

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

In the matter of the amendment of)
ARM 24.159.910, 24.159.911, and)
24.159.1412, the adoption of NEW)
RULES I and II, and the repeal of)
ARM 24.159.406, 24.159.410,)
24.159.416, 24.159.903, 24.159.1003,)
24.159.1022, 24.159.1024,)
24.159.1028, 24.159.1029,)
24.159.1037, 24.159.1041,)
24.159.1052, 24.159.1053,)
24.159.1203, 24.159.1222,)
24.159.1224, 24.159.1228,)
24.159.1229, 24.159.1237,)
24.159.1241, 24.159.1252,)
24.159.1253, 24.159.1403,)
24.159.1427, 24.159.1431,)
24.159.1443, and 24.159.1601,)
pertaining to the Board of Nursing)

TO: All Concerned Persons

1. On June 3, 2022, at 10:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment, adoption, and repeal of the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/86856497677>
Meeting ID: 868 5649 7677, Passcode: 848534
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 868 5649 7677, Passcode: 848534

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Nursing no later than 5:00 p.m., on May 27, 2022, to advise us of the nature of the accommodation that you need. Please contact Missy Poortenga, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2380; Montana Relay 711; facsimile (406) 841-2305; or nurse@mt.gov (board's e-mail).

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

24.159.910 GENERAL REQUIREMENTS FOR LICENSURE AS MEDICATION AIDE I (1) and (2) remain the same.

~~(3) The application will be kept on file for one year. If the applicant fails to complete the requirements for application within one year, a new application and fee will be required.~~

~~(4) Licenses shall be issued for one-year periods, and shall expire on the date set by ARM 24.101.413.~~

~~(5) Renewal forms must be completed and returned to the board before the date set by ARM 24.101.413, together with the renewal fee.~~

AUTH: 37-1-131, 37-8-202, MCA

IMP: 37-1-131, 37-1-141, 37-8-101, 37-8-202, MCA

REASON: Sections (3) through (5) are proposed to be repealed because they are incorporated into New Rule I.

24.159.911 GENERAL REQUIREMENTS FOR LICENSURE AS MEDICATION AIDE II (1) remains the same.

~~(2) The application will be kept on file for one year. If the applicant fails to complete the requirements for application within one year, a new application and fee will be required.~~

~~(3) Licenses shall be issued for one-year periods and shall expire on the date set by ARM 24.101.413.~~

~~(4) Renewal forms must be completed and returned to the board before the date set by ARM 24.101.413, together with the renewal fee.~~

AUTH: 37-8-426, MCA

IMP: 37-8-423, 37-8-426, MCA

REASON: The sections in the foregoing two rules are proposed to be repealed because they are proposed to be incorporated into New Rule I. This recodification will assist applicants and the public utilize the rules by placing specifics regarding application processes together.

24.159.1412 APPLICATION FOR INITIAL APRN LICENSURE (1) remains the same.

~~(2) The applicant must submit the APRN application form provided by the department and the nonrefundable fee.~~

(3) through (5) remain the same but are renumbered (2) through (4).

~~(6) The board shall keep the application on file for one year. If the applicant fails to complete the requirements for application within one year, a new application must be submitted.~~

(7) and (8) remain the same but are renumbered (5) and (6).

AUTH: 37-1-131, 37-8-202, MCA

IMP: 37-1-131, 37-1-134, 37-8-202, 37-8-409, MCA

REASON: There is reasonable necessity to repeal (2) and (6) because they have been incorporated into the requirements applicable to all license applicants in New Rule I.

4. The proposed new rules are as follows:

NEW RULE I APPLICATIONS AND RENEWALS (1) An applicant for licensure by the board must submit the required fees and completed application for the license sought. Applicants failing to complete the application process within one year must complete a new application and submit new application fees.

(2) To renew a license, which will be effective on the renewal date of ARM 24.101.413, the licensee must:

(a) fill out the renewal application and return it to the board by the date set in ARM 24.101.413;

(b) accompany the application with the renewal fee; and

(c) remit the late penalty set forth in ARM 24.101.403 if the renewal is postmarked after the renewal deadline.

(3) The provisions of ARM 24.101.408 apply to licenses issued by the board.

AUTH: 37-1-131, 37-1-141, 37-8-202, 37-8-405, 37-8-415, MCA

IMP: 37-1-131, 37-1-134, 37-1-141, 37-8-202, 37-8-405, 37-8-406, 37-8-409, 37-8-415, 37-8-416, 37-8-418, MCA

NEW RULE II LPN AND RN APPLICATIONS (1) In addition to the requirements of [NEW RULE I], an applicant for LPN or RN licensure must provide:

(a) license verification and, if not in English, a certified translation, from the state, territory, or country in which the applicant holds now, or has held previously, any professional license or credential; and

(b) detailed explanation and supporting documentation for each affirmative answer to background questions on application.

(2) Endorsement applicants for LPN or RN licensure must currently hold the same license in good standing in another state, territory, or country.

(3) Examination applicants for LPN or RN licensure by examination shall transmit:

(a) proof of educational attainment:

(i) an official transcript, sent to the board directly from the educational institution, verifying date of graduation and degree or credential conferred; or

(ii) if educated internationally, results of a credentials review by a board-specified credentials review agency or another board of nursing that verifies the equivalency of the international LPN or RN education program to LPN or RN education programs in the United States; and

(b) proof of successful passage of NCLEX-PN or NCLEX-RN, as applicable:

(i) applicants must complete all educational requirements and the board must receive all credential prior to determining the applicant eligible to test; and

(ii) candidates failing the examination are not eligible to retest for a period determined by the testing entity and must submit an examination retake fee.

AUTH: 37-1-131, 37-1-141, 37-8-202, 37-8-405, 37-8-415, MCA

IMP: 37-1-131, 37-1-134, 37-1-141, 37-8-202, 37-8-405, 37-8-406, 37-8-409, 37-8-415, 37-8-416, 37-8-418, MCA

REASON: Reasonable necessity exists to adopt New Rules I and II in an effort to simplify for the public the administrative rules. Rather than have a renewal rule for each license type, the board proposes a single rule applicable to all licenses issued by the board.

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

24.159.406 BOARD OBJECTIVES

AUTH: 37-8-202, MCA

IMP: 37-8-202, MCA

REASON: The rule is proposed to be repealed because it is duplicative of the board's obligations and authority set forth in statute.

24.159.410 DUTIES OF MEMBERS OF THE BOARD

AUTH: 37-8-202, MCA

IMP: 37-8-202, MCA

REASON: The rule is proposed to be repealed because it is duplicative of board member's obligations in code and in practice.

24.159.416 QUALIFICATIONS FOR EXECUTIVE DIRECTOR OF THE BOARD

AUTH: 37-8-202, MCA

IMP: 37-8-204, MCA

REASON: The rule is proposed to be repealed because it duplicates the qualifications for the executive officer which are set forth in statute.

24.159.903 PURPOSE OF STANDARDS OF PRACTICE FOR LICENSED MEDICATION AIDES

AUTH: 37-1-131, 37-8-202, 37-8-426, MCA

IMP: 37-8-101, 37-8-426, MCA

24.159.1003 PURPOSE OF STANDARDS OF NURSING PRACTICE FOR THE PRACTICAL NURSE

AUTH: 37-1-131, 37-8-202, MCA
IMP: 37-1-131, 37-8-202, MCA

24.159.1203 PURPOSE OF STANDARDS OF NURSING PRACTICE FOR THE REGISTERED NURSE

AUTH: 37-1-131, 37-8-202, MCA
IMP: 37-1-131, 37-8-202, MCA

24.159.1403 PURPOSE OF STANDARDS OF PRACTICE FOR THE ADVANCED PRACTICE REGISTERED NURSE

AUTH: 37-8-202, MCA
IMP: 37-8-202, MCA

24.159.1601 PURPOSE

AUTH: 37-1-131, 37-8-202, MCA
IMP: 37-1-131, 37-8-202, MCA

REASON: The rules proposed to be repealed above merely set forth what is implied or explicit in the administrative rules and statutes governing the Board of Nursing and the practice of nursing—that the rules governing the practice do, in fact, govern the practice. As such, the rules may be repealed without impacting the substance of the administrative rules. Repealing them furthers the goals of the Red Tape Relief initiative of simplifying, shortening, and clarifying the administrative rules.

24.159.1041 VERIFICATION OF LICENSURE

AUTH: 37-1-131, 37-8-202, MCA
IMP: 37-1-304, 37-8-202, MCA

24.159.1241 VERIFICATION OF LICENSURE

AUTH: 37-1-131, 37-8-202, MCA
IMP: 37-1-304, 37-8-202, MCA

24.159.1431 VERIFICATION OF LICENSURE

AUTH: 37-1-131, 37-8-202, MCA
IMP: 37-1-131, 37-8-202, MCA

REASON: The rules proposed to be repealed above provide contact information for verification of licensure status. This contact information need not be in

administrative rule and can be more easily provided to the public in other ways, such as on the Board of Nursing website.

24.159.1052 LICENSEE PROBATION OR REPRIMAND OF A LICENSEE

AUTH: 37-1-136, 37-8-202, MCA
IMP: 37-1-136, 37-1-137, 37-1-316, MCA

24.159.1252 LICENSEE PROBATION OR REPRIMAND OF A LICENSEE

AUTH: 37-1-136, 37-8-202, MCA
IMP: 37-1-136, 37-1-137, 37-1-316, MCA

REASON: The rules proposed to be repealed above duplicate board authority set forth in 37-1-312, MCA, and are therefore unnecessary to be repeated in rule.

24.159.1053 LICENSE REAPPLICATION CONSIDERATIONS AFTER DENIAL, REVOCATION, OR SUSPENSION

AUTH: 37-8-202, MCA
IMP: 37-1-136, 37-8-202, MCA

24.159.1253 LICENSE REAPPLICATION CONSIDERATIONS AFTER DENIAL, REVOCATION, OR SUSPENSION

AUTH: 37-8-202, MCA
IMP: 37-1-136, 37-8-202, MCA

24.159.1443 LICENSE REAPPLICATION AFTER DENIAL, REVOCATION, OR SUSPENSION

AUTH: 37-1-136, 37-8-202, MCA
IMP: 37-1-136, 37-1-314, 37-8-202, MCA

REASON: The rules proposed to be repealed above are duplicative of the nonroutine application rules. The board is entitled to consider on an individual basis all applicants with a disciplinary history, as envisioned by these rules. As a result, these rules are unnecessary.

24.159.1024 LPN LICENSURE BY EXAMINATION

AUTH: 37-1-131, 37-8-202, 37-8-415, MCA
IMP: 37-1-131, 37-8-415, 37-8-416, 37-8-418, MCA

24.159.1028 LPN LICENSURE BY ENDORSEMENT

AUTH: 37-1-131, 37-8-202, 37-8-415, MCA

IMP: 37-1-131, 37-1-304, 37-8-415, 37-8-418, MCA

24.159.1029 LPN LICENSURE BY EXAMINATION FOR INTERNATIONALLY EDUCATED APPLICANTS

AUTH: 37-1-131, 37-8-202, 37-8-415, MCA

IMP: 37-1-131, 37-8-415, 37-8-416, 37-8-418, MCA

24.159.1037 RENEWALS

AUTH: 37-1-131, 37-1-141, 37-8-202, MCA

IMP: 37-1-134, 37-1-141, 37-8-202, MCA

24.159.1224 RN LICENSURE BY EXAMINATION

AUTH: 37-1-131, 37-8-202, 37-8-405, MCA

IMP: 37-1-131, 37-1-134, 37-8-405, 37-8-406, MCA

24.159.1228 RN LICENSURE BY ENDORSEMENT

AUTH: 37-1-131, 37-8-202, 37-8-405, MCA

IMP: 37-1-131, 37-1-134, 37-1-304, 37-8-405, MCA

24.159.1229 RN LICENSURE BY EXAMINATION FOR INTERNATIONALLY EDUCATED APPLICANTS

AUTH: 37-1-131, 37-8-202, 37-8-405, MCA

IMP: 37-1-131, 37-1-134, 37-8-405, 37-8-406, MCA

24.159.1237 RENEWALS

AUTH: 37-1-131, 37-1-141, 37-8-202, MCA

IMP: 37-1-134, 37-1-141, 37-8-202, MCA

24.159.1427 RENEWALS

AUTH: 37-1-131, 37-8-202, MCA

IMP: 37-1-131, 37-1-134, 37-1-141, 37-8-202, MCA

REASON: The rules proposed to be repealed above are proposed to be consolidated into New Rules I and II. This repeal simplifies, shortens, and clarifies the administrative rules in furtherance of Red Tape Relief efforts.

24.159.1022 GENERAL REQUIREMENTS FOR LICENSURE

AUTH: 37-8-202, MCA

IMP: 37-8-406, 37-8-416, MCA

24.159.1222 GENERAL REQUIREMENTS FOR LICENSURE

AUTH: 37-8-202, MCA

IMP: 37-8-406, 37-8-416, MCA

REASON: Reasonable necessity exists to repeal the above rules because they are duplicative of requirements set forth in application requirements for LPNs and RNs, and are therefore unnecessary.

6. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to nurse@mt.gov, and must be received no later than 5:00 p.m., June 10, 2022.

7. An electronic copy of this notice of public hearing is available at <https://nurse.mt.gov/> (department and board's website). Although the department strives to keep its websites accessible at all times, concerned persons should be aware that websites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a website do not excuse late submission of comments.

8. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons wishing to have their name added to the list shall make a written request that includes the name and e-mail or mailing address of the person to receive notices and specifies the intent to receive notices of all board administrative rulemaking proceedings or a particular subject matter. The request must indicate whether e-mail or standard mail is preferred and may be sent or delivered to the Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to (406) 841-2305; e-mailed to nurse@mt.gov; or by completing a request form at any rules hearing held by the board.

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

10. Pursuant to 2-4-111, MCA, the board has determined that the rule changes proposed in this notice will not have a significant and direct impact upon small businesses.

11. Department staff has been designated to preside over and conduct this hearing.

BOARD OF NURSING
SARAH SPANGLER, RN,
PRESIDENT

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 3, 2022.