

CR 89-75

RECEIVED

CERTIFICATE

MAY 9 1990
3:50pm
Revisor of Statutes
Bureau

STATE OF WISCONSIN

DEPARTMENT OF REGULATION AND LICENSING

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Ramona Weakland Warden, Director, Bureau of Health Service Professions in the Wisconsin Department of Regulation and Licensing and custodian of the official records of the Board of Nursing do hereby certify that the annexed rules were duly approved and adopted by the Board of Nursing on the 4th day of May, 1990.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the board at 1400 East Washington Avenue, Madison, Wisconsin this 4th day of May, 1990.

Ramona Weakland Warden
Ramona Weakland Warden, Director
Bureau of Health Service Professions
Department of Regulation and
Licensing

6-1-90

MAY 9 1990

STATE OF WISCONSIN
BOARD OF NURSING

Revisor of Statutes
Bureau

IN THE MATTER OF RULE-MAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	BOARD OF NURSING
BOARD OF NURSING	:	ADOPTING RULES
	:	CLEARINGHOUSE RULE 89-75

ORDER

AN ORDER to repeal N 3.03 (1) (b), N 3.03 (2) (b), N 5.02 (2), (3), (7) and (8), N 5.04, N 5.05, N 5.06 and N 7.02 (1), (3), (7), (9) and (10); to renumber N 3.03 (1) (e) and (f), N 3.03 (2) (e) and (f), N 5.02 (4), N 7.02 (2), (4) and (8); to renumber and amend N 3.03 (1) (c) and (d), N 3.03 (2) (c) and (d), N 5.02 (5) and (6) and N 7.02 (5) and (6); to amend N 3.01 (2), N 3.02 (1), (3), (4) and (6), N 3.03 (1) (intro), N 3.04 (2) and (6), N 3.05 (2) (a) to (c), N 3.05 (3), N 3.05 (4) (d), N 3.05 (7) (a), N 4 (title), N 4.01 (2), N 4.02 (2), (6) and (8), N 4.03 (title), N 4.03 (intro), N 4.03 (3), N 4.04 (title) and (1) (intro), N 4.04 (1) (c), (1) (d), (2) and (3), N 4.05 (1), (2), (3) and (6), N 4.08 (title), (1) and (2), N 5 (title), N 5.01 (2), N 5.02 (1), N 5.03 (title), (1), (2) and (3), N 5.06 (1), N 6.02 (5) and (12), N 6.03 (1) (c), N 6.03 (2) (intro), N 6.04 (title), N 6.04 (3) (intro), N 6.05, N 7.01 (2), N 7.02 (intro), N 7.03 (1) (intro.) and (d) to (g), (2) and (3), N 7.04 (3), (7), (8) and (10); to repeal and recreate N 4.05 (5) (a); and to create N 3.03 (1) (c) 1. to 6. and 3.03 (2) (c) 1. to 6. of the administrative code relating to changes in terminology and to requirements and procedures for obtaining a license as a registered nurse and as a licensed practical nurse by endorsement.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted: s. 441.06(1), 441.07, 441.10(3), 441.11(4), 441.15 Stats.

Statutes authorizing promulgation: ss. 15.08(5)(b), 227.11(2)(a), 440.03, Stats.

In this order the rules of the Board of Nursing in chapters N 3 through N 7 are modified to reflect 1987 Wisconsin Act 264 which changed the term used to describe the document received by a registered nurse from "certificate of registration" to "license." Other terminology changes are also made: "bureau of nursing" to "bureau of health service professions;" "registered" or "certified" to "licensed;" "accredited" or "state accredited" to "board-approved;" "supervision" is replaced by "direct supervision."

Section N 3.02 specifies that the Board of Nursing approves, but does not accredit, Wisconsin schools of nursing. The current title of the licensing bureau for nurses is indicated. A definition of "direct supervision" replaces the current definition of "supervision."

Amendments are made to section N 3.03 to specify the requirements for endorsement, and to permit applicants licensed in another state, but for whom the licensure examination was waived in the state of original licensure, to become licensed in Wisconsin by endorsement upon submission of certain qualifying information. Language is also added in section N 3.03, relating to required documentation for applicants licensed in another state where the licensure or examination was waived in the original state of licensure. Documents required by the board will attest to the minimal competence of the applicant to safely practice in Wisconsin without having taken and passed the NCLEX.

In Chapter N 4, terminology, including the chapter title, is changed to reflect the change in the terminology of "registration" and "certification" to "licensure." As in s. N 3.02, a definition of "direct supervision" replaces the current definition of "supervision" in s. N 4.02. Section N 4.02 (2) is amended to reflect a change in bureau name within the Department of Regulation and Licensing.

Section N 4.05 is amended to provide that the duration of temporary permits is to coincide with an RN permit to practice if applicable.

A correction is made in a cross reference to a provision in s. N 4.05 (6).

In Chapter N 5, terminology, including the chapter title, is changed to reflect the change in the terminology of "registration" to "license" or "licensure." Elimination of the terminology "certificate", "certificate holder" and "registrant" is reflected thereby expanding the meaning of "license" and "licensee" to include registered nurses and midwives.

In Chapter N 6, the meaning of "delegated nursing act" is modified to include "less-skilled assistant."

As in Chapter N 5, the terminology in Chapter N 7, "registrant" and "certificate holder" are eliminated. The definition of "license" and "licensee" are broadened to include registered nurses and nurse-midwives.

TEXT OF RULE

SECTION 1. N 3.01 (2) is amended to read:

N 3.01 (2) The intent of the board of nursing in creating this chapter is to specify the requirements and procedures for obtaining a ~~certificate of registration~~ license by endorsement as a registered nurse and for obtaining a license by endorsement as a licensed ~~trained~~ practical nurse.

SECTION 2. N 3.02 (1), (4) and (6) are amended to read:

N 3.02 (1) "~~Accredited~~ Board-approved school" means an institution which has a school, college, program or department of nursing which meets standards of the board or ~~of an accrediting body approved by the board~~ holds accreditation by a board-recognized nursing accreditation agency.

(4) "L.P.N." means licensed practical nurse, ~~licensed-trained practical-nurse-or-trained-practical-nurse.~~

(6) ~~"Supervision"~~ "Direct supervision" means immediate availability to continually ~~to~~ coordinate, direct and inspect ~~continually-and~~ at first hand the practice of another.

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

N 3.03 QUALIFICATIONS FOR ENDORSEMENT. (1) REGISTERED NURSE APPLICANT. A registered nurse holding a ~~certificate-of-registration~~ license in another state or U.S. territory or province of Canada may become ~~registered~~ licensed in Wisconsin provided the applicant:

SECTION 4. N 3.03 (1) (b) and (2) (b) are repealed.

SECTION 5. N 3.03 (1) (c) and (d) are renumbered (b) and (c) (intro) and amended to read:

N 3.03 (1) (b) Has ~~been~~ graduated from ~~an-accredited~~ a board-approved school of professional nursing;

(c) Has passed in the applicant's state of original licensure the national council licensure examination for registered nurses or the state board test pool examination for registered nurses or other examination approved by the board. An applicant licensed in another state for whom the licensure examination was waived in the original state of licensure may be licensed by the board upon submission of the following:

SECTION 6. N 3.03 (1) (c) 1. to 6. are created to read:

N 3.03 (1) (c) 1. Proof of graduation from a board-approved school of nursing in this country or the country of original licensure;

2. If originally licensed in a foreign country, proof of having passed the licensure examination in the country of original licensure;

3. If originally licensed in another state of the United States, proof that the requirements for licensure in that state were substantially equivalent to the requirements for licensure in Wisconsin at the time of original licensure;

4. Proof of current licensure in another state of the United States;

5. Verification of at least 2 years of full-time or equivalent safe practice as a registered nurse within the last 5 years; and

6. Verification of English proficiency.

SECTION 7. N 3.03 (1) (e) and (f) are renumbered (d) and (e).

SECTION 8. N 3.03 (2) (c) and (d) are renumbered (b) and (c) (intro) and amended to read:

N 3.03 (2) (b) Has been graduated from ~~an accredited~~ a board-approved school of practical nursing;

(c) Has passed in the applicant's state of original licensure the national council licensure examination for practical nurses or the state board test pool examination for practical nurses or other examination approved by the board. An applicant licensed in another state for whom the licensure examination was waived in the original state of licensure may be licensed by the board upon submission of the following:

SECTION 9. N 3.03 (2) (c) 1. to 6. are created to read:

N 3.03 (2) (c) 1. Proof of graduation from a board-approved school of nursing in this country or the country of original licensure;

2. If originally licensed in a foreign country, proof of having passed the licensure examination in the country of original licensure;

3. If originally licensed in another state of the United States, proof that the requirements for licensure in that state were substantially equivalent to the requirements for licensure in Wisconsin at the time of original licensure;

4. Proof of current licensure in another state of the United States;

5. Verification of at least 2 years of full-time or equivalent safe practice as a licensed practical nurse within the last 5 years; and

6. Verification of English proficiency.

SECTION 10. N 3.03 (2) (e) and (f) are renumbered (d) and (e).

SECTION 11. N 3.05 (4) (d) is amended to read:

N 3.05 (4) (d) An applicant licensed as an L.P.N. in another jurisdiction who holds a valid permit under this section may use the title "licensed practical nurse" or the letters "L.P.N." and shall be supervised according to the standards of practice for L.P.N.s under s. N ~~10-04~~ 6.04.

SECTION 12. N 3.05 (7) (a) is amended to read:

N 3.05 (7) (a) Violation of any of the rules of conduct for registered nurses and licensed practical nurses set forth in ch. N ~~11~~ 7.

SECTION 13. Chapter N 4 (title) is amended to read:

CHAPTER N 4 (title)

CERTIFICATION LICENSURE OF NURSE-MIDWIVES

SECTION 14. N 4.02 (8) is amended to read:

N 4.02 (8) "~~Supervision~~" "Direct supervision" means immediate availability to continually coordinate, direct and inspect continually and at first hand the practice of another.

SECTION 15. N 4.04 (1) (c) is amended to read:

N 4.04 (1) (c) Evidence of ~~certification of~~ completion of an educational program in nurse-midwifery ~~from approved by the American college of nurse-midwives and evidence of certification as a nurse-midwife from the American college of nurse-midwives;~~ approved by the American college of nurse-midwives and evidence of certification as a nurse-midwife from the American college of nurse-midwives;

SECTION 16. N 4.05 (5) (a) is repealed and recreated to read:

N 4.05 (5) (a) Except as provided in pars. (b) to (e), the duration of a temporary permit granted by the board is:

1. For applicants who have been granted a temporary permit to practice as a registered nurse, the period which coincides with the registered nurse temporary permit.

2. For other applicants, 6 months.

SECTION 17. N 4.05 (6) is amended to read:

N 4.05 (6) DENIAL. A temporary permit may be denied an applicant for any of the reasons in sub. ~~(6)~~ (7) for which the board may revoke a temporary permit or for the misrepresentation of being a nurse-midwife or a graduate nurse-midwife before the granting of a permit under this section.

SECTION 18. Chapter N 5 (title) is amended to read:

CHAPTER N 5 (title)

RENEWAL OF REGISTRATION, LICENSE OR CERTIFICATE

SECTION 19. N 5.01 (2) is amended to read:

N 5.01 (2) The intent of the board of nursing in adopting rules in this chapter is to specify the requirements and procedures for renewal of the registration license of a registered nurse, ~~license of a licensed practical nurse, and certificate of~~ or a nurse-midwife, for obtaining a duplicate renewal card, and for notifying the bureau of nursing health service professions of name or address changes.

SECTION 20. N 5.02 (2), (3), (7) and (8) are repealed.

SECTION 21. N 5.02 (4) is renumbered N 5.02 (2).

SECTION 22. N 5.02 (5) and (6) are renumbered (3) and (4) and amended to read:

N 5.02 (3) "License" means a license of a registered nurse, licensed practical nurse or nurse-midwife.

(4) "Licensee" means a person licensed as a registered nurse, licensed practical nurse or nurse mid-wife.

SECTION 23. N 5.03 (title) is amended to read:

N 5.03 (title) CURRENT LICENSE REQUIRED FOR PRACTICE.

SECTION 24. N 5.03 (1), (2) and (3) are amended to read:

N 5.03 (1) REGISTERED NURSES. Except as provided for in s. N 3.05 (4) (c), no person may practice or attempt to practice professional nursing, nor use the title, letters or anything else to indicate that he or she is a registered or professional nurse unless he or she has been granted registration a license under s. 441.06 (1), Stats., and holds a current registration license as set forth in the provisions for biennial renewal under s. N 5.04 (1) or 5.05.

(2) LICENSED PRACTICAL NURSES. Except as provided for in s. N 3.05 (4) (d), no person may hold himself or herself out as a licensed practical nurse nor use the title or letters "Licensed Practical Nurse" or "L.P.N.", "Trained Practical Nurse" or "T.P.N.", unless he or she has been granted a license under s. 441.10 (3) (a) or (d), Stats., and holds a current license as set forth in the provisions for biennial renewal under s. N 5.04 (2) or 5.05.

(3) NURSE-MIDWIVES. No person may practice or attempt to practice nurse-midwifery, nor use the title or letters "Certified Nurse-Midwife" or "C.N.M.", "Nurse-Midwife" or "N.M.", or anything else to indicate that he or she is a nurse-midwife unless he or she has been granted a certificiate license under s. 441.15 (3) (a), Stats., and holds a current certifiicate license as set forth in provisions for biennial renewal under s. 5.04 (3) or 5.05.

SECTION 25. N 5.04, 5.05 and 5.06 are repealed.

SECTION 26. N 6.02 (5) and (12), 6.03 (1) (c) and 6.03 (2) (intro) are amended to read:

N 6.02 (5) "Delegated nursing act" means acts delegated to an R.N. and L.P.N. or less-skilled assistant by an R.N.

N 6.02 (12) "L.P.N." means a licensed ~~trained~~ practical nurse licensed under ch. 441, Stats.

N 6.03 (1) (c) Intervention. Intervention is the nursing action to implement the plan of care by directly administering care or by directing, and supervising nursing acts delegated to ~~R.N.'s~~, L.P.N.'s or less skilled assistants.

N 6.03 (2) PERFORMANCE OF DELEGATED MEDICAL ACTS. In the performance of delegated medical acts ~~in the treatment of the sick~~ an R.N. shall:

SECTION 27. N 6.04 (title) is amended to read:

N 6.04 (title) STANDARDS OF PRACTICE FOR LICENSED PRACTICAL NURSES.

SECTION 28. N 6.04 (3) (intro) and 6.05 are amended to read:

N 6.04 (3) ASSUMPTION OF CHARGE NURSE POSITION IN NURSING HOMES. In assuming the position of charge nurse in a nursing home as defined in ~~s. 50.01-(3)~~ 50.04 (2) (b), Stats., an L.P.N. shall:

N 6.05 Violations of standards. ~~Violations~~ A violation of the standards of practice constitutes unprofessional conduct or misconduct and may result in the board limiting, suspending, revoking or denying renewal of the ~~certificate of registration or~~ license or in the board reprimanding an R.N. or L.P.N.

SECTION 29. N 7.01 (2) and 7.02 (intro) are amended to read:

N 7.01 (2) The intent of the board of nursing in adopting this chapter is to specify grounds for limiting, suspending, revoking or denying renewal of a ~~registration, license or certificate~~ or for reprimanding a ~~registrant, licensee or certificate-holder~~.

N 7.02 Definitions. As ~~use~~ used in this chapter,

SECTION 30. N 7.02 (1), (3), (7), (9), and (10) are repealed.

SECTION 31. N 7.02 (2), (4) and (8) are renumbered (1), (2) and (5).

SECTION 32. N 7.02 (5) and (6) are renumbered (3) and (4) and amended to read:

N 7.02 (3) "License" means a license of a registered nurse, licensed practical nurse or nurse-midwife.

(4) "Licensee" means a person licensed as a registered nurse, licensed practical nurse or nurse-midwife.

SECTION 33. N 7.03 (1) (intro.) and (d) to (g), (2) and (3), 7.04 (3), (7), (8) and (10) are amended to read:

N 7.03 (1) As used in s. 441.07 (1) (c), Stats., "negligence" means a substantial departure from the standard of care ordinarily exercised by a competent ~~registrant or~~ licensee. "Negligence" includes but is not limited to the following conduct:

(d) Failing to execute a medical order unless the order is inappropriate and the ~~registrant-or~~ licensee reports the inappropriate order to a nursing supervisor or other appropriate person;

(e) Executing an order which the ~~registrant-or~~ licensee knew or should have known would harm or present the likelihood of harm to a patient;

(f) Failing to report to a nursing supervisor or appropriate person the existence of a medical or nursing order which the ~~registrant-or~~ licensee knew or should have known would harm or present the likelihood of harm to a patient; or,

(g) Offering or performing services as a licensed practical nurse or registered nurse for which the licensee ~~or-registrant~~ is not qualified by education, training or experience.

(2) "Abuse of alcohol or other drugs" is the use of alcohol or any drug to an extent that such use impairs the ability of the ~~registrant-or~~ licensee to safely or reliably practice.

(3) "Mental incompetency" is evidenced by conduct which reflects an impaired ability of the ~~registrant-or~~ licensee to safely or reliably perform duties. "Mental incompetency" also includes, but is not limited to, adjudication of incompetence by a court of law.

N 7.04 (3) Failing to report to the board or to institutional supervisory personnel any violation of the rules of this chapter by a ~~registrant-or~~ licensee. This provision does not require a nurse to report treatment information which would fall within the nurse-patient privilege set forth in s. 905.04 (1) (b), Stats.;

(7) Having disciplinary action through final board adjudication taken against one's ~~certificate-or~~ license in another jurisdiction;

(8) Impersonating another ~~registrant-or~~ licensee;

(10) Revealing to other personnel not engaged in the care of the patient or to members of the public information which concerns a patient's medical condition unless release of the information is authorized by the patient or required or authorized by law. This provision shall not be construed to prevent a licensee ~~or-registrant~~ from cooperating with the Board or the Department of Regulation and Licensing in the investigation of complaints;

SECTION 34. TERMINOLOGY CHANGES.

Wherever the term "certification" or "registration" appears in the following sections of the Wisconsin Administrative Code, the term "licensure" is substituted: N 4.01 (2), 4.03 (title) and (intro), 4.04 (title) and (1) (intro), 4.04 (1) (d), 4.05 (1), 4.08 (title), 5.03 (1).

Wherever the term "bureau of nursing" appears in the following sections of the Wisconsin Administrative Code, the term "bureau of health service professions" is substituted: N 3.02 (3), 4.02 (2), 4.05 (2), 5.01 (2) and 5.02 (1).

Wherever the term "certificate of registration", "certificate" or "registration" appears in the following sections of the Wisconsin Administrative Code, the term "license" is substituted: N 3.04 (6), 4.04 (1) (d), (2) and (3), 4.08 (2) and 5.01 (2).

Wherever the term "registered" or "certified" appears in the following sections of the Wisconsin Administrative Code, the term "licensed" is substituted: N 4.02 (6), 4.03 (3), 4.05 (1), and 4.08 (1).

Wherever the term "an accredited" or "state accredited" appears in the following sections of the Wisconsin Administrative Code, the term "a board-approved" is substituted: N 3.04 (2) and 3.05 (2) (a) to (c).

Wherever the term "supervision" appears in the following sections of the Wisconsin Administrative Code, the term "direct supervision" is substituted: N 3.05 (3) and 4.05 (3).

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 5-4-90

Agency

Jacqueline Johnson RN
Chairperson
Board of Nursing

RULES-118

CORRESPONDENCE/MEMORANDUM

STATE OF WISCONSIN

DATE: May 9, 1990

FILE REF:

RECEIVED

TO: Gary Poulson
Assistant Revisor of Statutes

MAY 9 1990

FROM: Pamela Haack, Administrative Assistant
Department of Regulation and Licensing

Revisor of Statutes
Bureau

SUBJECT: Final Rulemaking Order

Agency: BOARD OF NURSING

Clearinghouse Rule: 89-75

Attached is a copy and a certified copy of a final order adopting rules.

Would you please publish these rules in the code.

Thank you.