

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.162.420 fee schedule,)
24.162.501 documentation for)
licensure, 24.162.506 temporary)
permit, 24.162.510 reciprocity)
licenses, and 24.162.2105 continuing)
education)

TO: All Concerned Persons

1. On July 16, 2009, the Board of Nursing Home Administrators (board) published MAR Notice No. 24-162-38 regarding the public hearing on the proposed amendment of the above-stated rules, at page 1072 of the 2009 Montana Administrative Register, issue no. 13.

2. On August 11, 2009, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the August 19, 2009, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments received and the board's responses are as follows:

Comments 1 through 5 pertain to ARM 24.162.420.

COMMENT 1: Two commenters were concerned that physicians currently pay less to renew their licenses than nursing home administrators.

RESPONSE 1: The board agrees that physicians do pay lower renewal fees than nursing home administrators, but notes that there are more than ten times as many licensed physicians as nursing home administrators. More licensees creates an economy of scale and allows the costs of licensing to be more spread out.

COMMENT 2: A commenter stated that the proposed fees represent a wide range of increases and that some surrounding states have lower renewal fees.

RESPONSE 2: The board reviewed renewal costs, compared them with smaller boards' renewal fees, and researched surrounding states' renewal fees. The board ultimately decided to increase various fees, instead of a percentage increase in all fees, because the greatest revenue share comes from renewal fees. The proposed renewal fee increases are commensurate with associated board costs.

COMMENT 3: One commenter suggested the board consider a smaller increase or using a tiered approach to increase fees over the next several years.

RESPONSE 3: The board concluded that if a lesser increase or a tiered method of increasing fees over several years were used, board legal fees and the costs associated with rule notices would increase. The board is proposing to raise fees sufficiently at this time so that fees will not have to be raised on an annual basis. The board previously discussed increasing fees over the last two years, but being conscious of the financial situation for many administrators in the state, had avoided raising them. The board has also seen a decline in the number of licensees in recent years, which has led to a decrease in board revenue.

COMMENT 4: A commenter suggested that expenses should decline, since board staff will no longer be preapproving continuing education.

RESPONSE 4: The board's CE approval is currently done in conjunction with regularly scheduled meetings to save costs. Because preapproval takes a minimal portion of the meetings, any costs savings following the change will be negligible.

COMMENT 5: One commenter asked that the department be prudent and control expenses and not combine the board with any other board.

RESPONSE 5: The board agrees and will forward the comments to the department.

Comments 6 through 10 pertain to ARM 24.162.2105.

COMMENT 6: Three commenters asked the board to allow licensees to carry over at least some of the required continuing education (CE) into the next year and suggested allowing ten hours of carryover.

RESPONSE 6: The board has reviewed CE requirements in other states, as per the National Association of Long Term Care Administrator Boards (NAB) index. Following the comments, the board is amending ARM 24.162.2105 to allow up to ten hours of CE carryover in the succeeding year.

COMMENT 7: A commenter asked the board to clarify the requirement in (4)(c) that CE programs deal with nursing home issues as set forth in state and federal mandates and provided some alternative rule language.

RESPONSE 7: In response to the comment, the board is amending the rule to clarify the requirement.

COMMENT 8: One commenter stated that the language of (5) regarding cassettes and video tapes is obsolete and recommended the board amend the rule to broaden the electronic technology acceptable for CE credit.

RESPONSE 8: The board agrees with the commenter and is amending the rule accordingly.

COMMENT 9: One commenter suggested that the board preapprove certain known CE providers and others as appropriate. The commenter stated that this will give licensees notice of some approved CE events and would reduce the number of appeals coming before the board.

RESPONSE 9: The board never intended to ignore CE associations' offerings, but proposed the deletion of the preapproved requirement because licensees are competent to determine whether a course would meet the guidelines and should be responsible for attending quality CE courses. The board proposed the change so that licensees would select CE based upon course content instead of the provider. The board also notes that any changes to a preapproved CE list would require a rule change and entail extra costs. The board is amending the rule exactly as proposed.

COMMENT 10: One commenter requested that the board notify licensees of their CE audit results.

RESPONSE 10: The board notes that a process already exists in which board staff addresses individual concerns and responds to both CE requests and audits.

COMMENT 11: Two commenters stated that experience does count and appreciates that the board is not amending the educational requirements in ARM 24.162.501 to require a Bachelor's degree.

RESPONSE 11: The board appreciates all comments made during the rulemaking process.

4. The board has amended ARM 24.162.420, 24.162.501, 24.162.506, and 24.162.510 exactly as proposed.

5. The board has amended ARM 24.162.2105 with the following changes, stricken matter interlined, new matter underlined:

24.162.2105 CONTINUING EDUCATION (1) through (4)(b) remain as proposed.

(c) deal primarily with substantive nursing home management issues as ~~contained in state and federal mandates.~~

(5) A CE program means a class, institute, lecture, conference, workshop, ~~cassette audio, videotape~~ video, internet or correspondence course or peer-reviewed publication of a journal article(s) or textbook(s) that meets the requirements of (4). Programs that promote a company, individual, or product are excluded.

(6) through (8) remain as proposed.

(9) Up to ten hours earned in excess of 20 hours in a calendar year may be carried over into the succeeding year.

(9) through (11) remain as proposed but are renumbered (10) through (12).

BOARD OF NURSING HOME
ADMINISTRATORS
CARLA NEIMAN, CHAIRPERSON

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 19, 2009