

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

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.159.401 fees, 24.159.403)	PROPOSED AMENDMENT AND
nonroutine applications, 24.159.906)	REPEAL
medication aide II training program)	
curriculum, 24.159.1024,)	
24.159.1028, and 24.159.1029)	
licensed practical nurses,)	
24.159.1224, 24.159.1228, and)	
24.159.1229 registered nurses,)	
24.159.1412 initial APRN license, and)	
24.159.2021 alternative monitoring)	
track admission criteria, and the)	
repeal of ARM 24.159.1038,)	
24.159.1238, and 24.159.1428)	
inactive status licensure, 24.159.1046)	
and 25.159.1246 supervision of)	
probationary licensees, and)	
24.159.1414 APRN educational)	
requirements and qualifications)	

TO: All Concerned Persons

1. On March 5, 2015, at 10:00 a.m., a public hearing will be held in the Basement Conference Room, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and repeal 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 27, 2015, to advise us of the nature of the accommodation that you need. Please contact Cynthia Gustafson, Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2380; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail nurse@mt.gov (board's email).

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

- 24.159.401 FEES (1) through (8) remain the same.
- ~~(9) The fee for inactive RN or LPN status is one half the licensure fee.~~
- (10) and (11) remain the same, but are renumbered (9) and (10).
- ~~(12) The fee for inactive APRN status is \$30 per renewal period.~~

(13) through (20) remain the same, but are renumbered (11) through (18).

AUTH: 37-1-134, 37-1-319, 37-8-202, 37-8-426, MCA

IMP: 37-1-134, 37-1-141, 37-8-202, 37-8-426, MCA

REASON: The board is amending this rule to align with the elimination of inactive status licensure rules by the repeal of ARM 24.159.1038, 24.159.1238, and 24.159.1428 in this notice. See REASON for ARM 24.159.1038. The board estimates that eliminating fees for inactive practice will affect approximately 872 currently inactive nurses, with about half of those not renewing their licenses and half renewing and remaining on active status. The board estimates an approximate increase in biennial board revenue of \$22,000.

24.159.403 NONROUTINE APPLICATIONS (1) The department may investigate license applications, and require the release of pertinent information or records, to assist the board in determining whether an applicant:

(a) meets licensure qualifications;

(b) is physically or mentally impaired through habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance to the extent that the use impairs the applicant in the performance of licensed professional duties;

(c) is impaired by mental illness or chronic physical illness that renders the applicant unable to practice nursing with reasonable skill and safety; or

(d) has past behavior constituting grounds for disciplinary action and denial or issuance of a probationary license per 37-1-137, MCA.

~~(1) (2) A~~ The board shall review and make final licensing decisions on all nonroutine application means an application submitted to the board in applications, which the applicant has are applications having one or more of the following:

(a) a pending or completed disciplinary action license discipline, involving licensure any professional license of the applicant, in this state, or another state, territory, country, or jurisdiction; , that:

(i) is unresolved at the time of board review; or

(ii) resulted in conditions or restrictions against the license or the licensee that are not yet satisfied or discharged;

(b) voluntarily or involuntarily surrendered voluntary or involuntary surrender of, or had the placement of restrictions placed on the applicant's:

(i) hospital privileges; ;

(ii) health maintenance organization participation; or ;

(iii) Medicaid/Medicare privileges; or

~~(c) (iv) voluntarily or involuntarily surrendered or restrictions placed on the privilege to prescribe or dispense medications;~~

(d) (c) diagnosis or other information indicating the applicant's a physical or mental condition or the use of alcohol or other mood-altering substances that may adversely affect the applicant's ability to practice nursing; impairment by mental illness or chronic physical illness, and for which:

(i) treatment is ongoing; or

(ii) symptoms currently exist;

(d) diagnosis or other information indicating the applicant's physical or mental impairment by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance;

(e) the applicant's participation in a medical assistance program, known as NAP per subchapter 20 of these rules, or in an addiction treatment program, in this or any other state, territory, or jurisdiction within the past five years;

(~~e~~) (f) the applicant's conviction for a crime directly related to or committed during the course of the applicant's licensed practice; of:

(i) a felony crime;

(ii) any crime involving the abuse of children, the elderly, or the disabled, or involving sexual abuse or assault;

(iii) any crime involving fraud, deceit, theft, or violence, or directly related to or committed during the course of the applicant's licensed practice, unless the conviction occurred more than five years ago and all court-ordered conditions have been fully satisfied or discharged; or

(f) (~~iv~~) a total of two or more misdemeanor convictions, one of which occurred involving the use or sale of drugs or alcohol within five years of the date of application;

(g) the applicant settled or was adjudged liable for a claim of malpractice; or

(h) the applicant is unable to produce documentation of licensure requirements.

(3) An application deemed "nonroutine" under (2), based upon matters involving criminal convictions related to the use or sale of drugs or alcohol, substance use disorder/chemical dependency, or mental health, shall be resolved as follows:

(a) The department may issue a license to an applicant who:

(i) has satisfied or discharged all conditions of court-ordered sanctions;

(ii) was not subject to any finding of substance use disorder/chemical dependency; and

(iii) had no more than two drug or alcohol-related misdemeanor convictions within the past five years.

(b) The department may issue a license to an applicant with a finding of substance use disorder/chemical dependency if:

(i) the applicant completed all treatment requirements at least five years ago, including but not limited to monitoring requirements of this or any other state, territory, country, or jurisdiction; and

(ii) no relapses, no criminal charges filed, and no legal interventions in the past five years, including but not limited to domestic violence or employment actions.

(c) The Nurses Assistance Program (NAP) shall review all applications that do not result in issuance of a license under (a) or (b) as follows:

(i) NAP may seek additional documentation from the applicant;

(ii) NAP may request an applicant to consent to assessments and evaluations; and

(iii) NAP shall provide recommendations and rationale to the board including:

(A) an applicant's suitability for the NAP alternative track; or

(B) the necessity for further assessments or evaluation for substance use disorder/chemical dependency or mental health issues.

(4) The department may, but is not required to, submit any routine application for board review if the department finds inconsistencies, irregularities, or other matters of concern in the application or related documentation.

~~(g) a conviction or a deferred prosecution for a felony crime;~~

~~(h) an incomplete term of probation for a criminal conviction;~~

~~(i) loss of documentation due to natural disaster or national emergency;~~

~~(j) completed nursing education in a foreign nation;~~

~~(k) completed nursing education in a branch of the U.S. military; or~~

~~(l) inconsistencies in the information contained in the application or supporting documentation for the application.~~

~~(2) The department shall review all nonroutine applications and request additional information or documentation of the applicant, as necessary.~~

~~(3) The department, in consultation with the legal staff and in accord with board policies, shall determine whether to issue the applicant a temporary practice permit.~~

~~(4) The board may review nonroutine applications to make the final licensing decisions.~~

~~(5) An applicant whose application for licensure is denied by the board may request, in writing within 20 days of the denial, a contested case hearing before an impartial hearings examiner, in accord with the provisions of the Administrative Procedures Act, Title 2, chapter 4, part 6, MCA.~~

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

IMP: 37-1-101, 37-1-131, 37-8-405, 37-8-406, 37-8-415, 37-8-416, 37-8-421, MCA

REASON: The board is amending this rule to further implement 37-1-101, MCA, which directs the department to process routine licensure applications on behalf of the licensing boards, while reserving the consideration and approval of nonroutine applications to the boards themselves. The board determined it is reasonably necessary to rework the entire rule to clearly delineate the circumstances and documentation that will require a nonroutine application's review by the board. The clearer parameters will provide better notice of the process to applicants, and will also assist department staff in determining routine from nonroutine applications.

24.159.906 MEDICATION AIDE II TRAINING PROGRAM CURRICULUM

(1) The board adopts and incorporates by reference the curriculum content outline as published in the December 2010 report of House Joint Resolution 17, regarding the utilization of medication aides in long-term care nursing homes, except Module 4: Medication Administration, Routes of Administration, (M) Suppositories because a medication aide II is not allowed to administer medications by this route. Copies of the curriculum content outline are available from the Board of Nursing, 301 S. Park Avenue, P.O. Box 200513, Helena Montana, 59620, or can be viewed on the Board of Nursing's web site at www.nurse.mt.gov.

(2) remains the same.

AUTH: 37-8-426, MCA

IMP: 37-8-423, MCA

REASON: The board received a complaint against a medication aide II who administered a suppository despite the provisions of ARM 24.159.901(1), which does not list suppository as an allowable route. The medication aide II pointed to ARM 24.159.906 and the adopted curriculum which does include this route. The board is proposing to amend (1) to clarify the board's intent that this is not an acceptable route of medication administration for a medication aide II.

24.159.1024 LPN LICENSURE BY EXAMINATION REQUIREMENTS (1)

~~The board shall administer the national council licensing examinations for practical nurse licensure by computerized adaptive testing (CAT). Each examination differs from any other administered examination.~~

~~(2) The executive director is authorized to negotiate the contract for licensing examination services.~~

~~(3) All candidates desiring to take or retake the licensing examination for practical nursing shall:~~

~~(a) make application for licensure to the board on a form provided by the board, accompanied by the fee required by the board; and~~

~~(b) make application for examination or reexamination to the national council licensing examinations on a form distributed by the board as provided by the National Council of State Boards of Nursing, accompanied by the fee required by the National Council of State Boards of Nursing.~~

~~(4) The application for licensure by examination and the examination fee shall be submitted to the board office. The application will be kept on file for one year. If the applicant fails to complete the requirements for application within one year, a new application will be required.~~

~~(5) Applicants shall have completed all educational requirements of the program and all credentials shall be received in the board office prior to being made eligible to test.~~

~~(6) A passing score on the appropriate NCLEX examination shall be required for licensure as a practical nurse. The National Council of State Boards of Nursing's panel of content experts determines the passing score.~~

~~(7) The examination score will be reported to the applicant as pass or fail.~~

~~(8) Candidates shall be notified in writing only, regarding the examination results.~~

~~(9) Candidates who pass shall receive a license to practice as a practical nurse.~~

~~(10) Candidates who fail shall receive the results of the examination and are not eligible to retest for 45 days.~~

~~(11) Each school of nursing in Montana shall receive quarterly statistical summary reports of its NCLEX results as well as state and national NCLEX results.~~

~~(12) Individual results of the examination shall not be released to anyone, unless the release is authorized by the candidate in writing.~~

~~(13) The candidate's examination results will be maintained in the application file with the department.~~

(1) An applicant for licensure as an LPN by examination shall submit to the board the required fees and a completed application, including the following information:

(a) an official transcript, sent to the board directly from the educational institution, verifying date of graduation and degree or credential conferred;

(b) proof of successful passage of NCLEX-PN;

(i) Applicants must complete all educational requirements and the board must receive all credentials prior to determining the applicant eligible to test.

(ii) Candidates failing the examination are not eligible to retest for a period determined by the testing entity, and must submit an examination retake fee.

(c) license verification and, if not in English, a certified translation, from any state, territory, or country in which the applicant holds or has held a professional license or credential;

(d) documentation, including jurisdiction and date, of any previous professional license denial or withdrawal of application; and

(e) detailed explanation and supporting documentation for each affirmative answer to background questions on application.

(2) Applications are kept on file for one year. Applicants failing to complete the application process within one year must complete a new application and submit new application fees.

(3) Internationally educated LPN license applicants must comply with requirements in ARM 24.159.1029.

AUTH: 37-1-131, 37-8-202, 37-8-415, MCA

IMP: 37-1-131, 37-8-406, 37-8-415, 37-8-416, 37-8-418, MCA

REASON: The board is amending this rule and ARM 24.159.1224 to streamline and simplify the licensure by examination process for RN and LPN applicants, and clarify requirements for department staff that process the applications. After reviewing current procedures, the board determined it is reasonably necessary to rework and reorganize the license by exam rules to align with the current 45-day testing process and update to new terminology, specifically regarding internationally educated applicants. The board notes that the amended rules utilize language from the model rules of the National Council of State Boards of Nursing.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rules and provide the complete sources of the board's rulemaking authority.

24.159.1028 LPN LICENSURE BY ENDORSEMENT REQUIREMENTS (1)

An applicant for licensure by endorsement in this state shall submit to the board:

(a) a completed application including the following identifiers:

(i) social security number, birth date, and documentation of name change;

(ii) the application will be kept on file for one year. If the applicant fails to complete the application requirements for licensure by endorsement within one year, a new application will be required;

(b) evidence of meeting the standards for nursing education in this state at the time of original licensure;

~~(c) verification of initial licensure by examination with evidence of completion of a board approved program;~~

~~(d) verification and documentation of licensure status from all jurisdictions of licensure for preceding two years;~~

~~(e) practical nurse applicants shall present evidence of having passed a licensure examination as follows:~~

~~(i) a passing score on a state-constructed licensure examination prior to the use of the state board test pool examination in the original state of licensure; or~~

~~(ii) a passing score on a NCLEX-PN examination taken after September 1988; or~~

~~(iii) a minimum scaled score of 350 on a NCLEX-PN examination taken prior to September 1988;~~

~~(f) the required fees for licensure by endorsement as specified in ARM 24.159.401; and~~

~~(g) if the applicant's education was obtained in a foreign country, the applicant must also meet the conditions of ARM 24.159.1029.~~

~~(2) The board may, on a case-by-case basis, issue a license to an applicant for licensure by endorsement whose license is under investigation or in disciplinary action of a board in another jurisdiction or to an applicant who is under investigation for a felony criminal offense.~~

~~(3) An applicant for licensure by endorsement in Montana may be granted a temporary permit to practice practical nursing pursuant to the provisions of ARM 24.159.1021.~~

~~(4) The board shall issue a license based on satisfactory completion of the requirements.~~

~~(1) An applicant for licensure as an LPN by endorsement shall submit to the board the required fees and a completed application, including the following information:~~

~~(a) license verification and, if not in English, a certified translation, from the state, territory, or country in which the applicant currently holds an active LPN license in good standing;~~

~~(b) license verification and, if not in English, a certified translation, from any state, territory, or country in which the applicant has held any professional license or credential, including verification of applicant's original licensure by examination;~~

~~(c) documentation, including jurisdiction and date, of any previous professional license denial or withdrawal of application; and~~

~~(d) detailed explanation and supporting documentation for each affirmative answer to background questions on application.~~

~~(2) Applications are kept on file for one year. Applicants failing to complete the application process within one year must complete a new application and submit new application fees.~~

AUTH: 37-1-131, 37-8-202, 37-8-415, MCA

IMP: 37-1-131, 37-1-304, 37-8-415, 37-8-418, MCA

REASON: The board is reworking and reorganizing this rule and ARM 24.159.1228 to align with and clarify current department licensure processes. It is reasonably

necessary to update the licensure by endorsement rules for RNs and LPNs to clearly set forth the application requirements and facilitate online application processes.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rules and provide the complete sources of the board's rulemaking authority.

24.159.1029 FOREIGN EDUCATED APPLICANTS FOR PRACTICAL NURSE LPN LICENSURE BY EXAMINATION FOR INTERNATIONALLY EDUCATED APPLICANTS REQUIREMENTS

~~(1) For purposes of this rule, "foreign educated" applicants are those individuals whose nursing education credential was conferred by an educational institution located outside the United States or its jurisdictions. The term includes, but is not limited to, applicants or candidates who studied nursing in the United States through either a distance learning program offered by or through a foreign educational institution or whose nursing education involved a collaboration between a foreign educational institution and an educational institution in the United States, so long as the credential was conferred by the foreign educational institution.~~

~~(2) Foreign educated applicants for practical nurse licensure by examination must:~~

- ~~(a) fulfill the requirements of ARM 24.159.1024;~~
- ~~(b) pass the Montana licensing examination (i.e., NCLEX);~~
- ~~(c) provide a course-by-course evaluation, verifying the applicant's nursing education credentials and comparing the applicant's nursing education with the U.S. nursing education standards. The board may deny licensure to a foreign educated applicant if denial is deemed by the board to be warranted by the course-by-course evaluation report; and~~

~~(d) successfully complete an English proficiency examination recognized by the board-approved foreign education evaluator, except as provided in (4).~~

~~(3) Foreign educated applicants for practical nurse licensure by endorsement from another state of the United States must:~~

- ~~(a) fulfill the requirements of ARM 24.159.1028;~~
- ~~(b) provide verification of licensure in good standing in the other state;~~
- ~~(c) provide a course-by-course evaluation report prepared by a board-approved foreign education evaluator verifying the applicant's nursing education credentials and comparing the applicant's nursing education with the U.S. nursing education standards. The board may deny licensure to a foreign educated applicant if denial is warranted by the course-by-course evaluation report; and~~

~~(d) successfully complete an English proficiency examination recognized by the board-approved foreign education evaluator, except as provided in (4).~~

~~(4) The provisions of (2)(d) and (3)(d) do not apply if the foreign educated applicant graduated from a nursing program at a college, university, or professional nurses' training school in one of the following countries:~~

- ~~(a) Australia;~~
- ~~(b) Canada (except Quebec);~~
- ~~(c) Ireland;~~
- ~~(d) New Zealand;~~
- ~~(e) Tobago;~~

- (f) ~~Trinidad; or~~
- (g) ~~United Kingdom.~~

~~(5) A foreign education evaluator may apply to the board to become a board-approved foreign education evaluator for purposes of this rule. Approval is left to the sole discretion of the board on a case-by-case basis. If a foreign education evaluator is approved by the board, it will be added to a list maintained at the board office. Each board-approved foreign education evaluator must maintain current contact information at the board office as requested by the board, and is subject to removal by the board upon review.~~

(1) An internationally educated applicant for licensure as an LPN by examination shall submit to the board the required fees and a completed application, including the following information:

(a) Results of a credentials review by a credentials review agency or another board of nursing that verifies the equivalency of the international LPN education program to LPN education programs in the United States;

(b) proof of successful passage of NCLEX-PN;

(i) Applicants must complete all educational requirements and the board must receive all credentials prior to determining the applicant eligible to test.

(ii) Candidates failing the examination are not eligible to retest for a period determined by the testing entity, and must submit an examination retake fee.

(c) license verification and, if not in English, a certified translation, from any state, territory, or country in which the applicant holds or has held a professional license or credential;

(d) documentation, including jurisdiction and date, of any previous professional license denial or withdrawal of application; and

(e) detailed explanation and supporting documentation for each affirmative answer to background questions on application.

(2) Applications are kept on file for one year. Applicants failing to complete the application process within one year must complete a new application and submit new application fees.

AUTH: 37-1-131, 37-8-202, ~~37-8-415~~, MCA

IMP: 37-1-131, ~~37-8-101, 37-8-405~~, 37-8-415, ~~37-8-416, 37-8-418~~, MCA

REASON: The board is amending this rule and ARM 24.159.1229 to update, reorganize, and simplify the requirements for internationally educated RN and LPN applicants by examination. The board amended these rules in 2010 to allow for education evaluations provided by entities other than the Commission on Graduates of Foreign Nursing Schools (CGFNS). The board has now determined that further amendments are reasonably necessary to accept education evaluations from those boards of nursing that are large enough and have sufficient resources to complete adequate and competent education reviews, such as in California and New York.

The board is also amending these rules to remove the requirement for an English proficiency examination, after concluding that such examinations offer no guarantee of an applicant's language proficiency.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rules and provide the complete sources of the board's rulemaking authority.

24.159.1224 RN LICENSURE BY EXAMINATION REQUIREMENTS (1)

~~The board shall administer the national council licensing examinations for registered nurse licensure by computerized adaptive testing (CAT). Each examination differs from any other administered examination.~~

~~(2) The executive director is authorized to negotiate the contract for licensing examination services.~~

~~(3) All candidates desiring to take or retake the licensing examination for registered nursing shall:~~

~~(a) make application for licensure or reexamination to the board on a form provided by the board, accompanied by the fee required by the board; and~~

~~(b) make application for examination or reexamination to the national council licensing examinations on a form distributed by the board as provided by the National Council of State Boards of Nursing, accompanied by the fee required by the National Council of State Boards of Nursing.~~

~~(4) The application for licensure by examination and the examination fee shall be submitted to the board office. The application will be kept on file for one year. If the applicant fails to complete the requirements for application within one year, a new application will be required.~~

~~(5) Applicants shall have completed all educational requirements of the program and all credentials shall be received in the board office prior to being made eligible to test.~~

~~(6) A passing score on the appropriate NCLEX examination shall be required for licensure as a registered nurse. The National Council of State Boards of Nursing's panel of content experts determines the passing score.~~

~~(7) The examination score will be reported to the applicant as pass or fail.~~

~~(8) Candidates shall be notified in writing only, regarding the examination results.~~

~~(9) Candidates who pass shall receive a license to practice as a registered nurse.~~

~~(10) Candidates who fail shall receive the results of the examination and are not eligible to retest for 45 days.~~

~~(11) Each school of nursing in Montana shall receive quarterly statistical summary reports of its NCLEX results as well as state and national NCLEX results.~~

~~(12) Individual results of the examination shall not be released to anyone, unless the release is authorized by the candidate in writing.~~

~~(13) The candidate's examination results will be maintained in the application file with the department.~~

(1) An applicant for licensure as an RN by examination shall submit to the board the required fees and a completed application, including the following information:

(a) an official transcript, sent to the board directly from the educational institution, verifying date of graduation and degree or credential conferred;

(b) proof of successful passage of NCLEX-RN;

(i) Applicants must complete all educational requirements and the board must receive all credentials prior to determining the applicant eligible to test.

(ii) Candidates failing the examination are not eligible to retest for a period determined by the testing entity, and must submit an examination retake fee.

(c) license verification and, if not in English, a certified translation, from any state, territory, or country in which the applicant holds or has held a professional license or credential;

(d) documentation, including jurisdiction and date, of any previous professional license denial or withdrawal of application; and

(e) detailed explanation and supporting documentation for each affirmative answer to background questions on application.

(2) Applications are kept on file for one year. Applicants failing to complete the application process within one year must complete a new application and submit new application fees.

(3) Internationally educated RN license applicants must comply with requirements in ARM 24.159.1229.

AUTH: 37-1-131, 37-8-202, 37-8-405, MCA

IMP: 37-1-131, 37-1-134, 37-8-405, 37-8-406, 37-8-416, MCA

REASON: See REASON for ARM 24.159.1024.

24.159.1228 RN LICENSURE BY ENDORSEMENT REQUIREMENTS (1)

~~An applicant for licensure by endorsement in this state shall submit to the board:~~

~~(a) a completed application including the following identifiers:~~

~~(i) social security number, birth date, and documentation of name change;~~

~~(ii) the application will be kept on file for one year. If the applicant fails to complete the application requirements for licensure by endorsement within one year, a new application will be required;~~

~~(b) evidence of meeting the standards for nursing education in this state at the time of original licensure;~~

~~(c) verification of initial licensure by examination with evidence of completion of a board approved program;~~

~~(d) verification and documentation of licensure status from all jurisdictions of licensure for preceding two years;~~

~~(e) registered nurse applicants shall present evidence of having passed a licensure examination as follows:~~

~~(i) a passing score on a state-constructed licensure examination prior to the use of the state board test pool examination in the original state of licensure; or~~

~~(ii) 350 on each part of the state board test pool examination for registered nurses; or~~

~~(iii) a passing score on a NCLEX-RN examination taken after September 1988; or~~

~~(iv) a minimum scaled score of 1600 on a NCLEX-RN examination taken prior to September 1988;~~

~~(f) the required fees for licensure by endorsement as specified in ARM 24.159.401; and~~

~~(g) if the applicant's education was obtained in a foreign country, the applicant must also meet the conditions of ARM 24.159.1229.~~

~~(2) The board may, on a case-by-case basis, issue a license to an applicant for licensure by endorsement whose license is under investigation or in disciplinary action of a board in another jurisdiction or to an applicant who is under investigation for a felony criminal offense.~~

~~(3) An applicant for licensure by endorsement in Montana may be granted a temporary permit to practice registered nursing pursuant to the provisions of ARM 24.159.1221.~~

~~(4) The board shall issue a license based on satisfactory completion of the requirements.~~

(1) An applicant for licensure as an RN by endorsement shall submit to the board the required fees and a completed application, including the following information:

(a) license verification and, if not in English, a certified translation, from the state, territory, or country in which the applicant currently holds an active RN license in good standing;

(b) license verification and, if not in English, a certified translation, from any state, territory, or country in which the applicant has held any professional license or credential, including verification of applicant's original licensure by examination;

(c) documentation, including jurisdiction and date, of any previous professional license denial or withdrawal of application; and

(d) detailed explanation and supporting documentation for each affirmative answer to background questions on application.

(2) Applications are kept on file for one year. Applicants failing to complete the application process within one year must complete a new application and submit new application fees.

AUTH: 37-1-131, 37-8-202, 37-8-405, MCA

IMP: 37-1-131, 37-1-134, 37-1-304, 37-8-405, MCA

REASON: See REASON for ARM 24.159.1028.

24.159.1229 FOREIGN EDUCATED APPLICANTS FOR REGISTERED NURSE RN LICENSURE BY EXAMINATION FOR INTERNATIONALLY

EDUCATED APPLICANTS REQUIREMENTS ~~(1) For purposes of this rule, "foreign educated" applicants are those individuals whose nursing education credential was conferred by an educational institution located outside the United States or its jurisdictions. The term includes but is not limited to applicants who studied nursing in the United States through either a distance learning program offered by or through a foreign educational institution or whose nursing education involved a collaboration between a foreign educational institution and an educational institution in the United States, so long as the credential was conferred by the foreign educational institution.~~

~~(2) Foreign educated applicants for registered nurse licensure by examination must:~~

~~(a) fulfill the requirements of ARM 24.159.1224;~~

~~(b) pass the Montana licensing examination (i.e., NCLEX); and~~

~~(c) be certified by a board-approved foreign education evaluator as having successfully completed:~~

~~(i) an English language proficiency examination recognized by the board-approved foreign education evaluator, except as provided under (4);~~

~~(ii) a qualifying examination, which may be referred to as a NCLEX predictor exam or screening exam; and~~

~~(iii) a credentials review course-by-course evaluation performed by the board-approved foreign education evaluator verifying the applicant's nursing education credentials and comparing the applicant's foreign nursing education with the U.S. nursing education standards. The board may deny licensure to a foreign educated applicant if denial is deemed by the board to be warranted by the course-by-course report.~~

~~(3) Foreign educated applicants for registered nurse licensure by endorsement from another state of the United States must:~~

~~(a) fulfill the requirements of ARM 24.159.1228;~~

~~(b) have passed the NCLEX or state board test pool exam in the other state;~~

~~(c) provide verification of licensure in good standing in the other state;~~

~~(d) provide a course-by-course evaluation verifying the applicant's nursing education credentials and comparing the applicant's foreign nursing education with the U.S. nursing education standards. The board may deny licensure to a foreign educated applicant if denial is warranted by the course-by-course evaluation report; and~~

~~(e) successfully complete an English proficiency examination recognized by the board-approved foreign education evaluator.~~

~~(4) The provisions of (2)(c)(i) and (3)(e) do not apply if the foreign educated applicant graduated from a nursing program at a college, university, or professional nurses' training school in one of the following countries:~~

~~(a) Australia;~~

~~(b) Canada (except Quebec);~~

~~(c) Ireland;~~

~~(d) New Zealand;~~

~~(e) Tobago;~~

~~(f) Trinidad; or~~

~~(g) United Kingdom.~~

~~(5) A foreign education evaluator may apply to the board to become a board-approved foreign education evaluator for purposes of this rule. Approval is left to the sole discretion of the board on a case-by-case basis. If a foreign education evaluator is approved by the board, it will be added to a list maintained at the board office. Each board-approved foreign education evaluator must maintain current contact information at the board office as requested by the board and is subject to removal by the board upon review.~~

(1) An internationally educated applicant for licensure as an RN by examination shall submit to the board the required fees and a completed application, including the following information:

(a) Results of a credentials review by a credentials review agency or another board of nursing that verifies the equivalency of the international RN education program to RN education programs in the United States;

(b) proof of successful passage of NCLEX-RN;

(i) Applicants must complete all educational requirements and the board must receive all credentials prior to determining the applicant eligible to test.

(ii) Candidates failing the examination are not eligible to retest for a period determined by the testing entity, and must submit an examination retake fee.

(c) license verification and, if not in English, a certified translation, from any state, territory, or country in which the applicant holds or has held a professional license or credential;

(d) documentation, including jurisdiction and date, of any previous professional license denial or withdrawal of application; and

(e) detailed explanation and supporting documentation for each affirmative answer to background questions on application.

(2) Applications are kept on file for one year. Applicants failing to complete the application process within one year must complete a new application and submit new application fees.

AUTH: 37-1-131, 37-8-202, 37-8-405, MCA

IMP: 37-1-131, 37-1-134, 37-8-101, 37-8-405, 37-8-406, 37-8-415, MCA

REASON: See REASON for ARM 24.159.1029.

24.159.1412 APPLICATION FOR INITIAL APRN LICENSURE (1) and (2) remain the same.

(3) The applicant shall request that an official transcript, from an accredited graduate-level education program, be sent to the board directly from the applicant's APRN program to verify the date of completion and degree conferred.

(4) through (8) remain the same.

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

IMP: 37-1-131, 37-1-134, 37-8-202, 37-8-409, MCA

REASON: The board is amending this rule to clarify that applicants must obtain official transcripts directly from their accredited graduate-level program. The board concluded this amendment is necessary to align with provisions of ARM 24.159.1418 and 24.159.1427, and the repeal of ARM 24.159.1414.

24.159.2021 ADMISSION CRITERIA - ALTERNATIVE MONITORING TRACK (1) through (2)(d) remain the same.

~~(e) has diverted controlled substances; and~~

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

AUTH: 37-8-202, MCA

IMP: 37-8-202, MCA

REASON: The board has discovered instances in which a licensee may have diverted controlled substances but did not, in fact, cause patient harm. The board notes that this may occur, for example, when a licensee signs out a double dose of a

medication, knowing that one dose is sufficient to give therapeutic effects to the patient, and then diverts the second dose. Currently, licensees suspected of diverting controlled substances are not eligible for placement in the alternative monitoring track and must enter the disciplinary monitoring track. The board concluded it is reasonably necessary to delete (2)(e) to allow the placement of these licensees in the alternative monitoring track on the recommendation of the NAP consultant.

4. The rules to be repealed provide as follows:

24.159.1038 INACTIVE STATUS found at ARM page 24-16578.

AUTH: 37-1-131, 37-1-319, 37-8-202, MCA

IMP: 37-1-131, 37-1-319, MCA

REASON: The board is eliminating inactive status licensure for nurses through the repeal of ARM 24.159.1038, 24.159.1238, and 24.159.1428. The board examined other states' regulations, and found that most states do not have inactive license status for RNs, LPNs, or APRNs. Because inactive licensees must comply with all continuing education requirements and can stay inactive for a very limited period of time, but are not able to practice nursing, the board concluded there is no benefit in distinguishing between active and inactive licensees in board rules. The board further notes that tracking inactive licensees as a separate status increases costs that are paid from license and renewal fees, and those on inactive status pay lower renewal fees than licensees renewing active.

The board concluded that the requirements in the inactive status rules for continuing education and "reestablishing qualifications" are not clear and provide no meaningful distinction between the statuses. Individuals are either licensed to practice nursing in Montana, or they are not, and the board believes maintaining rules specific to those with inactive licenses, without imposing minimum practice requirements on all those whose licenses are active, is without effect. The board determined it is reasonably necessary to eliminate the rules that create a little-used distinction in name only, and which are not relevant to assuring good nursing practice or public safety.

24.159.1046 SUPERVISION OF PROBATIONARY LICENSEES found at ARM page 24-16580.

AUTH: 37-1-136, 37-1-319, 37-8-202, MCA

IMP: 37-1-136, 37-1-319, 37-8-202, MCA

REASON: Recently in approving final stipulations for licensees under probation, the board concluded that ARM 24.159.1046 and 24.159.1246 mandate the conditions of probation and limit the settings in which nurses under probation may work. The board is repealing these rules to allow more discretion in the types of probationary licenses that the board can grant to further ensure public safety and better monitor licensees with probationary licenses.

24.159.1238 INACTIVE STATUS found at ARM page 24-16623.

AUTH: 37-1-131, 37-1-319, 37-8-202, MCA
IMP: 37-1-131, 37-1-319, MCA

REASON: See REASON for ARM 24.159.1038.

24.159.1246 SUPERVISION OF PROBATIONARY LICENSEES found at ARM page 24-16629.

AUTH: 37-1-136, 37-1-319, 37-8-202, MCA
IMP: 37-1-136, 37-1-319, 37-8-202, MCA

REASON: See REASON for ARM 24.159.1046.

24.159.1414 EDUCATIONAL REQUIREMENTS AND QUALIFICATIONS FOR APRN found at ARM page 24-16662.

AUTH: 37-1-131, 37-8-202, MCA
IMP: 37-1-131, 37-8-202, 37-8-409, MCA

REASON: The board determined it is reasonably necessary to repeal this rule since accreditation programs and standards change over time, and it is costly and unnecessary to amend this rule with each variation. Further, the board views this rule as redundant and unnecessary when considered with the provisions of ARM 24.159.1412, 24.159.1418, and 24.159.1427.

24.159.1428 INACTIVE APRN STATUS found at ARM page 24-16671.

AUTH: 37-1-131, 37-1-319, 37-8-202, MCA
IMP: 37-1-131, 37-1-319, MCA

REASON: See REASON for ARM 24.159.1038.

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 nurse@mt.gov, and must be received no later than 5:00 p.m., March 13, 2015.

6. An electronic copy of this notice of public hearing is available at www.nurse.mt.gov (department and board's web site). 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 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 that 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, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to nurse@mt.gov; or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply to this rulemaking.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.159.401, 24.159.403, 24.159.906, 24.159.1024, 24.159.1028, 24.159.1029, 24.159.1224, 24.159.1228, 24.159.1229, 24.159.1412, and 24.159.2021 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.159.1038, 24.159.1046, 24.159.1238, 25.159.1246, 24.159.1414, and 24.159.1428 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2380; facsimile (406) 841-2305; or e-mail to nurse@mt.gov.

10. Tyler Moss, attorney, has been designated to preside over and conduct this hearing.

BOARD OF NURSING
HEATHER O'HARA, RN, PRESIDENT

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

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 2, 2015