

January 20, 2012

TO: Economic Affairs Interim Committee 2011-2012, HB 525 Licensing Board Reviews

FR: Board of Nursing, Board President Kathy Hayden, LPN

1. What is the public health, safety, or welfare rationale for licensing and regulating your profession/occupation?

As per the Board of Nursing mission statement: to protect the health, safety and well being of the Montana citizens through the licensing of competent nursing professionals and by the regulation of the practice to promote the delivery of quality health care. The Board believes that the public relies on the Board to diligently review public complaints filed against licensees and take necessary actions if just cause is given to disciplinary actions as one means to protect and give safe and effective nursing to Montana citizens. The Board also takes seriously its role in licensing applicants who have demonstrated the proper credentials and responsible citizenship.

2. If your profession is not licensed, what public protection would be lost?

Nurses rank at the top of the list in public opinion polls as one of the most trusted professionals. The Board finds that the vast majority of licensees performs in an exemplary way and deserves high praise. That is why the Board feels it even more imperative that these high standards are maintained. The Board is very committed to the regulation of safe nursing care. They achieve this through regulating nursing education programs in the state, setting standards of quality that seek to insure competent nursing graduates for the state's healthcare workforce, and protecting the public from licensees who have a substance disorder which significantly impairs their ability to provide competent, safe care.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

What better way to determine just cause for discipline than to have it done by peers? The Board uses a Screening Panel made up of Board members representing license types as well as a public member to review each complaint that come to the department's Compliance Office. This review is done in executive session for the privacy of the licensee. If there is just cause for disciplinary action, the Screening Panel can give a summary suspension of a license. Other discipline can be suggested to the Board's Adjudication Panel which is then a public meeting and a judgment is given with due process. The Board (as licensees and public members) has the task of rule making for licensee scope of practice which guides the parameters of nursing practice in the state. With the use of open Board meetings, this serves as a needed public forum to discuss practice with active licensees and the public to set quality standards of safe care.

4. Does the board deal with unlicensed practice issues? If yes, what types of issues?

Yes, the Board does deal with persons who purport to be active licensees and practice nursing without the proper education, examination or screening. Recently a woman exhorted an older man in the state out of money by posing as a licensed nurse for his homecare when she was not duly qualified. The Board can file a complaint against persons practicing as nurses without a license to carry out an order to cease and desist.

The license lookup system also assists the public when questioning if a person has an active license and is easy to access as well as has the latest data on license status, including all public discipline. This is very beneficial to agencies in hiring and retaining licensees.

5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living. What is your response? *To be qualified for licensure as a nurse, a person needs to successfully complete an educational degree that includes demonstration of clinical skills and comprehensive knowledge of nursing care, pass a qualifying national examination of knowledge, and have demonstrated upstanding citizenship. APRNs also have to hold current national certification in their specialty field for this special endorsement. These requirements are significant and lead to a good living wage in the healthcare workforce. Recognition by licensure of these qualifications upholds the high standards to be a licensee in nursing. Licensees in nursing are privileged professionals with access to the public at what can be very vulnerable circumstances and so should be under scrutiny to be licensed and to keep that license.*

6. How does your board monitor bias among board members toward a particular licensee, an applicant or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

The members of the Board monitor each other for bias by conducting themselves in a respectful and courteous manner to all business brought before the Board. Official business is always done in the open meeting format unless to protect the privacy of an individual it can be done in an executive session such as the Screening Panel meetings. These executive sessions are done with a majority of members present as well as departmental staff such as legal counsel or other support staff. The openness of Board meetings helps to assure that a particular member cannot dominate the decisions or put forward their own agenda as a majority of members needs to be present to hold a meeting. Board orientation also helps to assure that bias is not helpful to decision making and so education on the Board work and processes is always ongoing to make sure there is a culture where all Board members feel free to speak and participate. The make-up of the Board is also helpful with representation from all of the nursing license types of LPN, RN and APRN as well as public members. Another method used frequently in the executive sessions such as the Screening Panel is for members to recuse themselves if they have a personal relationship with the licensee or person lodging the complaint.

7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?

In Montana, registered nurses have a nursing association – the Montana Nurses Association (MNA). It is a member organization with dues nearly four times the cost than licensure for RNs in Montana. MNA is also a collective bargaining group for nurses working in contract healthcare institutions such as hospitals.

8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?
Yes, 2011 legislation was put into effect so that RN first assists in surgery could be reimbursed for their services by insurance. APRNs have also needed licensure to be reimbursed as independent healthcare practitioners.

9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

Having the board be involved in the discipline gives this process a "real world" perspective. The screening panel deliberates very intensely on discipline issues for each complaint and this is done through the perspective of board members who are licensees working in practice settings. Peers are judging peers from a practice perspective.

10. Is there an optimum ratio between licensees, board size, or public representation?
Current approximation of licensee types for the Board of Nursing: LPN=3,200 (20% of licensees); RN=13,700 (80% of licensees) and of those 730 are also APRNs; 6 Medication Aides. The Board is made up of 9 members: 3 LPNs; 4 RNs (one an APRN); 2 public members.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?
An interested Board of licensees of the profession is very invested in monitoring their own profession and also has expertise in the scope of practice of that profession and specifically the safety issues needing monitoring and boundaries. The Nurses Assistance Program of the Board also brings a perspective in monitoring licensees with a substance use disorder that would be handled differently if subject to discipline from law enforcement.

12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the others' practice? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

In the large health care system there is overlap from the variety of health care professionals. Each has a defined scope of practice, but the Board feels it takes a lot of health care personnel to get the job done and that an inter-professional team approach is necessary for high quality patient care. Yes, there are conflicts and it is the hope of the Board of Nursing that health care licensing Boards work together to address these issues in the common goal of providing excellent professionals to deliver the best care possible as issues arise.

13. Should the board have the ability to limit use of certain terminology to only a licensee?

Because of the public trust in the nursing profession, the use of the terms LPN (licensed practical nurse) or RN (registered nurse) or APRN (advanced practice nurse) should be limited to those holding the qualifications to be duly licensed.