

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,)	ADOPTION, AND REPEAL
24.159.401 fees, 24.159.662 faculty)	
for practical nursing programs,)	
24.159.901, 24.159.903, 24.159.905,)	
24.159.910, and 24.159.915)	
medication aides, 24.159.1011)	
prohibited intravenous therapies,)	
24.159.1024 and 24.159.1224)	
licensure by examination, the)	
adoption of NEW RULES I through V)	
medication aides, and the repeal of)	
ARM 24.159.1025 and 24.159.1225)	
nurse reexamination)	

TO: All Concerned Persons

1. On July 28, 2011, the Board of Nursing (board) published MAR notice no. 24-159-75 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 1350 of the 2011 Montana Administrative Register, issue no. 14.

2. On August 18, 2011, a public hearing was held in Helena on the proposed amendment, adoption, and repeal of the above-stated rules. Several comments were received by the August 26, 2011, deadline.

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

GENERAL COMMENT: Some comments were received in general support of the rule notice or in support of various specific rules.

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

COMMENT 1: Two commenters suggested that the board add the requirement of a high school diploma or equivalent for Medication Aides I in ARM 24.159.901(3)(b) to be consistent with the qualifications of Medication Aides II.

RESPONSE 1: The board points out that the suggested change falls outside the scope of this notice, but has noted the recommendation for possible future action.

COMMENT 2: One commenter suggested the board rewrite and reorganize (4) of the Medication Aide II definition at ARM 24.159.901 for clarity to the reader.

RESPONSE 2: The board believes that the commenter's suggestion is not intended to change the meaning of the definition, but the board concluded that the rewrite would not provide any more clarity than the rule language as proposed, and is amending (4) exactly as proposed.

COMMENT 3: Two commenters suggested that the board delete "preset or," and leave the words "labeled and predrawn insulin delivery device" in ARM 24.159.915, New Rule I(2), and New Rule III(1)(c), to allow medication aides to set the dosage on insulin pens. The commenter opined that it is inappropriate to preclude a trained, licensed medication aide from doing that which an unlicensed and untrained person can do through self-administration, and likened the procedure to the administration of one pill versus two.

RESPONSE 3: The board disagrees with this comment. The suggested changes would expand the practice of medication aides beyond what the Legislature intended. The board believes that the administration of insulin is a matter of public health and safety, and that the proposed rules adequately protect the public while meeting the intent of the legislation.

COMMENT 4: One commenter opposed allowing anyone but LPNs or RNs to administer insulin.

RESPONSE 4: The board disagrees with this comment and notes that the suggested restricts the practice of medication aides beyond what the Legislature intended. The board believes that the administration of insulin is a matter of public health and safety, and that the proposed rules adequately protect the public while meeting the intent of the legislation.

COMMENT 5: One commenter supported the amendments to ARM 24.159.915 to allow a Medication Aides I to administer insulin only from labeled and preset or predrawn insulin delivery devices, stating that insulin is the number one drug associated with harmful medication errors. The commenter stated that insulin is listed as an ISMP high alert medication and opined that, when given in error, insulin has a heightened risk of causing patient harm.

RESPONSE 5: The board agrees with this comment and believes that the administration of insulin is a matter of public health and safety and that the proposed rules adequately protect the public while meeting the intent of the legislation.

COMMENT 6: One commenter suggested that the board delete "Cardio-Pulmonary Resuscitation Certification (CPR)" from ARM 24.159.901(4)(d) and New Rule II(1)(e), stating that the language is inconsistent with the American Heart Association's definition pertaining to successful completion of the program. The commenter asserted that the language would prevent holders of a Red Cross "basic

life support for healthcare providers card" from qualifying, and instead suggested amending the rule to "holds a current basic life support for healthcare providers' card."

RESPONSE 6: The board does not believe that the proposed language would disqualify holders of a Red Cross basic life support for healthcare providers card. However, the board is amending ARM 24.159.901(4)(d) to maintain consistency with the language of the legislation, while clarifying for the reader that a Red Cross "basic life support for healthcare providers card" would be sufficient.

COMMENT 7: One commenter suggested replacing the term "board-specified" with "board-approved" in ARM 24.159.901(4)(e) and New Rule II(1)(h), to be consistent with ARM 24.159.905. The commenter stated that if the intent is for the board to no longer approve each program, then the stakeholders should have more discussion before moving in this direction.

RESPONSE 7: The board disagrees with this comment and notes that the language of these rules directly reflects the language of House Bill 377, the implemented legislation, and is consistent with the board's intent. The board does not approve Medication Aide II programs, it specifies program curricula. The board also notes that ARM 24.159.905 addresses Medication Aide I training programs, while the other rules deal with Medication Aides II.

COMMENT 8: One commenter suggested deleting ARM 24.159.901(4)(a), in its entirety, because it can be required as a prerequisite to a board-approved medication program.

RESPONSE 8: The board notes that the language in this rule directly reflects the language of House Bill 377, the implemented legislation, and is consistent with the board's intent. The board does not approve Medication Aide II programs, it specifies program curricula.

COMMENT 9: One commenter suggested that "requirements for application" be changed to "requirements for licensure" in New Rule II(2) , to be consistent with actual licensure process, and because completed applications are always required for licensure.

RESPONSE 9: The board disagrees with this comment and points out that application must be made before licensure and it is the failure to complete the application process that is meant to cause the expiration of a license application, not the failure to become licensed.

COMMENT 10: One commenter suggested that the word "normal" be deleted from New Rule III(1)(d), so that a Medication Aide II would be required to report any changes in a patient's condition.

RESPONSE 10: The board agrees that Medication Aides II are not qualified to determine which changes are significant. The board concluded that Medication Aides II should report changes in a patient's physical or mental condition as is already required of Medication Aides I, and is amending New Rule III accordingly.

COMMENT 11: One commenter suggested that the language "take verbal orders" be amended to "accept and process medication order changes" in New Rule III(2)(c), to specify the actual process of taking a medication change order from an authorized prescriber, etc.

RESPONSE 11: The board agrees that Medication Aides II should not process any change orders, verbal or otherwise, and is amending this rule accordingly.

COMMENT 12: One commenter stated that only LPNs and RNs should address patient questions about medications, because only they can appropriately assess their understanding of the information provided and any need to follow up with the provider. The medication aide should notify the supervising nurse that the patient has questions about the patient's medications.

RESPONSE 12: Having carefully considered this particular topic, the board determined that it is appropriate, logical, and safe for the Medication Aide II to provide patient education in this manner and to the degree provided in New Rule III. The board is adopting New Rule III(2)(d) exactly as proposed.

COMMENT 13: One commenter specifically supported the language in New Rule III(2)(d) that restricts Medication Aides II from providing information or education to patients beyond basic knowledge of medications and medication administration.

RESPONSE 13: Having carefully considered this particular topic, the board determined that it is appropriate, logical, and safe for Medication Aides II to provide patient education in the manner and to the degree provided in this rule. The board is adopting New Rule III(2)(d) exactly as proposed.

4. The board has amended ARM 24.159.301, 24.159.401, 24.159.662, 24.159.903, 24.159.905, 24.159.910, 24.159.915, 24.159.1011, 24.159.1024, and 24.159.1224 exactly as proposed.

5. The board has adopted NEW RULE I (24.159.906), NEW RULE II (24.159.911), NEW RULE IV (24.159.912), and NEW RULE V (24.159.1207) exactly as proposed.

6. The board has repealed ARM 24.159.1025 and 24.159.1225 exactly as proposed.

7. The board has amended ARM 24.159.901 with the following changes, stricken matter interlined, new matter underlined:

24.159.901 DEFINITIONS (1) through (4)(c) remain as proposed.

(d) maintains a current ~~Cardio-Pulmonary Resuscitation Certification (CPR)~~
valid certificate in cardiopulmonary resuscitation; and

(4)(e) and (5) remain as proposed.

8. The board has adopted NEW RULE III (24.159.916) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE III STANDARDS RELATED TO THE RESPONSIBILITIES OF A
MEDICATION AIDE II (1) through (1)(c) remain as proposed.

(d) notify the supervising nurse if the medication aide II has observed a change in the ~~normal~~ patient's physical or mental condition ~~of the patient~~; and

(e) through (2)(b) remain as proposed.

(c) ~~take verbal orders related to changes in medications or dosages~~ accept
and process medication order changes; or

(d) remains as proposed.

BOARD OF NURSING
KATHY HAYDEN, LPN

/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 3, 2011