

March 15, 2012

Legislative Reference Library
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St. Paul, Minnesota 55155

Re: In The Matter of the Proposed Rules of the Board of Nursing Governing Professional and Practical Licensure (6305) and Professional and Practical Registration (6310); Governor's Tracking #AR 581

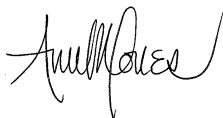
Dear Librarian:

The Minnesota Board of Nursing intends to adopt rules governing professional and practical licensure (6305) and professional and practical registration (6310). We plan to publish a Notice of Intent to Adopt Rules without a Public Hearing in the March 19, 2012 State Register.

The Board has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Board is sending the Library an electronic copy of the Statement of Need and Reasonableness at the same time we are mailing our Notice of Intent to Adopt Rules.

If you have questions, please contact me at nursing.education@state.mn.us or 612-617-2294.

Yours very truly,



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Enclosure: Statement of Need and Reasonableness

Minnesota Board of Nursing

STATEMENT OF NEED AND REASONABLENESS

Proposed Repeal of Minnesota Rules, Chapter 6310:

6310.2900 REGISTRATION RENEWAL PROCEDURES
6310.3200 REREGISTRATION PROCEDURES
6310.3600 REGISTRATION FEES

Proposed Amendment to Rules Governing Credentialing, Minnesota Rules, Chapters 6305 and 6310:

6305.0100 DEFINITIONS
6305.0200 PURPOSE AND AUTHORITY
6305.0300 AUTHORIZATION TO PRACTICE NURSING.
6305.0400 REQUIREMENTS FOR LICENSURE BY EXAMINATION
6305.0405 REQUIREMENTS FOR LICENSURE FOR APPLICANTS EDUCATED IN
CANADA
6305.0500 REQUIREMENTS FOR LICENSURE BY ENDORSEMENT
6305.0600 APPLICATION NULLIFICATION
6305.0800 INCORPORATION BY REFERENCE

6310.2600 DEFINITIONS
6310.2700 PURPOSE
6310.2800 REGISTRATION RENEWAL REQUIREMENTS
6310.3000 SUBSTANTIATION OF PARTICIPATION IN CONTINUING EDUCATION
6310.3100 REREGISTRATION REQUIREMENTS
6310.3300 CHANGE OF NAME AND ADDRESS ON RECORDS
6310.3400 LOST, STOLEN, OR DESTROYED LICENSE
6310.3500 VERIFICATION OF MINNESOTA LICENSE
6310.3700 DISHONORED CHECKS
6310.3800 INCORPORATION BY REFERENCE

INTRODUCTION

Rationale for repeal of parts 6310.2900, 6301.3200, and 6310.3600 and amendments to chapters 6305 and 6310

The Board uses several processes in fulfilling its mission to provide reasonable assurance of public safety: (1) implementation of practical and professional nursing program approval rules that promote a sound curriculum for acquiring competence and (2) implementation of a credentialing process that incorporates measures to insure that education, successful completion of a licensure examination, and ongoing development of competence are demonstrated by applicants for licensure, registration and/or reregistration of nursing practice.

In April, 2010, the Board charged the Education Committee to review the credentialing rules in

relation to the program approval rules and to the National Council of State Boards of Nursing (NCSBN) Uniform Licensure Requirements (ULR) and to provide a recommendation to the Board regarding possible revisions of the current credentialing rules.

In response to the Board's charge, the Education Committee reviewed the credentialing rules and identified that many rules were ambiguous, incongruent with other rules and statutes and obsolete because of changes such as advancements in electronic technology or development of and access to national data bases. For example, committee members determined credentialing rule 6305.0400 Subpart. 4. is ambiguous and incongruent with Minnesota program approval rules. Minnesota Rule 6305.0400, subp. 6 stipulates applicants from a country other than Canada or the U.S. must complete a qualifying exam while Minnesota Statute 148.211 subd. 1.(d) stipulates the applicant must submit a credentials evaluation evidencing equivalency of educational preparation. Obsolescence of rules is exemplified by Minnesota Rule 6305.0300, subp. 7 in which a permit to practice without supervision is valid for one year for applicants for licensure by endorsement because in the past it took that amount of time to verify licensure, employment, and disciplinary status of the applicant's license. Access to data bases, e.g. Nursys[®], makes it possible to verify a license within days rather than months.

In 1999, the NCSBN Practice and Education Council identified the merits of developing a consistent set of requirements for use in licensing professional and practical nurses and called for approval and adoption of a set of core uniform licensing requirements by state boards of nursing. The predominant value of adopting such measures lay in the potential enhancement of public safety by creating consistency in nursing licensing and registration practices across all United States jurisdictions. Since the presentation of this recommendation, the NCSBN has engaged in extensive dialogue about the content of the ULRs. Based on these deliberations, refinement of individual measures occurred, and in August 2011 the ULRs were finalized and adopted by the NCSBN. These materials were used by the Education Committee to evaluate MR 6305 and 6310. Additionally, the Education Committee incorporated reviews of MR 6301 and MS 148.171-148.285 in their deliberations.

Based upon this analysis, the Education Committee:

- Re-affirmed the importance of the credentialing rules in helping address the role of the Board of Nursing in contributing to the protection of the public's health and safety;
- Identified that errors in reference to statute were present due to changes in legislation made since the last rule revision, and that the existing credential rules were outdated, obsolete and/or inadequate to address current needs and standards.
- Concluded that the NCSBN Uniform Core Licensing Requirements incorporated elements that were relevant to regulation regarding the practice of professional and practical nursing in Minnesota.

At the August 5, 2010 meeting of the Board of Nursing, the Education Committee recommended repeal and/or amendment of credentialing rules. The Board of Nursing accepted the recommendations from the Education Committee and passed a motion to begin rule promulgation.

ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact Mee Chang at the Board of Nursing, 2829 University Avenue SE, Suite 200, Minneapolis, MN 55414, (612) 617-2285, fax (612) 617-2190, or email mee.chang@state.mn.us. TTY users may call TTY relay at 800-627-3529.

STATUTORY AUTHORITY

The Minnesota Board of Nursing statutory authority for the repeal and revision of obsolete, incongruent, and ambiguous licensure and registration rules is Minnesota Statute 148.191 Subd. 2(a) authorizing the Board to adopt and, from time to time, revise rules not inconsistent with the law, as may be necessary to enable it to carry into effect the provisions of sections 148.171 – 148.285. It shall examine, license, and renew the license of duly qualified applicants. It shall hold examinations at least once in each year at such time and place as it may determine. It shall by rule adopt, evaluate, and periodically revise, as necessary, requirements for licensure and for registration and renewal of registration as defined in section 148.211, 148.212, and 148.231.

REGULATORY ANALYSIS

“(1) a 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”

- Classes of persons probably most affected by the proposed rule revisions are graduates of professional or practical nursing programs or those eligible to graduate from these programs who apply for licensure by examination; those who apply for licensure by endorsement (that is, without examination); and those seeking registration or reregistration in order to continue to practice nursing in Minnesota.
- A subgroup of this larger class is practical and professional nurses who are required to complete a refresher course as a result of absence from practice for five or more years or nurses who are required to complete a refresher course as an aspect of disciplinary action. While a refresher course is currently required for those who have been absent from practice for some time, the proposed rule reduces this time period from ten to five years. This subgroup will be affected by the proposed changes in rule, and may bear some costs related to the proposed change in rule. Beyond this subgroup, it is not anticipated that there will be classes of persons who will bear any additional costs of the proposed rule revisions.
- Classes of persons who will benefit from the proposed rule revisions are graduates of professional or practical nursing programs or those eligible to graduate from these programs who apply for licensure by examination; those who apply for licensure by endorsement; and those seeking registration or reregistration in order to continue to practice nursing in Minnesota. The changes proposed reflect enhancements in services that reduce paperwork, enhance the ability to submit required documentation regarding licensure and/or licensure renewal, and reduce ambiguity regarding the credentialing process.

- Others who may benefit from the proposed change to the rules are the persons who required skilled nursing care and employers of nurses. By implementing improved processes through which nurses are credentialed, the need for nurses to provide care and improvements in the process of securing candidates for vacant nursing positions by employers is addressed.

“(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues”

- By adopting the proposed revisions to the credentialing rules, it is not anticipated the Board of Nursing will incur any increased costs beyond those currently associated with operations under existing rules.
- As the Board of Nursing is the only agency that registers and licenses nurses, the rules will not affect any other agency.
- It is not anticipated there will be any effect on state revenues by adopting the proposed rule revisions.

“(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule”

- Since the rule changes are for the purpose of clarification, updating content, and repealing obsolete sections, no other methods would be appropriate to achieve the purpose of the rules.

“(4) a description of any alternative methods for achieving the purpose of the proposed rule revisions that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule”

- The alternative to not updating the rules would result in continuation of obsolete processes that represent a less effective manner of serving the Board’s constituents. As such, the alternative of delaying implementation of the recommended rule changes was rejected.

“(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, business, or individuals”

- The proposed rule revisions do not place additional requirements on nursing programs, or the majority of applicants or licensees. The rules do not increase the cost of operating a nursing program. Nurses who have been out of practice for more than five years who seek licensure or who are required to complete a refresher course as an aspect of disciplinary practice will bear 100% of the costs of complying with the proposed rules. The cost is determined by educational entities conducting refresher courses, not by the Board of Nursing.

“(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of governmental units, business, or individuals.”

- Cost or consequences of not adopting the proposed rule for the Board of Nursing include inefficiencies related to completing processes without the support of technology and

delays in customer service. For those who need skilled nursing care, delays in licensure impact the provision of health care. Additionally, the assurance of competent delivery of nursing care may be impacted without the reduction in the duration of time a nurse may be licensed without completing a refresher course. For businesses, the inability to rapidly verify licensure status of nurses has the potential of prolonging the time before a needed employee can be hired as well as increase the work for their employees who must verify licensure status. For the businesses who hire nurses who have been out of practice for some time without completion of a refresher course, costs related to extension of orientation to their role may be incurred. For nurses, the consequences of not adopting the proposed rule may lead to delays in processing their licensure renewal, leading to loss of income.

- Failure to adopt the revisions would create a situation in which the credentialing rules would not be consistent with statute.

“(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference”

- There are no federal regulations that pertain to the issues included in the Board of Nursing’s proposed rules, therefore, no differences.

PERFORMANCE-BASED RULES

In seeking to carry out its mission, the Board’s intention is to protect the public's health and safety by providing reasonable assurance that the people who present themselves as nurses hold the appropriate credentials to practice nursing. The following performance based standards were implemented to achieve the Board’s regulatory objective in relation to basic entry into practice:

- Fulfill its responsibilities for public safety with respect for due process and adherence to laws and rules. The Board is adhering to changes in statute and following the outlined rule making process in instituting the proposed revisions to credentialing rules and the proposed repeal of obsolete rules regarding fees.
- Deliver customer-centered services in a respectful, responsive, timely, communicative, and non-discriminatory manner. Through the changes proposed in the credentialing process the Board is improving the service provided to the graduates of practical or professional nursing programs and/or to those eligible for licensure and nurses who rely on the Board to provide licensure and renewal of registration services in an accessible and responsive manner. Each step of the rulemaking process communicates information regarding this process and invites comments from the nursing community and public about the proposed revisions to the program approval rules.
- Provide government services that are accessible, purposeful, responsible, and secure. The credentialing rule review was instituted by Board, which includes representatives of the nursing community as well as the public. The board makes available the rules that apply to the credentialing process are available in print format and on the Board of Nursing web site, and are also available in an alternative format for those who may require this. In addition, staff members are available by e-mail, telephone and in person to answer questions or educate nursing students and registered nurses and licensed practical nurses about the credentialing process.

ADDITIONAL NOTICE

The request for comments was published in the *State Register* on September 13, 2010. The additional notice plan (Minnesota Statutes, section 14.131) for alerting those affected by the revision of credentialing rules was reviewed by the Office of Administrative Hearings and approved by Administrative Law Judge Eric L. Lipman in a letter dated September 7, 2010. The same procedure will be used for alerting those affected that the Board of Nursing requests their comments about adopting the proposed revised rules without a hearing. The additional notices of the request for comments regarding adoption of the proposed revised rules without a hearing will be provided to:

- all members of the Board of Nursing
- all members of Program Approval Review Task Force
- all relevant nursing associations, including:
 - the Minnesota Licensed Practical Nurses Association
 - the Minnesota Nurses Association
 - all persons who indicated an interest in the proposed rules
 - the public, via the Board of Nursing website.

The Notice Plan also includes giving notice required by statute. The rules and Notice of Intent to Adopt Rules without a Hearing will be mailed to everyone who has registered to be on the Board's rulemaking mailing list under Minnesota Statutes, section 14.14, Subd. 1a. The Legislature will be notified pursuant to Minnesota Statutes, section 14.116.

CONSULTATION WITH MMB ON LOCAL GOVERNMENT ACT

As required by Minnesota Statutes, section 14.128, Subd. 1, the Board of Nursing has considered whether these proposed rules will require a local government to adopt or amend any ordinances or other regulations in order to comply with these rules. The Board of Nursing has determined that they do not because the credentialing rules only apply to graduates of professional or practical nursing programs or those eligible to graduate from these programs who apply for licensure by examination, those who apply for licensure without examination, and those registering or reregistering in order to continue to practice nursing in Minnesota. The proposed changes do not apply to local governments in the state.

DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION

In compliance with Minnesota Statutes, section 14.128, Subd. 1, the Board of Nursing has considered whether these proposed rules will require a local government to adopt or amend an ordinance or other regulation in order to comply with these rules. The agency has determined that no local government will be required to amend any ordinance or regulation in order to comply with these rules, as the Board of Nursing is the only governmental entity with the authority to register and license nurses in the state of Minnesota.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

As required by Minnesota Statutes, section 14.127, the Minnesota Board of Nursing has

considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or city. As these entities are not impacted by the proposed change in rules, the Minnesota Board of Nursing has determined that the cost of compliance will not exceed \$25,000 for any small business or city.

The Minnesota Board of Nursing has made this determination based on the probable costs of complying with the proposed rule as described in the Regulatory Analysis section of this SONAR as presented on page 3.

RULE-BY-RULE-ANALYSIS

Proposed Amendment to Rules Governing Credentialing, Minnesota Rules, Chapter 6305

6305.0100 DEFINITIONS

6305.0200 PURPOSE AND AUTHORITY

6305.0300 AUTHORIZATION TO PRACTICE NURSING

6305.0400 REQUIREMENTS FOR LICENSURE BY EXAMINATION

6305.0405 REQUIREMENTS FOR LICENSURE FOR APPLICANTS EDUCATED IN
CANADA

6305.0500 REQUIREMENTS FOR LICENSURE BY ENDORSEMENT

6305.0600 APPLICATION NULLIFICATION

6305.0800 INCORPORATION BY REFERENCE

6305.0100 DEFINITIONS

Subpart 1. Scope. This scope has been updated to reflect the addition of section 6305.0800.

Subp. 2. Affidavit of Continuing Education. This subpart is repealed, as it reflects a process no longer used to obtain information about continuing education.

Subp. 6a. Confirmation of Program Completion. The board is seeking is evidence that the applicant has completed program requirements and is therefore eligible to take the licensing examination. Reference to a “form” no longer reflects the process used to verify program completion; this is completed online. Changes made are consistent with the ULRs.

Subp. 6b. Continuing Education Report. The board no longer uses a form called “affidavit of continuing education”. When a license is renewed, the applicant indicates that continuing education requirements have been met. This change incorporates changes in processing applications in an online environment.

Subp. 7. Completion. This subpart was removed

Subp. 7b. Eligibility for graduation. This is a term that is being revised to more clearly describe a time period between program completion and awarding of a degree by the program.

Subp. 12. Graduation. Revision of this definition improves clarity and differentiates the

applicant who is eligible from graduation but who has not yet done so from the applicant who has received a degree.

Subp. 13. License. When a nurse receives a license, what is given is the authority to engage in professional or practical nursing practice in Minnesota. Authority is not equivalent to the distribution of a document. Minnesota statute 148.231 removed reference to a “certificate”; this rule change is consistent with the statute.

Subp. 14. Licensure application. Revision of this definition to reflect that the Board may use a “method” instead of a “form”. It recognizes use of an online application process.

Subp. 17. Nursing ability. The revision of this definition establishes consistency with the MR Chapter 6301 Subp. 21, which incorporates nursing judgment as essential to practicing in a safe manner.

Subp. 18. Permit. This subpart was removed. An updated definition that is consistent with statute is found in subp. 24.

Subp. 21. Program. The revision of this definition establishes consistency with the definition as presented in MR Chapter 6301 rules addressing program approval.

Subp. 21a. Program Completion. Program completion is required for licensure. Applicants may have graduated from a program or may be eligible for graduation. This change of definition reflects variations in status of applicants so that both can be considered as having completed their course of study

Subp. 22. Refresher course. Refresher course. The revision clarifies what is meant by a refresher course, which improves clarity regarding the focus of the program of study designed to update nursing knowledge and skills for those who have been absent from practice for some time or for those who are required to complete this type of learning activity as an aspect of disciplinary action. In generating this revision of rule, the Board developed criteria related to the structure and content of refresher courses. As the definition has been clarified, and criteria for these courses incorporated by reference in section 6305.0800, there was no longer a need to provide for “refresher course equivalent”, so this language was deleted.

Subp. 23. Registration. While the terms “license” and “registration” are often used interchangeably, they each have a unique meaning, and differentiation is important. This term is added to the rule to clarify the difference between these two terms.

Subp. 24. Temporary Permit. Revision of this definition clarifies the temporary nature of the permit being issued, which is consistent with Minnesota Statute 148.212 Subd. 1.

6305.0200 PURPOSE AND AUTHORITY

The term used in statute to refer to those who request a license without retaking the licensing examination is “licensure by endorsement”. The revision of this section creates consistency with

the language in Minnesota Statute 148.211 Subd. 2. when reference is made to this group of nurses. The revision also references a new section of this rule, 6305.0405, which addresses nurses educated in Canada.

6305.0300 AUTHORIZATION TO PRACTICE NURSING

Subpart 1. Required authorization. Deletion of the word “certificate” is made to be consistent with Minnesota Statute 148.231 Subd. 1. in which the reference to a “certificate” has been deleted. The word “temporary” has been added to emphasize the short-term nature of this form of authorization for practice.

Subp. 1a. B. and Subp. 1a. C. Authorized abbreviations. The word “temporary” has been added to both of these subparts to emphasize the short-term nature of this form of authorization for practice. This is also consistent with Minnesota statute 148.212 Subd. 1.

Subp. 3. Duplicate original license. This subpart duplicates language in 6310.3400 and was removed to reduce redundancy.

Subp 4. Eligibility for permit to practice nursing with direct supervision. Per Minnesota statute 148.212 Subd. 1.(a), permits are not issued to new graduates. This subpart was changed for consistency with statute.

Subp 5. Required supervision. New graduate permits are no longer issued, per statute. This subpart is obsolete and removed.

Subp. 6. Temporary Permit to practice nursing without direct supervision. There are specific situation in which a temporary permit might be issued. The addition of the word “temporary” is added to convey the short-term nature of the permit and is consistent with Minnesota statute 148.212 Subd. 1.

Subp. 6C. The addition of the word “temporary” is added to convey the short-term nature of the permit and is consistent with Minnesota statute 148.212 Subd. 1. Reference to a “form” is obsolete; application is completed online.

Subp. 6D. Temporary Permit to practice nursing without direct supervision. The board no longer relies on a copy of a license from another jurisdiction as a means of establishing licensure status. Instead, the online verification of licensure status is obtained from the website of the jurisdiction or by using the NCSBN database.

Subp. 7. Length of temporary permits. The revised language reflects the elimination of direct supervision for those working under a permit while waiting to take the licensing examination or for the results of their licensure examinations. Minnesota Statute 148.212 Subd. 1. stipulates that for applicants seeking licensure by endorsement, the maximum duration of a temporary permit is 60 days. The revised language reflects this time limit.

Subp. 8, 8.A. and 8.B. Revocation of temporary permit. Temporary permits are no longer issued

to new graduate nurses, therefore elements reflecting these persons were deleted. Subp. 8A. was revised to incorporate statutory language used for those who request a license without retaking the licensing examination (“licensure by endorsement”). The revision of this section creates consistency with the language in Minnesota Statute 148.211 Subd. 2. The text of Subp. 8.B is not new language; it represents a re-numbering within this subpart.

Subp. 9. Designated titles. The revised language eliminates titles used by new graduates who formerly needed to work under a temporary permit while waiting to take the licensing examination or for the result of the examination. These titles are no longer needed, as permits are no longer issued to new graduates per Minnesota statute 148.212 Subd. 1. For nurses seeking licensure by endorsement, the revised language reflects the temporary nature of use of the designated titles as described in Minnesota statute 148.211 Subd. 2.

6305.0400 REQUIREMENTS FOR LICENSURE BY EXAMINATION

Subpart 1. Licensure application. Application for licensure may now also be completed online. Reference to a “form” as a specific process is obsolete and unnecessary. With the advent of online applications, the requirement for a notarized form is obsolete.

Subp. 4. Graduation or eligibility for graduation from approved professional nursing program. This subpart was revised to clarify that some applicants for licensure may not have officially graduated from a professional nursing program but have completed program requirements and are therefore eligible to take the licensing examination. The reference to “classroom” is obsolete in terms of current teaching/learning practices. This change is consistent with MR 6301.

Subp. 5. Graduation or eligibility for graduation from approved practical nursing program. This subpart is revised to clarify that some applicants for licensure may not have officially graduated from a practical nursing program but have completed program requirements and are therefore eligible to take the licensing examination. The reference to “classroom” is obsolete in terms of current teaching/learning practices. This change is consistent with MR 6301.

Subp. 6. Commission on Graduates of Foreign Nursing Schools Qualifying Examination. Reference to completion of this examination is obsolete, as the Board no longer uses this examination to qualify graduates from foreign nursing schools.

Subp. 7, 7A and 7B. Resolution of educational deficiencies. Subparts 4 and 5 no longer specify sets of learning activities; reference to these elements was deleted. A credentials review is conducted to insure the applicant graduated or is eligible for graduation from a nursing program that meets Minnesota Board of Nursing criteria. If the nursing program did not address all Minnesota Board of Nursing criteria, strategies for remediation are described. The language incorporated in this change is consistent with MR 6301.

Subp. 8A, 8B and 8C. Confirmation of program completion. The required documentation of program completion for those who have graduated and for those who are eligible for graduation is presented, with clarification that the board no longer requires an “affidavit” of graduation. Changes in this subpart eliminate obsolete language.

Subp. 10. Fees. The revised language establishes the need to pay a fee prior to processing of an application, sets forth the forms of currency that are acceptable, and identifies that fees are non-refundable. It also clarifies forms of currency that are acceptable for payment. This change creates consistency with other statements regarding payment of fees. Fee amounts are now set in MS 148.342; references to specific charges were removed.

Subp. 12A (3) and 12A (5) Licensure examination. Changes in these parts eliminate obsolete language and processes. The Board no longer requires “an affidavit of graduation or transcript” and no longer uses the Commission on Graduates of Foreign Nursing Schools Qualifying Examination for those who completed their education in foreign settings.

Subp. 12A (6) Licensure examination. This change incorporates the requirement presented in MS 148.211 Subd. 1(d) (3) stating that the applicant must “pass examinations acceptable to the board that test written and spoken English”. This change in rule is consistent with the standards established by the Board.

Subp. 12B. Licensure examination. This subpart is deleted from rule, as it is not necessary to specify the method(s) by which the testing service communicates with applicants for licensure.

Subp. 12C. Licensure examination. It is not necessary to specify the method by which notification of examination results are communicated to those who have taken the licensing examination. Given ongoing changes in technology and communication preferences, this rule revision allows for optional methods of communication to be generated to reflect changes in communication channels as they occur.

Subp. 12D. Licensure examination. This change allows for use of various communication methods to be used between applicants and the board. The requirement that the communication be notarized is removed, as much of the process is now online

Subp. 13. Initial registration. This language was previously located in MR 6310, but was moved to this section, as it refers to a process surrounding licensure by examination, which is the focus of this section of this rule.

6305.0405 REQUIREMENTS FOR LICENSURE FOR APPLICANTS EDUCATED IN CANADA

References to processes for applicants educated in Canada were previously dispersed in multiple sections of the rule, leading to confusion on the part of applicants educated in Canada regarding the requirements for licensure in Minnesota. The revision consolidates most references to Canadian applicants into one section. This improves clarity of the rule.

Subpart 1. Acceptable examination. This subpart refers applicants directly to the rule identifying acceptable licensing examinations and passing score standards. As the list is extensive, referring to the location of this information rather than re-listing each element was done to improve readability. This change also improves clarity in 6305.0500 subparts 11 and 12 by eliminating

language specific only to those educated in Canada.

Subp. 2. Insufficient score. After identifying the passing score required for licensure in Minnesota, information is provided regarding what steps the applicant needs to take if their score does not meet requirements. No change was made regarding what constitutes an insufficient score. The language is parallel to 6305.0500 subp. 13, which relates to non-Canadian applicants.

Subp. 3A. and Subp. 3B. Unacceptable examination. These subparts bring clarity regarding what the process to be followed when the applicant has taken an examination that is not acceptable for licensure in Minnesota. The revision identifies what must be done to complete an acceptable examination, which provides direction to those who must identify the next steps to take in the registration process. It is consistent with the requirements for licensure by examination.

6305.0500 REQUIREMENTS FOR LICENSURE BY ENDORSEMENT

Subpart 1. Proof of licensure in another jurisdiction. References to licensure for nurses from Canada were removed and consolidated into 6305.0405. Language now also reflects Minnesota Statute 148.211 Subd. 2. when referring to nurses who are licensed in other jurisdictions and are applying for Minnesota license without having to complete an examination as those seeking “endorsement”. The subpart also removes reference to a “form”, as this is no longer the method for validating licensure in other jurisdictions.

Subp. 2. Licensure application. Application for licensure may now also be completed online. Reference to a “form” as a specific process is obsolete and unnecessary. With the advent of online applications, the requirement for a notarized form is obsolete.

Subp. 3. Fee. The revision of this subpart clarifies forms of currency that are acceptable for payment and allows for online processing. This change creates consistency with other statements regarding payment of fees.

Subp. 6A. Waiver of graduation requirement. Reference to applicants from Canada were removed, as 6305.0405 addresses these applicants.

Subp. 6B. Minnesota Statute 148.211 allow a licensed practical nurse to waive education requirements in specific situations. Reference to the length of time prior to applying for a license is stated in the statute in years, not months. This subpart was revised to be consistent with statutory language.

Subp. 7. Current nursing education or acceptable nursing practice. The Board no longer requests affidavits, but requires confirmation of graduation for nurses seeking licensure by endorsement. This language is therefore a more accurate description of what is needed from applicants from another jurisdiction. References to applicants from Canada have been deleted, as information for Canadian applicants is now consolidated into 6305.0405.

Subp. 8C. and Subp. 8D. Continuing education. These subparts were revised to reflect that nurses who are seeking licensure by endorsement may have been out of practice for varying

lengths of time. For some, completing continuing education is an adequate measure to insure safe practice. For others more extensive remediation is needed. Subp. 8C addresses requirements for continuing education; subp. 8D addresses refresher courses. In Subp. 8C, the maximum hours of continuing education required were revised to be consistent with continuing education requirements in other parts of the rule. Subp 8D reduced the time period specifying when a nurse must complete a refresher course from 10 to 5 years.

The changes made in these sections are reasonable and necessary to support safe practice due to the rapidity with which the knowledge base upon which nursing practice is based evolves. It has been estimated that half of a person's existing knowledge base becomes obsolete in approximately 3 - 5 years, and the knowledge base upon which practice is built doubles every 17 - 18 months (Gonzales, 2004; Yoder-Wise, 1996). As such, a ten year gap in practice prior to requiring that the applicant complete a refresher course was determined to be inadequate.

The revision of this subpart also requires the submission of an affidavit of completion of a refresher course be signed by the person responsible for the refresher course. Previously, the affidavit could be signed by a variety of persons. Requiring completion by the person responsible for the course places the accountability for the content and process of the course on one person who must attest to successful completion of the refresher course requirements. Completion of a refresher course also will now fulfill requirements for continuing education for the individual completing the course.

Subp. 9. Clinical component temporary permit to practice. Changes in this subpart clarify that the permit issued to complete a refresher course is a temporary permit that is issued only for use during the course and may not exceed 90 days. Clarity is also enhanced by identifying that the statement of intent regarding refresher course participation must be signed by the person responsible for the refresher course, which is consistent with 6305.0500 Subp.8. D. As refresher courses have been defined in this rule revision, reference to a refresher course equivalent is obsolete; it was removed. It is not necessary to return an expired permit. Reference to this was deleted.

Subp. 10. Evidence of graduation. Confirmation of program completion is used to signify that an applicant has graduated from a program or is eligible to do so. Language referring to an affidavit was removed, as this is obsolete. Use of confirmation of program completion is consistent with other subparts of the rule. Language referring to Canadian applicants has been removed, as it was consolidated into 6305.0405.

Subp. 14. Unacceptable examination. Language has been changed so that it is consistent with MS 148.211 Subd. 2 in which applicants who are seeking licensure without completing an examination are referred to as seeking licensure by endorsement. For clarity, references to Canadian applicants who have taken an unacceptable examination were consolidated into subpart 6305.0405 subp. 3.

Subp. 15. Registration following licensure by endorsement. The goal of incorporating this subpart into rule was to connect all aspects regarding licensure by endorsement into one section of the rule. Registration of licensure is the last step in the process of obtaining the authority to

practice nursing following licensure by endorsement. It establishes the time period during which a nurse is authorized to practice and presents continuing education requirements that are consistent with other subparts of the rule. It mirrors language found in 6305.0300 subp. 13, describing registration of a newly licensed nurse. Adding this subpart enhances the completeness, clarity and readability of the rule.

6305.0600 APPLICATION NULLIFICATION

Subp. 2. Licensure by endorsement. This change creates consistency with the language in Minnesota Statute 148.211 Subd. 2.

6305.0800 INCORPORATION BY REFERENCE

In generating this revision of rule, the Board developed refresher course criteria related to the structure and content of refresher courses. These were developed based on an analysis of the existing literature and review of the practices of other state boards of nursing regarding refresher courses. As developed, the criteria represent what is judged at this time to be adequate and appropriate. While not subject to frequent change, the evidence-base and practices regarding refresher courses may evolve.

REPEALER

This identifies the elements of rule that are permanently removed by this revision.

RULE-BY-RULE-ANALYSIS

Proposed Repeal of Minnesota Rules, Chapter 6310:

6310.2900 REGISTRATION RENEWAL PROCEDURES
6310.3200 REREGISTRATION PROCEDURES
6310.3600 REGISTRATION FEES

Proposed Amendment to Rules Governing Credentialing, Minnesota Rules, Chapter 6310:

6310.2600 DEFINITIONS
6310.2700 PURPOSE
6310.2800 REGISTRATION RENEWAL REQUIREMENTS
6310.3000 SUBSTANTIATION OF PARTICIPATION IN CONTINUING
EDUCATION
6310.3100 REREGISTRATION REQUIREMENTS
6310.3300 CHANGE OF NAME AND ADDRESS ON RECORDS
6310.3400 LOST, STOLEN, OR DESTROYED LICENSE
6310.3500 VERIFICATION OF MINNESOTA LICENSE
6310.3700 DISHONORED CHECKS
6301.3800 INCORPORATION BY REFERENCE

6310.2600 DEFINITIONS

Subp. 4. Continuing education participation period. In the past, a period of time was needed to manually process the information regarding continuing education participation submitted with licensure renewal applications. With the advent of online submission of renewals, the need for holding a period of time for processing applications has been greatly reduced. The revision notes that the continuing education period correlates to the expiration date of the nurses' license. This improves the accuracy of the rule as it reflects current operational processes.

Subp. 5. Continuing education report. The Board no longer uses a form called "affidavit of continuing education". When a license is renewed, the applicant indicates that continuing education requirements have been met. This change incorporates changes in processing applications in an online environment. The definition is consistent with 6305.0100 Subp. 6b.

Subp. 6. Instructor. Extraneous wording was removed to improve clarity and readability. The substance of the definition remains the same.

Subp. 6a. Late application fee. The previous definition referred to fees the Board of Nursing was authorized to set and charge. Fees are now set in statute; additionally, charging a late application fee was removed from MS 148.231 Subd. 1 in 2011. Subsequently, this subpart was removed from the rule.

Subp. 7. License. When a nurse receives a license, what is given is the authority to engage in professional or practical nursing practice in Minnesota. The authority to practice is not equivalent to production of a paper document. This is consistent with Minnesota statute 148.231 Subd. 1 and Subd. 5, which removed reference to a "certificate".

Subp. 8c. Nursing ability. This term is no longer used in this rule, and is therefore unnecessary.

Subp 9a. Permit. This subpart was removed. An updated definition that is consistent with statute is found in subp. 17.

Subp. 9d. Refresher course. The revision clarifies what is meant by a refresher course, which improves clarity regarding the focus of the program of study designed to update nursing knowledge and skills for those who have been absent from practice for some time or for those who are required to complete this type of learning activity as an aspect of disciplinary action. In generating this revision of rule, the Board developed criteria related to the structure and content of refresher courses. As the definition has been clarified, and criteria for these courses incorporated by reference in section 6310.3800, there was no longer a need to incorporate reference to a "refresher course equivalent", so this language was deleted.

Subp. 12. Registration renewal deadline. In the past, a period of time was needed to manually process licensure renewal applications so that the nurse's registration would continue on an uninterrupted basis. With the advent of online registration, the need for holding a period of time for processing applications has been greatly reduced. This subpart is obsolete.

Subp. 13. Registration certificate. When a nurse renews his or her registration, what is given is

the authority to engage in professional or practical nursing practice in Minnesota. The Board currently issues a paper registration document, but is concerned about the potential for duplication or modification using existing technologies. Current authority to practice nursing can be determined by the public by accessing online verification systems, so paper documents are not necessary. As this change represents steps taken to safeguard the public from those who may, potentially, misrepresent themselves as nurses, this represents a reasonable and necessary change. Minnesota statute 148.231 Subp. 1 and 5 no longer identifies that a certificate must be issued, this revision is consistent with statute.

Subp. 15. Registration period. As registration is the authority to practice professional or practice nurse for a designated period of time, the reference to a paper document has been removed. Minnesota Statute 148.211 Subp. 2. refers to the process of licensing nurses through application and a credentials review as licensure by “endorsement”. This revision incorporates this statutory language.

Subp. 17. Temporary Permit. Revision of this definition clarifies the temporary nature of the permit being issued, which is consistent with language in Minnesota Statute 148.212 subd. 1.

6310.2700 PURPOSE

Revision in this section was needed to appropriately reflect the numbering of the sections that refer to registration and to reregistration and the revision of the title of section 6310.3400.

6310.2800 REGISTRATION RENEWAL REQUIREMENTS

As the rules were revised, it was determined that placing all information regarding licensure renewal into one section (as opposed to having 6310.2800 focus on application for renewal and 6310.2900 address procedures for processing applications) would improve clarity and eliminate redundancy. Current and relevant elements of 6310.2900 were therefore incorporated into this section.

Subpart 1. Registration Renewal application. The title was revised to clarify that what is renewed is registration, not a license. This subpart incorporates text previously presented in 6310.2900 Subpart 1. regarding the timing of and methods for providing notice that a license is expiring, and specifics regarding processing of incomplete applications. No change was made in the timing of the notice sent to the licensee, but alternative methods of contacting the licensee based on most available contact information were incorporated to improve efficiency and/or effectiveness of the notification process. Reference to timelines for submission that reflected time needed for processing of applications was removed, as these are no longer relevant due to the application of technology. The revised language clarifies the parts of the application that must be submitted by the license expiration date. Consistency between types of applications processed (by examination, endorsement or by reregistration) was achieved by the incorporation of questions related to disciplinary action for registration renewal applicants. Reference to Minnesota Statute 148.261 that supports the Board’s authority to collect this information and request additional information relating to was included.

Subp. 2. Fee. Reference to the amount of the fee was removed, as this is now in statute. Language previously found in 6310.2900 subp. 2. was moved to consolidate the requirements for submission. Language referring to obsolete processing timelines was removed. Subp. 3. Continuing education. Obsolete language regarding continuing education requirements for licensed practical nurses was removed.

Subp. 5a. Continuing education report. This subpart was added to incorporate necessary information from 6310.2900 subp. 3., and reference to continuing education requirements included to improve clarity.

Subp. 6a. Application deadline. The revision consolidated information regarding the application deadline that was previous found in 6310.2900 subp. 4. Due to the ability to renew online, obsolete references to submission on holidays and weekends were deleted, as was the need to submit the application in advance of the license expiration date to allow for processing. The license expiration date is specified as the date after which a nurse may not practice nursing and must submit a reregistration application to have his or her license reinstated, and refers the reader to the appropriate section of the rule when reregistration information may be found. This enhances the clarity of the rule.

Subp. 6b. Incomplete application notice. Information from 6310.2900 subp 5 was moved to this section. The text was revised to improve clarity regarding the final date by which an application must be received and the handling of records related to the application and to more clearly states that a nurse may not practice after the expiration date of his or her license has occurred.

Subp. 6c., 6c.A. and 6c.B. Insufficient hours. This new subpart reflects incorporation of information previously presented 6310.2900 subp.6. It has been updated to reflect the elimination of the need to submit the information one month in advance of the license renewal, which is consistent with 6310.2800 subp. 6a. This improves accuracy and readability.

Subp. 6d. Noncompliance with continuing education requirement. This subpart was previously found in 6301.2900 subp. 7 and is moved here to consolidate all the information regarding relicensure into one section of the rule.

Subp. 8. Retention of information. This subpart was updated to reflect current practice. There is no longer a continuing education report. Applicants for relicensure affirm that they have completed the continuing education requirements. This is consistent with 6310.2600 subp 5.

Subp. 10. Exemption from renewal of registration. This subpart was revised so that it would be consistent with other sections of the rule. Specifically, a notice of application is sent, not an application form (6310.2800 subp.1.A); applications must be received by the expiration deadline, not by an application renewal date (6310.2800 subp.1B.). Changes made represent removal of obsolete processes and deadline.

Subp. 11. Nullification of incomplete registration renewal. This subpart reflects rule previously found in 6310.2900 subp.8. It was moved here and updated to delete language referring to obsolete processing timelines.

Subp. 12. Removal of name from list. This subpart represents rule previously found in 6310.2900 subp. 9 and was incorporated into this subpart to improve readability and consolidate all information regarding registration renewal.

6310.2900 REGISTRATION RENEWAL PROCEDURES

Essential portions of the rule were incorporated into 6310.2800 to improve clarity and reduce redundancy. This section of rule is no longer needed.

6310.3000 SUBSTANTIATION OF PARTICIPATION IN CONTINUING EDUCATION

Subpart 1. Substantiation of continuing education activity. The process by which nurses affirm their hours of participation in continuing education was updated to reflect that nurses no longer report specific activities and hours. Instead, they confirm on their application that they are in compliance with Board requirements. The revision deleted duplicative listings of required information needing to be provided by those who are audited, and refers them to the sections of the rule where this information can be found. This increased the clarity and readability of the rule. Elements required for continuing education reporting were eliminated to reduce redundancy.

6310.3100 REREGISTRATION REQUIREMENTS.

As the rules were revised, it was determined that placing all information regarding reregistration of licensure into one section (as opposed to having section 6310.3100 focus on the requirements for reregistration and 6310.3200 address procedures by which reregistration applications were processed) would improve clarity and eliminate redundancy.

Subpart 1. Reregistration application. Information identifying that the licensee obtains a reregistration application from the Board and that incomplete applications and/or without fees are returned were incorporated from 6301.3200. This reduces redundancy.

Subp. 2. A and B. Penalty Fees. Parts A. and B. of this subpart were removed, as late fees are no longer in statute. Rule from 6310.3200 subp. 2. was incorporated with minor revisions in wording to reduce redundancy. Although late fees were removed with changes to statute, this subpart clarifies that penalties may apply if the applicant for reregistration has practiced without a license, and clarifies forms of acceptable payment. All changes are consistent with statute.

Subp. 2D. Penalty Fees. Calculation of the penalty fee for practicing without a current license is in statute. This subpart is obsolete and was removed.

Subp. 2a. Continuing education; report. The subpart was re-titled to reflect that the items found under subp 2.a. reflect processes related to completion of a report.

Subp. 2a. D. Continuing education; report. This subpart incorporated elements from 6310.3200 subp 3 to reduce duplicative text. Reference to use of a form to collect this information was

deleted so that multiple methods of receiving this information from the nurse (paper or online) could be accommodated. Reference to a refresher course as part of the activities reported was deleted, as it was redundant. Reference to signing the form was deleted, as many use an online option of reporting.

Subp. 2c. Acceptable nursing practice requirement. To reduce redundancy, this subpart was combined with information describing the process by which current practice is verified that was previously found in 6310.3200 subpart 4.

Subp. 6. and subp 6A. Additional continuing education in lieu of acceptable nursing practice. Language was revised to improve clarity, as the information refers to one nurse who is making application.

Subp. 6C and 6D. Additional continuing education in lieu of acceptable nursing practice. These subparts were revised to reflect that nurses who are seeking reregistration have been out of practice for varying lengths of time. For some, completing continuing education is an adequate measure to insure safe practice. For others more extensive remediation is needed. Subp. 6C addresses requirements for continuing education; subp. 6D addresses refresher courses. In Subp. 6C, the maximum hours of continuing education required were revised to be consistent with continuing education requirements in other parts of the rule. Subp 6D reduced the time period specifying when a nurse who is reregistering must complete a refresher course from 10 to 5 years.

The changes made in these sections are reasonable and necessary to support safe practice due to the rapidity with which the knowledge base upon which nursing practice is based evolves. It has been estimated that half of a person's existing knowledge base becomes obsolete in approximately 3 - 5 years, and the knowledge base upon which practice is built doubles every 17 - 18 months (Gonzales, 2004; Yoder-Wise, 1996). As such, a ten year gap in practice prior to requiring that the applicant complete a refresher course was determined to be inadequate.

All changes made in these subparts also create consistency with requirements related to refresher courses found in Chapter 6305.0500 Subp. 8D.

The revision of this subpart also incorporates 6310.3200 subp. 6, reducing the redundancy of the rule. It requires the submission of an affidavit of completion of a refresher course be signed by the person responsible for the refresher course. Previously, the affidavit could be signed by a variety of persons. Requiring completion by the person responsible for the course places the accountability for the content and process of the course in one person who must attest to successful completion of the refresher course requirements. Completion of a refresher course also will now fulfill requirements for continuing education for the individual completing the course.

Subp. 7. Temporary permit to practice. The title and text of this subpart were revised to be consistent with the language in Minnesota statute 148.212 Subd. 1, which notes that permits are temporary.

Subp. 7a. Clinical component temporary permit to practice. This text was moved from 6310.3200 subp. 5. so that information regarding refresher course requirements and processes could be consolidated. It removes reference to a refresher course equivalent. This reduced the redundancy of information, and improves readability of the rule. It also notes the temporary nature of the permit, which is consistent with statute.

Subp. 7b. Affidavit of successful completion of a refresher course. This text was incorporated from 6310.3200 subp. 6 to reduce redundancy. It is consistent with Chapter 6305.0500 Subp. 8D and subp. 6 of this section.

Subp. 8. Licensees residing outside Minnesota. Language in this subpart was consolidated with language related to out of state applicants for reregistration previously found in 6310.3200 subp. 7. to reduce redundancy and improve readability.

Subp. 14. Nullification and reapplication. This subpart was moved from 6310.3200 subp. 8 so that all rule reflecting reregistration would be presented in this section of rule. This improves clarity of the rule and reduces redundancy.

Subp. 15. Initial registration following reregistration. This subpart was moved from 6310.3200 subp. 9 so that all rule reflecting reregistration would be presented in one section of rule. The subpart was also revised to reflect that when registration is given, the authority to practice professional or practical nursing is granted by the Board; this does not require issuing of a paper document. This is consistent with Minnesota statute 148.212 Subd. 1. and improves clarity of the rule.

6310.3200 REREGISTRATION PROCEDURES.

Essential portions of the rule were incorporated into 6310.3100 to improve clarity and reduce redundancy. This section of the rule is no longer needed.

6310.3300 CHANGE OF NAME AND ADDRESS ON RECORDS.

Subpart 1. Name change. Reference to requesting a revised certificate was eliminated, as registration certificates are no longer in statute. Provision is made for alternative methods of verification.

Subp. 2. Address change. The revision deletes reference to issuing of a certificate, as this is no longer in statute.

6310.3400 LOST, STOLEN, OR DESTROYED LICENSE.

The title of this section of the rule was re-titled to more accurately reflect the content of the section. Three subparts that previously formed this section were duplicative and redundant. The revision of the rule incorporated all needed information into a few sentences, improving clarity and readability. Obsolete reference to requiring a licensee to send a certified statement of changes was deleted, as this is operationally obsolete.

6310.3500 VERIFICATION OF MINNESOTA LICENSE.

Subpart 1. Verification of licensure. Verification of licensure for practice in another jurisdiction is now accomplished by accessing a national database that is operated by the National Council of State Boards of Nursing. Minnesota has participated in this system for several years; the rule was revised to reflect current practice.

6310.3600 REGISTRATION FEES.

Fees are now set by Minnesota Statute 148.243. This section of the rule was therefore deleted.

6310.3700 DISHONORED CHECKS.

Subpart 1. Service charge. Fees related to dishonored checks are now in Minnesota Statutes 148.243 and 604.113. Statute reference numbers were updated where necessary.

Subp. 3. Additional fee. The element was revised to reflect that fees are now set in statute.

6310.3800 INCORPORATION BY REFERENCE

In generating this revision of rule, the Board developed refresher course criteria related to the structure and content of refresher courses. These were developed based on an analysis of the existing literature and review of the practices of other state boards of nursing regarding refresher courses. As developed, the criteria represent what is judged at this time to be adequate and appropriate. While not subject to frequent change, the evidence-base and practices regarding refresher courses may evolve.

REPEALER. This identifies elements of rule permanently removed from rule by this revision.

In accordance with the Office of Administrative Hearings Rule 1400.2070 subpart 1, item E, this SONAR will be available for public review.

CONCLUSION

Based on the foregoing, the proposed revisions to the rules are both needed and reasonable.



January 23, 2012

Date

Executive Director

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