

STATE OF WISCONSIN
BOARD OF NURSING

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : BOARD OF NURSING
BOARD OF NURSING : ADOPTING RULES
: (CLEARINGHOUSE RULE 12-004)

ORDER

An order of the Board of Nursing to amend N3.03(1)(a)3. and (b)6., and (2)(a)3. and (b)6. relating to endorsement licensure.

This rule is not subject to ss. 227.135 (2) and 227.185, Stats., as affected by 2011 Wis. Act 21. The scope statement for this rule, published in Register No. 666, on June 30, 2011, was sent to LRB prior to June 8, 2011 (the effective date of 2011 Wisconsin Act 21).

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

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

Statutory authority: ss. 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: ss. 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.

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 Greg.Gasper@wisconsin.gov, or by calling (608) 266-8608.

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 608-261-2385; 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, that 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)6 is amended to read:

N 3.03(1)(b)6. Has a license against which no disciplinary action, that 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.

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, that 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, that 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.

SECTION 5. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2)(intro.), Stats.

(END OF TEXT OF RULE)

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.

Dated _____

Agency _____

Member of the Board
Board of Nursing