



NORTH DAKOTA BOARD OF NURSING

919 S 7th St., Suite 504, Bismarck, ND 58504-5881

Telephone: (701) 328-9777 Fax: (701) 328-9785

Web Site Address: <http://www.ndbon.org>

Workplace Impairment Program: (701) 328-9783

To: Senator Jerry Klein, Chairman
Administrative Rules Committee
North Dakota Legislative Council

From: Constance B. Kalanek, Ph.D., RN
Executive Director

Date: March 10, 2011

Re: Administrative Rules Published in the April 2011 Supplement, North Dakota
Administrative Code

Thank you for the opportunity to address the administrative rules changes adopted by the North Dakota Board of Nursing.

The proposed, new and revised Title 54 Board of Nursing:

- Chapter 54-01-03. Definitions;
- Chapter 54-02-06. License by Endorsement;
- Chapter 54-02-07. Disciplinary Action;
- Chapter 54-02-10. RN and LPN Nurse Licensure Compact;
- Chapter 54-05-03.1. Advanced Practice Registered Nurse;
- Chapter 54-05-03.2. Specialty Practice Registered Nurse;
- Chapter 54-03.2-03. Nurse Administrator;
- Chapter 54-03.2-04. Faculty;
- Chapter 54-03.2-06. Curriculum;
- Chapter 54-03.2-07. Nursing Education Program Approval;
- Proposed new Chapter 54-03.2-10. Innovations in Nursing Education;
- Chapter 54-04.1-02. Qualifications; (Nursing Education Loan)
- Chapter 54-04.1-03. Disbursements; (Nursing Education Loan)
- Chapter 54-04.1-04. Repayment by Employment; (Nursing Education Loan)
- Article 54-07 Nurse Assistant (name change only);
- Article 54-09 Nurse Advocacy Program for Workplace Impairments (name change only).

The Administrative Rules Committee has asked for testimony related to the following questions:

1. Whether the rules resulted from statutory changes made by the Legislative Assembly.

No. Revisions were made to the Nurse Licensure Compact chapter to be consistent with the uniform requirements of the compact. Other revisions were related to education requirements for APRNs, new chapter setting out the requirements for education innovations, clean up of language in other sections and increase in loan amounts for the nursing education loan program.

2. Whether the rules are related to any federal statute or regulation.

None of the rules were as a result of a federal program.

3. A description of the rulemaking procedure followed in adopting the rules, e.g., the type of public notice given and the extent of public hearings held on the rules.

I. BOARD ADOPT RULES FOR PUBLIC HEARING

July 16, 2010

II. PUBLICATION OF NOTICE

- Published in each county newspaper: **Mail to North Dakota Newspaper Association on July 17, 2010. Publish once in each official County newspaper before August 1, 2010. At least 20 days must elapse between publication of the notice and the date of the hearing. Done.**
- Contents of full notice:
 - purpose of rules
 - time and place for oral hearing
 - regulatory impact
 - location to review text
 - address for written testimony
 - phone number for requesting copy/regulatory analysis
 - Closing date for consideration of testimony
- Full Notice and copy of the proposed rules filed with Legislative Council - **Mail by July 17, 2010.**
- Regulatory analysis if requested or if impact in excess of \$50,000.00.

III. PUBLIC HEARING –

Twenty days must lapse between last date published in newspapers and date of first hearing – hearing dates- **August 24 at 1:30 PM in the ND Board of Nursing Board Room.**

4. SUMMARY OF COMMENTS:

Hearing Summary:

August 24, 1:30 PM at the North Dakota Board of Nursing, 919 south 7th Street, Suite 504, Bismarck, North Dakota, 58504-5881.

The proposed new, amendments or repeal of the following Title 54 Board of Nursing: **NDAC Chapter 54-01-03. Definitions; Chapter 54-02-06. License by Endorsement; Chapter 54-02-07. Disciplinary Action; Chapter 54-02-10. RN and LPN Nurse Licensure Compact; Chapter 54-05-03.1. Advanced Practice Registered Nurse; Chapter 54-05-03.2. Specialty Practice Registered**

Nurse; Chapter 54-03.2-03. Nurse Administrator; Chapter 54-03.2-04. Faculty; Chapter 54-03.2-06 Curriculum; Chapter 54-03.2-07. Nursing Education Program Approval; Proposed new Chapter 54-03.2-10. Innovations in Nursing Education; Chapter 54-04.1-02. Qualifications; Chapter 54-04.1-03. Disbursements; Chapter 54-04.1-04. Repayment by Employment; Article 54-07. Nurse Assistant (name change only); Article 54-09 Nurse Advocacy Program for Workplace Impairments (name change only).

HEARING	August 24, 2010
Signed attendance roster	2
Oral testimony	1
Written testimony	3
Board Staff present	Constance B. Kalanek, RN; Patricia Hill, RN. Karla Bitz, RN. Jane Hoerner RN Julie Schwan, ASC Brian Bergeson, Special Assistant Attorney General
Board Members Present	Buzz Benson RN Karen LaLonde, Public Member

Two individuals appeared and one made comments and provided written testimony at the public hearing. During the comment period, two copies of written comments were received.

4. SUMMARY OF COMMENTS:

The proposed rules were developed in conjunction with the NDBON Nurse Practice Committee, NDBON Nursing Education Committee, ND Board of Nursing and staff. The result of this collaboration is the proposed rules. All written and oral testimony is in support of the proposed changes with some minor suggestions (see below). No negative comments either written or oral were received by the BON.

5. The approximate cost of giving public notice and holding any hearing on the rules and the approximate cost (not including staff time) of developing and adopting the rules.
The approximate cost of the rule promulgation process was \$1832.24.

6. An explanation of the subject matter of the rules and the reasons for adopting these rules.

Article/Chapter/ Section	Title	Purpose of Amendment
Chapter 54-01-03	Definitions	<ul style="list-style-type: none"> • Clarification and update of language. • Addition and revision of definitions for temporary suspension & letter of concern.
Chapter 54-02-06	License by Endorsement	<ul style="list-style-type: none"> • Clarification and update of language to provide a provision for board discretion.
Chapter 54-02-07	Disciplinary Action	<ul style="list-style-type: none"> • Addition of two grounds for discipline • Clarified self-reporting; propose substitute term for temporary with emergency suspension and other clarifying language under suspension. • Change word offense to conduct. • Added –compact language - any other individual with authority to practice nursing under any privilege. • Added applicant and compact language to the cease & desist order. • Clarifying section 54-02-07-06. Board decision for going paperless.

Chapter 54-02-10	Nurse Licensure Compact	<ul style="list-style-type: none"> Added definitions on multistate disciplinary case; and clarification of Limitation on multistate licensure privilege- Discipline to be consistent with requirements of compact model rules.
Chapter 54-05-03.1	Advanced Practice Registered Nurse	<ul style="list-style-type: none"> Clarification and update of language related to the APRN licensure for initial & renewal, issuance of 90 day temporary permit, notification requirements for changes in scope of practice. Updated requirements for prescriptive authority. Added a new # 1 to section 54-05-03-1.10. Authority to prescribe. <p>Testimony – discusses usage of titles for the various roles and need for a grand-parent clause for initial and renewal.</p> <p>Recommendation – adopt suggested language from the APRN Model Rules 2008 which includes the grand-parent clause.</p>
Chapter 54-05-03.1	Specialty Practice Registered Nurse	<ul style="list-style-type: none"> Clarification and update of language related to the SPRN licensure. Notification requirements for changes in scope of practice.
Chapter 54-03.2-03	Nurse Administrator	<ul style="list-style-type: none"> Clarification and update of language. Added term full time equivalent for clarification in tracking unqualified administrators and faculty.
Chapter 54-03.2-04	Faculty	<ul style="list-style-type: none"> Section 54-03.2-04-07. Preceptors. Added “pre-licensure” to qualifications. Section 54-03.2-04-08. Added the

Chapter 54-03.2-06	Curriculum	<p>term “academically” unqualified faculty. Added term full time equivalent for clarification in tracking unqualified faculty.</p> <ul style="list-style-type: none"> • Added language for development programs for unqualified faculty. • Clarifying language throughout; Included language for the direct entry pre-licensure graduate programs.
Chapter 54-03.2-07.	Nursing Education Program Approval	<ul style="list-style-type: none"> • Specified language for APRN curriculum. Revised language based on input from oral and written testimony: <p>Clinical supervision must be congruent with current national professional organizations and nursing accrediting body standards applicable to the advance practice registered nurse and population focus.</p> <ul style="list-style-type: none"> • Renumbering and clarifying throughout.
Chapter 54-03.2-10 (New)	Innovations in Nursing Education	<ul style="list-style-type: none"> • Added the term “substantial”.
Chapter 54-04.1-02	Qualification (Nursing Education Loan)	<ul style="list-style-type: none"> • Specific language related to programs researching new teaching and learning processes in nursing education.
Chapter 54-04.1-03	Disbursements	<ul style="list-style-type: none"> • Added “or” to requirements.
Chapter 54-04.1-04	Repayment for Employment	<ul style="list-style-type: none"> • Increased disbursements and clarified for the certificate for advanced practice. • Expanded repayment to military deployment.

Article 54-07	Unlicensed Assistive Person	<ul style="list-style-type: none"> • Update Language
Article 54-09	Nurse Advocacy Program	<ul style="list-style-type: none"> • Update language

7. **Whether a regulatory analysis was required by North Dakota Century code (NDCC) Section 28-32-08 and whether a regulatory analysis was issued.** Not required.
8. **Whether a regulatory analysis or economic impact statement of impact on small entities was required by NDCC Section 28-32-08.1 and whether that regulatory analysis or impact statement was issued.** The board did not issue a regulatory analysis or an economic impact statement.
9. **Whether a constitutional takings assessment was prepared as required by NDCC Section 28-32-09.** None was prepared.
10. **The rules were not adopted as emergency rules.**