nursing;

(d) a registered professional nurse with at least 5 years' experience in teaching or administration in an approved school of nursing"; and made minor changes in style. Amendment effective October 1, 2001.

1993 Amendment: Chapter 584 in (1), at beginning, substituted "The department shall hire an executive director" for "Any secretary hired by the department"; at end of (1)(c) deleted "for the board shall be"; inserted introductory clause of (2) concerning executive director; and made minor changes in style.

1981 Amendment: Deleted "shall first be approved by the board and" before "shall be" at the end of the introductory clause.

Administrative Rules

ARM 24.159.416 Qualifications for executive director of Board.

Part 3 Schools of Nursing

37-8-301. Nursing education programs — application for approval. An institution desiring to conduct a nursing education program in the state shall apply to the department and submit evidence that it is prepared to carry out an educational program that complies with the provisions of this chapter and the rules adopted by the board pursuant to this section. The board shall adopt rules relating to the conduct of nursing education programs that are directed toward insuring qualifications to practice as a professional nurse or a practical nurse in those areas of service specified in 37-8-102.

History: En. Sec. 18, Ch. 243, L. 1953; amd. Sec. 125, Ch. 350, L. 1974; R.C.M. 1947, 66-1238; amd. Sec. 8, Ch. 248, L. 1981.

Compiler's Comments

1981 Amendment: Substituted "nursing education program in the state" for "school of professional or practical nursing" in the first sentence; substituted the language in first sentence following "submit evidence that" for former subsections (1) and (2) that required evidence that a nursing school "is prepared to carry out the prescribed basic professional nursing curriculum or the prescribed curriculum for practical nursing, as the case may be; and it is prepared to meet other standards established by this law and by the board".

Statement of Intent: The statement of intent attached to SB 427 (Ch. 248, L. 1981) provided: "A statement of intent is required for this bill because it delegates rulemaking authority to the Board of Nursing in sections 7, 8, 10, 14, 16, and 19. . . . Section 8 grants the Board authority to adopt rules relating to the conduct of nursing education programs. It is the intent of the Legislature that the rules adopted relate directly toward the nursing education programs insuring that the qualifications of a

professional nurse or a practical nurse are adequate in the areas of services to be provided specified in section 4. . . ."

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

Administrative Rules

Title 24, chapter 159, subchapter 6, ARM Nursing education programs.

37-8-302. Nursing education programs — survey and approval. (1) It is the duty of the department through its authorized employees or representatives to periodically survey all nursing education programs. Written reports of such surveys shall be submitted to the board. If, in the opinion of the board, the requirements for an approved nursing education program are met, the program shall be granted initial or continuing approval.

(2) If the board determines that any approved nursing education program is not maintaining the standards required by law and the rules established by the board, notice shall be given to the nursing education program specifying the areas of noncompliance. A program that fails to correct these areas of noncompliance within the time designated by the board shall be removed from the list of approved nursing education programs.

History: En. Sec. 19, Ch. 243, L. 1953; amd. Sec. 126, Ch. 350, L. 1974; amd. Sec. 6, Ch. 180, L. 1975; R.C.M. 1947, 66-1239(1), (2); amd. Sec. 9, Ch. 248, L. 1981.

Compiler's Comments

1981 Amendment: Completely rewritten (see 1981 Session Law). Former section read: "Schools of nursing — survey and approval. (1) A survey of the school and institution or institutions with which the school is to be affiliated shall be made by the department, which shall submit a detailed written report of the survey to the board. If, in the opinion of the board, the requirements for an approved school of nursing (professional or practical) are met, it shall approve the school as an approved school of nursing.

(2) When the board determines that an approved school of nursing is not maintaining the standards required by law and by the board, notice in writing specifying the defect shall be immediately given to the school. A school which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be removed from the list of approved schools of nursing."

Administrative Rules

ARM 24.159.609 Program evaluation.

Part 4 Licensing

Part Cross-References

Proof of execution, Title 1, ch. 5, part 3.

Power of notary to take acknowledgments, 1-5-603, 1-5-604.

Oaths, Title 1, ch. 6.

Adoption and publication of rules, Title 2, ch. 4, part 3.

Licensing to follow contested case procedure, 2-4-631.

Affidavits, Title 26, ch. 1, part 10.

Duty of Department to administer and grade examinations, 37-1-101.

Duty of Board to adopt and enforce licensing and certification rules, 37-1-131.

Licensing boards to establish fees commensurate with costs, 37-1-134.

Licensing investigation and review — record access, 37-1-135.

Grounds for disciplinary action as grounds for license denial — conditions to new licenses, 37-1-137.

Licensure of criminal offenders, Title 37, ch. 1, part 2.

Perjury, 45-7-201.

False swearing, 45-7-202.

Report of fetal death that occurs outside licensed medical facility, 46-4-114.

37-8-401. Unlawful to indicate licensure without valid license. It shall be unlawful for any person to use any title, abbreviation, sign, card, or device to indicate that such person is a registered professional nurse or a licensed practical nurse unless such person has been duly licensed under the provisions of this chapter, and the license of such person shall be valid and in force in compliance with the provisions of this chapter.

History: En. Sec. 1, Ch. 243, L. 1953; amd. Sec. 1, Ch. 291, L. 1967; R.C.M. 1947, 66-1221(part).

Administrative Rules

Title 24, chapter 159, subchapter 12, ARM Registered nurses.

Case Notes

District Court Reversal of Board of Nursing Decision Upheld: White was refused licensing by endorsement under 37-8-417 (now repealed) by the Board of Nursing (Board) because although he was licensed as a practical nurse by New York State, he had not graduated from a practical nursing school. Instead, as is permitted in New York, he had taken the licensed practical nurse examination after completion of a substantial portion of a registered nursing program. The Supreme Court affirmed the District Court's ruling that the Board must issue the license. The Board's interpretation of 37-8-415 is hypertechnical. Section 37-8-415 should be interpreted to mean the applicant's education has been approved and authorized by the state in which he has been licensed. Further, the Board's interpretation defeats the intention of the Legislature as expressed in 37-8-101(2). In re White, 220 M 36, 712 P2d 1344, 43 St. Rep. 151 (1986).

Attorney General's Opinions

Paramedical Specialist to Be Licensed to Practice Nursing: A paramedical specialist may not engage in the practice of nursing without being licensed under the provisions of the Montana Nursing Practice Act. If a paramedical specialist practices nursing without being licensed, he is subject to the penal provisions of this Act. 36 A.G. Op. 18 (1975).

37-8-402 through 37-8-404 reserved.

37-8-405. Professional nursing — qualifications of applicants for license. An applicant for a license to practice as a registered professional nurse shall submit to the department written evidence that the applicant:

- (1) has successfully completed at least an approved 4-year high school course of study or the equivalent as determined by the office of the superintendent of public instruction;
- (2) has completed the basic professional curriculum in an approved school of nursing and holds a diploma from that school; and
- (3) meets other qualification requirements the board prescribes.

History: En. Sec. 7, Ch. 243, L. 1953; amd. Sec. 118, Ch. 350, L. 1974; R.C.M. 1947, 66-1227; amd. Sec. 3, Ch. 84, L. 1983; amd. Sec. 13, Ch. 502, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 502 in introductory clause near end after "evidence" deleted "verified by oath"; and made minor changes in style. Amendment effective October 1, 2007.

Saving Clause: Section 52, Ch. 502, L. 2007, was a saving clause.

1983 Amendment: In (3), after "board" deleted "acting under the professional nursing administration".

Administrative Rules

ARM 24.159.1029 Foreign-educated applicants for practical nurse licensure requirements.

Attorney General's Opinions

Board of Nursing — No Authority to Require College Degree for Licensure: The Legislature did not intend to require nursing license applicants to hold a specific college degree, as is evidenced by the fact that the Legislature did not set forth this requirement in statute as it did for other license qualifications statutes, and by the fact it permits nursing educational programs to be located in educational institutions which could not confer the minimum proposed degrees. Therefore, the Board of Nursing does not have

authority to adopt a rule requiring a specific college degree as a qualification for licensure. 41 A.G. Op. 23 (1985).

37-8-406. License — professional nursing — examination. (1) An applicant for a license to practice as a registered professional nurse is required to pass a written examination in subjects the board determines necessary. A written examination may be supplemented by an oral or practical examination. The board may use any national standardized examination for professional nurse licensure identified in its rules. The passing score on such examination shall be established by the board in its rules. On successfully passing the examination, an applicant shall be issued a license to practice professional nursing.

(2) The board shall establish in its rules the requirements for rewriting the examination for those persons failing the examination on the first writing and subsequent writing.

History: En. Sec. 8, Ch. 243, L. 1953; amd. Sec. 1, Ch. 195, L. 1963; amd. Sec. 3, Ch. 291, L. 1967; amd. Sec. 119, Ch. 350, L. 1974; amd. Sec. 4, Ch. 180, L. 1975; amd. Sec. 1, Ch. 215, L. 1975; R.C.M. 1947, 66-1228(1); amd. Sec. 10, Ch. 248, L. 1981; amd. Sec. 18, Ch. 345, L. 1981.

Compiler's Comments

1981 Amendments: Chapter 248 completely rewrote the section (see 1981 Session Law). Former section read: "Professional nursing — examination — fee. An applicant for a license to practice professional nursing is required to pass a written examination in subjects the board, acting under the professional nursing administration, determines. A written examination may be supplemented by an oral or practical examination. On successfully passing the examination, the department shall issue to the applicant a license to practice nursing as a registered professional nurse. The applicant shall pay a fee of \$35 at the time the application is submitted, which shall be returned to the applicant if the application is withdrawn not later than 5 days prior to the date of examination or if the examination is not taken, subject to deduction by the department of \$1 per subject of the examination which shall be retained by the department."

Chapter 345 substituted "shall pay a fee prescribed by the board" for "shall pay a fee of \$35" near the beginning of the fourth sentence of the former section; and substituted "subject to deduction by the department of an amount prescribed by the board" for "subject to deduction by the department of \$1" near the end of the last sentence of the former section.

Composite Section: The amendment by Ch. 345, L. 1981, substituting fee-setting authority in the board for statutory application fee amounts was not codified because Ch. 248, L. 1981, amended this section by deleting all reference to application fees.

Statement of Intent: The statement of intent attached to SB 427 (Ch. 248, L. 1981) provided: "A statement of intent is required for this bill because it delegates rulemaking authority to the Board of Nursing in sections 7, 8, 10, 14, 16, and 19. . . . Sections 10 and 14 grant rulemaking authority to the Board to establish passing scores for the professional and practical nurse examinations and establish requirements for rewriting the examination. It is the intent of the Legislature that the examination scores established be such as to insure the competency of applicants for licensure to protect the public health. Rules for rewriting the examination must provide assurance that the competency is as great as for applicants passing a first examination. . . ."

Administrative Rules

ARM 24.159.1222 General requirements for licensure.

ARM 24.159.1224 Licensure by examination requirements.

ARM 24.159.1228 Licensure by endorsement requirements.

ARM 24.159.1229 Foreign-educated applicants for registered nurse licensure requirements.

37-8-407. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 8, Ch. 243, L. 1953; amd. Sec. 1, Ch. 195, L. 1963; amd. Sec. 3, Ch. 291, L. 1967; amd. Sec. 119, Ch. 350, L. 1974; amd. Sec. 4, Ch. 180, L. 1975; amd. Sec. 1, Ch. 215, L. 1975; R.C.M. 1947, 66-1228(2), (3); amd. Sec. 11, Ch. 248, L. 1981; amd. Sec. 19, Ch. 345, L. 1981.

37-8-408. Title and abbreviation of registered nurse. Any person who holds a valid license to practice as a registered professional nurse in this state shall have the right to use the title "Registered Nurse" and the abbreviation "R.N."

History: En. Sec. 9, Ch. 243, L. 1953; R.C.M. 1947, 66-1229.

37-8-409. Advanced practice registered nursing — when professional nurse may practice. (1) A person licensed under this chapter who holds a certificate in a field of advanced practice registered nursing may practice in the specified field of advanced practice registered nursing upon approval by the board of an amendment to the person's license granting a certificate in a field of advanced practice registered nursing. The board shall grant a certificate in a field of advanced practice registered nursing to a person who submits written verification of certification by a board-approved national certifying body appropriate to the specific field of advanced practice registered nursing and who meets any other qualification requirements that the board prescribes.

(2) The board may give temporary approval to practice in a specific field of advanced practice registered nursing to a person who:

(a) intends to apply for approval under subsection (1); and

(b) has completed the advanced practice registered nursing education required in order for the person to apply to take the first national certification examination available from a board-approved national certifying body appropriate to the specific field of advanced practice registered nursing.

(3) If the person fails to obtain certification upon the person's first examination, the temporary approval provided for in subsection (2) expires on receipt of the examination results. The temporary approval may not be extended.

(4) In order to protect the public, the board may, in consultation with persons in the specific field of advanced practice registered nursing, adopt specific rules for each field of advanced practice registered nursing for the granting of temporary approval to practice and for determining the supervision of the licensee with temporary approval.

History: En. 66-1246 by Sec. 2, Ch. 97, L. 1974; R.C.M. 1947, 66-1246; amd. Sec. 12, Ch. 248, L. 1981; amd. Sec. 3, Ch. 422, L. 1995; amd. Sec. 41, Ch. 429, L. 1995.

Compiler's Comments

1995 Amendments — Coordination: Section 2, Ch. 422, amended this section, and sec. 3, Ch. 422, was a coordination instruction coordinating the amendment with House Bill No. 518 (Ch. 429, L. 1995). Because the coordination instruction overrides the amendment by sec. 2, the amendments made by sec. 3 are reported: in (1), in first sentence, substituted "this chapter" for "37-8-406 or 37-8-407", after "certificate in" substituted "a field of advanced practice registered nursing" for "nurse midwifery from the American college of nurse midwives", substituted "in the specified field of advanced practice registered nursing" for "midwifery", and at end of first sentence and in middle of second sentence substituted "in a field of advanced practice registered nursing" for "of nurse midwifery" and near middle of second sentence substituted "a board-approved national certifying body appropriate to the specific field of advanced practice registered nursing" for "the American college of nurse midwives"; in (2), after "practice", substituted "in a specific field of advanced practice registered nursing" for "nurse midwifery for up to 4 months" and at end deleted "has taken the American college of nurse midwives"; inserted (2)(a) concerning intent to apply for approval; in (2)(b), at beginning, inserted "has completed the advanced practice registered nursing education required in order for the person to apply to take the first" and at end substituted "available from a board-approved national certifying body appropriate to the specific field of advanced practice registered nursing" for "pending receipt of official notification of the results of the examination"; inserted (3) concerning failure of first examination; inserted (4) concerning adoption of rules for each field of advanced practice; and made minor changes in style. Amendment effective April 13, 1995.

Chapter 429 in (1) substituted "licensed under this chapter" for "licensed under 37-8-406 or 37-8-407"; deleted (2) that read: "(2) The board may give temporary approval to practice nurse-midwifery for up to 4 months to a person who has taken the American college of nurse-midwives national certification examination, pending receipt of official notification of the results of the examination"; and made minor changes in style.

1995 Statement of Intent: The statement of intent attached to Ch. 422, L. 1995, provided: "A statement of intent is required for this bill because it grants rulemaking authority to the board of nursing to

give temporary approval and to establish requirements for temporary approval to practice in a field of advanced practice registered nursing. The legislature finds that it is in the public interest to give temporary approval to practice to a person who has completed the advanced practice registered nursing education required in order for the person to apply to take a national certification examination. In order to protect the public, the board of nursing is authorized to make rules regarding the procedures for obtaining temporary approval to practice in each field of advanced practice registered nursing and for the supervision of the nurse. Because the practices of nurse practitioners, nurse-midwives, nurse anesthetists, and clinical nurse specialists are unique, the board may adopt separate requirements for each specialty as necessary and shall consult with practitioners in each field in the development of the rules."

Severability: Section 131, Ch. 429, L. 1995, was a severability clause.

Saving Clause: Section 132, Ch. 429, L. 1995, was a saving clause.

Applicability: Section 133, Ch. 429, L. 1995, provided: "[This act] applies to licenses applied for, complaints submitted, and proceedings begun after [the effective date of this section]." Effective October 1, 1995.

1981 Amendment: Deleted "—professional nursing administration" after "board" in (1) and at the beginning of (2).

Administrative Rules

Title 24, chapter 159, subchapter 14, ARM Advanced practice registered nurses.

Case Notes

Amendment to Board of Nursing Rule Not Redefining or Expanding Scope of Practice of Certified Registered Nurse Anesthetists — No MAPA Violation in Adoption of Rule: Plaintiffs asserted that the Board of Nursing improperly revised ARM 8.32.303 regarding the scope of practice of certified registered nurse anesthetists (CRNAs) and violated provisions of the Montana Administrative Procedure Act (MAPA) regarding an inadequate statement of reasonable necessity and improper notice. The Supreme Court disagreed. The notice for the rule in question stated that amendments would address the independent practice of CRNAs, but the actual amendment merely clarified existing CRNA practice and dealt with prescriptive authority. Nevertheless, even though the Board of Nursing did not fully comply with the requirement for a statement of necessity reflecting the proposed amendment, the Board substantially complied by putting the public on notice of the proposed amendment and permitting observation of and participation in the amendment process. Plaintiffs had notice of the proposed amendment and actively participated in the process by attending the public hearing and voicing their opposition to the amendment. Thus, the District Court did not err in holding that the amendments to ARM 8.32.303 did not redefine or expand the scope of practice of CRNAs or violate MAPA. *Mont. Soc'y of Anesthesiologists v. Bd. of Nursing*, 2007 MT 290, 339 M 472, 171 P3d 704 (2007).

37-8-410. Signature authority of advanced practice registered nurse. (1) When a provision of law or administrative rule requires a signature, certification, stamp, verification, affidavit, or endorsement by a physician, the requirement may be fulfilled by an advanced practice registered nurse practicing within the scope of the advanced practice registered nurse's certification.

(2) This section may not be construed to expand the scope of practice of an advanced practice registered nurse.

History: En. Sec. 1, Ch. 52, L. 2019.

Compiler's Comments

Effective Date: This section is effective October 1, 2019.

37-8-411 through 37-8-414 reserved.

37-8-415. Licensed practical nursing — qualifications of applicants. An applicant for a license to practice as a licensed practical nurse shall submit to the board written evidence that the applicant:

(1) has successfully completed at least an approved 4-year high school course of study or the equivalent as determined by the office of the superintendent of public instruction;

(2) is a graduate of an approved practical nursing education program that is authorized to prepare persons for licensure as practical nurses; and

(3) meets other qualification requirements the board prescribes in its rules.

History: En. Sec. 11, Ch. 243, L. 1953; amd. Sec. 4, Ch. 291, L. 1967; amd. Sec. 120, Ch. 350, L. 1974; R.C.M. 1947, 66-1231; amd. Sec. 13, Ch. 248, L. 1981; amd. Sec. 14, Ch. 502, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 502 in introductory clause near end after "evidence" deleted "verified by oath"; and made minor changes in style. Amendment effective October 1, 2007.

Saving Clause: Section 52, Ch. 502, L. 2007, was a saving clause.

1981 Amendment: Substituted "board" for "department" in the first sentence of the section; substituted language in (2) referring to practical nursing education program for "has successfully completed the prescribed curriculum in an approved school of practical nursing and holds a diploma or certificate therefrom"; deleted "acting under the practical nursing administration" after "board" in (3); added "in its rules" at the end of (3).

Administrative Rules

Title 24, chapter 159, subchapter 10, ARM Licensed practical nurses.

Case Notes

District Court Reversal of Board of Nursing Decision Upheld: White was refused licensing by endorsement under 37-8-417 (now repealed) by the Board of Nursing (Board) because although he was licensed as a practical nurse by New York State, he had not graduated from a practical nursing school. Instead, as is permitted in New York, he had taken the licensed practical nurse examination after completion of a substantial portion of a registered nursing program. The Supreme Court affirmed the District Court's ruling that the Board must issue the license. The Board's interpretation of this section is hypertechnical. This section should be interpreted to mean the applicant's education has been approved and authorized by the state in which he has been licensed. Further, the Board's interpretation defeats the intention of the Legislature as expressed in 37-8-101(2). In re White, 220 M 36, 712 P2d 1344, 43 St. Rep. 151 (1986).

Attorney General's Opinions

Board of Nursing — No Authority to Require College Degree for Licensure: The Legislature did not intend to require nursing license applicants to hold a specific college degree, as is evidenced by the fact that the Legislature did not set forth this requirement in statute as it did for other license qualifications statutes, and by the fact it permits nursing educational programs to be located in educational institutions which could not confer the minimum proposed degrees. Therefore, the Board of Nursing does not have authority to adopt a rule requiring a specific college degree as a qualification for licensure. 41 A.G. Op. 23 (1985).

37-8-416. Licensed practical nursing — examination. An applicant for a license to practice as a practical nurse is required to pass a written examination in subjects as the board determines. A written examination may be supplemented by an oral or practical examination. The board may use any nationally standardized examination for practical nurse licensure identified by the board in its rules. The passing score shall be established by the board in its rules. On successfully passing the examination, the board shall issue to the applicant a license to practice as a licensed practical nurse.

History: En. Sec. 12, Ch. 243, L. 1953; amd. Sec. 5, Ch. 291, L. 1967; amd. Sec. 121, Ch. 350, L. 1974; amd. Sec. 5, Ch. 180, L. 1975; R.C.M. 1947, 66-1232(1); amd. Sec. 14, Ch. 248, L. 1981.

Compiler's Comments

1981 Amendment: Deleted "acting under the practical nursing administration" after "board" in the first sentence; inserted the third sentence referring to nationally standardized examination; inserted fourth sentence referring to the passing score; and substituted "board" for "department" in the last sentence.

Statement of Intent: The statement of intent attached to SB 427 (Ch. 248, L. 1981) provided: "A statement of intent is required for this bill because it delegates rulemaking authority to the Board of Nursing in sections 7, 8, 10, 14, 16, and 19. . . . Sections 10 and 14 grant rulemaking authority to the Board to establish passing scores for the professional and practical nurse examinations and establish requirements for rewriting the examination. It is the intent of the Legislature that the examination scores established be such as to insure the competency of applicants for licensure to protect the public health."

Rules for rewriting the examination must provide assurance that the competency is as great as for applicants passing a first examination. . . ."

Administrative Rules

ARM 24.159.1022 General requirements for licensure.

ARM 24.159.1024 Licensure by examination requirements.

ARM 24.159.1028 Licensure by endorsement requirements.

ARM 24.159.1029 Foreign-educated applicants for practical nurse licensure requirements.

37-8-417. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 12, Ch. 243, L. 1953; amd. Sec. 5, Ch. 291, L. 1967; amd. Sec. 121, Ch. 350, L. 1974; amd. Sec. 5, Ch. 180, L. 1975; R.C.M. 1947, 66-1232(2), (3); amd. Sec. 15, Ch. 248, L. 1981.

37-8-418. Licensed practical nursing — application fee. An applicant for a license to practice as a licensed practical nurse shall pay a nonrefundable fee prescribed by the board to the department at the time the application is submitted.

History: En. Sec. 14, Ch. 243, L. 1953; amd. Sec. 2, Ch. 195, L. 1963; amd. Sec. 122, Ch. 350, L. 1974; amd. Sec. 2, Ch. 215, L. 1975; R.C.M. 1947, 66-1234; amd. Sec. 20, Ch. 345, L. 1981; amd. Sec. 29, Ch. 126, L. 2005.

Compiler's Comments

2005 Amendment: Chapter 126 near middle after "pay a" inserted "nonrefundable" and at end after "submitted" deleted "which fee shall be returned to the applicant if the application is withdrawn not later than 5 days prior to the date of examination or the final submission to the board of application for endorsement without examination, subject to a deduction of an amount prescribed by the board to be retained by the department"; and made minor changes in style. Amendment effective July 1, 2005.

1981 Amendment: Substituted "shall pay a fee prescribed by the board" for "shall pay a fee of \$35" near the beginning of the section; and substituted "subject to a deduction of an amount prescribed by the board" for "subject to a deduction of \$5" near the end of the section.

Fees Prescribed by Board — Statement of Intent and Preamble: Chapter 345, L. 1981 (SB 412), which amended this section relating to the Board prescribing fees, contained a statement of intent and a preamble. For the texts see compiler's comments at 37-1-134.

37-8-419. Title and abbreviation of licensed practical nurse. Any person who holds a valid license to practice as a licensed practical nurse in this state shall have the right to use the title "Licensed Practical Nurse" and the abbreviation "L.P.N."

History: En. Sec. 15, Ch. 243, L. 1953; R.C.M. 1947, 66-1235.

37-8-420. Terminated. Sec. 5, Ch. 408, L. 2001.

History: En. Sec. 1, Ch. 408, L. 2001.

37-8-421. Temporary practice permit. (1) The board shall issue a temporary practice permit to an individual licensed in another state that has licensing standards substantially equivalent to those of this state if the board determines that:

(a) the applicant has submitted a completed application as approved by the board;

(b) the initial screening by the board staff shows no current disciplinary action as identified by the board by rule; and

(c) there is no reason to deny a temporary practice permit under the laws of this state governing the practice of nursing.

(2) The individual may practice under a temporary practice permit until a license is granted, until a notice of proposal to deny a temporary practice permit is issued, or until the period of time adopted by the board by rule expires.

(3) A nurse who is employed under a temporary practice permit may function only under the supervision of a registered professional nurse, physician, dentist, osteopath, or podiatrist who is on the

premises where and when the permittee is working and who is specifically assigned the responsibility of supervising the performance of the temporary practice permittee.

History: En. Sec. 2, Ch. 408, L. 2001.

Compiler's Comments

Effective Date: Section 4, Ch. 408, L. 2001, provided that this section is effective July 1, 2001.

37-8-422. Medication aide I — scope of practice.

A medication aide I may:

- (1) perform services requiring basic knowledge of medications and medication administration under specific circumstances as determined by the board by administrative rule;
- (2) practice only in a licensed assisted living facility, as defined in 50-5-101; and
- (3) practice only under the general supervision of a licensed professional or practical nurse.

History: En. Sec. 4, Ch. 448, L. 2003; amd. Sec. 6, Ch. 448, L. 2003; amd. Sec. 2, Ch. 392, L. 2011.

Compiler's Comments

2011 Amendment: Chapter 392 in introductory clause after "aide" inserted "I". Amendment effective October 1, 2011.

Effective Date: This section is effective October 1, 2003.

Name Change: Pursuant to sec. 6, Ch. 448, L. 2003, an instructions to code commissioner section, the code commissioner in (2) substituted "assisted living facility" for "personal-care facility".

Administrative Rules

Title 24, chapter 159, subchapter 9, ARM Medication aides.

37-8-423. Medication aide II — qualifications. An applicant for a license to practice as a medication aide II shall submit to the board written evidence that the applicant:

- (1) has successfully completed at least an approved 4-year high school course of study or the equivalent as determined by the office of public instruction;
- (2) holds a valid certificate from the department of public health and human services as a certified nursing assistant;
- (3) has been employed as a certified nursing assistant in a long-term care facility licensed to provide skilled nursing care, as defined in 50-5-101, for a minimum of 2 years;
- (4) holds a valid certificate in cardiopulmonary resuscitation;
- (5) (a) has successfully completed a training program specified by the board that includes 100 hours of education consisting of classroom instruction, laboratory skills, and supervised medication administration related to basic pharmacology and principles of safe medication administration; or
(b) is currently licensed as a medication aide in another state with a program that is determined by the board to be reasonably equivalent to the board-specified program;
- (6) has passed a board-approved competency examination with at least 80% proficiency; and
- (7) has completed 12 hours of annual continuing education in pharmacology and medication administration.

History: En. Sec. 3, Ch. 392, L. 2011.

Compiler's Comments

Effective Date: This section is effective October 1, 2011.

37-8-424. Medication aide II — scope of practice.

- (1) A licensed medication aide II may:
- (a) perform services requiring basic knowledge of medications and medication administration subject to the limitations outlined in subsection (2);
 - (b) practice only in a long-term care facility licensed to provide skilled nursing care, as defined in 50-5-101; and
 - (c) practice only under the supervision of a licensed professional or practical nurse who is on the premises.
- (2) A licensed medication aide II may not:
- (a) administer medications on an as-needed basis;
 - (b) administer parenteral or subcutaneous medications except for pre-labeled, pre-drawn insulin;

- (c) administer medications through nasogastric routes or by gastrostomy or jejunostomy tubes;
- (d) convert or calculate dosages; or
- (e) take verbal orders related to changes in medications and dosages.

History: En. Sec. 4, Ch. 392, L. 2011.

Compiler's Comments

Effective Date: This section is effective October 1, 2011.

37-8-425. Medication aide — title. Any person who holds a valid license to practice as a medication aide in this state may use the title licensed medication aide I or licensed medication aide II and the abbreviations "LMA I" or "LMA II" respectively.

History: En. Sec. 5, Ch. 392, L. 2011.

Compiler's Comments

Effective Date: This section is effective October 1, 2011.

37-8-426. Medication aide II — implementation. The board shall establish rules implementing the provisions of 37-8-102 and 37-8-422 through 37-8-426 and providing for the establishment of requirements for license renewal, including but not limited to continuing education, continued certification as a certified nursing assistant and medication aide II, and mandatory cardiopulmonary resuscitation certification.

History: En. Sec. 6, Ch. 392, L. 2011.

Compiler's Comments

Effective Date: This section is effective October 1, 2011.

37-8-427 through 37-8-429 reserved.

37-8-430. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 19, Ch. 248, L. 1981.

37-8-431. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. Sec. 16, Ch. 243, L. 1953; amd. Sec. 3, Ch. 195, L. 1963; amd. Sec. 123, Ch. 350, L. 1974; amd. Sec. 3, Ch. 215, L. 1975; R.C.M. 1947, 66-1236; amd. Sec. 16, Ch. 248, L. 1981; amd. Sec. 21, Ch. 345, L. 1981; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 42, Ch. 429, L. 1995; amd. Sec. 14, Ch. 492, L. 1997; amd. Sec. 18, Ch. 492, L. 2001; amd. Sec. 14, Ch. 271, L. 2003; amd. Sec. 2, Ch. 317, L. 2003.

37-8-432. Deposit of fees. Fees and fines collected by the department under this chapter, except those collected by a justice's court, shall be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).

History: En. Sec. 17, Ch. 243, L. 1953; amd. Sec. 118, Ch. 147, L. 1963; amd. Sec. 124, Ch. 350, L. 1974; R.C.M. 1947, 66-1237; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 24, Ch. 557, L. 1987.

Compiler's Comments

1987 Amendment: Near beginning, after "chapter", inserted "except those collected by a justice's court".

1983 Amendment: Substituted reference to state special revenue fund for reference to earmarked revenue fund.

Cross-References

Collection and disposition of fines, penalties, forfeitures, and fees, 3-10-601.

37-8-433. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 5, Ch. 584, L. 1993.

37-8-434. Criminal background check. (1) Each applicant for licensure shall submit a full set of the applicant's fingerprints to the board for the purpose of obtaining a state and federal criminal history background check. The Montana department of justice may share this fingerprint data with the federal bureau of investigation.

(2) Each license applicant is responsible to pay all fees charged in relation to obtaining the state and federal criminal history background check.

(3) The board may require licensees renewing their licenses to submit a full set of their fingerprints to the board for the purpose of obtaining a state and federal criminal history background check. The Montana department of justice may share this fingerprint data with the federal bureau of investigation.

History: En. Sec. 1, Ch. 406, L. 2015.

Compiler's Comments

Effective Date: This section is effective October 1, 2015.

37-8-435 through 37-8-440 reserved.

37-8-441. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 20, Ch. 243, L. 1953; amd. Sec. 127, Ch. 350, L. 1974; R.C.M. 1947, 66-1240; amd. Sec. 17, Ch. 248, L. 1981; amd. Sec. 3, Ch. 282, L. 1987.

37-8-442. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 21, Ch. 243, L. 1953; amd. Sec. 128, Ch. 350, L. 1974; R.C.M. 1947, 66-1241; amd. Sec. 18, Ch. 248, L. 1981; amd. Sec. 4, Ch. 282, L. 1987.

37-8-443. Violation of chapter — penalties. (1) It is a misdemeanor for a person, including a corporation, association, or individual, to:

(a) sell or fraudulently obtain or furnish any nursing diploma, license, or record or aid in the sale of or in fraudulently obtaining or furnishing a nursing diploma, license, or record;

(b) practice nursing, as defined by this chapter, under cover of any diploma, license, or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(c) use in connection with the person's name any designation tending to imply that the person is a registered professional nurse or a licensed practical nurse unless licensed to practice;

(d) practice nursing during the time the person's license is suspended, revoked, or on inactive status;

(e) conduct a school of nursing or a course unless the school or course has been approved by the board;

(f) otherwise violate any provision of this chapter.

(2) A misdemeanor, as provided in subsection (1), is punishable by a fine of not less than \$100 for the first offense. Each subsequent offense is punishable by a fine of \$300, by imprisonment of not more than 6 months in the county jail, or both.

(3) District courts within their respective county jurisdictions may hear, try, and determine a misdemeanor and impose the prescribed punishment and fines. It is necessary to prove, in any prosecution for misdemeanor under this section, only a single act prohibited by law or a single holding out or an attempt. It is not necessary to prove a general course of conduct in order to constitute a violation.

History: En. Sec. 23, Ch. 243, L. 1953; amd. Sec. 8, Ch. 291, L. 1967; amd. Sec. 5, Ch. 101, L. 1977; R.C.M. 1947, 66-1243; amd. Sec. 3, Ch. 317, L. 2003.

Compiler's Comments

2003 Amendment: Chapter 317 deleted (1)(c) and (1)(d) that read: "(c) practice professional nursing unless duly licensed to do so;

(d) practice practical nursing unless duly licensed to do so"; and made minor changes in style. Amendment effective April 14, 2003.

Cross-References

Criminal responsibility and accountability of corporations, 45-2-311, 45-2-312.

Case Notes

Jurisdiction Over Lapsed License: In 1987, Gilpin was convicted on two counts of sexual assault. In 1990, Gilpin's nursing license lapsed for failure to renew. In 1990, the Board of Nursing sought to revoke Gilpin's nursing license. The parties submitted an agreed statement of facts to a hearing examiner who submitted findings, conclusions, and a recommendation to the Board. The Board heard Gilpin's objections orally and in writing, adopted the hearing examiner's recommendations, and revoked the license. Gilpin then appealed to the District Court, which heard the parties' arguments and issued an order affirming the revocation of the license. The Supreme Court held that because the Board has power to reinstate a nursing license 3 years after it lapses, the Board retains jurisdiction over a license 3 years after it lapses. Thus, the Board did not lose jurisdiction over Gilpin's license and had jurisdiction to revoke the license. The Supreme Court also held that the stipulation of facts was a sufficient factual basis to revoke the license and that Gilpin was not entitled to any hearings in addition to those that he was given. *Gilpin v. Bd. of Nursing*, 254 M 308, 837 P2d 1342, 49 St. Rep. 831 (1992).

Attorney General's Opinions

Board of Nursing — Authority Over Nursing — Related Subjects: The Board of Nursing lacks authority to require approval of schools and courses which teach nursing-related subjects but which do not prepare students for licensure as registered or licensed practical nurses. 38 A.G. Op. 24 (1979).

Paramedical Specialist to Be Licensed to Practice Nursing: A paramedical specialist may not engage in the practice of nursing without being licensed under the provisions of the Montana Nursing Practice Act. If a paramedical specialist practices nursing without being licensed, he is subject to the penal provisions of this Act. 36 A.G. Op. 18 (1975).

37-8-444. Injunctions. When it appears to the board that any person is violating any of the provisions of this chapter, the board may in its own name bring an action in a court of competent jurisdiction for an injunction against such violation, and the proper courts of this state may enjoin any person, firm, or corporation from violation of this chapter without regard to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

History: En. Sec. 24, Ch. 243, L. 1953; R.C.M. 1947, 66-1244.

Cross-References

Issuance of injunctions on nonjudicial days, 3-1-302, 3-5-302.

Contempts, Title 3, ch. 1, part 5.

Affidavits, Title 26, ch. 1, part 10.

Injunctions, Title 27, ch. 19.

Disciplinary authority of boards — injunctions, 37-1-136.

37-8-445 through 37-8-450 reserved.

37-8-451. Repealed. Secs. 2, 4, Ch. 445, L. 2017.

History: En. Sec. 1, Ch. 65, L. 2015.

37-8-452. Repealed. Secs. 2, 4, Ch. 445, L. 2017.

History: En. Sec. 2, Ch. 65, L. 2015.

Part 5

Enhanced Nurse Licensure Compact

37-8-501. Enhanced nurse licensure compact — enactment. The Enhanced Nurse Licensure Compact is enacted into law and entered into with all jurisdictions legally joining in the compact, in the form substantially as set forth below.

Article I. Findings and Declaration of Purpose

- (1) The party states find that:
 - (a) the health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;
 - (b) violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;
 - (c) the expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;
 - (d) new practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;
 - (e) the current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and
 - (f) uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.
- (2) The general purposes of this compact are to:
 - (a) facilitate the states' responsibility to protect the public's health and safety;
 - (b) ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;
 - (c) facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;
 - (d) promote compliance with the laws governing the practice of nursing in each jurisdiction;
 - (e) invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;
 - (f) decrease redundancies in the consideration and issuance of nurse licenses; and
 - (g) provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

Article II. Definitions

As used in this compact:

- (1) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.
- (2) "Alternative program" means a non-disciplinary monitoring program approved by a licensing board.
- (3) "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.
- (4) "Current significant investigative information" means:
 - (a) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 - (b) investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
- (5) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.
- (6) "Home state" means the party state that is the nurse's primary state of residence.
- (7) "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

(8) "Multistate license" means a license to practice as a registered or a licensed practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

(9) "Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse (RN) or LPN/VN in a remote state.

(10) "Nurse" means RN or LPN/VN, as those terms are defined by each party state's practice laws.

(11) "Party state" means any state that has adopted this compact.

(12) "Remote state" means a party state, other than the home state.

(13) "Single-state license" means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

(14) "State" means a state, territory, or possession of the United States and the District of Columbia.

(15) "State practice laws" means a party state's laws, rules, and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" does not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

Article III. General Provisions and Jurisdiction

(1) A multistate license to practice registered or licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each party state.

(2) A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

(3) Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:

(a) meets the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws;

(b) (i) has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program; or

(ii) has graduated from a foreign RN or LPN/VN prelicensure education program that:

(A) has been approved by the authorized accrediting body in the applicable country; and

(B) has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;

(c) has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing, and listening;

(d) has successfully passed an NCLEX-RN[®]; or NCLEX-PN[®]; examination or recognized predecessor, as applicable;

(e) is eligible for or holds an active, unencumbered license;

(f) has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;

(g) has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;

(h) has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

(i) is not currently enrolled in an alternative program;

(j) is subject to self-disclosure requirements regarding current participation in an alternative program; and

(k) has a valid United States social security number.

(4) All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation, or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(5) A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the client is located at the time service is provided.

(6) Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this compact shall affect the requirements established by a party state for the issuance of a single-state license.

(7) (a) Any nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that a nurse, who changes primary state of residence after this compact's effective date, must meet all applicable requirements of subsection (3) of Article III to obtain a multistate license from a new home state.

(b) A nurse who fails to satisfy the multistate licensure requirements in subsection (3) of Article III due to a disqualifying event occurring after this compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the interstate commission of nurse licensure compact administrators (Commission).

Article IV. Applications for Licensure in a Party State

(1) Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant, and whether the applicant is currently participating in an alternative program.

(2) A nurse may hold a multistate license, issued by the home state, in only one party state at a time.

(3) If a nurse changes primary state of residence by moving between two party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the commission.

(4) The nurse may apply for licensure in advance of a change in primary state of residence.

(5) A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

(6) If a nurse changes primary state of residence by moving from a party state to a non-party state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

Article V. Additional Authorities Invested in Party State Licensing Boards

(1) In addition to the other powers conferred by state law, a licensing board shall have the authority to:

(a) take adverse action against a nurse's multistate licensure privilege to practice within that party state. Only the home state shall have the power to take adverse action against a nurse's license issued by the home state. For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(b) issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state;

(c) complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

(d) issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence is located.

(e) obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the federal bureau of investigation for criminal background checks, receive the results of the federal bureau of investigation record search on criminal background checks, and use the results in making licensure decisions;

(f) if otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse; and

(g) take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.

(2) If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

(3) Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

Article VI. Coordinated Licensure Information System and Exchange of Information

(1) All party states shall participate in a coordinated licensure information system of all licensed registered nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs). This system will include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(2) The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

(3) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials), and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

(4) Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(5) Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.

(6) Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(7) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

(8) The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum:

- (a) identifying information;
- (b) licensure data;
- (c) information related to alternative program participation; and
- (d) other information that may facilitate the administration of this compact, as determined by commission rules.

(9) The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

Article VII. Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

(1) The party states hereby create and establish a joint public entity known as the interstate commission of nurse licensure compact administrators:

- (a) The commission is an instrumentality of the party states.
- (b) Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(c) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(2) Membership, voting, and meetings:

(a) Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this compact for each party state. The executive director provided for in 37-8-204 shall serve as the administrator of this compact for the state of Montana. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

(b) Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

(c) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.

(d) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article VIII.

(e) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

- (i) noncompliance of a party state with its obligations under this compact;
- (ii) the employment, compensation, discipline, or other personnel matters, practices or procedures related to specific employees, or other matters related to the commission's internal personnel practices and procedures;
- (iii) current, threatened, or reasonably anticipated litigation;
- (iv) negotiation of contracts for the purchase or sale of goods, services, or real estate;
- (v) accusing any person of a crime or formally censuring any person;
- (vi) disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- (vii) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- (viii) disclosure of investigatory records compiled for law enforcement purposes;
- (ix) disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or
- (x) matters specifically exempted from disclosure by federal or state statute.

(f) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters

discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(3) The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including but not limited to:

(a) establishing the fiscal year of the commission;

(b) providing reasonable standards and procedures:

(i) for the establishment and meetings of other committees; and

(ii) governing any general or specific delegation of any authority or function of the commission;

(c) providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed.

(d) establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission;

(e) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the commission.

(f) providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations.

(4) The commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the commission.

(5) The commission shall maintain its financial records in accordance with the bylaws.

(6) The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(7) The commission shall have the following powers:

(a) to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all party states, except that the rules may not alter qualifications for a state licensure or scope of practice.

(b) to bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;

(c) to purchase and maintain insurance and bonds;

(d) to borrow, accept, or contract for services of personnel, including, but not limited to, employees of a party state or nonprofit organizations;

(e) to cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space, or other resources;

(f) to hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(g) to accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same, provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(h) to lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, whether real, personal, or mixed, provided that at all times the commission shall avoid any appearance of impropriety;

(i) to sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed;

(j) to establish a budget and make expenditures;
(k) to borrow money;
(l) to appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons;
(m) to provide and receive information from, and to cooperate with, law enforcement agencies;
(n) to adopt and use an official seal; and
(o) to perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

(8) Financing of the commission:

(a) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities, and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states.

(c) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the commission pledge the credit of any of the party states, except by, and with the authority of, such party state.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(9) Qualified defense and indemnification:

(a) The commission shall defend any administrator, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel, and provided further that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct.

(b) The commission shall indemnify and hold harmless any administrator, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that person.

Article VIII. Rulemaking

(1) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this compact.

(2) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(3) Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(a) on the website of the commission; and

(b) on the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

(4) The notice of proposed rulemaking shall include:

(a) the proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(b) the text of the proposed rule or amendment, and the reason for the proposed rule;
(c) a request for comments on the proposed rule from any interested person; and
(d) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(5) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(6) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

(7) The commission shall publish the place, time, and date of the scheduled public hearing.

(a) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.

(b) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(8) If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.

(9) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(10) The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(11) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(a) meet an imminent threat to public health, safety, or welfare;

(b) prevent a loss of commission or party state funds; or

(c) meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

(12) The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

Article IX. Oversight, Dispute Resolution, and Enforcement

(1) Oversight:

(a) Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.

(b) The commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities, or actions of the commission and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such a proceeding to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(2) Default, technical assistance, and termination:

(a) If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(i) provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission; and

(ii) provide remedial training and specific technical assistance regarding the default.

(b) If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges,

and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(c) Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.

(d) A state whose membership in this compact has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(e) The commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated unless agreed upon in writing between the commission and the defaulting state.

(f) The defaulting state may appeal the action of the commission by petitioning the U.S. district court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(3) Dispute resolution:

(a) Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and non-party states.

(b) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(c) (i) In the event the commission cannot resolve disputes among party states arising under this compact the party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

(ii) The decision of a majority of the arbitrators shall be final and binding.

(4) Enforcement:

(a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(b) By majority vote, the commission may initiate legal action in the U.S. district court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(c) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

Article X. Effective Date, Withdrawal, and Amendment

(1) This compact shall become effective and binding on the earlier of the date of legislative enactment of this compact into law by no less than twenty-six (26) states or December 31, 2018. All party states to this compact that also were parties to the prior nurse licensure compact superseded by this compact, (prior compact) shall be deemed to have withdrawn from said prior compact within six (6) months after the effective date of this compact.

(2) Each party state to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior compact until such party state has withdrawn from the prior compact.

(3) Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

(4) A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

(5) Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this compact.

(6) This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

(7) Representatives of non-party states to this compact shall be invited to participate in the activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all states.

(8) Nothing in this compact shall be construed to supersede state labor laws or relieve any employer from complying with statutory provisions.

Article XI. Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held to be contrary to the constitution of any party state, this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

History: En. Sec. 1, Ch. 445, L. 2017.

Compiler's Comments

Effective Date: Section 4, Ch. 445, L. 2017, provided that this section is effective July 1, 2017.