

DEPARTMENT OF LABOR AND INDUSTRY

CHAPTER 162

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## Sub-Chapter 1

## Organizational Rule

24.162.101 BOARD ORGANIZATION (1) The board of nursing home administrators hereby adopts and incorporates the organizational rules of the department of labor and industry as listed in chapter 1 of this title. (History: 37-9-201, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 375.)

## Sub-Chapter 2

## Procedural Rules

24.162.201 PROCEDURAL RULES (1) The board of nursing home administrators hereby adopts and incorporates the procedural rules of the department of labor and industry as listed in chapter 2 of this title. (History: 37-9-201, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 375.)

24.162.202 PUBLIC PARTICIPATION RULES (1) The board of nursing home administrators hereby adopts and incorporates by this reference the public participation rules of the department of commerce as listed in chapter 2 of Title 8. (History: 37-9-201, MCA; IMP, 2-3-103, MCA; NEW, Eff. 4/4/77; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 375.)

## Sub-Chapter 3

## Definitions

24.162.301 DEFINITIONS (1) "Experience in health care administration" shall mean having management responsibility, which shall include supervision of at least three staff persons, of a health care facility.

(2) "Education in health care administration" shall mean the completion of a course of instruction designed to teach the elements of health care facility administration and management, including training regarding the protection of the rights of residents or patients therein.

(3) "Health care facility" shall mean licensed long-term facility, or licensed acute care facility, as defined by 50-5-301(3), MCA.

(4) "Clock hour" shall mean 60 minutes of formal instruction by an approved presenter. (History: 37-9-203, MCA; IMP, 37-9-203, MCA; NEW, 1992 MAR p. 2640, Eff. 12/11/92; TRANS, from Commerce, 2005 MAR p. 375.)

## Subchapter 4

## General Provisions

24.162.401 QUORUM (1) A majority of the voting members of the board shall constitute a quorum.

(2) Unless otherwise specifically provided by statute, a majority of all the voting members to which the board is entitled shall constitute a quorum to transact business, and the concurrence of a majority of all the voting members to which the board is entitled shall be necessary to make any action of the board valid. (History: 37-9-201, MCA; IMP, 37-9-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 375.)

24.162.402 PUBLIC INFORMATION (1) Unless otherwise provided by statute, rule or order of the board, all information, contained in any pleading, submittal, petition, statement, recommendation, report, map, exception, brief, memorandum, or other document filed with the board pursuant to the requirements of a statute or rule or order of this board shall be available for inspections by the public; provided, however, that no written complaint or charges filed against the holder of a license or an applicant shall be open to inspection unless and until the board has ordered that the matter be set for hearing and a notice of hearing has been issued to the person against whom a complaint or charge has been filed.

(2) Matters of public record may be inspected in the offices of the board in Helena, during regular office hours. Copies of matters of public record will be furnished to any person upon written request and upon payment of the charges thereof.

(a) Requests for public information, for permission to inspect official records or for copies of public records will be made in writing and handled with due regard for the dispatch of other public duties. (History: 37-9-201, MCA; IMP, 37-9-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1987 MAR p. 1206, Eff. 7/31/87; TRANS, from Commerce, 2005 MAR p. 375.)

24.162.403 SUBMITTALS AND REQUESTS (1) All applications, certificates, or other papers or documents required to be filed with the board shall be filed in the office of the board at Helena, Montana, within such time limits as prescribed by law, rules or by order of the board; and similarly, request for public information, copies of official documents, or opportunity to inspect public records shall be made to the board office in writing. (History: 37-9-201, MCA; IMP, 37-9-301, 37-9-302, 37-9-303, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 375.)

Rules 24.162.404 through 24.162.406 reserved

24.162.407 RECORD OF MINUTES AND HEARINGS (1) The record of a hearing shall be preserved for one year or until resolution of any court action on the matter, whichever is later. The department will make provisions for stenographic record of the testimony, but it shall not be necessary to transcribe the record unless requested for purposes of rehearing or court review. Any person desiring a copy of the record of the hearing or any part thereof shall be entitled to the same upon written application to the board and at his own cost. (History: 37-1-131, 37-9-201, MCA; IMP, 37-9-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1991 MAR p. 2446, Eff. 12/13/91; TRANS, from Commerce, 2005 MAR p. 375.)

24.162.408 APPLICATION DENIAL (1) In the event any application is denied by the board, the applicant shall be notified of the board's action by letter which shall include a statement of the reasons therefore and a statement advising the applicant of his right to a hearing. (History: 37-9-201, MCA; IMP, 37-9-305, 37-9-311, MCA; Eff. 12/31/72; AMD, Eff. 3/7/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 375.)

24.162.409 HEARINGS OR PROCEEDINGS (1) Any person whose application has been denied shall be entitled to a hearing, provided a written demand is filed with the board within 30 days of the date of mailing of the letter advising the applicant of the denial of his application.

(2) If a demand for hearing is filed within the time prescribed the board shall order a hearing in accordance with the provisions of these rules. (History: 37-9-201, MCA; IMP, 37-9-311, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 375.)

Rules 24.162.410 through 24.162.414 reserved

24.162.415 GENERAL REQUIREMENTS (1) The license, together with evidence of current validation, shall be conspicuously displayed within the facility served by the licensee and the holder of a license shall have evidence of current validation in his possession at all times.

(2) Each person who holds a license or permit shall file his mailing address with and notify the board in writing of any and all changes which occur within ten days of such change. (History: 37-9-201, MCA; IMP, 37-9-304, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 375.)

Rules 24.162.416 through 24.162.419 reserved

24.162.420 FEE SCHEDULE (1) Applicant and licensee fees are as follows:

(a) application fee	\$160
(b) jurisprudence reexamination	50
(c) inactive renewal fee	75
(d) active renewal fee	185
(e) temporary permit	160
(f) reciprocity	260

(2) Additional standardized fees are specified in ARM 24.101.403.

(3) All fees are nonrefundable.

(4) The NAB examination fee and reexamination fee is set by the examination administrator, and is paid by the applicant directly to the examination administrator. (History: 37-1-131, 37-1-134, 37-9-304, MCA; IMP, 37-1-131, 37-1-134, 37-1-141, 37-9-304, MCA; Eff. 12/31/72; AMD, 1979 MAR p. 849, Eff. 8/17/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1983 MAR p. 1349, Eff. 9/30/83; AMD, 1984 MAR p. 1753, Eff. 11/30/84; AMD, 1987 MAR p. 1206, Eff. 7/31/87; AMD, 1989 MAR p. 14, Eff. 12/9/88; AMD, 1991 MAR p. 2446, Eff. 12/13/91; AMD, 1998 MAR p. 2964, Eff. 11/6/98; RESCIND, (CI-75), 1999 MAR p. 67, Eff. 1/15/99; AMD, 1999 MAR p. 1123, Eff. 5/21/99; AMD, 2000 MAR p. 1035, Eff. 4/28/00; AMD, 2003 MAR p. 306, Eff. 2/28/03; TRANS, from Commerce, 2005 MAR p. 375; AMD, 2005 MAR p. 2252, Eff. 11/11/05; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

## Sub-Chapter 5

## Licensing

24.162.501 APPLICATION AND DOCUMENTATION FOR LICENSURE

(1) In addition to passing the examination referred to in ARM 24.162.504, an applicant must submit a completed application form documenting education, training, experience or a combination thereof totaling 1,200 points. The minimum accumulative point-value shall be 1,200 points.

(2) An application shall be filed and must be accompanied by the required fee, which shall not be refunded.

(3) The application information furnished by each applicant shall be evaluated by the board and given point-value to determine whether the applicant has sufficient experience, education or training. The experience, education or training requirements are set out in (a) through (c) below.

(a) Experience will be accepted for categories set out in (i) through (iii) below. Designated points are given based upon 40 hours or more per week. Documented part-time employment will be prorated on a full-time employee (40 hours per week) status. An applicant seeking points for experience earned beyond the seven-year period preceding the application date will not be awarded points unless the application is accompanied with documentation of such experience. Adequate documentation consists of a supervisor's letter, Internal Revenue Service W-4 form, or employment evaluations signed by a supervisor or other official verification of employment.

(i) management experience, with or without supervision, from the administration, no more than 600 points/year;

(ii) direct services experience providing health care services with direct patient contact, no more than 150 points/year;

(iii) support services (indirect experience) experience in health care facility(ies) with indirect patient contact, no more than 50 points/year;

(b) Credit for educational training will be given as set forth in (i) through (ii) below. In the case where multiple degrees have been attained, credit shall be given for one degree only, according to the degree designated for credit by the license applicant.

(i) minimum of an associate degree in health care or business equals 1,200 points;

(ii) college/university course work in a health or business related course, (completed with a grade of not less than "C") equals 20 points/credit hour.

(c) Training seminars/workshop/short courses in health care and business equals one point per approved clock hour;

(d) Administrator-in-training (AIT) programs may be submitted for one point per clock hour credit for hours earned. Verification of clock hours must be documented and signed by the licensed active nursing home administrator.

(4) The applicant must submit a copy of all documents including transcript and diploma or degree, if applicable, to provide a sufficient basis for the board to evaluate the points earned by the applicant. (History: 37-1-131, 37-9-203, MCA; IMP, 37-9-203, 37-9-301, 37-9-304, MCA; NEW, 1992 MAR p. 2640, Eff. 12/11/92; AMD, 1994 MAR p. 2822, Eff. 10/28/94; AMD, 1998 MAR p. 161, Eff. 1/16/98; TRANS, from Commerce, 2005 MAR p. 375.)

Rules 24.162.502 and 24.162.503 reserved

24.162.504 EXAMINATIONS (1) Each applicant shall be required to attain a passing scaled score, as determined by the national association of boards of examiners for nursing home administrators, on an examination prepared by the professional examination service, or the national association of boards. In addition, each applicant must attain a final score of at least 90% in the open book examination relating to the provisions of the Montana long-term care facility licensing law and regulations.

(2) In the event of failure, the individual may retake the examination by paying exam fees referenced in ARM 24.162.420. (History: 37-1-131, 37-1-134, 37-9-201, 37-9-203, 37-9-304, MCA; IMP, 37-1-134, 37-9-201, 37-9-203, 37-9-301, 37-9-303, 37-9-304, MCA; Eff. 12/31/72; AMD, Eff. 6/5/74; AMD, Eff. 8/5/75; AMD, Eff. 3/7/76; AMD, Eff. 8/5/76; AMD, 1979 MAR p. 849, Eff. 7/17/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1983 MAR p. 1663, Eff. 11/11/83; AMD, 1987 MAR p. 1206, Eff. 7/31/87; AMD, 1988 MAR p. 710, Eff. 4/15/88; AMD, 1988 MAR p. 2567, Eff. 12/9/88; AMD, 1991 MAR p. 2446, Eff. 12/13/91; AMD, 1992 MAR p. 2640, Eff. 12/11/92; AMD, 1993 MAR p. 396, Eff. 2/12/93; AMD, 1998 MAR p. 2964, Eff. 11/6/98; RESCIND, (CI-75), 1999 MAR p. 67, Eff. 1/15/99; AMD, 1999 MAR p. 1123, Eff. 5/21/99; AMD, 2000 MAR p. 1035, Eff. 4/28/00; TRANS, from Commerce, 2005 MAR p. 375.)

Rule 24.162.505 reserved

24.162.506 TEMPORARY PERMIT (1) An application for a temporary permit must be accompanied by the required fee, which will not be refunded. (History: 37-9-201, MCA; IMP, 37-9-302, MCA; Eff. 12/31/72; AMD, Eff. 9/4/75; AMD, 1979 MAR p. 849, Eff. 8/16/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 375.)

Rules 24.162.507 and 24.162.508 reserved

24.162.509 REINSTATEMENT (1) An application for reinstatement for an expired license may be filed within two years of the expiration date, provided the applicant can establish to the satisfaction of the board that the continuing education requirement has been met. The application must be accompanied by all delinquent fees which shall not be refunded. (History: 37-1-131, 37-9-201, 37-9-203, MCA; IMP, 37-1-131, 37-9-201, 37-9-203, 37-9-305, MCA; Eff. 12/31/72; AMD, Eff. 3/7/76; TRANS, from Dept of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1987 MAR p. 1206, Eff. 7/31/87; AMD, 1991 MAR p. 2446, Eff. 12/13/91; TRANS, from Commerce, 2005 MAR p. 375.)

24.162.510 RECIPROCITY LICENSES (1) An application for licensure by reciprocity without examination must include a signed statement from the examining board of another jurisdiction attesting:

(a) that the applicant attained a passing scaled score, as determined by the national association of boards of examiners for nursing home administrators on an examination prepared by the professional examination service or the national association of boards; and

(b) that the applicant holds a currently valid license as a nursing home administrator in that jurisdiction.

(2) An application for license by reciprocity may be filed at any time and must be accompanied by the required fees, which shall not be refunded. (History: 37-9-201, 37-9-203, MCA; IMP, 37-9-301, 37-9-303, MCA; Eff. 12/31/72; AMD, Eff. 6/5/74; AMD, 1979 MAR p. 849, Eff. 8/17/79; AMD, 1980 MAR p. 2589, Eff. 9/12/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1991 MAR p. 2446, Eff. 12/13/91; AMD, 1993 MAR p. 396, Eff. 2/12/93; TRANS, from Commerce, 2005 MAR p. 375.)

Rules 24.162.511 through 24.162.514 reserved

24.162.515 REQUIREMENTS FOR INACTIVE NURSING HOME

ADMINISTRATORS (1) Registered inactive licenses will be granted to those individuals presently eligible to be licensed as nursing home administrators, but who are not presently working in the nursing home administration field.

(2) The requirements for obtaining a registered inactive license status shall be the same as for obtaining nursing home administrator's license, with the following exception:

(a) the fee may be used as a credit towards the full fee for an administrator's license, at such time as application may be made during any license year for the administrator's license.

(3) Renewal of registered inactive nursing home licenses shall be accompanied with satisfactory evidence of completion of approved continuing education in the nursing home field for each calendar year.

(4) Applicants for an inactive nursing home administrator's license shall so indicate with the proper designation in the application for license which may be obtained from the board. (History: 37-9-201, MCA; IMP, 37-9-304, 37-9-305, MCA; NEW, Eff. 1/5/74; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 375.)

Sub-Chapters 6 through 20 reserved

## Subchapter 21

## Renewals and Continuing Education

24.162.2101 RENEWALS (1) Renewal notices will be sent as specified in ARM 24.101.414.

(2) An application for renewal of license shall be filed on or before the date set by ARM 24.101.413 and must be accompanied by the required fee, which shall not be refunded.

(3) The renewal fee is due and payable on or before the date set by ARM 24.101.413.

(4) The provisions of ARM 24.101.408 apply. (History: 37-1-141, 37-9-201, MCA; IMP, 37-1-141, 37-9-304, 37-9-305, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 375; AMD, 2005 MAR p. 377, Eff. 3/18/05; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

Rules 24.162.2102 through 24.162.2104 reserved

24.162.2105 CONTINUING EDUCATION (1) All applicants for renewal of licenses and inactive registration shall have completed a continuing education course as a condition to establish eligibility for renewal.

(2) All courses for continuing education obtained from a provider that is not on the board's preapproved list must be approved by the board based upon the relevance to current nursing home administrator issues.

(a) The board shall adopt policy guidelines for approval of continuing education courses.

(b) A list of the guidelines for approval must be provided to all new licensees and must be available from the board office and through electronic media.

(c) Licensees who attend a course not offered by a preapproved provider/sponsor shall submit the course for approval on the form prescribed by the board and accompanied by the appropriate fee. All courses must be submitted for approval by December 31 of the year in which the course was attended.

(d) A list of approved providers/sponsors and courses must be mailed to licensees with each renewal notice and must be available from the board office through the electronic media.

(3) The board may preapprove providers/sponsors of continuing education. Courses obtained from a preapproved provider/sponsor do not need to be submitted for approval. Courses sponsored by preapproved providers/sponsors that are germane to long-term care will be automatically accepted by the board.

(a) Applications for approval as a provider must be made on a form prescribed by the board.

(b) The board will require that the providers/sponsors demonstrate expertise in the areas of long-term care including accredited educational institutions, recognized professional or trade associations, or other legitimate organizational entities capable of conducting adult continuing education.

(c) The board shall annually review the list of preapproved providers/sponsors for assurance as to the quality and relevance of courses offered and the provider's compliance with the board's policies relative to preapproved providers.

(d) The board may grant continuing education credit to the licensees who have attended courses/programs that have been accepted by other state boards/associations of nursing home administrators.

(4) Twenty-five hours of continuing education will be required annually for renewal of a license or renewal of inactive registration.

(a) Up to 25 hours earned in excess of 25 hours in a calendar year may be carried over into the succeeding year.

(b) A licensee is exempt from the continuing education requirement the year of original licensure.

(c) The board will conduct continuing education audits. Those licensees selected shall submit proof of completion of continuing education courses. Licensees are responsible for maintaining their records of participation of continuing education and make them available upon request.

(d) One semester credit is equal to 15 continuing education hours, and 60 minutes of class time equals one continuing education hour.

(5) No more than 15 hours of college courses may be submitted for continuing education without prior approval of the board. These courses should contribute to the professional competence of the participant. (History: 37-1-131, 37-1-319, 37-9-201, 37-9-203, MCA; IMP, 37-1-319, 37-9-203, 37-9-305, MCA; NEW, Eff. 5/5/74; AMD, Eff. 9/4/75; AMD, 1979 MAR p. 849, Eff. 8/17/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1983 MAR p. 1349, Eff. 9/30/83; AMD, 1987 MAR p. 1206, Eff. 7/31/87; AMD, 1991 MAR p. 2446, Eff. 12/13/91; AMD, 2000 MAR p. 1035, Eff. 4/28/00; TRANS, from Commerce, 2005 MAR p. 375; AMD, 2005 MAR p. 377, Eff. 3/18/05.)

Subchapter 22 reserved

## Sub-Chapter 23

## Unprofessional Conduct

24.162.2301 UNPROFESSIONAL CONDUCT (1) The board may suspend, revoke or take any other action in relation to the disciplining of the individual as the board in its discretion considers proper after an appropriate hearing or personal waiver of hearing rights.

(2) The following acts may subject the licensee to disciplinary action:

- (a) willful and/or repeated violation of any board statutes or rule or the statutes or rules of any federal, state, county or city agency having licensing and regulation of nursing homes or administrators;
- (b) conviction of a felony related to the practice of the profession by a court of competent jurisdiction, unless exempt by 37-1-203, MCA;
- (c) use of fraud, deceit or misrepresentation in the securing of a nursing home administrators license;
- (d) being mentally and/or physically incompetent to engage in or act in the professional status as a nursing home administrator;
- (e) use of alcoholic beverages or addictive drugs to the extent that it impairs the ability to practice the profession safely;
- (f) diversion or appropriation of drugs or medications prescribed for residents in the nursing home;
- (g) failure to take appropriate action on an employee who diverts drugs or medications prescribed for residents;
- (h) acceptance of valuable consideration for the solicitation or procurement, either directly or indirectly, of nursing home usage;
- (i) use of fraudulent, misleading or deceptive advertising;
- (j) knowingly allowing an individual to falsely impersonate another licensee;
- (k) knowingly failing to exercise true regard for the safety, health and welfare of the resident;
- (l) willfully permitting unauthorized disclosure of information relative to the residents' records;

(m) disclosure or use of confidential information in the course of duties as a nursing home administrator which would further his/her own economic interests;

(n) continuous failure, or allowing the continuous failure, of employees to comply with standards for the operation of the nursing home for which the administrator is responsible;

(o) willful failure to correct deficiencies or failure to maintain corrective measures in the nursing home as cited by any agency of government which has nursing home administration responsibility.

(p) failing to maintain or provide accounting of or for residents' property or assets during their stay in the nursing home. However, the administrator shall be responsible only for that property with which he has been specifically entrusted by the resident, or that property over which the administrator has reasonable means of exercising security;

(q) allowing harassment or abuse of residents by employees;

(r) failing to cooperate with an authorized investigation of a complaint; and

(s) violating orders of the board. (History: 37-1-131, 37-9-201, 37-9-203, 37-9-311, MCA; IMP, 37-9-203, 37-9-311, MCA; NEW, 1979 MAR p. 849, Eff. 8/17/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1991 MAR p. 2446, Eff. 12/13/91; TRANS, from Commerce, 2005 MAR p. 375.)