

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

In the matter of the proposed amendment) NOTICE OF PUBLIC HEARING
of ARM 24.159.301 definitions,) ON PROPOSED AMENDMENT
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 March 6, 2008, at 10:00 a.m., a public hearing will be held in room B-07, 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 (board) no later than 5:00 p.m., on February 29, 2008, to advise us of the nature of the accommodation that you need. Please contact Mary Ann Zeisler, Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2332; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdnur@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The board determined it is reasonable and necessary to amend certain rules as they have not been updated for several years and do not address current nursing trends, practices, technology, and education. As practical nursing continues to evolve with technological advances in the field of medicine, the practical nurse's role in maintaining standards for patient care also has changed. The proposed rule amendments neither redefine nor expand the legislatively established scope of practice for LPNs, set forth in 37-8-102, MCA. Instead, the amendments seek to identify and clarify the existing standards of practice for licensed practical nurses in Montana to ensure adequate protection of both the public and licensees.

Additional amendments are technical and nonsubstantive in nature, such as renumbering, correcting syntax or grammar choices, and amending punctuation to comply with ARM formatting requirements. Similar changes replace out-of-date terminology for current language, delete unnecessary or redundant sections, and amend rules for simplicity, consistency, and ease of use. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

4. The rules proposed to be amended provide as follows, 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 the same.

(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.

(2) remains the same but is renumbered (3).

(4) "Direction" means a communication of a plan of care based upon assessment of a patient by a registered nurse or a licensed independent health care provider pursuant to 37-8-102, MCA, that sets forth the parameters for the provision of care or for the performance of a procedure.

(5) "Direct supervision" means the supervisor is on the premises, and is quickly and easily available.

(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.

(3) remains the same but is renumbered (7).

(8) "Immediate supervision" means the supervisor is on the premises and is within audible and visual range of the patient.

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

(4) and (5) remain the same but are renumbered (10) and (11).

(6)(12) "Practical nurse" means the same thing as "licensed practical nurse," "PN," and "LPN" unless the context of the rule dictates otherwise. The practice of practical nursing is defined at 37-8-102, MCA.

(7)(13) "PRN medication" ("pro re nata," Latin for "according as circumstances may require") means medication taken as necessary for the specific reason stated in the medication order, together with specific instructions for its use.

(8) through (11) remain the same but are renumbered (14) through (17).

(12)(18) "Strategy of care" means the goal-oriented plan developed to assist individuals or groups to achieve optimum health potential. This includes initiating and maintaining comfort measures, promoting and supporting human functions and responses, establishing an environment conducive to well being, providing health counseling and teaching, and collaborating on certain aspects of the medical regimen, including but not limited to, the administration of medications and treatments.

(13)(19) "Supervision" or "general supervision" means provision of guidance by a qualified nurse or a person specified in 37-8-102, MCA, for the accomplishment of a nursing task or activity with initial direction of the task or activity and periodic inspection of the actual act of accomplishing the task or activity.

(20) "Supervisor" means the health care professional identified by these rules as the person qualified to supervise another in the performance of nursing procedures and care.

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

IMP: 37-1-131, 37-8-101, 37-8-102, 37-8-202, 37-8-422, MCA

REASON: It is reasonable and necessary to amend this rule to define relevant terminology and delineate among three levels of supervision (general, direct, and immediate) that correspond with the levels of elevated risk to a patient by various nursing interventions. The nursing rules establish the necessary level of supervision a licensed nurse with higher qualifications must exercise when overseeing the actions of other licensed or unlicensed health care workers. The board is amending this rule to distinguish the attributes of a "nursing assessment," which only an RN or APRN is qualified to perform, from the more limited "focused nursing assessment," which an LPN is qualified to perform. Although the term "charge nurse" appears in 37-8-102, MCA, the board is defining the term for the first time in rule to clarify that an LPN may serve in the capacity of a charge nurse in a long-term or intermediate care facility when no RN is present. The definition of "charge nurse" is reasonably necessary to preclude an LPN from being placed in the position of evaluating the performance of RN duties or RN competencies.

24.159.1003 PURPOSE OF STANDARDS OF NURSING PRACTICE FOR THE PRACTICAL NURSE (1) remains the same.

(a) establish ~~minimal~~ minimum acceptable levels of safe and effective practice for the practical nurse; and

(b) remains the same.

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

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

24.159.1004 STANDARDS RELATED TO THE PRACTICAL NURSE'S CONTRIBUTION TO APPLICATION OF THE NURSING PROCESS (1) The practical nurse shall ~~contribute~~ perform to the standardized, focused nursing ~~assessment~~ assessments in the care of clients by:

(a) through (a)(ii) remain the same.

(2) The practical nurse shall participate in the development of the strategy of care ~~by~~ in collaboration with other members of the health team by:

(a) remains the same.

(b) ~~contributing to the identification of~~ identifying priorities;

(c) ~~contributing to~~ setting realistic and measurable goals; ~~and~~

(d) ~~assisting in the identification of~~ identifying measures to maintain comfort, support human functions and responses, and maintain an environment conducive to well-being; ~~and provide~~

(e) providing health teaching.

(3) remains the same.

(a) providing nursing care for clients under the supervision of ~~a registered nurse, physician, dentist, osteopath, or podiatrist~~ licensed health care providers as per 37-8-102, MCA;

(b) providing an environment conducive to safety and health; and

(c) documenting and otherwise communicating nursing interventions and client responses to care with other members of the health care team via written, electronic, or verbal mechanisms of communication, as appropriate, based on client evaluations; and

~~(d) communicating nursing interventions and responses to care to appropriate members of the health team.~~

~~(4) The practical nurse shall contribute to the evaluation of the responses of individuals or groups to nursing interventions.~~

~~(5) Evaluation data shall be documented and communicated to appropriate members of the health team.~~

~~(6)~~(4) The practical nurse shall contribute to the modification of the strategy of care on the basis of the evaluation.

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

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

REASON: It is reasonable and necessary to amend this rule to clarify the role of the LPN as a participating member of the health care team. The amendment will more explicitly and particularly define the tasks performed by the LPN in relation to the standards, particularly the LPN's involvement in conducting focused nursing assessments as part of the nursing process. The Legislature has amended the types of individuals having prescriptive authority in 37-8-102, MCA, numerous times. The change to (3)(a) deletes the specific listing and instead refers to statute which eliminates the need for constant rule revision.

24.159.1005 STANDARDS RELATED TO THE PRACTICAL NURSE'S RESPONSIBILITIES AS A MEMBER OF THE HEALTH TEAM (1) through (1)(b) remain the same.

(c) function under the supervision of licensed health care providers as per 37-8-102, MCA; ~~a registered nurse, physician, dentist, osteopath, or podiatrist;~~

(d) consult with and seek guidance from registered nurses and/or other health team members ~~and seek guidance~~ as necessary;

~~(e) obtain instruction and supervision as necessary when implementing nursing techniques or practices;~~

(f) remains the same but is renumbered (e).

~~(g)~~(f) contribute to the formulation, interpretation, implementation, and evaluation of the objectives and policies related to practical nursing practice ~~within the employment setting;~~

~~(h)~~(g) participate in the evaluation of nursing practices through peer review;

(i) through (l) remain the same but are renumbered (h) through (k).

~~(m)~~(l) respect the client's right to privacy by protecting confidential information, unless obligated by law to disclose such information; ~~and~~

~~(n)~~(m) respect the property of clients, family, significant others, and the employer; ~~and~~

(n) follow the written, established policies and procedures of the health care organization that are consistent with this chapter.

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

REASON: It is reasonably necessary to amend this rule to specify that the LPN is required to follow those written, established policies and procedures of the health care organization that are consistent with this chapter, which is a general requirement of professional conduct. While an employer may choose to limit the practice of an LPN, the employer may not expand an LPN's practice beyond these rules. The amendment will ensure the LPN holds to the standard of these rules.

The Legislature has amended the types of individuals having prescriptive authority in 37-8-102, MCA, numerous times. The change to (1)(c) deletes the specific listing and refers to statute to eliminate the need for constant rule revision.

24.159.1006 STANDARDS RELATED TO THE PRACTICAL NURSE'S ROLE IN COSMETIC PROCEDURES (1) ~~A~~ The practical nurse who has the proper training and on-going competency may perform the following tasks and procedures only and while under the on-site direct supervision of a physician may perform procedures using the following technologies:

- ~~(a) procedures using lasers;~~
- ~~(b) procedures using intense pulsed light sources;~~
- ~~(c) procedures using microwave energy;~~
- ~~(d) procedures using radio frequency;~~
- ~~(e) procedures using electrical impulse; and~~
- ~~(f) dermatologic procedures employing dermatologic technologies that cut or alter living tissue; and,~~
- ~~(g) injections or insertions of the following:~~

(2) The practical nurse who has the proper training and on-going competency and while under the direct supervision of a physician may inject or insert the following:

- (i) through (v) remain the same but are renumbered (a) through (e).

AUTH: 37-1-131, 37-8-202, MCA
IMP: 37-1-131, 37-8-102, 37-8-202, MCA

REASON: It is reasonable and necessary to amend the authority and implementation cites to accurately reflect all statutes implemented through the rule and to provide the complete sources of the board's rulemaking authority.

24.159.1010 STANDARDS RELATED TO THE PRACTICAL NURSE'S ROLE IN INTRAVENOUS (IV) THERAPY (1) "IV therapy" means the introduction of fluid solutions directly into the circulatory system through a venous line. Prior to performing IV therapy, the practical nurse must have successfully completed a course of study that includes a process for evaluation, demonstration, and documentation of the knowledge, skills, and abilities required for safe administration of IV therapy procedures. Education and competency may be obtained through a board-approved, prelicensure nursing education program or a course of study utilizing appropriate education methods and qualified faculty.

~~(2) "Intravenous fluids" means fluid solutions of electrolytes, nutrients, vitamins, drugs, blood and blood products.~~

~~(3) "Standard intravenous solution" means an isotonic or hypotonic solution and the following hypertonic solutions:~~

- ~~(a) D5.2 normal saline;~~
- ~~(b) D5.3 normal saline;~~
- ~~(c) D5.45 normal saline;~~
- ~~(d) D5.9 normal saline;~~
- ~~(e) D5 in ringers; and~~
- ~~(f) D5 in lactated ringers.~~

~~(4) Any of the following IV therapy tasks related to peripheral vessel IVs may be performed by an LPN:~~

(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 appropriate supervision:

(a) calculate and adjust IV infusion flow rate, including monitoring and discontinuing infusions;

(b) observe and report subjective and objective signs of adverse reactions to any IV administration and initiate appropriate nursing interventions;

(c) draw blood;

(d) monitor access site and perform site care and maintenance;

(e) monitor infusion equipment;

(f) change administration set, including add-on device and tubing;

(g) perform intermittent flushes for line patency maintenance;

(h) convert a continuous infusion to an intermittent infusion;

(i) insert or remove a peripheral venous access device, except central or midline catheters;

(j) initiate and administer IV medications and fluids that are commercially prepared or mixed and properly labeled by a registered nurse, pharmacist, physician, podiatrist, APRN, or dentist, in accordance with ARM 24.174.511;

(k) administer the following classifications of medications for adult clients via push or bolus:

(i) analgesics (including opiates);

(ii) antiemetics;

(iii) analgesic antagonists;

(iv) diuretics;

(v) corticosteroids;

(vi) standard flush solutions (heparin or saline); or

(vii) glucose.

(l) administer, monitor, and discontinue parenteral nutrition, fat emulsion solutions;

(m) assume monitoring of the administration of blood, blood components, or plasma volume expanders after the registered nurse has initiated and monitored the client for fifteen minutes; and

(n) discontinue the infusion blood, blood components, or plasma volume expanders.

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

~~(a) perform the initial venipuncture using a standard IV solution containing additives not otherwise prohibited by this rule, or using an intermittent infusion device, provided that the venipuncture is:~~

~~(i) made into a peripheral vessel only, and not into a peripherally inserted central catheter (PICC) line; or~~

~~(ii) made into a cannula or butterfly device;~~

~~(b) monitor the site;~~

~~(c) monitor and adjust flow rate;~~

~~(d) change dressing;~~

~~(e) hang additional standard solution;~~

~~(f) mix medication solution from a unit dose vial, except potassium, and add to IV solution or volutrol;~~

~~(g) hang medication solutions that are premixed and properly labeled by a registered nurse or pharmacist;~~

~~(h) flush intermittent infusion devices with heparin flush or normal saline solution;~~

~~(i) initiate IV pumps;~~

~~(j) administer metered dose of medication, including narcotics, by way of a patient controlled analgesia (PCA) pump;~~

~~(k) hang a PCA medication cartridge subsequent to the first, when the RN has initialized and programmed the unit;~~

~~(l) discontinue peripheral IVs except for PICC line;~~

~~(m) monitor and report the client physiological and psychological response to IV therapy; and~~

~~(n) administer injectable local anesthetics prior to venipuncture if prescribed or allowed by standing order.~~

~~(5) Any of the following tasks related to central venous lines may be performed by an LPN:~~

~~(a) change standard solutions, which may include additives not otherwise prohibited, on continuous flow, preestablished central line system; and~~

~~(b) access, draw blood, flush with a normal saline solution or a specific heparin flush solution, and change dressings.~~

(6)(4) Under the direct supervision of a dialysis RN registered nurse, the following hemodialysis procedures may be performed by a competent practical nurse an LPN may perform hemodialysis procedures that include:

(a) insert an arterio-venous fistula/graft needle insertion;

(b) administration of administer prescribed local anesthesia as needed prior to dialysis needle insertion;

(c) accessing access, drawing draw blood, flushing flush with a normal saline solution or a specific heparin flush solution, and changing change dressings of hemodialysis central venous catheters; and

(d) administration of administer prescribed doses of routine dialysis heparin.

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

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

REASON: The board is amending this rule to recognize that education specific to IV therapy is now offered by many practical nursing education programs and health care facilities. While the performance of IV therapy is not new to LPN practice, the revised rule specifies that only the LPN who has received the proper training and established competency in IV therapy is qualified to perform certain IV procedures under appropriate supervision. At this time, eight states in the U.S. do not permit LPNs to perform any IV therapy and, consequently, the nursing programs in these states do not offer training in IV therapy. This rule clarifies that each LPN licensed in Montana, whether educated in Montana or in another state, is responsible for making certain that the LPN has received the proper training and has gained the necessary competency prior to performing IV therapy.

24.159.1011 PROHIBITED INTRAVENOUS (IV) THERAPIES (1) The practical nurse may not perform any of the following IV therapy tasks procedures may not be performed by a practical nurse:

(a) initiate blood, blood components, and plasma volume expanders; IV push medications directly into the vein except as in ARM 24.159.1010;

(b) administration of any of the following: mix unit dose IV medication solutions;

(i) blood and blood components;

(ii) narcotics except in ARM 24.159.1010;

(iii) tranquilizers;

(iv) vasodilator;

(v) vasopressor;

(vi) oxytoxics;

(vii) pediatric medications;

(viii) antineoplastic drugs;

(ix) chemotherapy;

(x) investigational drugs;

(xi) experimental drugs;

(xii) colloid therapy;

(xiii) hyperalimentation;

(xiv) hypertonic solutions, except as in ARM 24.159.1010;

(xv) anticoagulants;

(xvi) antidysrhythmics; and

(xvii) thrombolytic agents;

(c) access or program an implanted IV infusion pump;

(d) insert or remove any IV access device placed for central or midline administration;

(e) manage central venous access devices for hemodynamic monitoring;

(f) perform repair of central or midline venous access devices; or

(g) perform arterial sticks, blood draws, or inline flushes.

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

(a) oxytocics;

(b) neonatal and pediatric medications;

- (c) antineoplastic and chemotherapy drugs;
- (d) investigational and experimental drugs;
- (e) colloid therapy;
- (f) hyperosmolar solutions not appropriate for peripheral venous infusion;
- (g) thrombolytic or fibrinolytic agents;
- (h) tissue plasminogen activators, or immunoglobulins;
- (i) medications for purposes of procedural sedation, moderate sedation, or anesthesia;
- (j) medications requiring titration;
- (k) medications or fluids via an epidural, intrathecal, intraosseous, umbilical route, or ventricular reservoir; or
- (l) medications or fluids via an arteriovenous fistula or graft, except for dialysis per ARM 24.159.1010.
- ~~(c) performance of arterial:~~
 - ~~(i) sticks;~~
 - ~~(ii) blood draws; or~~
 - ~~(iii) line flushes;~~
- ~~(d) performance of catheter declotting with thrombolytic agents.~~

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

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

REASON: It is reasonably necessary to amend this rule to recognize that the LPN with the proper education is competent to monitor certain on-going IV therapies after initiation by an RN, APRN, or physician, and to reflect the national evolution in nursing education, practice, and policy. The amended rule still prohibits the LPN from initiating specific IV therapies but also recognizes that the properly trained LPN is qualified to administer IV push or bolus medications in certain circumstances. While the current rule prohibits LPN administration of specific drugs, the amended rule will delineate prohibited classifications of IV drug therapies due to the significant patient risk and the requirement for direct RN involvement.

5. 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 by e-mail to dlibsdnur@mt.gov, and must be received no later than 5:00 p.m., March 14, 2008.

6. 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.nurse.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.

7. The Board of Nursing 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 of Nursing 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, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdnur@mt.gov, or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

9. Pat Bik, attorney, has been designated to preside over and conduct this hearing.

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 February 4, 2008