

Clearinghouse Rule 17-096

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 N 1.04 (1) (d) 4. and 1.08 (3) (d) 3.d.; to amend N 1.02 (1), 1.02 (5g), 1.03 (1) (c), 1.04 (1) (a) and (b), 1.04 (1) (f) 1., 1.05 (1) (intro.), 1.05 (1) (b), 1.05 (5) (c), 1.07 (1), 1.08 (1) (d), 1.08 (2) (a) 2., 1.10 (1) (a), (b), and (c), 1.10 (3) (c), and (d) and 1.10 (4) (b), and (c); to repeal and recreate N 1.02 (12), 1.08 (2) (a) 3., 1.08 (2) (b), 1.08 (3) (b) 2., 1.08 (3) (d) (intro.), 1.08 (3) (d) 2., 1.08 (3) (d) 3. (intro.) and 1.09; and to create N 1.04 (1) (dm), and (3m), 1.04 (1) (f) 3., 1.04 (2g), and (2r), 1.08 (2) (c), and (d), 1.08 (3) (b) 3., 1.08 (3) (d), 1.08 (3) (d) 2m. and 1.08 (3) (d) 3m. relating to school approval.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 441.01 (3), and (4) and 441.12, Wis. Stats.

Statutory authority: ss. 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 to which it pertains.

Specifically, the board may establish minimum standards for schools for professional nurses and schools for licensed practical nurses, including all related clinical units and facilities, and make and provide periodic surveys and consultations to such schools. It may also establish rules to prevent unauthorized persons from practicing professional nursing. It shall approve all rules for the administration of chapter 441, Wis. Stats.

Related statute or rule: ss. 441.01 (3) and (4) and 441.12, Wis. Stats

Plain language analysis:

Section 1 amends the definition of “annual pass rate” to include the advanced practice certification examination to reflect the examination taken by applicants who attend graduate school.

Section 2 returns institution accreditation to a regional accrediting entity. The change to national occurred with CR 14-004. Since the change the Board’s experience is the standards between regional and national are not comparable. With the withdrawal of federal recognition to at least one large national accrediting body, the Board does not want to create uncertainty for schools, students or clinical sites going forward. The return to requiring regional accreditation is in line with other health professional requirements.

Section 3 repeals and recreates the definition for school of professional nursing to clarify the definition includes graduate schools and postlicensure bachelor degree schools. Postlicensure bachelor degree schools are schools for an associate degree registered nurse to obtain a bachelor’s degree in nursing.

Section 4 clarifies evidence of availability of sufficient clinical facilities is not a signed contract and that no contract can be signed until after the school receives authorization to plan a school of nursing.

Section 5 clarifies the educational administrator needs to meet the required qualifications. It also clarifies that the school only needs to show employment of faculty to teach the courses offered the first 6 months eliminating the need to hire faculty for all courses in the school prior to admitting students.

Section 6 repeals the requirement that the curriculum include a program evaluation plan.

Section 7 creates the requirement for documentation of a school evaluation plan and a plan for availability of student policies as part of the application for authorization to admit students.

Section 8 clarifies all contracts for clinical facilities contained in the application for authorization to admit shall be signed after the date the authorization to plan was granted.

Section 9 clarifies that clinical experiences shall represent all areas of nursing practice covered by the school of nursing’s curriculum prior to being granted authorization to admit students.

Section 10 creates a mechanism for schools to notify the board on a quarterly basis of faculty hiring to ensure that sufficient faculty are in place beyond the first six months. It also creates a provision which clarifies the board may review schools that are authorized to admit students but are not fully approved in a similar manner as approved schools.

Section 11 removes a confusing provision for when a school may apply for approval.

Section 12 amends the systematic evaluation plan to include the NCLEX or advanced practice certification pass rates.

Section 13 removes a typographical error created by CR 14-004.

Section 14 removes an obsolete provision relating to nursing accreditation.

Section 15 removes the requirement for a contract and allows for documentation between the school of nursing and institutions for academic study, clinical facilities, and agencies for related services for students.

Section 16 creates a provision that the educational administrator at schools which offer a graduate degree nursing program holds a doctoral degree.

Section 17 repeals and recreates the educational administrator experience requirements. An educational administrator needs two years of experience as an instructor in the previous 5 years or if the person's graduate program included education preparation, then only one year of experience.

Sections 18 and 19 clarifies the educational administrator is required to notify the board within 5 days of a vacancy or change in the position and failure to report is considered unprofessional conduct. The institution shall designate an interim or permanent educational administrator and notify the board within 5 business days. An interim educational administrator who does not meet the qualification may request board approval. An interim educational administrator may only serve 6 months unless the board grants an extension due to hardship. The institution shall notify the board within 5 business days of the hiring of a permanent educational administrator.

Sections 20 and 21 clarify a graduate degree in nursing is required for faculty and a doctoral degree is required for faculty teaching a graduate level course. Shared faculty in interprofessional schools teaching non-clinical nursing courses can have advanced education for that content instead of a nursing degree (for example, a pharmacist teaching pharmacology in a school of nursing).

Section 22 clarifies the board may grant exceptions to faculty requirements as long as a minimum of 50% of the faculty meet the requirements. A faculty member who does meet the requirements is required to supervise any faculty members who receive an exception.

Section 23 creates a standard exception for a person with a master's degree and is actively enrolled in a doctorate program to teach a graduate level course. This exception mirrors the standard exception for those teaching associate or bachelor level course.

Section 24 clarifies the emergency exception is for a person with a bachelor's degree in nursing to teach in an emergency situation. It is for one semester and can't be renewed. If there is a second consecutive emergency request, the school shall provide the board with a plan regarding staffing levels, courses being offered and the extenuating circumstances.

Section 25 creates an emergency exception for a person with a master's degree in nursing to teach a graduate level course in an emergency situation. This mirrors the emergency exception for a person with a bachelor's degree teaching associate or bachelor level courses.

Sections 26 and 27 revises the non-nursing master's degree exception for readability and clarification. This exception may be granted for a person who does not have a master's degree in nursing but does meet the needs of the school in a specific content area. It also removes the limitation that the school may only have one exception of this type.

Section 28 creates a graduate level non-nursing doctoral degree exception. This mirrors the non-nursing master's degree exception.

Section 29 recreates the annual pass rate section. For schools of nursing ~~for~~ with prelicensure students, the pass rate is based on the annual NCLEX pass scores. If the school grants a certificate of completion, then the pass rate considers both the registered nurse and practical nurse NCLEX exams. For schools of nursing with graduate level programs, the pass rate is based on the advanced practice certification examinations. The pass rate standard is a minimum of 80% of all test takers shall pass the examination. If the annual pass rate standard is not met, the school of nursing shall receive a warning letter. The school is required to submit an assessment of contributing factors and an institution plan for improvement. The plan must include outcomes and timeframes. The plan is to be submitted to the board within 45 days of the warning letter and acted upon by the board by July 15th. Failure to have a board approved plan by July 15 will result in a review of the school.

Section 30 indicates a date of February 1st for when annual self-evaluation reports are due. It also clarifies the school must only submit documents from nursing accreditation agencies related to compliance with accreditation standards. In addition, it clarifies the school must provide the board with notification of any actions, withdrawal or change in school nursing accreditation status within 30 days.

Section 31 updates provisions relating to when the board may review the school of nursing to determine whether standards are being met. When a complaint regarding conduct is received the board needs to "evaluate" the complaint instead of "validate". In addition, the removal of "NCLEX" which only pertains to prelicensure schools and removal of "for more than 2 consecutive years".

Section 32 updates language regarding review of the school for clarification purposes. A review may involve a "self-assessment" instead of "self-study". In addition, a plan for improvement and any progress reports.

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

Comparison with rules in adjacent states:

Illinois: Illinois approves prelicensure programs only. Illinois program approval process includes: a letter of intent, a feasibility study, hiring of a nurse administrator, submission of a curriculum proposal, and a site survey. Continued approval is based upon annual evaluation reports, full routine site visits and maintaining a NCLEX pass rate of 75% of first time test takers. Major and minor curricular changes are reported to the board. The standards for the

school include institutional requirements, curriculum standards, clinical standards, nurse administrator and faculty qualifications (allows for variances to faculty standards) and student standards.

Iowa: Iowa approves all schools of nursing (prelicensure and graduate). Iowa program approval process includes: first step involves an application with information regarding the controlling institution and needs assessment; second step involves verification of employment of the head of program, submission of program's philosophy and objectives, curriculum plan, letter of intent from clinical facilities, evidence of provision of faculty, proposed budget and timeframe for implementation; next step is interim approval based upon program proposal and site visit; final approval is upon graduation of first class and NCLEX pass rate results. Provisional approval may be granted to program until standards are met. Change of controlling institution and changes in administrative personnel in the program. The program shall submit annual reports. The standards for the school include institutional requirements, curriculum standards, clinical standards, nurse administrator and faculty qualifications, student standards and evaluation of the program. NCLEX pass rate standard is a minimum of 95% of the national passing percentage based upon first time test takers within 6 months of graduation.

Michigan: Michigan approves prelicensure programs only. Michigan program approval process includes: the first step requires submission of a letter of intent, evidence of funding and other support, copy of Michigan Department of Career Development approval (if necessary), evidence of availability of clinical experiences, proposed number of students, proposed first date of admission, plans for recruiting director of the program and faculty and a site visit; initial approval involves a self-student report and annual progress reports; full approval is after the graduation of the 2nd class, but no later than graduation of the 4th class (a class for each 12 month period) and requires submission of a self-study report and a site visit. Every 4 years the school shall submit a self-study report and accredited schools shall follow the schedule of the accrediting agency. Program changes shall be submitted to the board. The standards for the school include institutional requirements, curriculum standards, clinical standards, nurse administrator and faculty qualifications (allows for variances to faculty standards), student standards, and evaluation of the program. NCLEX pass rate standard is 75% of first time test takers.

Minnesota: Minnesota approves prelicensure programs only. Minnesota program approval process includes: Phase I requires letter of intent including institution information, timetable for development and implementation, documentation of availability of academic facilities, impact on nursing programs in the area; Phase II involves a site visit and documentation of compliance with educational standards in order to be granted initial approval; Phase III is full approval and continual approval based upon meeting the minimum first time NCLEX success rate and acquiring national nursing education accreditation. Minnesota requires surveys of all schools on a periodic basis to maintain approval. NCLEX pass rate standard is 75% of first time test takers. Annual reports shall be submitted to the Board. The standards for the school include institutional requirements, clinical standards, nurse administrator and faculty qualifications, student standards, and evaluation of the program. The curriculum standard is the program must provide diverse learning activities that are consistent with program outcomes. Minnesota has an approval

process for schools applying for innovative approaches which may require exemption from certain rules.

Summary of factual data and analytical methodologies:

The Board considered the National Council of State Boards of Nursing's model practice rules and the rules and processes of our neighboring states and Washington.

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

This rule was posted for economic comments and none were received.

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 Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at DSPSAdminRules@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 Policy, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held on January 11, 2018 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. N 1.02 (1) is amended to read:

N 1.02 (1) "Annual pass rate" means the ~~NCLEX~~ pass rates for those who took the NCLEX or advanced practice certification examination between January 1 and December 31.

SECTION 2. N 1.02 (5g) is amended to read:

N 1.02 (5g) "Institutional accreditation" means that the institution conforms to the standards of education prescribed by a regional ~~or national~~ accrediting commission recognized by the U.S. department of education.

SECTION 3. N 1.02 (12) is repealed and recreated to read:

N 1.02 (12) "School of professional nursing" means a school preparing nursing students at the associate, bachelor's, or graduate degree level. This includes schools granting any of the following:

- (a) Certificate of completion for practical nurse licensure or professional nurse licensure.
- (b) Postlicensure bachelor's degree.

SECTION 4. N 1.03 (1) (c) is amended to read:

N 1.03 (1) (c) Evidence of the availability of sufficient clinical facilities and resources. No contracts with clinical facilities may be signed until after the institution receives authorization to plan from the board.

SECTION 5. N 1.04 (1) (a) and (b) are amended to read:

- N 1.04 (1) (a)** Verification of employment of an educational administrator meeting the qualifications in s. N 1.08 (2) (a).
- (b) Evidence of ~~provision~~ employment of sufficient number of faculty meeting the qualifications in s. N 1.08 (3) to teach the courses offered for the first six months.

SECTION 6. N 1.04 (1) (d) 4. is repealed.

SECTION 7. N 1.04 (1) (dm) and (em) are created to read:

- N 1.04 (1) (dm)** Documentation of a school evaluation plan.
- (em) Documentation of a plan for student or prospective student access to student policies.

SECTION 8. N 1.04 (1) (f) 1. is amended to read:

N 1.04 (1) (f) 1. ~~Letter of intent or contracts~~ Contracts from clinical facilities securing clinical opportunities and documentation of the facility, type, size, number of beds, and type of patients. All contracts or memoranda of understanding shall be signed and dated after the date on which the school of nursing was granted authorization to plan by the board.

SECTION 9. N 1.04 (1) (f) 3. is created to read:

N 1.04 (1) (f) 3. Clinical experiences shall represent all areas of nursing practice covered by the school of nursing's curriculum.

SECTION 10. N 1.04 (2g) and (2r) are created to read:

(2g) A school of nursing which has received authorization to admit students shall provide the board on the first day of March, June, September, and December until the school of nursing receives approval, evidence of employment of sufficient number of faculty meeting N 1.08 (3) standards to teach the courses offered four months from the date the report is due.

(2r) The board may review the school of nursing to determine whether s. N 1.08 standards are being met by requiring any of the following:

- (a) A site survey.
- (b) A self-assessment.
- (c) A plan for improvement and any progress reports.

SECTION 11. N 1.05 (1) (intro) is amended to read:

N 1.05 (1) A school of nursing may apply for approval of the school of nursing upon graduation of the first class ~~or eligibility to sit for the NCLEX~~, but may not apply later than graduation of the third class. The school of nursing shall submit all of the following:

SECTION 12. N 1.05 (1) (b) is amended to read:

N 1.05 (1) (b) The school of nursing's ongoing systematic evaluation plan. The systematic evaluation plan shall including include an evaluation of the NCLEX success annual pass rate of any graduates who took the NCLEX or an advanced practice certification examination.

SECTION 13. N 1.05 (5) (c) is amended to read:

N 1.05 (5) (c) Close the school of nursing ~~when~~ when the last student has transferred.

SECTION 14. N 1.07 (1) is amended to read:

N 1.07 (1) A school of nursing shall receive nursing accreditation by a board recognized nursing accreditation agency within three years of school approval. ~~Schools of nursing which have received board approval prior to July 1, 2014 shall receive nursing accreditation by a board recognized nursing accreditation agency by July 1, 2017.~~

SECTION 15. N 1.08 (1) (d) is amended to read:

N 1.08 (1) (d) Have written ~~contracts~~ documentation between the school of nursing and institutions which offer associated academic study, clinical facilities, and agencies for related services for students.

SECTION 16. N 1.08 (2) (a) 2. is amended to read:

N 1.08 (2) (a) 2. A graduate degree with a major in nursing. A doctoral degree is required for a school of nursing offering a graduate degree nursing program.

SECTION 17. N 1.08 (2) (a) 3. is repealed and recreated to read:

N 1.08 (2) (a) 3. Knowledge of learning principles for adult education, including nursing curriculum development, administration and evaluation and one of the following:

- a. Two years experience as an instructor in a nursing education program within the last 5 years.
- b. One year experience as an instructor in a nursing education program within the last 5 years and the graduate degree included education preparation.

SECTION 18. N 1.08 (2) (b) is repealed and recreated to read:

N 1.08 (2) (b) The educational administrator shall notify the board within 5 business days of a vacancy in the educational administrator's position or change in educational administrator. Failure to report by the educational administrator is considered a violation of s. N 7.03 (1) (intro.)

SECTION 19. N 1.08 (2) (c) and (d) are created to read:

N 1.08 (2) (c) The institution shall designate an interim or permanent educational administrator and notify the board within 5 business days of a vacancy in the educational administrator position. The institution may request board approval of an interim educational administrator who does not meet the qualifications in par. (a).

(d) The interim educational administrator may serve no longer than 6 months. The institution may request an extension of time based upon hardship. The institution and new educational administrator shall notify the board within 5 business days of the institution's hiring of the educational administrator.

SECTION 20. N 1.08 (3) (b) 2. is repealed and recreated to read:

N 1.08 (3) (b) 2. A graduate degree with a major in nursing. Doctoral degree is required for faculty teaching a graduate level course.

SECTION 21. N 1.08 (3) (b) 3. is created to read:

N 1.08 (3) (b) 3. Notwithstanding subdiv. 2, interprofessional faculty teaching interdisciplinary courses not specific to nursing shall have expertise and a graduate degree appropriate for the content being taught.

SECTION 22. N 1.08 (3) (d) (intro.) is repealed and recreated to read:

N 1.08 (3) (d) *Faculty exceptions.* An educational administrator may apply to the board for exceptions to faculty requirements. A minimum of 50 percent of faculty must meet the faculty qualifications. A school of nursing that is granted a faculty exception for a faculty member shall provide the faculty member with a supervisor who meets the qualifications in par. (b) or (c). The board may grant any of the following exceptions:

SECTION 23. N 1.08 (3) (d) 1m. is created to read:

N 1.08 (3) (d) 1m. ‘Graduate level course standard exception.’ A standard exception for a person teaching a graduate level course is a master’s degree in nursing and is actively enrolled in a doctorate program in nursing.

SECTION 24. N 1.08 (3) (d) 2. is repealed and recreated to read:

N 1.08 (3) (d) 2. ‘Emergency exception.’ A person with a bachelor’s degree in nursing may be employed for a short-term, unanticipated emergency situation including medical leave. The emergency exception is for a term no longer than one semester. The emergency exception may not be renewed for the course taught or for the individual in consecutive semesters. An educational administrator who requests a second consecutive emergency exception is required to submit a plan regarding the school of nursing staffing levels, courses being offered and the extenuating circumstances to the board prior to the board approving another emergency exception.

SECTION 25. N 1.08 (3) (d) 2m. is created to read:

N 1.08 (3) (d) 2m. ‘Graduate level course emergency exception’ A person teaching a graduate level course with a master’s degree in nursing may be employed for a short-term, unanticipated emergency situation including medical leave. The emergency exception is for a term no longer than one semester. It may not be renewed for the course taught or for the individual in consecutive semesters. An educational administrator who requests a second consecutive emergency exception is required to submit a plan regarding the school of nursing staffing levels, courses being offered and the extenuating circumstances to the board prior to the board approving another emergency exception.

SECTION 26. N 1.08 (3) (d) 3. (intro.) is repealed and recreated to read:

N 1.08 (3) (d) 3. ‘Non-nursing master’s degree exception.’ A non-nursing master’s degree exception is for a person who has an unique combination of knowledge, experience and skills that will best serve the school of nursing, faculty, and students in a specific content area. The person shall meet all of the following:

SECTION 27. N 1.08 (3) (d) 3. d. is repealed.

SECTION 28. N 1.08 (3) (d) 3m. is created to read:

N 1.08 (3) (d) 3m. ‘Graduate level course non-nursing doctoral degree exception.’ A non-nursing doctoral degree exception is for a person who is teaching a graduate level course and has an unique combination of knowledge, experience and skills that will best serve the school of nursing, faculty, and students in a specific content area. The person shall meet all of the following:

- a. A bachelor’s or master’s degree in nursing.

- b. A doctoral degree related to the topic of the course the person is teaching.
- c. Nursing experience in the area of teaching assignment.

SECTION 29. N 1.09 is repealed and recreated to read:

N 1.09 Annual pass rates. (1) GENERALLY. The school of nursing NCLEX pass rate includes all prelicensure students taking the NCLEX in the school of nursing. The board shall consider both the registered nurse NCLEX and practical nurse NCLEX pass rates when evaluating a school of professional nursing that grants a certificate of completion for practical nursing. A school of nursing which contains graduate programs shall include all advanced practice certification examinations related to programs offered in the school of nursing.

(2) ANNUAL PASS RATE STANDARD. The annual pass rate of graduates taking the NCLEX or advanced practice certification examinations for all test takers is a minimum of 80%.

(3) ANNUAL PASS RATE STANDARD NOT MET. If the annual pass rate standard is not met, the school of nursing shall receive a warning letter. The school shall identify factors that are potentially affecting the low pass rate and submit an assessment of contributing factors and institutional plan for improvement of examination results including outcomes and timeframes. The assessment and institutional plan shall be submitted to the board within 45 days of the board notifying the school of nursing of its failure to meet the annual pass rate standard and the institutional plan shall be acted on by the board no later than July 15. Failure to have a board approved plan by July 15 results in a review of the school of nursing under s. N 1.10 (4).

SECTION 30. N 1.10 (1) (a), (b) and (c) are amended to read:

- N 1.10 (1) (a)** Annual self-evaluation reports by February 1.
- (b)** All documents submitted to or received from nursing accreditation agencies relating to compliance with accreditation standards.
- (c)** Notification of any actions, withdrawal or change in school nursing accreditation status within 30 days.

SECTION 31. N 1.10 (3) (c) and (d) are amended to read:

- N 1.10 (3) (c) Complaints regarding the conduct of the school are received and it is necessary to ~~validate~~ evaluate the complaints.
- (d)** Failure to meet ~~NCLEX~~ annual pass rate standard in s. N 1.09 ~~(1) for more than 2 consecutive years.~~

SECTION 32. N 1.10 (4) (b) and (c) are amended to read:

- N 1.10 (4) (b)** A ~~self-study~~ self-assessment.
- (c)** A plan for improvement and any progress reports.

SECTION 33. 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)
