

Clearinghouse Rule 12-004

STATE OF WISCONSIN
BOARD OF NURSING

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE :
BOARD OF NURSING : NOTICE OF PUBLIC HEARING
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NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Board of Nursing in §§ 15.08(5)(b), 227.11(2) and 441.01, Wis. Stats., and interpreting §§ 441.06(1) and 441.10(3)(d), Wis. Stats., the Board of Nursing will hold a public hearing at the time and place indicated below to consider an order to amend N3.03(1)(a)3, N3.03(1)(b)6, N3.03(2)(a)3 and N3.03(2)(b)6 relating to endorsement licensure.

Hearing Date, Time and Location

Date: February 23, 2012
Time: 8:00 a.m.
Location: 1400 East Washington Avenue
Room 121A
Madison, Wisconsin

APPEARANCES AT THE HEARING:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Board Services, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: §§ 441.06(1) and 441.10(3)(d), Stats.

Statutory authority: §§ 15.08(5)(b), 227.11(2); 441.01, Stats.

Explanation of agency authority: An examining board shall promulgate rules for its own guidance and for the guidance of the profession to which it pertains. The Board may establish rules to prevent unauthorized persons from practicing professional nursing.

Related statute or rule: §§ 441.06(1) and 441.10(3)(d), Stats. and N 3.03, Wis. Admin. Code

Plain language analysis: Currently, a person licensed as a nurse in another state, territory, province or other jurisdiction is prohibited from obtaining licensure as a registered nurse or licensed practical nurse through the endorsement process if there has ever been disciplinary action against their nurse license in any state, territory, province or other jurisdiction.

Section 1-4 are amended to allow the Board to license by endorsement those who have had disciplinary action except in the circumstances that within the Board's discretion the discipline does not warrant licensure in order to protect the public.

Summary of, and comparison with, existing or proposed federal regulation: None

Comparison with rules in adjacent states:

Illinois: The Illinois Board of Nursing permits licensing by endorsement for professional and practical nurses, provided the other state's licensing requirements are similar to Illinois. The Illinois Board of Nursing looks at the disciplinary history from the last five years in making a decision to license by endorsement. While a decision is pending on licensure a temporary endorsement license is issued if the person holds an unencumbered license from another state and will be terminated if it is discovered that within the last five years, the applicant has had a license or permit related to the practice of nursing revoked, suspended or placed on probation by another jurisdiction, if at least one of the grounds is substantially equivalent to grounds in Illinois.

Iowa: The Iowa Board of Nursing permits licensing by endorsement and may consider in the application process a record of prior disciplinary action regardless of jurisdiction.

Michigan: The Michigan Board of Nursing permits licensing by endorsement provided the other state's licensing requirements are substantially the same as Michigan's requirements. The Board's rules do not address the issue of discipline in another state.

Minnesota: The Minnesota Board of Nursing permits licensing by endorsement provided the applicant has the qualifications equivalent to Minnesota's requirements. The rules do not preclude an applicant from licensure solely on the basis of prior discipline and allows for Board discretion.

Summary of factual data and analytical methodologies: The proposed change would facilitate the ability of nurses to obtain licensure to work in our state and increase the available workforce, as well as promote efficiency and fairness. The Wisconsin rule is inconsistent with the rules in the (4) four border states which allow the exercise of discretion when applying for licensure through endorsement. The proposed rule change fosters continued mobility of the nurse workforce and benefits employers by increasing access to qualified nurses.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

This rule creates a change in how licensure decisions are made which does not impact small businesses. This rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units and individuals, for a period of 14 days. No comments were received relating to the economic impact of the rule.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Initial Regulatory Flexibility Analysis or Summary:

There is no effect on small businesses.

Agency contact person:

Sharon Henes, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2377; email at sharon.henes@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Sharon Henes, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708, or by email to sharon.henes@wisconsin.gov. Comments must be received at or before the public hearing to be held at 8:00 a.m. on February 23, 2012 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. N 3.03(1)(a)3 is amended to read:

N 3.03(1)(a)3. Has a license against which no disciplinary action, which the Board deems to warrant a denial, has been taken in any of the states, territories or provinces in which the applicant has held a license.

SECTION 2. N 3.03(1)(b)3 is amended to read:

N 3.03(1)(b)3. Has a license against which no disciplinary action, which the Board deems to warrant a denial, has been taken in any of the states, territories or provinces in which the applicant has held a license.

SECTION 3. N 3.03(2)(a)3 is amended to read:

N 3.03(2)(a)3. Has a license against which no disciplinary action, which the Board deems to warrant a denial, has been taken in any of the states, territories or provinces in which the applicant has held a license.

SECTION 4 N 3.03(2)(b)6 is amended to read:

N 3.03(2)(b)6. Has a license against which no disciplinary action, which the Board deems to warrant a denial, has been taken in any of the states, territories, provinces or countries in which the applicant has held a license.

(END OF TEXT OF RULE)

COPIES OF RULE

Copies of this proposed rule are available upon request to Sharon Henes, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at sharon.henes@wisconsin.gov.