

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

In the matter of the amendment of) NOTICE OF AMENDMENT,
ARM 8.32.801, 8.32.802, 8.32.804,) ADOPTION AND REPEAL
8.32.806, 8.32.807, 8.32.1102,)
8.32.1103, 8.32.1108, 8.32.1109,)
8.32.1110, 8.32.1111, 8.32.1112,)
8.32.1113, 8.32.1114, 8.32.1116,)
the adoption of NEW RULES I)
(8.32.808), II (8.32.1118) and III)
(8.32.1119), and the repeal of)
8.32.803, 8.32.1115 and 8.32.1117,)
relating to nursing education)
programs - approval requirements)

TO: All Concerned Persons

1. On November 27, 2002, the Department of Labor and Industry published MAR Notice No. 8-32-58 regarding the public hearing on the proposed amendment, adoption and repeal of the above-stated rules relating to nursing education programs and approval requirements at page 3207 of the 2002 Montana Administrative Register, Issue Number 22.

2. On December 19, 2002, a public hearing on the proposed amendment, adoption and repeal of the above-stated rules was conducted in Helena. Public comments were made at the hearing. Written comments were also received.

3. After considering the comments, the Board has amended ARM 8.32.801, 8.32.804, 8.32.806, 8.32.1102, 8.32.1103, 8.32.1108, 8.32.1109, 8.32.1111, 8.32.1112, 8.32.1113, 8.32.1114 and 8.32.1116 exactly as proposed.

4. The Board adopted NEW RULES II (8.32.1118) and III (8.32.1119), and repealed ARM 8.32.803, 8.32.1115, and 8.32.1117 exactly as proposed.

5. After considering the comments, the Board has amended ARM 8.32.802, 8.32.807, 8.32.1110, and adopted NEW RULE I (8.32.808) with the following changes (deleted matter stricken, new matter underlined):

8.32.802 CONTINUED APPROVAL OF SCHOOLS (1) remains as proposed.

(2) Before a site visit, a school that is not nationally accredited must submit a self-study report to the board office providing evidence of compliance with the appropriate nursing education requirements. The school must forward four copies of the self-study report and four copies of the school catalog to the board office at least 60 days before a scheduled site visit. If a program holds national nursing accreditation, ~~the~~ any self-

study report used for the accrediting body must also be submitted to the board office at least 60 days before the scheduled site visit.

(3) through (7) remain as proposed.

(8) through (8)(c) remain as proposed.

(d) Board decisions regarding compliance with this requirement for RN programs having less than 21 students per year and/or PN programs having less than 15 students per year will be based upon two consecutive years of NCLEX pass rates for first-time test takers.

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-301, 37-8-302, MCA

8.32.807 SPECIAL REPORTS (1) through (6) remain as proposed.

(7) Program expansion means offering additional degrees, adding geographic sites and locations, or otherwise expanding the program.

(7) remains as proposed but is renumbered (8).

(8) remains as proposed but is renumbered (9).

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-301, 37-8-302, MCA

8.32.1110 PROGRAM DIRECTOR (1) remains as proposed.

(2) The director of the baccalaureate program shall possess a doctorate in nursing or a related field, from a nationally recognized accredited program, with preparation in education and administration. If a master's degree is not held, one of the graduate degrees must be in nursing.

(a) remains as proposed.

(3) The director of the associate of science degree RN program shall possess a master's degree in nursing or public health with a major in nursing, from a nationally recognized accredited program, with preparation in education and administration.

(4) and (5) remain as proposed.

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-301, MCA

NEW RULE I (8.32.808) CHANGE IN APPROVAL STATUS

(1) through (6) remain as proposed.

~~(7) The following programs may~~ A program on conditional approval cannot not be considered for any type of program expansion: .

~~(a) a program on conditional approval; and/or~~

~~(b) a program whose NCLEX pass rate, based on first time testers for a calendar year, is less than the national average.~~

~~(8) Program expansion means offering additional degrees, adding geographic sites and locations, or otherwise expanding the program.~~

AUTH: 37-8-202, 37-8-301, MCA
IMP: 37-8-301, 37-8-302, MCA

6. The Board of Nursing (Board) has thoroughly considered all of the comments received. A summary of the comments and the Board's responses are as follows:

GENERAL COMMENTS:

Comment 1: Sandra McGovern, Human Resources Director, Glendive Medical Center, supported the proposed rule changes.

Response 1: The Board appreciates the comments.

8.32.801 APPLICATION FOR INITIAL APPROVAL:

Comment 2: Jay Pottenger, MSA, CHE, Administrator of Missouri River Medical Center (MRMC), supported reducing the lead-time necessary to create a new program. Randall G. Holom, Chief Executive Officer of the Frances Mahon Deaconess Hospital, stated that an undue and unnecessary burden is created for entities by requiring both an intent statement 2 years prior to an expected opening date and a feasibility study 1 year prior to opening. Mr. Holom suggested that new program approval should be based on the likelihood of the entity being able to offer a quality program and meet the program requirements.

Response 2: The Board has determined that submission of both documents and the 2-year lead time in advance of initial approval is necessary to ensure the development of quality programs and to enable the programs to fully meet all other requirements.

Comment 3: Jacque Dolberry, RN, MS, Director, Nursing Dept. at Salish Kootenai College suggested adding "any exceptions must be approved by the full board" at the end of section (1) to allow for instances where a college could design and implement a quality nursing program in under 2 years.

Response 3: See response to Comment 2 above.

8.32.802 CONTINUED APPROVAL OF SCHOOLS:

Comment 4: Jacque Dolberry, RN, MS, Director, Nursing Dept. at Salish Kootenai College supported having a 10-year site visit concurrent with national nursing accreditation bodies, and stated the provisions for NCLEX pass rates and for improvement should allow schools time to remedy problems leading to low pass rates. Cynthia Gustafson, PhD, RN, Chair, Dept. of Nursing at Carroll College, commented in support of combining Board visits with the national accreditation visits. Trish Goudie, Dean of MSU-Northern, commented in support of this rule amendment, but asked if the Board would consider accepting the national accrediting body's report in lieu of submitting two reports to

the Board.

Response 4: The Board will accept the national accrediting body's report for the nationally accredited programs. Programs that are not nationally accredited will need to submit a self-study report to the Board.

Comment 5: Jay Pottenger, MSA, CHE, Administrator of MRMC, expressed concern about the statistical significance of small groups in calculating the NCLEX pass rates.

Response 5: The Board considers data on NCLEX pass rates as collected and standardized by National Council of State Boards of Nursing. These data are considered the psychometrically sound, legally defensible test of entry-level competency and is accepted as the national standard. The data are based on pass rates from schools and programs throughout the nation.

Comment 6: The Miles Community College Nursing Program suggested that two consecutive years of NCLEX pass rates be used for approval of RN programs with less than 20 graduates.

Response 6: The Board agrees and has amended the rule accordingly.

8.32.806 ANNUAL REPORT:

Comment 7: Jacque Dolberry, RN, MS, Director, Nursing Dept. at Salish Kootenai College asked how submission of student handbooks would be used in relation to other criteria. She also asked if the Board intends for schools to complete program self-evaluations on an annual basis, or if schools could continue to focus on evaluations as they are currently done.

Response 7: Handbooks are considered as one source of information available to students. Annual reports would include updates on evaluation data but the more extensive self-evaluations would be done at the time of the regular site visits in conjunction with the national accreditation visits.

8.32.807 SPECIAL REPORTS:

Comment 8: Randall G. Holom, Frances Mahon Deaconess Hospital, opposed the use of NCLEX pass rates in considering program expansion and stated that using pass rates as the sole criterion is not statistically sound and more comprehensive measures need to be developed. Audrey ConnerRosberg, RN, PhD, Director, MSU, Billings College of Technology, PN program, opposed the use of NCLEX pass rates to consider program expansion as being prejudicial to smaller nursing programs, and not allowing for some program fluctuations. She stated that the Board should consider how programs are currently doing, and consider students that subsequently pass the NCLEX, not the first time takers.

Response 8: NCLEX pass rates are only one of several criteria used to determine program expansion. Programs are welcome to submit additional outcome data that are collected. The National Council of State Boards of Nursing collects and standardizes NCLEX pass rates for first time test takers. It is not feasible for the Board to alter the collection and use of the pass rates for individual programs.

Comment 9: Jacque Dolberry, RN, MS, Director, Nursing Dept. at Salish Kootenai College requested clarification on the meaning of "any expansion defined by the board." In (6)(k), Ms. Dolberry also asked if it is the Board's intent that if a school has a pass rate of 85% when the national average is 86%, the school would not be eligible to expand. She also stated that NCLEX pass rates should not be the only measure of a quality program, nor the only criterion the Board should consider.

Response 9: The Board has amended the rule to define program expansion. The intent of the Board is to make certain that schools have quality programs as evidenced by their NCLEX scores as compared with the national pass rates. NCLEX pass rates are only one of several criteria evaluated. Program Evaluation Plans are defined by the individual programs and the Board looks to see how well the programs meet their own criteria.

Comment 10: The Miles Community College Nursing Program opposes the requirement of NCLEX pass rates to exceed the national average for three of the past five years and suggested using the rates for the past two years.

Response 10: The Board has concluded that it is necessary for a program intending to expand to maintain NCLEX pass rates at or above the national average for three of the last five years to ensure the stability and quality of the current program.

8.32.1110 PROGRAM DIRECTOR:

Comment 11: Lea Acord, PhD, RN, Dean of College of Nursing, MSU Bozeman, and Susan Raph, Campus Director, MSU Great Falls, suggested adding "from a nationally recognized accredited program" to sections (2) and (3) to ensure program directors are at least qualified from the perspective of their education.

Response 11: The Board agrees and has amended the rule accordingly.

8.32.1112 FACULTY FOR REGISTERED NURSING:

Comment 12: Lea Acord, PhD, RN, Dean of College of Nursing, MSU Bozeman, and Susan Raph, Campus Director, MSU Great Falls suggested adding language in (3) to require a master's or doctorate in nursing, because the current language "not holding any master's" may cause confusion and misinterpretation.

Response 12: The Board determined that the language proposed in (3) is clear and understandable when read in conjunction with the entire rule.

8.32.1114 PRECEPTORS:

Comment 13: Jacque Dolberry, RN, MS, Director, Nursing Dept. at Salish Kootenai College, and the Miles Community College Nursing Program support the use of preceptors to expand the opportunity for clinical education, the recruitment of graduates in rural settings, and preceptors in associate degree programs.

Response 13: The Board appreciates the comments.

8.32.1116 EDUCATIONAL FACILITIES:

Comment 14: Cynthia Gustafson, PhD, RN, Chair, Dept. of Nursing at Carroll College, stated that this rule might need adjustment depending on how the Board would enforce rules relating to out-of-state nursing programs currently offered in Montana via electronic methods, such as on-line courses.

Response 14: The Board has jurisdiction to promulgate and enforce rules with regard to nursing programs and schools within the state of Montana. The Board does not regulate schools in other states.

New Rule I (8.32.808) CHANGE IN APPROVAL STATUS:

Comment 15: Miles Community College Nursing Program suggested changing the proposed language from "shall" to "may" in "the board shall make a change in approval status when a school does not meet all of the requirements of the statutes and rules."

Response 15: The Board has decided to require a change in approval status of schools that are out of compliance in an effort to better address deficiencies and to clarify the methods of correction.

New Rule II (8.32.1118) RECOGNIZED ACCREDITATION BODIES:

Comment 16: Cynthia Gustafson, PhD, RN, Chair, Dept. of Nursing at Carroll College, supported this new rule.

Response 16: The Board appreciates the comments.

New Rule III (8.32.1119) CLINICAL RESOURCE REGISTERED NURSES:

Comment 17: Jay Pottenger, MSA, CHE, Administrator of MRMC, Randall G. Holom, Chief Executive Officer of the Frances Mahon Deaconess Hospital, supported this new rule.

Jacque Dolberry, RN, MS, Director, Nursing Dept. at Salish Kootenai College, Trish Goudie, Dean of MSU-Northern, and the

Miles Community College Nursing Program support the CRRN rule as proposed, but would not support any amendment limiting the number of CRRNs used by the schools.

Lea Acord, PhD, RN, Dean of College of Nursing, MSU Bozeman, and Susan Raph, Campus Director, MSU Great Falls, suggested that the Board determine the number of CRRNs that a nursing program can employ based on the program's size or number of FTE faculty employed. They suggested CRRNs not exceeding 10% of the number of FTE faculty or a total of 3 FTE CRRNs, whichever is greater.

Response 17: At this time, the Board is not implementing any limitation on the number of CRRNs a nursing program can employ.

BOARD OF NURSING
KIM POWELL, RN, CHAIRMAN

By: /s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

By: /s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State May 12, 2003.