

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.159.301 definitions, 24.159.1003)
through 24.159.1006 and 24.159.1010)
standards related to the practical nurse,)
and 24.159.1011 prohibited IV therapies)

TO: All Concerned Persons

1. On February 14, 2008, the Board of Nursing (board) published MAR Notice No. 24-159-70 regarding the proposed amendment of the above-stated rules, at page 279 of the 2008 Montana Administrative Register, issue no. 3. On March 27, 2008, the board published MAR Notice No. 24-159-72 regarding a notice of extension of comment period at page 532 of the 2008 Montana Administrative Register, issue no. 6.

2. On March 6, 2008, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the March 14, 2008, deadline.

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

COMMENT 1: Several comments were received regarding the definition of "charge nurse" in ARM 24.159.301. Suggested additions to the duties include transcription of medical record orders, presenting status reports for nursing unit patients, completing the controlled substance count on each shift, and being the charge nurse in a hospice or home healthcare organization. One commenter stated that licensed practical nurses (LPN) should not serve as charge nurses because they lack appropriate training.

RESPONSE 1: The definition of "charge nurse" is designed to cover a broad array of work place settings. The nurse working as the charge nurse in every employment setting is not responsible for all of the tasks enumerated by the commenters. The employer generally establishes the specific duties of a charge nurse, within the scope of practice of the nurse so designated. Licensed practical nurses are only authorized by law to serve as charge nurses in long term care facilities, thus an LPN may not serve as a charge nurse in a hospice or home healthcare setting. To clarify the limited circumstances in which an LPN may fulfill the role of charge nurse, the board is amending the definition to add the reference to an LPN as a charge nurse in long term care facilities, pursuant to 37-8-102(7)(b), MCA.

COMMENT 2: Two commenters asked for a more precise definition of "focused nursing assessment" to distinguish the LPN's focused assessment from the registered nurse's (RN) comprehensive assessment. One commenter suggested the board use language adopted by the National Council of State Boards of Nursing (NCSBN).

RESPONSE 2: The board agrees that the NCSBN definition more clearly distinguishes LPN tasks from RN tasks in nursing assessment. The board is amending the definition in ARM 24.159.301 to better distinguish these tasks.

COMMENT 3: A commenter suggested adding "comprehensive" to the definition of "nursing assessment" in ARM 24.159.301 to differentiate the focused nursing assessment by LPNs from the comprehensive nursing assessment completed by RNs. The commenter also suggested using the NCSBN definition for "comprehensive nursing assessment."

RESPONSE 3: The board determined that the NCSBN definition for nursing assessment is unnecessarily detailed, but concurs that adding "comprehensive" helps distinguish the nursing assessment completed by RNs from the focused nursing assessment of LPNs. The board is amending the rule accordingly and is also adding the phrase "conducted by an RN" to the definition for "comprehensive nursing assessment" to further differentiate the two levels of nursing assessment.

COMMENT 4: One commenter suggested the definition of "practical nurse" include reference to the licensed vocational nurse.

RESPONSE 4: While some states recognize the vocational nurse as a subset licensing category of the LPN, Montana's nurse licensing scheme does not distinguish the vocational nurse from the practical nurse. Consequently, a person licensed as a vocational nurse in another state must meet the qualifications for licensure as a practical nurse to be licensed in Montana.

COMMENT 5: One commenter stated that the rules should clearly articulate that development of the strategy of care is solely the function of an RN.

RESPONSE 5: The LPN contributes to the development of the strategy of care by collecting data and conducting the focused nursing assessment of patients. While the responsibility for preparing the strategy of care rests with the RN, the LPN often plays an important role in the process, which typically involves other health care disciplines.

COMMENT 6: One commenter generally supported the rule changes but suggested amending ARM 24.159.1004 regarding the LPN's contributions to the nursing process to recognize that an LPN is often the only nurse caring for a patient.

RESPONSE 6: The board concluded that the commenter has confused direct patient care tasks with the responsibility for patient well-being. Registered nurses,

advance practice registered nurses, physicians, and many others share the responsibility for patient care. LPNs must work under supervision of other health care professionals and should never be the only nurse providing patient care.

COMMENT 7: Several commenters supported the amendments but asked where and when the LPN will be provided training in intravenous (IV) therapy. One commenter recommended a minimum of 40 hours of training for LPNs in IV therapy.

RESPONSE 7: The amendments clarify that certain IV therapies are within the scope of practice of LPNs. The board does not mandate that LPNs must perform IV therapies and does not set forth a prescriptive number of hours of necessary IV therapy training. Instead, the board has determined that it is the personal responsibility of the LPN to ensure competency prior to undertaking IV therapies. The board encourages employers to provide training for LPNs in IV therapies and leaves the responsibility for appropriate training to educators and employers.

COMMENT 8: Several commenters supported the amendments regarding the LPN's role in IV therapy. Commenters stated that the amendments reflect current practice as LPNs have been starting IVs and giving antibiotic IV therapy for years and that LPNs performing IV therapy have learned to recognize allergic reactions. Another commenter opined that poor patient care results when an LPN is not allowed to push IV medications and is forced to locate an RN to do so. The commenters stated that LPNs are qualified to administer push medications and that the amendments maintain appropriate restrictions for LPN practice in IV therapy.

RESPONSE 8: The rules are intended to acknowledge the LPN's responsibilities for IV therapy. The amendments merely clarify that IV therapy is within the scope of practice of LPNs trained and competent to administer IV therapies and that under the direct supervision of an RN, an LPN may administer certain IV push medications.

COMMENT 9: One commenter advocated for a national standard for LPNs to address the vast differences in state laws and regulations regarding IV therapies and use of blood products. Another commenter opined that the entry level education standard for all nursing should be a minimum of a four-year degree.

RESPONSE 9: The board supports national standards for LPN training and scope of practice, but recognizes that the promulgation of any national standard is beyond the board's jurisdiction. Each state has the right to set educational standards and define scope of practice for all healthcare providers. The board declines to change the minimum education requirements for LPNs at this time.

COMMENT 10: One commenter stated that the use of "appropriate supervision" in ARM 24.159.1010 for LPNs in administering IV therapies will lead to confusion. The commenter suggested that the rule clearly state the appropriate level of supervision for LPNs when performing IV therapies.

RESPONSE 10: Three levels of supervision are delineated by nursing rule: general, direct, and immediate supervision. When a rule states that a task may be performed under "appropriate supervision," the level of supervision will be determined by the supervisor based upon the training, experience, and competency of the LPN who is performing IV therapy. The "appropriate" level of supervision will be general, direct, or immediate supervision and is determined on a case-by-case basis and the board is amending the rule to clarify this.

COMMENT 11: A commenter suggested that the LPN's role in administering medication through a portacath should be clearly enunciated in rule.

RESPONSE 11: Because a portacath is considered a central line, the administration of certain medications through a portacath may be within the scope of practice of the LPN who has met the education and competency requirements, if otherwise permitted by rule to administer that particular therapy or medication.

COMMENT 12: One commenter suggested that the board provide a list of approved IV therapy courses to assist LPNs in gaining competency in administering IV bolus and in use of the PICC line.

RESPONSE 12: The board agrees that a list of approved IV therapy courses available to Montana's LPNs who are interested in enhanced training and increased competency would be useful. No such courses are currently offered in Montana, but when these courses are developed, the provider will be responsible for publicity, which could include notice of the course availability in the board's newsletter.

COMMENT 13: A commenter suggested that ARM 24.159.1010 be amended to include the LPN's administration of prescribed doses of normal saline via the dialysis machine to correct dialysis-induced hypotension and noted that unlicensed dialysis technicians are currently allowed to administer saline under immediate supervision. Another commenter suggested that the rule should explicitly allow LPNs to administer prescribed doses of vitamin D analogs and Erythropoietin-stimulating agents via the dialysis machine blood circuit. The commenter stated these drugs are given routinely to almost all dialysis patients and established protocols exist in all dialysis centers for their safe administration. A third commenter asked for additional clarification of the LPN's role in dialysis and recommended that specific allowance be made in rule for LPNs to pull Alltel's (TPA) out of dialysis catheters and to administer Epogen, Venofer (iron), and Hectoral IV (vitamin D analog).

RESPONSE 13: The board acknowledges the comments on the LPN's role in dialysis therapy, but determined that the suggestions for rule change are too substantive to incorporate in this final rule notice. The board plans to begin discussion with stakeholders on the LPN's role in dialysis therapy to consider additional rule changes to address the commenters' concerns.

COMMENT 14: Numerous commenters questioned how the board will ensure that LPNs receive proper training and gain competency in administration of IV therapies.

RESPONSE 14: The board does not accept responsibility for the training of LPNs in IV therapy or any other nursing task. The board oversees all prelicensure nursing education programs in Montana, and ensures that all LPN educational programs prepare students to perform IV therapies as allowed by rule. However, the board does not direct the process by which the individual LPN attains competency in IV therapies. Instead, it is the responsibility of the individual licensee and the licensee's employer to ensure competency prior to an LPN undertaking IV therapies.

COMMENT 15: One commenter objected to the amendments to ARM 24.159.1010 allowing LPNs to administer analgesics and antiemetics by IV push, stating that LPNs lack the requisite understanding of the physiological effects of these drugs and most Montana hospitals do not have the educational resources needed to ensure that LPNs competently administer these drugs. Other commenters oppose allowing LPNs to hang any IV antibiotics or start IVs. Another commenter predicted that due to financial pressures on hospitals, the amendments will result in more LPNs and fewer RNs being employed in acute care settings.

RESPONSE 15: The board is committed to evidence-based decision-making and notes that LPNs have been performing IV therapies for many years with minimal evidence of problems or reported practice errors. The board lacks jurisdiction over employers or hospital hiring decisions. Instead, the board directs all LPNs to ensure that they have the requisite education and the competency necessary to perform any IV therapy tasks undertaken.

COMMENT 16: A commenter suggested that the term "IV" should be added to ARM 24.159.1011(2) for consistency throughout the rule.

RESPONSE 16: The board agrees and is amending the rule accordingly.

COMMENT 17: One commenter stated that ARM 24.159.1011 should specify whether an LPN can access an intrathecal line to administer pain control medications, check an intraosseous monitor, change medication cartridges, or monitor pain control pumps.

RESPONSE 17: The proposed amendments do not alter the present and continuing prohibition against LPNs administering pain control medications through an intrathecal line, which is not an IV therapy. The intraosseous mechanism is a specialized procedure, and checking an intraosseous line also remains outside of the scope of practice for the LPN. The board is making no changes regarding these prohibited therapies. However, following amendment the rule will allow a LPN to change a medication cartridge and monitor a pain control pump, if administered intravenously. Both of these therapies are within the LPN's scope of practice in IV therapy. The board generally seeks to define prohibited IV therapies by delineating the prohibited medications and medication classifications rather than describing prohibited routes of medication administration.

COMMENT 18: A commenter questioned whether the amendments to ARM 24.159.1011 will restrict LPNs from drawing blood for the Red Cross.

RESPONSE 18: The administration of blood products is a completely different and unrelated action from the drawing of blood, within the context of the Red Cross's blood donation activities. The amendment that bars the LPN from initiating blood, blood components, and plasma volume expanders will have no impact upon the participation of LPNs in Red Cross blood drives.

4. The board has amended ARM 24.159.1003, 24.159.1004, 24.159.1005, and 24.159.1006 exactly as proposed.

5. The board has amended ARM 24.159.301, 24.159.1010, and 24.159.1011 with the following changes, stricken matter interlined, new matter underlined:

24.159.301 DEFINITIONS As used in Title 37, chapter 8, MCA, and this chapter, unless defined specifically in a particular subchapter, the following definitions apply:

(1) remains as proposed.

(2) "Charge nurse" means the nurse who is in charge of patient and/or resident care during a nursing shift. An LPN may serve as a charge nurse in the absence of an RN in a long term care facility, pursuant to 37-8-102, MCA.

(3) through (5) remain as proposed.

(6) "Focused nursing assessment" ~~means an assessment conducted by an LPN and includes an appraisal of the client's current status, initial and ongoing data collection, and communication with other members of the health team as appropriate~~ is conducted by a licensed practical nurse and is an appraisal of an individual's status and situation at hand, contributing to the comprehensive assessment by the registered nurse, supporting ongoing data collection, deciding who needs to be informed of the information, and when to inform.

(7) and (8) remain as proposed.

(9) "Nursing Comprehensive nursing assessment" means a systematic collection of data conducted by an RN to determine the patient's health status and to identify any actual or potential health problems.

(10) through (20) remain as proposed.

24.159.1010 STANDARDS RELATED TO INTRAVENOUS (IV) THERAPY

(1) remains as proposed.

(2) The practical nurse who has met the education and competency requirements of this rule may perform the following functions with venous access devices (central, midline, and peripheral) under the appropriate level of supervision:

(a) through (n) remain as proposed.

~~(3) The practical nurse may not perform any procedures or administer any fluids or medications prohibited by ARM 24.159.1011.~~

(4) remains as proposed but is renumbered (3).

24.159.1011 PROHIBITED INTRAVENOUS (IV) THERAPIES (1) through (1)(g) remain as proposed.

(2) The practical nurse may not administer the following IV medications or IV fluids:

(a) through (j) remain as proposed.

(k) medications or fluids via an epidural, intrathecal, ~~intraosseous~~ intraosseous, umbilical route, or ventricular reservoir; or

(l) remains as proposed.

BOARD OF NURSING
SUSAN RAPH, R.N., PRESIDENT

/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 August 4, 2008