

JAN 04 2000

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FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

**RULES CLEARINGHOUSE**

**Ronald Sklansky**  
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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 00-167**

AN ORDER to amend N 6.02 (2) (intro.), (3) (intro.) and (4), 6.03 (2) (c) and (d) and 6.04 (1) (intro.) and (d), (intro.) and 3., (2) (a) and (b), relating to defining the practice of nursing to include acting under the direction of optometrists.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

11-30-00      RECEIVED BY LEGISLATIVE COUNCIL.  
12-19-00      REPORT SENT TO AGENCY.

RS:NZ:jal

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

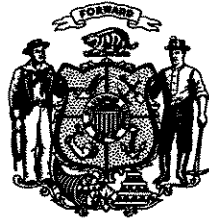
Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 00-167

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

A third paragraph should be added to the analysis indicating that the rule amends provisions of the administrative code in order to reflect the statutory change that expanded the definition of the practice of nursing to include acting under the direction of an optometrist.

STATE OF WISCONSIN  
BOARD OF NURSING

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IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : BOARD OF NURSING  
BOARD OF NURSING : ADOPTING RULES  
: (CLEARINGHOUSE RULE 00- )

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PROPOSED ORDER

An order of the Board of Nursing to amend N 6.02 (2) (intro.), (3) (intro.) and (4), 6.03 (2) (c) and (d), and 6.04 (1) (intro.), (d), 3., (2) (a) and (b), relating to defining the practice of nursing to include acting under the direction of optometrists.

Analysis prepared by the Department of Regulation and Licensing.

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ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2), Stats., and s. 441.11 (3) and (4), Stats., as amended by 1997 Wisconsin Act 62, and s. 441.11 (3) and (4), Stats., as repealed and recreated by 1997 Wisconsin Act 62.

Statutes interpreted: s. 441.11 (3) and (4), Stats.

1997 Wisconsin Act 62 amended the practice of nursing to include acting under the direction of optometrists. The practice of practical nursing means the performance for compensation of any simple acts in the care of convalescent, subacutely or chronically ill, injured or infirm persons, or of any act or procedure in the care of the more acutely ill, injured or infirm under the specific direction of a nurse, physician, podiatrist or optometrist. A simple act does not require any substantial nursing skill, knowledge or training, or the application of nursing principles based on biological, physical or social sciences, or the understanding of cause and effect in such acts and is one which is of a nature of those approved by the board for the curriculum of schools for licensed practical nursing.

The practice of professional nursing means the performance for compensation of any act in the observation or care of the ill, injured or infirm, or for the maintenance of health or prevention of illness of others, which requires substantial nursing skill, knowledge or training, or application of nursing principles based on biological, physical, and social sciences, such as the observation and recording of symptoms and reactions, the execution of procedures and techniques in the treatment of the sick under the general or special supervision or direction of a physician, podiatrist, dentist, or optometrist, or under an order of a person who is licensed to practice medicine, podiatry or dentistry in another state if that person prepared the order after examining the patient in that other state and directs that the order be carried out in this state, and the execution of general nursing procedures and techniques.

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TEXT OF RULE

SECTION 1. N 6.02 (2) (intro.), (3) (intro.) and (4) are amended to read:

N 6.02 (2) (intro.) "Basic patient situation" as determined by an R.N., physician, podiatrist ~~or~~, dentist or optometrist means the following 3 conditions prevail at the same time in a given situation:

(3) (intro.) "Complex patient situation" as determined by an R.N., physician, podiatrist ~~or~~, dentist or optometrist means any one or more of the following conditions exist in a given situation:

(4) "Delegated medical act" means acts delegated to an R.N. or L.P.N. by a physician, ~~dentist or podiatrist~~, dentist or optometrist.

SECTION 2. N 6.03 (2) (c) and (d) are amended to read:

N 6.03 (2) (c) Consult with a physician, ~~dentist or podiatrist~~, dentist or optometrist in cases where the R.N. knows or should know a delegated medical act may harm a patient; and,

(d) Perform delegated medical acts under the general supervision or direction of a physician, ~~dentist or podiatrist~~, dentist or optometrist.

SECTION 3. N 6.04 (1) (intro.), (d), 3. (intro.), (2) (a) and (b) are amended to read:

N 6.04 (1) PERFORMANCE OF ACTS IN BASIC PATIENT SITUATIONS. (intro.) In the performance of acts in basic patient situations, the L.P.N. shall, under the general supervision of an R.N. or the direction of a physician, podiatrist ~~or~~, dentist or optometrist:

(d) Consult with an R.N. ~~or~~, physician, podiatrist, dentist or optometrist in cases where an L.P.N. knows or should know a delegated nursing or medical act may harm a patient; and,

3. (intro.) Reinforce the teaching provided by an R.N., physician, podiatrist ~~or~~, dentist or optometrist and provide basic health care instruction; or,

(2) (a) Meet standards under sub (1) under the general supervision of an R.N., physician, podiatrist ~~or~~, dentist or optometrist.

(b) Perform delegated nursing or medical acts beyond basic nursing care under the direct supervision of an R.N., physician, podiatrist ~~or~~, dentist or optometrist. An L.P.N. shall, upon request of the board, provide documentation of his or her nursing education, training or experience which prepare the L.P.N. to competently perform these assignments.

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(END OF TEXT OF RULE)

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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 \_\_\_\_\_

Chairperson  
Board of Nursing

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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11/29/00

**STATE OF WISCONSIN  
BOARD OF NURSING**

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**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : BOARD OF NURSING  
BOARD OF NURSING : ADOPTING RULES  
: (CLEARINGHOUSE RULE 00-167)**

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TO: Senator Judy Robson, Senate Co-Chairperson  
Joint Committee for the Review of Administrative Rules  
Room 15 South, State Capitol  
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the BOARD OF NURSING is submitting in final draft form rules relating to defining the practice of nursing to include acting under the direction of optometrists.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

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**STATE OF WISCONSIN  
BOARD OF NURSING**

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**IN THE MATTER OF RULE-MAKING :**           **REPORT TO THE LEGISLATURE**  
**PROCEEDINGS BEFORE THE :**           **ON CLEARINGHOUSE RULE 00-167**  
**BOARD OF NURSING :**               **(s. 227.19 (3), Stats.)**

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**I. THE PROPOSED RULE:**

The proposed rule, including the analysis and text, is attached.

**II. REFERENCE TO APPLICABLE FORMS:**

No new or revised forms are required by these rules.

**III. FISCAL ESTIMATES:**

These rules will have no significant impact upon state or local units of government.

**IV. STATEMENT EXPLAINING NEED:**

1997 Wisconsin Act 62 amended the practice of nursing to include acting under the direction of optometrists. The practice of practical nursing means the performance for compensation of any simple acts in the care of convalescent, subacutely or chronically ill, injured or infirm persons, or of any act or procedure in the care of the more acutely ill, injured or infirm under the specific direction of a nurse, physician, podiatrist or optometrist. A simple act does not require any substantial nursing skill, knowledge or training, or the application of nursing principles based on biological, physical or social sciences, or the understanding of cause and effect in such acts and is one which is of a nature of those approved by the board for the curriculum of schools for licensed practical nursing.

The practice of professional nursing means the performance for compensation of any act in the observation or care of the ill, injured or infirm, or for the maintenance of health or prevention of illness of others, which requires substantial nursing skill, knowledge or training, or application of nursing principles based on biological, physical, and social sciences, such as the observation and recording of symptoms and reactions, the execution of procedures and techniques in the treatment of the sick under the general or special supervision or direction of a physician, podiatrist, dentist, or optometrist, or under an order of a person who is licensed to practice medicine, podiatry or dentistry in another state if that person prepared the order after examining the patient in that other state and directs that the order be carried out in this state, and the execution of general nursing procedures and techniques.



Also, this rule amends provisions of the administrative code in order to reflect the statutory change that expanded the definition of the practice of nursing to include acting under the direction of an optometrist.

**V. NOTICE OF PUBLIC HEARING:**

A public hearing was held on January 4, 2001. Peter Theo, Waunakee, WI, representing the Wisconsin Optometric Association, registered in support of the proposed rule. There were no other appearances at the public hearing nor were any written comments received.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

The recommendation suggested in the Clearinghouse Report was accepted in whole.

**VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:**

The rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

STATE OF WISCONSIN  
BOARD OF NURSING

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PROCEEDINGS BEFORE THE : BOARD OF NURSING  
BOARD OF NURSING : ADOPTING RULES  
: (CLEARINGHOUSE RULE 00-167)

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L.P.N. shall, upon request of the board, provide documentation of his or her nursing education, training or experience which prepare the L.P.N. to competently perform these assignments.

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(END OF TEXT OF RULE)

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Dated \_\_\_\_\_

Agency \_\_\_\_\_

Chairperson  
Board of Nursing

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3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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4/19/2001