



Montana Nurses' Association

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10/28/05

Dear Chairman Keane and Honorable Committee Members:
Interim Economic Affairs Committee

I would like to draw your attention to the following rules-→ MAR 24-156-62 which were developed by the Board of Medical Examiners (BOME) for the implementation of House Bill 321 passed by the 2003 session. These rules are to be noticed November 17, 2005. I have followed the Board of Medical Examiner's decision making process, attended the rules development discussions and reviewed their outcomes. I sadly, conclude that the rules do not meet the basic requirement of implementing the legislative intent nor do they fulfill the basic obligation which is to protect public safety.

These rules have had a somewhat torturous history as they were noticed once previously in November 2003. At that time they were found to be inadequate in that they exceeded the scope of the legislation, did not address some of the issues in statute that required rules and therefore did not meet the requirements for administrative rule development. The BOME recalled the rules after definitive review by the legal staff of the Interim Committee on Economic Affairs.

The Board of Medical Examiners continued to work on the rules over the past two years. While a modicum of progress was made on issues such as the definition of "office" the core issue of protecting patient safety has not been met. These issues included the following safety mechanisms for the patient that were put in statute by the legislature:

- a delineation of administrative and clinical tasks that are allowed to be delegated by a physician...
- the level of supervision when performing the administrative or clinical tasks
- require adoption of onsite supervision when administering medication, invasive procedures or allergy testing
- ensure performance of tasks is in accordance with good medical practice and the board's guidelines
- ensure that the medical assistant is competent to perform delegated tasks
- ensuring minimal educational requirements

The purpose of public boards in the professional and Occupational Licensing division is first and foremost to protect the health and safety of the public.

We ask that the committee and legal counsel scrutinize the rules. We believe that the rules so not address in any appropriate way the 6 issues listed above. They do not provide for basic patient safety. The legislative intent of the scope of these unlicensed

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Exhibit #27

health care workers was much more narrow than the rules have allowed for. For example the language in the statute that allows for the performance of "invasive" procedures was envisioned in committee intent to be the administration of injectables WITH CLEARLY DELINEATED TRAINING, PREPARATION AND PERFORMANCE GUIDELINES.

With the current rules, for example, vulnerable and elderly patients will be able to receive chemotherapy, conscious sedation, blood products, or surgical procedures from a health care worker whose training, education, experience must only meet the standard of an "opinion" with no measurable guidelines.

I ask you to review the rules, notice the inherent contradictions within the rules and the compare it to statute. We believe that patient safety demands that the BOME to write specific guidelines, specific tasks, and specific measurable outcomes as the statute requires.

Respectfully,

A handwritten signature in cursive script that reads "Eve Franklin".

Eve Franklin MSN RN
Executive Director