

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.162.420 fee schedule,) PROPOSED AMENDMENT
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 August 11, 2009, at 10:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Nursing Home Administrators (board) no later than 5:00 p.m., on August 6, 2009, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Nursing Home Administrators, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdnha@mt.gov.

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

<u>24.162.420 FEE SCHEDULE</u> (1) remains the same.	
(a) application fee	\$160 <u>225</u>
(b) jurisprudence reexamination	50 <u>75</u>
(c) inactive renewal fee	75 <u>100</u>
(d) active renewal fee	185 <u>235</u>
(e) temporary permit	160 <u>200</u>
(f) reciprocity	260 <u>275</u>
(2) through (4) remain the same.	

AUTH: 37-1-131, 37-1-134, 37-9-304, MCA
IMP: 37-1-131, 37-1-134, 37-1-141, 37-9-304, MCA

REASON: The board has determined that there is reasonable necessity to make the proposed fee changes to comply with the provisions of 37-1-134, MCA, and keep the board's fees commensurate with associated costs. The department, in providing administrative services to the board, has determined that unless the licensure fees

are increased as proposed, the board will have a shortage of operating funds by 2010. The board and department engaged in lengthy debate and research in reaching this conclusion, including a thorough review of the board's current and past expenses, revenue, fees, and licensing trends. In addition, the board has researched licensing fees for nursing home administrators in surrounding states and reviewed licensing fees in Montana for other professions who have a similar number of licensees. The board estimates that approximately 261 individuals will be affected by the proposed fee changes. The estimated annual increase in revenue is approximately \$6360. The board last raised its fees in 2005.

24.162.501 APPLICATION AND DOCUMENTATION FOR LICENSURE

(1) through (3)(a) remain the same.

(i) management experience in health care, with or without supervision, from the administration, no more than ~~600~~ 200 points/year;

(ii) direct services experience providing health care services with direct patient contact, no more than ~~450~~ 100 points/year;

(iii) remains the same.

(b) Credit for educational training will be given as set forth in (i) through ~~(ii)~~(v) below. In the case where multiple degrees have been attained, credit shall be given for one degree only, according to the degree designated for credit by the license applicant.

~~(i)~~ (iii) ~~minimum of an~~ associate degree in a health care or business field equals ~~4,200~~ 600 points;

(i) bachelor degree or higher in a health care or business field equals 1,200 points;

(ii) remains the same but is renumbered (v).

(ii) bachelor degree in any other field equals 800 points;

(iv) associate degree in any other field equals 400 points;

(c) Training seminars/workshops/short courses in health care and business equals one point per approved clock hour;

(d) through (4) remain the same.

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

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

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

REASON: The board acknowledges that most states require a bachelor's degree for licensure as a nursing home administrator. The board would like to increase the licensure requirements accordingly, but remains sensitive to the challenges Montana's rural communities face in recruiting licensees. Thus, the board is amending this rule by assigning higher point values to the higher education levels to reflect its support of the national trend towards requiring a bachelor's degree for licensure.

During a department assessment of all licensure boards' business processes, it was discovered that the board's application process failed to address the statutory requirement at 37-9-301, MCA, for applicants of good character. The board

determined it is reasonably necessary to add (5) to this rule and require that applicants submit three statements of good moral character to further implement the statute.

24.162.506 TEMPORARY PERMIT (1) remains the same.

(2) The temporary license shall be valid for 120 days or until the applicant passes the national examination, whichever comes first.

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

AUTH: 37-1-319, 37-9-201, 37-9-203, MCA

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

REASON: Following a business process analysis of all boards, department staff raised concerns about the board issuing temporary permits without parameters set for the length of time or termination date. The board is amending this rule now to specify that temporary permits are limited in duration and issued one per applicant.

The board is amending the authority and implementation cites to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.162.510 RECIPROCITY LICENSES (1) remains the same.

(a) that the applicant attained a passing scaled score, as determined by the ~~national association of boards of examiners for nursing home administrators~~ National Association of Boards of Examiners for Nursing Home Administrators on an examination prepared by the professional examination service or the national association of boards; and

(b) through (2) remain the same.

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

AUTH: 37-1-131, 37-9-201, 37-9-203, MCA

IMP: 37-1-304, 37-9-301, 37-9-303, MCA

REASON: During a department assessment of all licensure boards' business processes, it was discovered that the board's reciprocity application process failed to address the statutory requirement at 37-9-301, MCA, for applicants of good character. The board determined it is reasonably necessary to add (3) to this rule and require that applicants submit three statements of good moral character to further implement the statute.

Authority and implementation cites are being amended to accurately reflect all statutes implemented through the rule, to provide the complete sources of the board's rulemaking authority, and to delete reference to a repealed statute.

24.162.2105 CONTINUING EDUCATION (1) All applicants for renewal of licenses and inactive registration shall have completed a continuing education (CE) course as a condition to ~~establish eligibility for of~~ renewal.

~~(2) All courses for continuing education obtained from a provider that is not on the board's preapproved list must be approved by the board based upon the relevance to current nursing home administrator issues.~~

~~(a) The board shall adopt policy guidelines for approval of continuing education courses.~~

~~(b) A list of the guidelines for approval must be provided to all new licensees and must be available from the board office and through electronic media.~~

~~(c) Licensees who attend a course not offered by a preapproved provider/sponsor shall submit the course for approval on the form prescribed by the board and accompanied by the appropriate fee. All courses must be submitted for approval by December 31 of the year in which the course was attended.~~

~~(d) A list of approved providers/sponsors and courses must be mailed to licensees with each renewal notice and must be available from the board office through the electronic media.~~

~~(3) The board may preapprove providers/sponsors of continuing education. Courses obtained from a preapproved provider/sponsor do not need to be submitted for approval. Courses sponsored by preapproved providers/sponsors that are germane to long-term care will be automatically accepted by the board.~~

~~(a) Applications for approval as a provider must be made on a form prescribed by the board.~~

~~(b) The board will require that the providers/sponsors demonstrate expertise in the areas of long-term care including accredited educational institutions, recognized professional or trade associations, or other legitimate organizational entities capable of conducting adult continuing education.~~

~~(c) The board shall annually review the list of preapproved providers/sponsors for assurance as to the quality and relevance of courses offered and the provider's compliance with the board's policies relative to preapproved providers.~~

~~(d) The board may grant continuing education credit to the licensees who have attended courses/programs that have been accepted by other state boards/associations of nursing home administrators.~~

~~(4) Twenty-five hours of continuing education will be required annually for renewal of a license or renewal of inactive registration.~~

~~(a) Up to 25 hours earned in excess of 25 hours in a calendar year may be carried over into the succeeding year.~~

~~(b) A licensee is exempt from the continuing education requirement the year of original licensure.~~

~~(c) The board will conduct continuing education audits. Those licensees selected shall submit proof of completion of continuing education courses. Licensees are responsible for maintaining their records of participation of continuing education and make them available upon request.~~

~~(d) One semester credit is equal to 15 continuing education hours, and 60 minutes of class time equals one continuing education hour.~~

~~(5) No more than 15 hours of college courses may be submitted for continuing education without prior approval of the board. These courses should contribute to the professional competence of the participant.~~

(2) Twenty hours of CE will be required annually for renewal of a license or renewal of an inactive registration.

(3) A licensee is exempt from the CE requirement the year of original licensure.

(4) The board/staff will not pre-approve CE programs or sponsors. It is the responsibility of the licensee to select quality programs that:

(a) contribute to the licensee's knowledge and professional competence;

(b) contain significant intellectual or practical content; and

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

(5) A CE program means a class, institute, lecture, conference, workshop, cassette, videotape, 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) The board may grant CE hours to a licensee who attended courses or programs accepted by other state boards or associations of nursing home administrators, if the licensee demonstrates that the activity meets the requirements of (4).

(7) No more than 15 hours of college courses may be submitted for CE credit without prior approval of the board. These courses must comply with the requirements of (4).

(8) One semester credit is equal to 15 CE hours, and 60 minutes of class time is equal to one CE hour.

(9) All acceptable CE courses must issue a program or certificate of completion containing the following information:

(a) full name and qualifications of the presenter;

(b) title of the presentation attended;

(c) number of hours and date of each presentation attended;

(d) name of sponsor; and

(e) description of the presentation format.

(10) Licensees can earn up to a maximum of eight CE hours per year by teaching acceptable university or college courses.

(a) Acceptable courses are based on the following criteria:

(i) courses must be germane to the licensee's profession;

(ii) the licensee must be the instructor of the course; and

(iii) the course must be addressed to health professionals.

(b) The instructor will be awarded two CE hours for a one hour presentation.

(c) Instruction of any course may be submitted for CE credit only once.

(d) Instructors employed by universities and colleges will not receive CE hours in this section for conducting courses that are a part of the regular course offering of the institutions. This applies to courses that are offered in the evening or summer.

(11) The board will conduct random CE audits. Licensees selected for audit shall submit proof of completion of CE courses. Licensees are responsible for maintaining their CE records and making such records available upon board request.

AUTH: 37-1-131, 37-1-319, 37-9-201, 37-9-203, MCA
IMP: 37-1-306, 37-1-319, 37-9-203, ~~37-9-305~~, MCA

REASON: The board is amending this rule by reorganizing and reformatting the rule text as the board determined that the current rule is poorly organized and confusing to licensees.

The board is also amending this rule to simplify the continuing education (CE) requirements and reporting processes. The board anticipates that the amendments will result in CE requirements that are more affordable, accessible, and less restrictive than the current requirements.

The board is amending this rule to eliminate board preapproval of CE providers. The board determined that the preapproval process is confusing and cumbersome for both licensees and the board. The board notes that late approval or denial of a provider often resulted in licensees scrambling to obtain CE prior to renewal. The new process places the responsibility on the licensee to select appropriate CE courses within the guidelines of the board.

Following amendment, licensees will only be required to complete 20 CE hours per year. The board concluded that reducing the CE hours from 25 to 20 aligns Montana's requirements with the national average. In addition, licensees will no longer be able to carry any CE hours forward from year to year. The board notes that the purpose of requiring CE is to ensure that licensees remain up-to-date on current trends and changes in health care and allowing carryover does not further this purpose.

The board is also amending this rule to allow licensees to obtain some CE through teaching relevant college courses. In response to requests from licensees, the board determined that it is reasonable to allow up to eight hours of CE annually from teaching.

Implementation cites are being amended to accurately reflect all statutes implemented through this rule.

4. 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 Home Administrators, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdnha@mt.gov, and must be received no later than 5:00 p.m., August 19, 2009.

5. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at www.nha.mt.gov. The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical

problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

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

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

8. Anne O'Leary, attorney, has been designated to preside over and conduct this hearing.

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 July 6, 2009