

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

In the matter of the proposed)
amendment of ARM 8.32.416,)
8.32.425, 8.32.1501, and the)
proposed adoption of New Rule I,)
related to licensure, fees,)
prescriptive authority, and)
psychiatric-mental health)
practitioner practice)

NOTICE OF PUBLIC HEARING
ON PROPOSED AMENDMENT
AND ADOPTION

TO: All Concerned Persons

1. On August 7, 2003, at 10:00 a.m. a public hearing will be held in room 438 of the Park Avenue Building, 301 South Park Avenue, Helena, Montana to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or who need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Nursing no later than 5:00 p.m., July 31, 2003, to advise us of the nature of the accommodation that you need. Please contact Jill Caldwell, Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2342; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2343; e-mail dlibsdnur@state.mt.us.

3. The rules proposed to be amended provide as follows:
(deleted matter stricken, new matter underlined)

8.32.416 VERIFICATION OF LICENSE TO ANOTHER STATE LICENSURE (1) Licensees requesting verification and documentation of Montana licensure status to another United States board of nursing jurisdiction or foreign country shall submit a written, signed completed request with the appropriate fee to NURSYS@nursys.com or NCSBN, 35331 Eagle Way, Chicago, IL 60678-1353.

(2) Licensees requesting paper verifications shall submit a completed request to the board office.

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

IMP: ~~37-1-134~~ 37-1-304, 37-8-202, ~~37-8-431~~, MCA

REASON: The Board has concluded this rule change is necessary because all verifications to other states are now done through this centralized system (NURSYS). The Board also recognizes that some licensees need paper verifications for credentialing bodies and certification entities. For this reason, the Board will maintain the option of paper verifications. There is no

fiscal change associated with this rule change. In addition, there is reasonable necessity to amend the catchphrase of the rule to reduce the possibility of confusion with regard to the procedure used by a licensee who needs verification of license status sent to a foreign country. There is also reasonable necessity to correct and update the citations to the statutes the rule implements, so that the rule conforms to the requirements of sections 2-4-305, MCA.

8.32.425 FEES (1) The fee for licensure (RN or LPN) by examination (NCLEX) is ~~\$70~~ \$100, payable at the time the application is submitted. This fee is retained by the board if the application is withdrawn.

(2) The fee for repeating the examination (NCLEX) for RN or LPN ~~will be~~ is ~~\$70~~ \$100.

(3) The fee for licensure (RN or LPN) by endorsement is ~~\$70~~ \$200, payable at the time the application is submitted. This fee is retained by the board if the application is withdrawn.

(4) through (11) remain the same.

(12) The fee for inactive RN or LPN status is ~~\$20 per year or \$40 per renewal period~~ one half the licensure fee.

(13) through (16) remain the same.

(17) The fee for a temporary RN or LPN permit is \$25.

(18) The fee for a temporary permit for an APRN is \$35.

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

IMP: 37-1-134, 37-8-202, 37-8-431, MCA

REASON: The Board has concluded that this rule change is necessary because last year the renewal cycle was changed from a one-year to a two-year renewal period. When this change was implemented, the Board did not change the fees for endorsement or examination applications and the associated licenses. This resulted in individuals applying for endorsement and examination receiving two-year licenses while only paying the one-year fee. The Board office reviewed the amount of staff time expended in processing examination and endorsement applications and determined that endorsement applications require far more time and effort than examination applications. For this reason, the examination application fee is lower than the fee for processing endorsement applications. The Board is required by section 37-1-134, MCA, to set its fees commensurate with costs.

The Board decided to charge a fee for a temporary permit because the Board has seen an increase in the number of applicants who apply for licensure, receive a temporary permit, and then never fulfill the requirements for permanent licensure. Historically, individuals seeking a temporary permit were in the process of becoming licensed in Montana, and the individual's application fee for licensure covered the minor incremental additional staff time required to issue the temporary permit. This fee is an attempt to discourage applicants from skirting paying for their fair portions of Board costs by applying for temporary licensure

to work only the term of the temporary permit, without ever applying for a regular license. The fee will cover the additional staff time needed to process temporary permits since not all applicants apply for a temporary permit.

The current fund balance of the Board is \$1,104,512.27. The annual or biennial renewal date is 12/31/2004. The current fiscal year's appropriation for the Board is \$743,042.41. Total annual revenue generated from fees during the last full fiscal year was \$777,569.29. The Board estimates that 2115 licensees/applicants will be affected by the proposed fee increase and \$135,650 in additional revenue will be generated during a biennium. The Board is required by section 37-1-134, MCA, to set its fees commensurate with costs.

8.32.1501 PRESCRIPTIVE AUTHORITY FOR ELIGIBLE APRNS

(1) remains the same.

(2) and (2)(a) remain the same.

(b) Psychiatric-mental health NPs and psychiatric CNSs with unencumbered licenses ~~who are certified prior to July 1, 2005,~~ may hold prescriptive authority.

(3) and (4) remain the same.

AUTH: 37-8-202, MCA

IMP: 37-8-202, MCA

REASON: The Board has determined that it is reasonable and necessary to amend this rule to provide clarification on eligibility requirements for CNS prescriptive authority. With the exception of the psychiatric-mental health practitioners, CNS programs do not provide the pharmacology or integration of pharmacotherapeutics and diagnostic clinical practice necessary to prepare the graduate to be eligible for prescriptive authority. Because psychiatric-mental health NP and psychiatric CNS education are considered synonymous and both prepare graduates for prescriptive authority eligibility, this amendment to the rule will clarify the eligibility requirements to better protect public safety. This will affect approximately 25 licensees, and there is no fiscal impact.

The Board has also determined that it is reasonable and necessary to amend ARM 8.32.1501 to remove the sunset date for psychiatric CNS prescriptive authority eligibility. The Board, in keeping with the best available information, previously was concerned that psychiatric CNS education programs did not provide suitable instruction and training in medical models of care, such that psychiatric CNSs should be eligible for prescriptive authority, and thus it adopted the existing sunset date. Now, however, current studies indicate that psychiatric CNS education programs provide appropriate instruction and training so that the psychiatric CNS has equivalent training to NPs with regard to the knowledge, skills and experience needed to obtain prescriptive authority. The Board now believes that the sunset date is not needed to protect the public health and

safety.

4. The board proposes to adopt NEW RULE I as follows:

NEW RULE I PSYCHIATRIC-MENTAL HEALTH PRACTITIONER PRACTICE

(1) Psychiatric-mental health NP or psychiatric CNS practice means the independent and/or collaborative management of primary mental health care for individuals, families and communities throughout the life span and for those who have or are at risk for developing mental health problems. The psychiatric-mental health practitioner may be educated as an NP or a CNS in the area of psychiatric-mental health advanced practice nursing. The practice of psychiatric-mental health practitioners includes:

(a) assessing the mental health status of individuals and families using methods appropriate to the client population and area of practice, including:

(i) health history taking;

(ii) diagnosis and treatment of complex mental health issues; and

(iii) assessing developmental health problems;

(b) instituting and providing continuity of mental health care to clients;

(c) managing therapeutic regimens;

(d) ordering treatments and modalities;

(e) receiving and interpreting results of diagnostic procedures;

(f) working with clients to ensure their understanding of and compliance with therapeutic regimens;

(g) promoting mental health wellness and psychiatric disease prevention programs;

(h) recognizing and referring clients to a physician or other health care provider, when appropriate;

(i) instructing and counseling individuals, families and groups in mental health promotion and maintenance, including involving the clients in planning for their health care; and

(j) working in collaboration with other health care providers and agencies to provide and coordinate services to individuals and families.

AUTH: 37-8-202, MCA

IMP: 37-8-202, MCA

REASON: There is reasonable necessity to adopt NEW RULE I to identify elements present within the area of psychiatric-mental health practice, in order to clarify the scope of the practice to the general public, health care workers, insurance payors, and potential license applicants. It is the sense of the Board and staff, based upon recent inquiries, that there is a general lack of awareness of the role that nurses can have in psychiatric-mental health practice. The Board notes that the other APRN practice areas have similar rules, and that this rule will provide analogous guidance. Psychiatric-mental health practice is the only APRN practice area where NP and CNS

education prepares graduates for diagnosis and treatment, including pharmacotherapeutic patient management. This distinguishes psychiatric-mental health CNS from other CNS practice. The proposed new rule will affect approximately 20 licensees, and there is no fiscal impact.

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 by mail to Jill Caldwell, Board of Nursing, Department of Labor and Industry, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdnur@state.mt.us and must be received no later than 5:00 p.m., August 15, 2003.

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 <http://www.discoveringmontana.com/dli/nur>, in the Rules Notices section. The Department strives to make the electronic copy of this Notice of Public Hearing 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 website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's 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 and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Nursing administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed 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@state.mt.us or may be made by completing a request form at any rules hearing held by the agency.

8. Lorraine Schneider, attorney, has been designated to preside over and conduct this hearing.

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

10. The Board of Nursing will meet during the October 22-23, 2003, Board meeting in Helena to consider the comments made by the public, the proposed responses to those comments, and

take final action on the proposed amendments and new rules. The meeting will be held in conjunction with the Board's regular meeting. Members of the public are welcome to attend the meeting and listen to the Board's deliberations.

BOARD OF NURSING
KIM POWELL, RN, CHAIRMAN

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

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State July 7, 2003.