

Clearinghouse Rule 14-002

STATE OF WISCONSIN
BOARD OF NURSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : BOARD OF NURSING
BOARD OF NURSING : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Board of Nursing to repeal and recreate chapters N 2 and 3 relating to nurse licensure and examining councils.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: §§ 441.04, 441.05, 441.06, 441.08 and 441.10, Wis. Stats.

Statutory authority: §§ 15.08(5)(b) and 441.01(3), Wis. Stats.

Explanation of agency authority:

The board shall promulgate rules for its own guidance and for the guidance of the profession and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the profession.

Specifically, the board may also establish rules to prevent unauthorized persons from practicing professional nursing. It shall approve all rules for the administration of ch. 441, Wis. Stats.

Related statute or rule: §§ 441.04, 441.05, 441.06, 441.08 and 441.10, Wis. Stats.

Plain language analysis:

This proposed rule updates the licensure process.

Section 1 repeals and recreates ch. N 2. The first subsection is licensure by examination. The qualifications for professional nurse licensure are graduating from a high school or equivalent, does not have an arrest or conviction record related to the practice of nursing, graduated from a school of nursing and passes the NCLEX exam. The qualifications for practical nurse licensure are 2 years of high school, does not have an arrest or conviction

record related to the practice of nursing, graduated from a school of nursing and passes the NCLEX exam. The application procedure is submitting an application, paying the fee, submitting proof of graduation, passing the NCLEX, and submitting all relevant information relating to criminal charges, convictions of crimes or any acts which would constitute unprofessional conduct. If the nurse is a graduate from a U.S. territory or outside the United States, the education credentials need to be evaluated by the Commission on Graduates of Foreign Nursing Schools.

The second subsection is licensure by endorsement. An applicant holding a current license from a compact state shall submit a completed application, pay the fee, declare Wisconsin as the primary state, and submit all relevant information relating to criminal charges, convictions of crimes, any acts which would constitute unprofessional conduct or discipline taken by another state. An applicant holding a current license from another U.S. state, territory or Canada shall submit evidence of initial licensure including graduation from an approved nursing school and passage of the NCLEX or evidence of educational qualifications and licensure examination. In addition, a applicant shall submit a completed application, pay the fee, verification from the state of initial licensure and current licensure, documentation of employment history, and submitting all relevant information relating to criminal charges, convictions of crimes, any acts which would constitute unprofessional conduct or discipline taken by another state. An applicant who does not have current nursing education or been employed in a position that requires a nursing license may apply for a limited license to complete a nurse refresher course.

The third subsection is temporary permits. A nurse who has graduated from an approved or comparable school may apply for a temporary permit upon submission of a completed application, payment of fee and verification of graduation from a nursing school. A graduate nurse may use the title of G.N. for graduate nurse or G.P.N. for graduate practical nurse. The holder of a temporary permit may only work under direct supervision unless the person holds a nursing license in another state. The temporary permit is valid for a period of three months or the receipt of results indicating failing the NCLEX. A temporary permit may be renewed once and may be renewed subsequently on the basis of hardship. A temporary permit may be denied or revoked for providing false information on the application, misrepresentation of title without a valid permit or for unprofessional conduct.

Section 2 repeals and recreates chapter N 3. The examining councils serve the Board in an advisory capacity. The section states the appointment process and composition of the two nursing examining councils.

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

Comparison with rules in adjacent states:

Illinois: In Illinois an applicant is eligible for nurse licensure by examination if the applicant completes an application, pays the fee, submits to a criminal background check and graduates from an approved school. If educated outside of the United States, the

education is to be evaluated by the Commission on Graduates of Foreign Nursing Schools. A nurse is eligible for licensure if the applicant completes and application, pays the fee, submits to a criminal background check, graduates from an approved school, submits verification of licensure status from the jurisdiction of original licensure, the current state of licensure and all states the applicant has directly practiced in within the last 5 years. If educated outside of the United States, the education is to be evaluated by the Commission on Graduates of Foreign Nursing Schools.

Iowa: In Iowa an applicant is eligible for nurse licensure by examination if the applicant graduated from high school or the equivalent, completes an application, pays the fee, graduated from an approved program and passes NCLEX. If the person has a criminal conviction history or prior disciplinary action, the applicant must receive Board approval. If educated outside of the United States, the education is to be evaluated by the Commission on Graduates of Foreign Nursing Schools. A nurse from a compact state shall submit a completed application, pay the fee, declare Iowa as the primary state. A nurse is eligible for licensure by endorsement from a non-compact state if the applicant completes an application, pays a fee, has verification of original licensure and nursing program transcripts and submits a criminal background check. If educated outside of the United States, the education is to be evaluated by the Commission on Graduates of Foreign Nursing Schools. If the person has a criminal conviction history or prior disciplinary action, the applicant must receive Board approval.

Michigan: In Michigan an applicant is eligible for nurse licensure by examination if the applicant completed an application, pays the fees, completed approved nursing education program and passes NCLEX. If educated outside of the United States, the education is to be evaluated by the Commission on Graduates of Foreign Nursing Schools. A nurse is eligible for licensure by endorsement if the applicant completes an application, pays the fee, graduated from an approved school of nursing and was first licensed in another state pursuant to passage of NCLEX.

Minnesota: In Minnesota a nurse is eligible for licensure by examination if the applicant completes an application, pays the fee, graduated from an approved school and passes NCLEX. If educated outside of the United States, the education is to be evaluated by the Commission on Graduates of Foreign Nursing Schools. A nurse is eligible for licensure by endorsement if the applicant completes an application, pays the fee, shows verification of licensure in another jurisdiction, has passed an examination acceptable to the board and answers questions related to any prior disciplinary actions. If the applicant has not engaged in acceptable nursing practice within the 2 years of application, the applicant must complete one contact hour of continuing education for each month that the applicant was not engaged in acceptable practice for a maximum of 60 hours and if the person has not practiced for more than 5 years, the applicant must complete a nurse refresher course. Minnesota does issue privilege to practice nursing in Minnesota licenses to border state applicants upon meeting certain requirements.

Summary of factual data and analytical methodologies:

The Board reviewed the National Council of State Board of Nursing's model rules and the licensing requirements in our neighboring states.

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

The rule was posted for economic comments for a period of 14 days and none were received. This rule is related to an individual's eligibility for licensure and does not effect small business.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8366, 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, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Sharon.Henes@wisconsin.gov. Comments must be received at or before the public hearing to be held on February 13, 2014 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chapter N 2 is repealed and recreated to read:

**Chapter N 2
LICENSURE**

N 2.01 **Authority.** This chapter is adopted pursuant to authority of ss. 15.08, 227.11, and 441.01(3).

N 2.02 **Definitions.** As used in this chapter.

- (1) “Board” means board of nursing.
- (2) “Board approved school” means any of the following:
 - (a) A school in Wisconsin which has been approved by the board or the board has granted authorization to admit students under ch. N 1.
 - (b) A school which participates in the electronic application process.
- (3) “Certificate of Approval” means the school of nursing approves the applicant to take the NCLEX prior to receiving a diploma in practical nursing or professional nursing.
- (4) “Certificate of Completion” means the applicant has completed the portion of the program equivalent to a diploma in practical nursing or professional nursing.
- (5) “Comparable school” means any of the following:
 - (a) A school holding nursing accreditation by a board-recognized nursing accreditation organization.
 - (b) A school located in the United States approved by the board of nursing for that jurisdiction.
 - (c) A school located in a U.S. territory or a province of Canada which approved by the board of nursing for that jurisdiction and meets the standards of the Wisconsin board of nursing.
- (6) “Department” means the department of safety and professional services.
- (7) “Direct supervision” means immediate availability to coordinate, direct and inspect the practice of another.
- (8) “LPN” means licensed practical nurse.
- (9) “NCLEX” means national council licensure examination
- (10) “RN” means registered nurse.

SUBCHAPTER I LICENSURE BY EXAMINATION

N 2.10 **Qualifications for licensure.** (1) REGISTERED NURSE APPLICANTS. An applicant is eligible for licensure if the applicant:

- (a) Graduated from a high school or its equivalent;
- (b) Does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335.
- (c) Graduated from any of the following:
 1. A board-approved school of professional nursing.
 2. A comparable school of professional nursing.or submits evidence of general and professional educational qualifications comparable to those required in this state at the time of graduation.
- (d) Passes the NCLEX.

(2) LICENSED PRACTICAL NURSE APPLICANTS. An applicant is eligible for licensure if the applicant:

- (a) Completed two years of high school or its equivalent;
- (b) Does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335.
- (c) Graduated from any of the following:

1. A board-approved school of practical nursing.
 2. A comparable school of practical nursing.
- or submits evidence of general and professional educational qualifications comparable to those required in this state at the time of graduation.
- (d) Passes the NCLEX.

N 2.11 Application procedure for applicants from board approved schools. (1) Each applicant shall complete and submit an application by the electronic application process or on forms provided by the department and pay the fee.

(2) The educational administrator or designee for a school of professional nursing or practical nursing shall submit any of the following:

(a) Via the electronic application process a verification that the person has graduated or received a certificate of completion.

(b) A certification of graduation or completion to the department.

(3) NCLEX.

(a) The board shall notify the applicant of eligibility for admission to the examination once it receives verification of any of the following:

1. Certificate of approval.
2. Graduation.
3. Certificate of completion.

(b) The applicant shall contact the examination provider to schedule the examination date and time within one year from the time the notice of eligibility is received.

(c) The board shall send notification of results to applicants who fail to earn a passing score on the NCLEX. An applicant may apply to the board for authorization to schedule reexamination. The reexamination may not occur earlier than 45 days after the most recent sitting for the examination.

(4) An applicant who has a pending criminal charge or has been convicted of any crime or ordinance violation shall provide the board all related information necessary for the board to determine whether the circumstances of the arrest or conviction or other offense substantially relate to the practice of nursing.

(5) An applicant who has committed any act, which would be subject to discipline under N 7, shall provide the board with all related information regarding the act necessary for the board to make a determination on the application for licensure.

N 2.12 Application procedure for applicants from comparable schools. (1) Each applicant shall complete and submit an application on forms provided by the department.

(2) The school of professional nursing or practical nursing shall forward directly to the department, official transcripts of nursing education for applicants who graduated from the school. If the applicant graduated from a school of professional nursing or practical nursing from a U.S. territory or outside the United States, the applicant shall submit any of the following:

(a) For a professional nursing applicant, a valid certificate issued by the commission on graduates of foreign nursing schools or another board approved entity which evaluates education.

- (b) For a practical nursing applicant, a credential evaluation service academic report and demonstration of passing a board accepted language proficiency exam.
- (3) NCLEX.
- (a) The board shall notify the applicant of eligibility for admission to the examination once it receives verification of any of the following:
1. Certificate of approval.
 2. Graduation.
- (b) The board shall notify the applicant of eligibility for admission to the examination. The applicant shall contact the examination provider to schedule the examination date and time within one year from the time the notice of eligibility is received.
- (c) The board shall send notification of results to applicants who fail to earn a passing score on the NCLEX. An applicant may apply to the board for authorization to schedule reexamination. The reexamination may not occur earlier than 45 days after the most recent sitting for the examination.
- (4) An applicant who has a pending criminal charge or has been convicted of any crime or ordinance violation shall provide the board all related information necessary for the board to determine whether the circumstances of the arrest or conviction or other offense substantially relate to the practice of nursing.
- (5) An applicant who has committed any act, which would be subject to discipline under N 7, shall provide the board with all related information regarding the act necessary for the board to make a determination on the application for licensure.

SUBCHAPTER II LICENSURE BY ENDORSEMENT

N 2.20 Endorsement of an applicant from a nurse licensure compact state. A current license from a state which has adopted the nurse licensure compact is considered to have met educational and other qualifications comparable to those required in this state.

- (1) The applicant shall file a completed application, declare Wisconsin as the primary state of residence, and pay the applicable fee.
- (2) An applicant who has a pending criminal charge or has been convicted of any crime or ordinance violation shall provide the board with all related information necessary for the board to determine whether the circumstances of the arrest or conviction or other offense substantially relates to the practice of nursing.
- (3) An applicant who has committed any act, which would be subject to discipline under N 7, shall provide the board with all related information regarding the act necessary for the board to make a determination on the application for licensure.
- (4) An applicant who has a nursing license encumbered by adverse action shall provide the board with all related information necessary to determine whether the Board deems the action taken to warrant a denial in Wisconsin. Any license issued to an applicant with an encumbered nursing license elsewhere shall be a single state license to practice in the state of Wisconsin.

N 2.21 Endorsement of an applicant from another U.S. state, territory or Canada.

(1) (a) A license from another U.S. state, territory or Canada is considered to have met educational and other qualifications comparable to those required in this state provided the requirements of the initial license included all of the following:

1. Graduated from a school approved by the board in the jurisdiction of initial licensure or had education the board in the jurisdiction of initial licensure deemed to be comparable to a school that board approves.
2. Passed the NCLEX.

(b) An applicant, whose initial license from another U.S. state, territory or Canada does not meet the requirements in par. (a), shall submit all of the following to determine whether the qualifications are comparable:

1. Evidence of educational qualifications.
2. Evidence of passing the NCLEX or other nursing licensure examination.

(2) An applicant shall submit a completed application and pay the applicable fee. The application shall include the following:

(a) Verification of licensure from the state, territory or province in which the original license by examination was issued and the state, territory or province in which the current, active license was issued.

(b) Documentation of employment history.

(c) An applicant who has a pending criminal charge or has been convicted of any crime or ordinance violation shall provide the board with all related information necessary for the board to determine whether the circumstances of the arrest or conviction or other offense substantially relate to the practice of nursing.

(d) An applicant who has a license encumbered by adverse action shall provide the board with all related information necessary to determine whether the Board deems the action taken to warrant a denial in Wisconsin.

(e) An applicant who has been terminated from any employment related to nursing shall provide the board with all related information necessary to determine current competency.

(f) An applicant who has committed any act, which would be subject to discipline under N 7, shall provide the board with all related information regarding the act necessary for the board to make a determination on the application for licensure.

(3) An applicant who does not have current nursing education or been employed in a position that requires a nursing license within the last five years may apply to the board for a limited license to enable the applicant to complete a nursing refresher course approved by the board. Upon successful completion of an approved nursing refresher course, the license holder may petition the board for full licensure.

**SUBCHAPTER III
TEMPORARY PERMITS**

N 2.30 Definitions. In this subchapter:

- (1) "G.N." means graduate nurse.
- (2) "G.P.N." means graduate practical nurse.

N 2.31 Application. A nurse who has graduated from a board approved school or comparable school or granted a certificate of completion by a board approved school may be granted a temporary permit. An applicant shall submit a completed application and pay the applicable fee. The application shall include any of the following:

- (1) Verification from a board approved school via the electronic application process that the applicant has graduated or received a certificate of completion.
- (2) A certification of graduation or completion from a board approved school.
- (3) An official transcript of nursing education submitted by the school of professional nursing or practical nursing directly to the department.

N 2.32 Title. (1) A registered nurse applicant for licensure by exam who is granted a temporary permit may use the title “graduate nurse” or the letters “G.N.”
(2) A practical nurse applicant for licensure by exam who is granted a temporary permit may use the title “graduate practical nurse” or the letters “G.P.N.”
(3) A registered nurse or practical nurse for licensure by endorsement who is granted a temporary permit may use the title “registered nurse” or “licensed practical nurse.”

N 2.33 Supervision. (1) The holder of a temporary permit shall practice only under the direct supervision of registered nurse.
(2) A holder of a temporary permit who is currently licensed as a registered nurse or practical nurse in another jurisdiction is not required to practice under direct supervision.

N 2.34 Duration. The temporary permit is valid for a period of three months or until the holder receives notification of failing the NCLEX, whichever is shorter. Practice under temporary permits, including renewals under s. 2.35 may not exceed 6 months total duration.

N 2.35 Renewal. (1) A temporary permit for a registered nurse or practical nurse may be renewed once by completing an application, completing a nursing workforce survey and payment of applicable fees.
(2) Subsequent renewals may be granted in hardship cases including illness, family illness or death, accident, natural disaster or delay of verification from another state. The board shall consider each application for renewal under this subsection individually on its merits, and the board may grant a renewal as deemed appropriate.

N 2.36 Denial or Revocation. A temporary permit may be denied or revoked for the following:
(1) Providing fraudulent information on an application for licensure.
(2) Misrepresentation of being an R.N., G.N., L.P.N. or G.P.N. without holding a valid temporary permit.
(3) Violation of any of the rules of conduct set forth in ch. N 7.

SECTION 2. Chapter N 3 is repealed and recreated to read:

**Chapter N 3
EXAMINING COUNCILS**

N 3.01 **Duties.** The duties of the examining councils on registered nurses and licensed practical nurses serve the board of nursing in an advisory capacity.

N 3.02 **Appointment.** (1) The board shall send to nursing related organizations, schools and others a call for nominations for open council appointments prior to the expiration of a term.

(2) Nominations for council appointments shall be filed with the department. Consent of the person nominated shall be included. Self-nominations are allowed.

(3) The board shall appoint a nominee from those submitted.

N 3.03 **Registered nurses council.** (1) **COMPOSITION.** The registered nurse council shall consist of four registered nurses. (2) **QUALIFICATIONS.** Qualifications for appointment to the registered nurse council are a current Wisconsin license to practice professional nursing and experience in nursing practice or nursing education within three years immediately preceding the appointment.

N 3.04 **Practical nurses council.** (1) **COMPOSITION.** The practical nurses council shall consist of one registered nurse, three licensed practical nurses and one registered nurse who is a faculty member of an approved school for practical nurses. No member may be a member of the examining council on registered nurses.

(2) **QUALIFICATIONS.** The qualifications for appointment to the practical nurses council is as follows:

(a) The two registered nurse members of the council shall have a current Wisconsin license to practice professional nursing. One registered nurse member shall have experience as a supervisor of practical nurses within three years immediately preceding the appointment. One registered nurse member shall be a faculty member of an approved school for practical nurses.

(b) The practical nurses members of the council shall have a current Wisconsin license to practice as a licensed practical nurse and experience in practical nursing within three years immediately preceding the appointment.

N 3.05 **Termination of council members.** The Board may terminate the appointment of a council member prior to the expiration of the term if it finds the member is not satisfactorily carrying out any of the duties or if the member is found to have violated rules of the board.

Section 3. **EFFECTIVE DATE.** The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
