



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: Rep Kim Koppelman, Chairman
 Administrative Rules Committee
 North Dakota Legislative Council

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

Date: September 13, 2012

Re: Administrative Rules Published in the October 2012 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 revised Title 54 Board of Nursing:

- **Chapter 54-02-05-03. Renewal fees.**
- **Chapter 54-02-06-01. Application and fee for license by endorsement.**

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.

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 DEVELOP RULES FOR BOARD ADOPTION
 Rules developed after collaborating and consulting with North Dakota nursing associations.
- II. BOARD ADOPT RULES FOR PUBLIC HEARING
March 22, 2012
- III. PUBLICATION OF NOTICE

- Published in each county newspaper: **Mail to North Dakota Newspaper Association on April 12, 2012. Publish once in each official County newspaper before April 26, 2012. At least 20 days must elapse between publication of the notice and the date of the hearing.**
 - 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 April 12, 2012.**
 - Regulatory analysis if requested or if impact in excess of \$50,000.00. Board policy: prepare for all rule-making.
- IV. PUBLIC HEARING - Twenty days must lapse between last date published in newspapers and date of first hearing – hearing dates- **May 17 at 1:30 PM in the ND Board of Nursing Board Room.**
- V. Allow 10 days after last public hearing for public comment period - between **May 17** through **May 30, 2012.**
- VI. BOARD ACTION - INITIALLY ADOPT RULES SUBJECT TO AG OPINION
Record of consideration of all testimony - oral and written prior to final adoption, amendment, or repeal **Board Meeting July 12, 2012.**
- VII. ATTORNEY GENERAL OPINION AS TO LEGALITY OF RULES
Submit to AG after board adopts rules **week of July 12, 2012.**
- AG may not approve rule as to legality when merely repeats statute
 - AG may not approve rules as to legality where rules exceeds statutory authority
 - AG may suggest any revision or rewording
- VIII. FINAL ADOPTION OF THE RULE BY BOARD – **July 12, 2012**
- IX. FILE RULES WITH OFFICE LEGISLATIVE COUNCIL
- Adopted rules and AG opinion must be filed with Legislative Council.
- X. APPEAR BEFORE THE ADMINISTRATIVE RULES COMMITTEE - **September 2012.**
Prepare & present testimony in response to Legislative Council questions.

IX. RULES FORCE AND EFFECT OF LAW

- Rules become effective **October 1, 2012.**

NOTICE OF INTENT TO ADOPT,
AMEND OR REPEAL ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Board of Nursing will hold a public hearing to address proposed amendments of North Dakota Administrative Code title 54. The hearing will be:

**May 17, 2012 1:30 PM at the North Dakota Board of Nursing, 919 South Seventh Street,
Suite 504 Bismarck, North Dakota.**

The proposed amendment of the following Title 54 Board of Nursing:

NDAC Chapter 54-01-05 Renewal of License: 54-02-05-03. Renewal fees.

NDAC Chapter 54-02-06. Licensure by Endorsement: 54-02-06-01(2). Application and fee for license by endorsement.

The purpose of the amendment is to increase the licensure fees for RNs and LPNs to support the North Dakota Center for Nursing. The proposed rules are expected to have an impact on the regulated community in excess of \$50,000.

The proposed rules may be reviewed at the office of the North Dakota Board of Nursing, 919 S 7th St., Suite 504, Bismarck ND 58504-5881. A copy of the proposed rules may be requested by writing the above address or calling (701) 328-9777. The proposed rules will be available on the ND Board of Nursing Website at www.ndbon.org. Written or oral comments on the proposed rules sent to the above address or the contact us section of the website and received **by May 30, 2012**, the date the comment period closes, will be fully considered.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Board of Nursing at the above phone number or address at least one week prior to the public hearing.

Dated this 11th day of April 2012.

Constance B. Kalanek, RN Executive Director

ABBREVIATED NOTICE OF INTENT TO
AMEND ADMINISTRATIVE RULES
RELATING TO NURSE LICENSURE

TAKE NOTICE that the North Dakota Board of Nursing will hold a public hearing to address proposed changes to N.D. Administrative Code on **May 17, 1:30 PM** at the North Dakota Board of Nursing Board Room, 919 south 7th Street, Suite 504, Bismarck, ND 58504-5881.

The proposed rules may be reviewed at the office of the North Dakota Board of Nursing, 919 S 7th St., Suite 504, Bismarck ND 58504-5881. A copy of the proposed rules may be requested by writing the above address or calling (701) 328-9777. The proposed rules will be available on the ND Board of Nursing Website at www.ndbon.org. Written or oral comments on the proposed rules sent to the above address or the contact us section of the website and received **by May 30, 2012** the date the comment period closes, will be fully considered.

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Dated this 11th day of April 2012.
Constance B. Kalanek, RN Executive Director
North Dakota Board of Nursing

**NORTH DAKOTA BOARD OF NURSING
HEARING SUMMARY**

May 17, 1:30 PM at the North Dakota Board of Nursing, 919 south 7th Street, Suite 504, Bismarck, North Dakota, 58504-5881.

The proposed amendment of the following Title 54 Board of Nursing:
NDAC Chapter 54-01-05 Renewal of License: 54-02-05-03. Renewal fees.
NDAC Chapter 54-02-06. Licensure by Endorsement: 54-02-06-01(2). Application and fee for license by endorsement.

Article/Chapter/ Section	Title	Purpose of Amendment
54-02-05-03.	Renewal fees	<ul style="list-style-type: none"> • Increase of \$30.00 to conduct and support projects pertaining to nursing education and practice and to conduct the business of the board (NDCC 43-12.1-08-2(d)(k).
54-02-06-01(2).	Application and fee for license by endorsement.	<ul style="list-style-type: none"> • Increase of \$30.00 to conduct and support projects pertaining to nursing education and practice and to conduct the business of the board (NDCC 43-12.1-08-2(d)(k).

SUMMARY of HEARING

HEARING	May 17, 2012
Signed attendance roster	5 (one by telephone)
Oral testimony	3
Written testimony	37
Oral & Written Testimony	2
Nursing Organizations	List of 36 in support
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 Charlene Christianson RN Julie Traynor RN Melissa Frank LPN Clara Sue Price Public Member Daniel Rustvang RN Deborah Smith RN Bonny Meyer LPN Angie Levi LPN

SUMMARY OF COMMENTS

Five individuals appeared and three made comments at the public hearing. Two individuals spoke in support of proposal and one individual spoke in opposition to the proposed revision. During the comment period, 35 letters/emails were received; 28 in support and 7 in opposition. A list of 36 nursing organizations that supported the increase in fee was also provided to the Board. See copies of all testimony.

The proposed rules were developed after collaborating and consulting with North Dakota nursing associations as required by the NDCC Nurse Practices Act 43-12.1-08-2b. The result of this collaboration is the proposed rules.

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 \$AG Review – 226.17
Newspaper Publications – 1648.90 = Total - \$1875.07. The hearing was held during a regularly scheduled board meeting so no additional per diem was paid out to board Members.

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

The proposed administrative rules changes are in response to the needs of the changing practice environment. The North Dakota Board of Nursing supported the Nursing Needs Study for the past ten years (NDCC 43-12.1-08.2) despite the law sunset in 2006. The Board of Nursing has supported many projects over the last 15 years including the nursing education loan program. In an effort to have a sustained funding mechanism for the various projects the Board believes the two fees must be increased. The Board has not increased licensure fees since 2003.

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 but completed.

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 issue a regulatory analysis but not 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.



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To: Interested Parties

From: North Dakota Board of Nursing

Date: April 20, 2012

RE: Regulatory Analysis

This Regulatory Analysis is prepared for the North Dakota Board of Nursing 2012 Rules Promulgation. The proposed rule increases fees for renewal, reactivation and endorsement of licensure by \$30.00 for the RNs and LPNs. There has not been an increase in licensure fees since July 1, 2003. The following is a summation of the requirements of a regulatory analysis:

1. Description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;

Response: This would result in an estimated \$240,000 each year. As license renewal occurs every two years, this additional fee would cost \$1.25 per month to each nurse in North Dakota. The ND Board of Nursing has not increased licensure fees in 10 years. With an average salary of \$16.98/hour, LPNs would need to work 1 ¾ hours over a two-year period and with an average salary of \$27.41/hour, RNs would need to work a little more than one hour every two years to pay for this increase. The entire nursing community will benefit from the steady development of the North Dakota Center for Nursing.

2. A description of the probable impact, including economic impact, of the proposed rule;

Response: See above.

3. The probable costs to the agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues; and

Response: The cost to the agency will be included in the usual technology updates that must be made annually to the online processes at a cost of less than \$500.00.



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4. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why the methods were rejected in favor of the proposed rule.

Response:

This licensure funding would form the first piece of a comprehensive funding strategy that the finance and sustainability workgroup is in the process of drafting. Applications for grant support will continue to provide funding for distinct projects; however it is not seen as a sustainable source of funding. Together the entire funding package will provide both infrastructure and programmatic funding for the immense need that has been revealed by the North Dakota Board of Nursing, North Dakota Nurse Leadership team and North Dakota Center for Nursing Board of Directors.

5. Each regulatory analysis must include quantification of the data to the extent practicable.

Response: See attached.