



Outlook

25-OPIR-282 Ackn.

From Public Records <publicrecords@mt.gov>**Date** Fri 3/14/2025 4:09 PM**To** ayoung@aorn.org <ayoung@aorn.org>

This email is acknowledgement of your public information request. In future correspondence with our office, please reference **25-OPIR-282** which is the identifier assigned to your request.

If the records requested are a single, specific, clearly identifiable, and readily available public record, you can expect to receive the information within 5 days of acknowledgement of receipt of your request. If your request is for information that cannot be readily identified and gathered, OPIR will work to have that information available to you within 90 days. An estimate of the costs will be provided to you as soon as possible. The cost estimate is based upon the amount of information and the amount of time a state employee will spend searching and gathering that information. If it is not feasible to fulfill your request within 90 days, you will receive notification from OPIR explaining why the information cannot be provided within 90 days. The law allows a response to the request to then be provided within 6 months of the acknowledgement of the request.

It is the goal of OPIR to provide the information you request as quickly as possible. Factors that may prevent a quick response include the complexity of the request, personnel available to conduct a search, many documents that require review for confidential information and redaction, an employee's right to review information related to them, and more.



Jeremiah Lute | Legal Assistant
Office of Public Information Requests
Department of Administration
DESK 406.444.2686

From: noreply@formstack.com <noreply@formstack.com>**Sent:** Friday, March 14, 2025 10:43 AM**To:** Public Records <publicrecords@mt.gov>**Subject:** [EXTERNAL] OPIR Central Intake Form**Formstack Submission For:** [OPIR Central Intake Form](#)**Submitted at Mar 14, 2025 10:42 AM**

Name:**Amy Young****Organization:****AORN**

Requestor Type:

Nonprofit

Requestor Type (Other):

Email:

ayoung@aorn.org

Phone:

(312) 330-3025

Mailing Address:

2170 S. Parker Road, Suite 300
Denver, CO 80231

What agency/agencies are you requesting information from?:

Department of Labor & Industry

Board or Council:

Request Description:

I am requesting a copy of the MONTANA BOARD OF NURSING, DECLARATORY RULING: FIRST ASSISTANTS IN SURGERY, MAY 28, 1992, together with any updates or similar board of nursing discussion or guidance on the scope of practice and practice qualifications for RNFAs/ registered nurse first assistants. Thank you!

Purpose/Use of Information:

Education

Do you intend to publish the information requested?:

No

If yes, name of publication:



March 20, 2025

Amy Young
2170 S. Parker Rd Suite 300
Denver, CO 80231
(via e-mail only to: ayoung@aorn.org)

Re: Request for records
Request Number: 2025-NUR-00473

Dear Amy Young:

The Department of Labor & Industry is in receipt of your record request, dated March 14, 2025.

The Department understands you are requesting the following documents:

- A copy of the Board of Nursing's Declaratory Ruling from May 28, 1992, together with any updates or guidance on the scope of practice and practice qualifications for RNFAs.

I have attached the 1992 Declaratory Ruling, which is no longer in effect.

The Montana Board of Nursing recognizes that scope of practice is individualized to each nurse based on their role, education, competence, facility, and experience. Because of this, we do not have one single document that can be referenced to determine scope.

RN practice as a statute definition can be found in Mont. Code Ann.37-8-102, (here is where it states what providers may administer medications and treatments for with an order) and standards of practice are found in RN rules: Admin. R. Mont. 24.159.1204 and Admin. R. Mont. 24.159.1205; the RNFA rule is found in Admin. R. Mont. 24.159.1207.

Once you've reviewed the statute and rules, we offer a scope of practice decision making model on our website here to walk through the various questions that will help you determine if the task or procedure is within an RN's scope. The first question needs to be answered "no" to proceed. The following questions must ALL be answered "yes" for the procedure/task/intervention to be within scope. These questions ensure it is best practice, that facility policy/procedure allow for it, that the RN has appropriate education and competence for it, and that the nurse is willing to accept the task. If the answer is yes to all those questions, then the consensus would be that the task/intervention/procedure is within scope of practice for that RN.



Further interpretation of the rules and their impact on practice in your scenario should be done with your own legal counsel.

Please contact me if you have any questions.

Sincerely,

/s/ Jennifer Stallkamp
Jennifer Stallkamp
Agency Counsel

DECLARATORY RULING: FIRST ASSISTANTS IN SURGERY

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In the matter of the petition for declaratory ruling on the use of registered nurses as first assistants in surgery

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1. On February 13, 1992, the Board of Nursing filed a notice of Petition for Declaratory Ruling at page 241, issue number 3, 1992 Montana Administrative Register, regarding the use of registered nurses as first assistants in surgery. The Petitioner is Marilyn B. Meyers, Operating Room Manager of Kalispell Regional Hospital.
2. The Board of Nursing received public comments and considered the petition on February 28, 1992, in a regular meeting of the Board.
3. The facts upon which this ruling will be made are as follows:

The Petitioner represents Kalispell Regional Hospital. The hospital is considering the use of registered nurses as first assistants in surgery since reimbursement guidelines are being amended to not authorize use of surgeons as first assistants. The RN first assistant is specifically trained to assist the surgeon in preoperative, intraoperative and postoperative tasks as directed by the surgeon. The Association of Operating Room Nurses has established standards for education and training of those nurses acting as first assistants. The RN first assistant may perform such tasks as tissue handling, providing exposure, using instruments, suturing and providing hemostasis.

4. An informal statement of the Board of Nursing issued in July, 1986, indicated that a registered professional nurse acting as first assistant in surgery was within the scope and practice of a registered professional nurse. The Petitioner seeks to have that position clarified and confirmed in this formal Petition for Declaratory Ruling.
5. The question presented for declaratory ruling is whether the use of registered nurses as first assistants in surgery falls within their scope of practice as defined by section 37-8-102 (3) (a), MCA.
6. The petitioner contends that registered nurses acting as first assistants in surgery are performing within their scope of practice.
7. The Board of Nursing agrees. Section 37-8-102 (3) (a) defines the "**practice of professional nursing**" to include "the administration of medications and treatments prescribed by physicians, dentists, osteopaths or podiatrists authorized by state law to prescribe medications and treatments." The role of an RN first assistant in preoperative preparation, intraoperative assistance and postoperative duties comes within the statute as administration of treatments authorized by physicians. An RN first assistant is specifically educated and trained for the role and acts under the direction of the surgeon. An institutional policy should specify the qualifications and training necessary and the tasks which the RN is authorized to perform. The Association of Operating Room Nurses and other credentialing entities set standards for education and training.

8. The Board of Nursing hereby issues this Declaratory Ruling that, under the facts presented, **the registered nurse is practicing within the scope of practice defined in section 37-8-102 (3) (a), MCA, when performing as a first assistant in surgery under the following conditions:**
 - a. **The nurse has the training, knowledge, skill and ability to perform this function in accordance with the Association of Operating Room Nurses' standards or equivalent standards;**
 - b. **The surgeon is in attendance providing direct supervision and is responsible for the patient; and**
 - c. **The institution employing the RN as first assistant has a specific written policy regarding the circumstances in which registered professional nurses may perform as first assistants and specifying the qualifications and training necessary to perform as first assistants.**

9. Any interested parties may request judicial review of this Declaratory Ruling by filing a petition for judicial review in the District Court of the state of Montana in and for Lewis and Clark County within thirty (30) days of this ruling pursuant to sections 2-4-501 and 2-4-702, MCA.

Dated this 28th day of May, 1992.