

1999 DRAFTING REQUEST

Bill

Received: **02/19/99**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **DuWayne Johnsrud (608) 266-3534**

By/Representing: **sarah**

This file may be shown to any legislator: **NO**

Drafter: **kunkemd**

May Contact:

Alt. Drafters:

Subject: **Occupational Reg. - misc**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Interstate nursing compact

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P1			ismith 03/3/99	_____	lrb_docadmin 03/3/99		S&L
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/2	grantpr 03/17/99	wjackson 03/17/99	jfrantze 03/19/99	_____	lrb_docadmin 03/19/99	lrb_docadmin 03/19/99	

Vers. Drafted Reviewed Typist Proofed Submitted Jacketed Required

FE Sent For:

4/22/99

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1/2 3/17 WLJ

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FINAL—November 6, 1998
NURSE LICENSURE COMPACT

ARTICLE I
Findings and Declaration of Purpose

- (a) The party states find that:
- (1) the health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;
 - (2) violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;
 - (3) the expanded mobility of nurses and the use of advanced communication technologies as part of our nation's healthcare delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;
 - (4) new practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;
 - (5) the current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.
- (b) The general purposes of this Compact are to:
- (1) facilitate the states' responsibility to protect the public's health and safety;
 - (2) ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;
 - (3) facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;
 - (4) promote compliance with the laws governing the practice of nursing in each jurisdiction;
 - (5) invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

ARTICLE II
Definitions

As used in this Compact:

- (a) "Adverse Action" means a home or remote state action.
- (b) "Alternative program" means a voluntary, non-disciplinary monitoring program approved by a nurse licensing board.
- (c) "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a non-profit organization composed of and controlled by state nurse licensing boards.
- (d) "Current significant investigative information" means:
- (1) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

- (2) **investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.**
- (e) **"Home state" means the party state which is the nurse's primary state of residence.**
- (f) **"Home state action" means any administrative, civil, equitable or criminal action permitted by the home state's laws which are imposed on a nurse by the home state's licensing board or other authority including actions against an individual's license such as: revocation, suspension, probation or any other action which affects a nurse's authorization to practice.**
- (g) **"Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.**
- (h) **"Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as: revocation, suspension, probation or any other action which affects a nurse's authorization to practice.**
- (i) **"Nurse" means a registered nurse or licensed practical/vocational nurse, as those terms are defined by each party's state practice laws.**
- (j) **"Party state" means any state that has adopted this Compact.**
- (k) **"Remote state" means a party state, other than the home state,**
(1) **where the patient is located at the time nursing care is provided, or,**
(2) **in the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.**
- (l) **"Remote state action" means**
(1) **any administrative, civil, equitable or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority including actions against an individual's multistate licensure privilege to practice in the remote state, and**
(2) **cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof.**
- (m) **"State" means a state, territory, or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.**
- (n) **"State practice laws" means those individual party's state laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.**

ARTICLE III General Provisions and Jurisdiction

- (a) **A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in such party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.**

- (b) Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.
- (c) Every nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party state.
- (d) This Compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if one is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.
- (e) Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided for under the laws of each party state. However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

ARTICLE IV

Applications for Licensure in a Party State

- (a) Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the licensee.
- (b) A nurse in a party state shall hold licensure in only one party state at a time, issued by the home state.
- (c) A nurse who intends to change primary state of residence may apply for licensure in the new home state in advance of such change. However, new licenses will not be issued by a party state until after a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.
- (d) When a nurse changes primary state of residence by:
 - (1) moving between two party states, and obtains a license from the new home state, the license from the former home state is no longer valid;
 - (2) moving from a non-party state to a party state, and obtains a license from the new home state, the individual state license issued by the non-party state is not affected and will remain in full force if so provided by the laws of the non-party state;
 - (3) moving from a party state to a non-party state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

ARTICLE V Adverse Actions

In addition to the General Provisions described in Article III, the following provisions apply:

- (a) The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.
- (b) The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. It shall also have the authority to take appropriate action(s), and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.
- (c) A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the license issued by the home state.
- (d) For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.
- (e) The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.
- (f) Nothing in this Compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action and that such participation shall remain non-public if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

ARTICLE VI Additional Authorities Invested in Party State Nurse Licensing Boards

Notwithstanding any other powers, party state nurse licensing boards shall have the authority to:

- (a) if otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse;
- (b) issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses and/or evidence are located.
- (c) issue cease and desist orders to limit or revoke a nurse's authority to practice in their state;
- (d) promulgate uniform rules and regulations as provided for in Article VIII(c).

ARTICLE VII
Coordinated Licensure Information System

- (a) All party states shall participate in a cooperative effort to create a coordinated data base of all licensed registered nurses and licensed practical/vocational nurses. This system will include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.
- (b) Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials, to the coordinated licensure information system.
- (c) Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.
- (d) Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.
- (e) Any personally identifiable information obtained by a party states' licensing board from the coordinated licensure information system may not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.
- (f) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information, shall also be expunged from the coordinated licensure information system.
- (g) The Compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this Compact.

ARTICLE VIII
Compact Administration and Interchange of Information

- (a) The head of the nurse licensing board, or his/her designee, of each party state shall be the administrator of this Compact for his/her state.
- (b) The Compact administrator of each party state shall furnish to the Compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this Compact.
- (c) Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this Compact. These uniform rules shall be adopted by party states, under the authority invested under Article VI (d).

ARTICLE IX
Immunity

No party state or the officers or employees or agents of a party state's nurse licensing board who acts in accordance with the provisions of this Compact shall be liable on account of any act or omission in good faith while engaged in the performance of their duties under this Compact. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE X
Entry into Force, Withdrawal and Amendment

- (a) This Compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.
- (b) No withdrawal shall affect the validity or applicability by the licensing boards of states remaining party to the Compact of any report of adverse action occurring prior to the withdrawal.
- (c) Nothing contained in this Compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this Compact.
- (d) This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

ARTICLE XI
Construction and Severability

- (a) This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state party thereto, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.
- (b) In the event party states find a need for settling disputes arising under this Compact:
 - (1) The party states may submit the issues in dispute to an arbitration panel which will be comprised of an individual appointed by the Compact administrator in the home state; an individual appointed by the Compact administrator in the remote state(s) involved; and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute.
 - (2) The decision of a majority of the arbitrators shall be final and binding.

DRAFT—October 29, 1998

OPTIONAL ENABLING ACT PROVISIONS

Set out below are a series of enabling act provisions which may be appropriate for states introducing the compact, depending on specific state requirements.

1.1. The Nurse Licensure Compact is hereby enacted and entered into with all other jurisdictions that legally join in the compact, which is, in form, substantially as follows:

2. "The head of the nurse licensing board" as used to define the compact administrator in Article VIII(a) shall mean The Director of the Bureau of Health Service Professions

X Upon the effective date of this Compact, the licensing board will participate in a Compact Evaluation Initiative, designed to evaluate the effectiveness and operability of the Compact. Such Compact Evaluation Initiative will be conducted by an outside researcher. A component of the Evaluation shall include a remote state identification system through which nurses will designate those remote states in which the nurse is practicing. A nurse's practice information in such identification system will be updated upon issuance and renewal of the nurse license. The Evaluation shall continue until the year 2005, after which time a report shall be produced for comment by the participating licensing boards and will be submitted to the legislature in the form of a Nurse Licensure Compact evaluation report.

X To facilitate cross-state enforcement efforts, the legislature finds that it is necessary for [this state] to have the power to recover from the affected nurse the costs of investigations and disposition of cases resulting from adverse actions taken by this state against that nurse. Coordinating language shall be inserted in the appropriate location in the Nurse Practice Act.

5. This Compact is designed to facilitate the regulation of nurses, and does not relieve employers from complying with statutorily imposed obligations.

6. This Compact does not supercede existing state labor laws.

RN/LPN LICENSURE**INTERSTATE LICENSURE VIA MUTUAL RECOGNITION MODEL:**

- Allows a nurse to have one license (in his/her state of residency) and practice in other states, as long as that nurse acknowledges that he/she is subject to each state's practice laws and discipline
- Practice across state lines is allowed either physically or electronically
- To achieve, each state must enter into an interstate compact that allows a nurse to practice in more than one state

AREAS ADDRESSED BY THE MUTUAL RECOGNITION INTERSTATE COMPACT:**JURISDICTION:**

- Nurse is licensed in the state of residence (home state)
- Other states that are parties to the compact (remote states) grant privilege through the compact for the nurse to practice in their state

DISCIPLINE:

- Both the home and remote states may take disciplinary actions
- Only the home state may take licensure action
- Remote state may take any action allowed by state law short of licensure action
- Remote may limit or deny practice in that state

INFORMATION SHARING:

- The coordinated information system will include information on licensure and disciplinary history on each nurse

ADMINISTRATION OF THE COMPACT:

- The compact provides for the formation of compact administrators who are the head of the nurse licensing board in each state.
- The compact provides for the ability to develop rules and regulations to administer the compact

264-8522

Attn: Mark
K.

1999

Date (time) needed _____

LRB - 2286, P1

BILL

DN

PG & MDK: WLJ: _____

WPO: Please print with line numbers.

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; relating to: *adopting the nurse license compact and granting rule-making authority.*

[NOTE: See section standard phrases

These two drafts are identical.

annual, for specific order of

Analysis by the Legislative Reference Bureau

For the 3 titles used in an analysis, in the component bar:

For the main heading [old =M], execute: create → anal: → title: → head

For the subheading [old =S], execute: create → anal: → title: → sub

For the sub-subheading [old =P], execute: create → anal: → title: → sub-sub

ff This is a preliminary draft. ~~The~~ An analysis will be provided ⁱⁿ a later version. ©
TE-5L

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

SEC. # ~~WRW~~ subchapter I (title)
chapter
of ch. 441 [precedes 441.01] of the statutes is
created to read:

center

CHAPTER 441 ← ⊕

SUBCHAPTER I

REGULATION OF NURSING

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB
.....

subchapter

SECTION 1. 441.01 (1) of the statutes is amended to read:

441.01 (1) In this ~~chapter~~, "board" means board of nursing.

History: 1971 c. 125; 1975 c. 37; 1977 c. 29, 418; 1979 c. 34; 1983 a. 253, 1983 a. 273 ss. 2, 8; 1985 a. 340; 1987 a. 264.

SECTION 2. 441.01 (3) of the statutes is amended to read:

441.01 (3) 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 this ~~chapter~~ in accordance with ch. 227.

History: 1971 c. 125; 1975 c. 37; 1977 c. 29, 418; 1979 c. 34; 1983 a. 253, 1983 a. 273 ss. 2, 8; 1985 a. 340; 1987 a. 264.

SECTION 3. 441.06 (1) of the statutes is amended to read:

441.06 (1) An applicant for licensure as a registered nurse who complies with the requirements of this ~~chapter~~ and satisfactorily passes an examination shall receive a license. The holder of such a license of another state or territory or province of Canada may be granted a license without examination if the holder's credentials of general and professional educational qualifications and other qualifications are comparable to those required in this state during the same period and if the board is satisfied from the holder's employment and professional record that the holder is currently competent to practice the profession. The board shall evaluate the credentials and determine the equivalency and competency in each case. The application for licensure without examination shall be accompanied by the fee prescribed in s. 440.05 (2).

History: 1971 c. 125, 215; 1973 c. 159; 1975 c. 39, 199; 1977 c. 29, 164; 1979 c. 34, 162; 1987 a. 27, 264; 1991 a. 39.

SECTION 4. 441.07 (1) (b) of the statutes is amended to read:

INS. J
IA

subchapter

441.07 (1) (b) One or more violations of this ~~chapter~~ or any rule adopted by the board under the authority of this ~~chapter~~.

History: 1977 c. 418; 1979 c. 317, 337; 1981 c. 162; 1983 a. 273 s. 8; 1985 a. 29, 340; 1987 a. 264; 1993 a. 138; 1995 a. 309; 1997 a. 237.

SECTION 5. 441.07 (1m) of the statutes is amended to read:

441.07 (1m) The board may use any information obtained by the board or the department under s. 655.17 (7) (b), as created by 1985 Wisconsin Act 29, in investigations and disciplinary proceedings, including public disciplinary proceedings, conducted under this ~~chapter~~.

History: 1977 c. 418; 1979 c. 317, 337; 1981 c. 162; 1983 a. 273 s. 8; 1985 a. 29, 340; 1987 a. 264; 1993 a. 138; 1995 a. 309; 1997 a. 237.

SECTION 6. 441.10 (3) (a) of the statutes is amended to read:

441.10 (3) (a) On complying with this ~~chapter~~ relating to applicants for licensure as licensed practical nurses, and passing an examination, the applicant shall receive a license as a licensed practical nurse. The holder of the license is a "licensed practical nurse" and may append the letters "L.P.N." to his or her name. The board may reprimand or may limit, suspend or revoke the license of a licensed practical nurse under s. 441.07.

INS. J
2A

History: 1971 c. 125, 215; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 34, 162, 337; 1981 c. 380; 1981 c. 391 s. 211; 1983 a. 273 ss. 3, 8; 1987 a. 27, 264; 1991 a. 39.

SECTION 7. 441.11 of the statutes is ^{are} amended to read:

NO (B) (1) to (3)

441.11 Definitions. (1) FOR COMPENSATION. Wherever the term

"compensation" is used in this ~~chapter~~ it shall include indirect compensation as well as direct compensation and also the expectation thereof whether actually received or not.

(2) NURSE AND NURSING. Except as provided under s. 441.08, wherever the term "nurse" is used in this ~~chapter~~ without modification or amplification it shall mean only a registered nurse. Wherever the term "nursing" is used in this ~~chapter~~ without modification or amplification it shall mean the practice of professional nursing as specified in sub. (4).

subchapter

(3) PRACTICE OF PRACTICAL NURSING. The practice of practical nursing under this ~~chapter~~ 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 licensed under ch. 448, dentist licensed under ch. 447 or optometrist licensed under ch. 449, 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. A simple act is one ~~which~~ ^{that} 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~~ ^{that} is of a nature of those approved by the board for the curriculum of schools for licensed practical nurses.

NOTE: NOTE: Sub. (3) is repealed and recreated eff. 4-1-00 by 1997 Wis. Act 62 to read: NOTE:

SEC. # RC 441.11(3), as created by 1997 Wisconsin Act 62, subchapter

441.11 (3) PRACTICE OF PRACTICAL NURSING. The practice of practical nursing under this ~~chapter~~ 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 licensed under ch. 448, dentist licensed under ch. 447 or optometrist licensed under ch. 449, or under an order of a person who is licensed to practice medicine, podiatry, dentistry or optometry 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. A simple act is one ~~which~~ ^{that} 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~~ ^{that} is of a nature of those approved by the board for the curriculum of schools for licensed practical nurses. (B)

441.11 (4) PRACTICE OF PROFESSIONAL NURSING. The practice of professional nursing within the terms of this ~~chapter~~ 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 act 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 licensed under ch. 448, dentist licensed under ch. 447 or optometrist licensed under

subchapter

SEC. # AM; 441.11(4)

ch. 449, 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. Except as provided in s. 50.04 (2) (b), the practice of professional nursing includes the supervision of a patient and the supervision and direction of licensed practical nurses and less skilled assistants.

SEC. # RC, 441.11 (4), is affected by 1997 Wisconsin Act 62,

NOTE: NOTE: Sub. (4) is repealed and recreated eff. 4-1-00 by 1997 Wis. Act 62 to read: NOTE:

441.11

(4) PRACTICE OF PROFESSIONAL NURSING. The practice of professional nursing within the terms of this ~~chapter~~ *subchapter* 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 act 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 licensed under ch. 448, dentist licensed under ch. 447 or optometrist licensed under ch. 449, or under an order of a person who is licensed to practice medicine, podiatry, dentistry or optometry 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. Except as provided in s. 50.04 (2) (b), the practice of professional nursing includes the supervision of a patient and the supervision and direction of licensed practical nurses and less skilled assistants.

No (B)

History: 1975 c. 303; 1977 c. 86; 1981 c. 314, 317; 1983 a. 189; 1983 a. 273 s. 8; 1987 a. 264; 1991 a. 181; 1997 a. 62.

SECTION 8. 441.115 (1) of the statutes is amended to read:

441.115 (1) This ~~chapter~~ *subchapter* shall not be construed to affect nursing by friends, members of the family or undergraduates in an accredited school, nor be construed to interfere with members of religious communities or orders having charge of hospitals or taking care of the sick in their homes, except that none of such excepted persons while engaged in such activities shall represent ~~himself~~ *himself or* himself as a registered, trained, certified or graduate nurse unless registered under this ~~chapter~~ *subchapter*.

History: 1983 a. 189 s. 273; 1995 a. 146.

SECTION 9. 441.115 (2) (a) of the statutes is amended to read:

441.115 (2) (a) In this subsection, "nursing credential" means a license, permit or certificate of registration or certification that is granted to a person by another state or territory or by a foreign country or province and that authorizes or qualifies the person holding the credential to perform acts that are substantially the same as

subchapter

(2) No action may be brought or other proceeding had to recover compensation for professional nursing services unless at the time such services were rendered the person rendering the same was a registered nurse or had a temporary permit issued under this ~~chapter~~.

(3) The remedy of injunction may be used in enforcing this ~~chapter~~.

SECTION 13. 441.15 (3) (a) of the statutes is amended to read:

441.15 (3) (a) The board shall grant a license to engage in the practice of nurse-midwifery to any person licensed as a registered nurse under this ~~chapter~~ who meets the educational and training prerequisites established by the board for the practice of nurse-midwifery and who pays the fee specified under s. 440.05 (1).

History: 1979 c. 317; 1983 a. 273; 1987 a. 264; 1991 a. 39.

subchapter

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2286/lins
MDK:.....

SEC. # ~~441.50~~ ^{center} subchapter II of chapter 441 [precedes 441.50] of the statutes
is created to read:
SUBCHAPTER II
NURSE LICENSURE COMPACT

1 441.50 ^(B) NURSE LICENSURE COMPACT ^(C)

2 ^(B1) ARTICLE I ^(C5)
3 Findings and Declaration of Purpose ^(C5)

4 (a) The party states find ~~that~~ ^{all of the following}
5 ~~(1)~~ ^{1. That} the health and safety of the public are affected by the degree of compliance
6 with and the effectiveness of enforcement activities related to state nurse licensure
7 laws ^(C)
8 ~~(2)~~ ^{2. That} violations of nurse licensure and other laws regulating the practice of
9 nursing may result in injury or harm to the public ^(C)
10 ~~(3)~~ ^{3. That} the expanded mobility of nurses and the use of advanced communication
11 technologies as part of our nation's healthcare delivery system require greater
12 coordination and cooperation among states in the areas of nurse licensure and
13 regulation ^(C)
14 ~~(4)~~ ^{4. That} new practice modalities and technology make compliance with individual
15 state nurse licensure laws difficult and complex ^(C)
16 ~~(5)~~ ^{5. That} the current system of duplicative licensure for nurses practicing in multiple
17 states is cumbersome and redundant to both nurses and states.

18 (b) The general purposes of this Compact are ~~to~~ ^{as follows}
19 ~~(1)~~ ^{1. To} facilitate the states' responsibility to protect the public's health and safety ^(C)
20 ~~(2)~~ ^{2. To} ensure and encourage the cooperation of party states in the areas of nurse
21 licensure and regulation ^(C)
22 ~~(3)~~ ^{3. To} facilitate the exchange of information between party states in the areas of
23 nurse regulation, investigation and adverse actions ^(C)

1 ^{4. To} ~~to~~ promote compliance with the laws governing the practice of nursing in each
2 jurisdiction. [⊙]

3 ^{5. To} ~~to~~ invest all party states with the authority to hold a nurse accountable for
4 meeting all state practice laws in the state in which the patient is located at the time
5 care is rendered through the mutual recognition of party state licenses.

6 [⊙] (2) [⊙] ARTICLE II - [⊙]
7 [⊙] Definitions - [⊙]
8 [⊙] As used in this Compact:

9 (a) "Adverse ~~Action~~" means a home or remote state action.
10 [⊙] (b) "Alternative program" means a voluntary, non-[✓]disciplinary monitoring
11 program approved by a nurse licensing board.

12 (c) "Coordinated licensure information system" means an integrated process for
13 collecting, storing [⊙] and sharing information on nurse licensure and enforcement
14 activities related to nurse licensure laws, which is administered by a non-[⊙]profit
15 organization composed of and controlled by state nurse licensing boards.

16 (d) "Current significant investigative information" means: ^{any of the following}
17 ^{1.} ~~investigative~~ information that a licensing board, after a preliminary inquiry
18 that includes notification and an opportunity for the nurse to respond if required by
19 state law, has reason to believe is not groundless and, if proved true, would indicate
20 more than a minor infraction. [⊙]

21 ^{2.} ~~investigative~~ information that indicates that the nurse represents an
22 immediate threat to public health and safety regardless of whether the nurse has
23 been notified and had an opportunity to respond.

24 [⊙] (e) "Home state" means the party state ^{that} ~~which~~ is the nurse's primary state of
25 residence.

1 (f) "Home state action" means any administrative, civil, equitable or criminal
 2 action permitted by the home state's laws ^{that} ~~which~~ are imposed on a nurse by the home
 3 state's licensing board or other authority including actions against an individual's
 4 license, such as ~~of~~ revocation, suspension, probation or any other action ^{that} ~~which~~ affects
 5 a nurse's authorization to practice.

6 (g) "Licensing board" means a party state's regulatory body responsible for
 7 issuing nurse licenses.

8 (h) "Multistate licensure privilege" means current, official authority from a
 9 remote state permitting the practice of nursing as either a registered nurse or a
 10 licensed practical/vocational nurse in such party state. All party states have the
 11 authority, in accordance with existing state due process law, to take actions against
 12 the nurse's privilege, such as ~~of~~ revocation, suspension, probation or any other action
 13 ^{that} ~~which~~ affects a nurse's authorization to practice.

14 (i) "Nurse" means a registered nurse or licensed practical/vocational nurse, as
 15 those terms are defined by each party's state practice laws.

16 (j) "Party state" means any state that has adopted this Compact.

17 (k) "Remote state" means a party state, other than the home state,
 18 ^{not} ~~where~~ where the patient is located at the time nursing care is provided, or,
 19 ^{not} ~~in the case of the practice of nursing not involving a patient, in such party~~
 20 state where the recipient of nursing practice is located.

21 (l) "Remote state action" means ^{any of the following:}
 22 ^{1.} ~~any~~ any administrative, civil, equitable or criminal action permitted by a remote
 23 state's laws ^{that} ~~which~~ are imposed on a nurse by the remote state's licensing board or
 24 other authority including actions against an individual's multistate licensure
 25 privilege to practice in the remote state, ~~and~~ ^{and}

2.
 1 ~~(2)~~ cease and desist and other injunctive or equitable orders issued by remote
 2 states or the licensing boards thereof.

3 (m) "State" means a state, territory, or possession of the United States, the
 4 District of Columbia or the Commonwealth of Puerto Rico.

5 (n) "State practice laws" means those individual party's state laws and
 6 regulations that govern the practice of nursing, define the scope of nursing practice,
 7 and create the methods and grounds for imposing discipline. "State practice laws"
 8 does not include the initial qualifications for licensure or requirements necessary to
 9 obtain and retain a license, except for qualifications or requirements of the home
 10 state.

11 **(B)** (3) **(CS)** ARTICLE III — **(CS)**
 12 General Provisions and Jurisdiction **(C)**

13 (a) A license to practice registered nursing issued by a home state to a resident
 14 in that state will be recognized by each party state as authorizing a multistate
 15 licensure privilege to practice as a registered nurse in such party state. A license to
 16 practice licensed practical/vocational nursing issued by a home state to a resident in
 17 that state will be recognized by each party state as authorizing a multistate licensure
 18 privilege to practice as a licensed practical/vocational nurse in such party state. In
 19 order to obtain or retain a license, an applicant must meet the home state's
 20 qualifications for licensure and license renewal as well as all other applicable state
 21 laws.

22 (b) Party states may, in accordance with state due process laws, limit or revoke
 23 the multistate licensure privilege of any nurse to practice in their state and may take
 24 any other actions under their applicable state laws necessary to protect the health
 25 and safety of their citizens. If a party state takes such action, it shall promptly notify

1 the administrator of the coordinated licensure information system. The
2 administrator of the coordinated licensure information system shall promptly notify
3 the home state of any such actions by remote states.

4 (c) Every nurse practicing in a party state must comply with the state practice
5 laws of the state in which the patient is located at the time care is rendered. In
6 addition, the practice of nursing is not limited to patient care, but shall include all
7 nursing practice as defined by the state practice laws of a party state. The practice
8 of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the
9 courts, as well as the laws, in that party state.

10 (d) This compact does not affect additional requirements imposed by states for
11 advanced practice registered nursing. However, a multistate licensure privilege to
12 practice registered nursing granted by a party state shall be recognized by other
13 party states as a license to practice registered nursing if one is required by state law
14 as a precondition for qualifying for advanced practice registered nurse
15 authorization.

16 (e) Individuals not residing in a party state shall continue to be able to apply
17 for nurse licensure as provided for under the laws of each party state. However, the
18 license granted to these individuals will not be recognized as granting the privilege
19 to practice nursing in any other party state unless explicitly agreed to by that party
20 state.

21 (4) ^(CS) ARTICLE IV -
22 Applications for Licensure in a Party State ^(CS) (D)

23 (a) Upon application for a license, the licensing board in a party state shall
24 ascertain, through the coordinated licensure information system, whether the
25 applicant has ever held, or is the holder of, a license issued by any other state,

1 whether there are any restrictions on the multistate licensure privilege, and whether
2 any other adverse action by any state has been taken against the license.

3 (b) A nurse in a party state shall hold licensure in only one party state at a time,
4 issued by the home state.

5 (c) A nurse who intends to change ^{his or her} primary state of residence may apply for
6 licensure in the new home state in advance of such change. However, new licenses
7 will not be issued by a party state until after a nurse provides evidence of ^{the} change in ^{his or her}
8 primary state of residence satisfactory to the new home state's licensing board.

9 (d) ^{1.} When a nurse changes ^{his or her} primary state of residence by
10 ~~moving~~ moving between two party states, and obtains a license from the new home
11 state, the license from the former home state is no longer valid.

12 ^{2. When a nurse changes his or her primary state of residence by}
~~moving~~ moving from a non-party state to a party state, and obtains a license from
13 the new home state, the individual state license issued by the non-party state is not

14 affected and will remain in full force if so provided by the laws of the non-party state.

15 ^{3. When a nurse changes his or her primary state of residence by}
~~moving~~ moving from a party state to a non-party state, the license issued by the
16 prior home state converts to an individual state license, valid only in the former home
17 state, without the multistate licensure privilege to practice in other party states.

18 (5) ⁽⁵⁾ ARTICLE V - ⁽⁵⁾

19 Adverse Actions ⁽⁵⁾

20 In addition to the General Provisions described in ~~Article III~~ ^{sub. (3)}, the following
21 provisions apply:

22 (a) The licensing board of a remote state shall promptly report to the
23 administrator of the coordinated licensure information system any remote state
24 actions including the factual and legal basis for such action, if known. The licensing
25 board of a remote state shall also promptly report any significant current

1 investigative information yet to result in a remote state action. The administrator
2 of the coordinated licensure information system shall promptly notify the home
3 state of any such reports.

4 (b) The licensing board of a party state shall have the authority to complete any
5 pending investigations for a nurse who changes ^{his or her} primary state of residence during the
6 course of such investigations. It shall also have the authority to take appropriate
7 actions, and shall promptly report the conclusions of such investigations to the
8 administrator of the coordinated licensure information system. The administrator
9 of the coordinated licensure information system shall promptly notify the new home
10 state of any such actions.

11 (c) A remote state may take adverse action affecting the multistate licensure
12 privilege to practice within that party state. However, only the home state shall have
13 the power to impose adverse action against the license issued by the home state.

14 (d) For purposes of imposing adverse action, the licensing board of the home
15 state shall give the same priority and effect to reported conduct received from a
16 remote state as it would if such conduct had occurred within the home state. In so
17 doing, it shall apply its own state laws to determine appropriate action.

18 (e) The home state may take adverse action based on the factual findings of the
19 remote state, so long as each state follows its own procedures for imposing such
20 adverse action.

21 (f) Nothing in this Compact shall override a party state's decision that
22 participation in an alternative program may be used in lieu of licensure action and
23 that such participation shall remain nonpublic if required by the party state's laws.
24 Party states must require nurses who enter any alternative programs to agree not

1 to practice in any other party state during the term of the alternative program
2 without prior authorization from such other party state.

3 (6) ^(CS) ARTICLE VI -

4 ^(CS) Additional Authorities Invested in Party State Nurse Licensing Boards

5 Notwithstanding any other powers, party state nurse licensing boards shall
6 have the authority to: *do any of the following*

7 (a) if otherwise permitted by state law, recover from the affected nurse the costs
8 of investigations and disposition of cases resulting from any adverse action taken
9 against that nurse .

10 (b) issue subpoenas for both hearings and investigations ^{that} ~~which~~ require the
11 attendance and testimony of witnesses, and the production of evidence. Subpoenas
12 issued by a nurse licensing board in a party state for the attendance and testimony
13 of witnesses, ~~and~~ ^{or both,} for the production of evidence from another party state, shall be
14 enforced in the latter state by any court of competent jurisdiction, according to the
15 practice and procedure of that court applicable to subpoenas issued in proceedings
16 pending before it. The issuing authority shall pay any witness fees, travel expenses,
17 mileage and other fees required by the service statutes of the state where the
18 witnesses ~~and~~ ^{or both,} evidence are located.

19 (c) issue cease and desist orders to limit or revoke a nurse's authority to practice
20 in their state ,

21 (d) promulgate uniform rules and regulations as provided for in ~~Article VIII(c)~~ ^{sub. (8)(c)}

22 (7) ^(CS) ARTICLE VII -

23 ^(CS) Coordinated Licensure Information System

24 (a) All party states shall participate in a cooperative effort to create a
25 coordinated data base of all licensed registered nurses and licensed

1 practical/vocational nurses. This system will include information on the licensure
2 and disciplinary history of each nurse, as contributed by party states, to assist in the
3 coordination of nurse licensure and enforcement efforts.

4 (b)_Δ Notwithstanding any other provision of law, all party states' licensing
5 boards shall promptly report adverse actions, actions against multistate licensure
6 privileges, any current significant investigative information yet to result in adverse
7 action, denials of applications, and the reasons for such denials, to the coordinated
8 licensure information system.

9 (c)_Δ Current significant investigative information shall be transmitted through
10 the coordinated licensure information system only to party state licensing boards.

11 (d)_Δ Notwithstanding any other provision of law, all party states' licensing
12 boards contributing information to the coordinated licensure information system
13 may designate information that may not be shared with non-party states or
14 disclosed to other entities or individuals without the express permission of the
15 contributing state.

16 (e)_Δ Any personally identifiable information obtained by a party states' licensing
17 board from the coordinated licensure information system may not be shared with
18 non-party states or disclosed to other entities or individuals except to the extent
19 permitted by the laws of the party state contributing the information.

20 (f)_Δ Any information contributed to the coordinated licensure information
21 system that is subsequently required to be expunged by the laws of the party state
22 contributing that information, shall also be expunged from the coordinated licensure
23 information system.

24 (e)_Δ The ~~C~~ompact administrators, acting jointly with each other and in
25 consultation with the administrator of the coordinated licensure information

1 system, shall formulate necessary and proper procedures for the identification,
2 collection and exchange of information under this Compact.

3 (8) ^(CS) ARTICLE VIII -

4 Compact Administration and Interchange of Information

5 (a) ~~The head of the nurse licensing board, or his/her designee, of each party state~~
6 shall be the administrator of this Compact for ^{this} ~~his/her~~ state.

7 (b) The Compact administrator of each party state shall furnish to the Compact
8 administrator of each other party state any information and documents including,
9 but not limited to, a uniform data set of investigations, identifying information,
10 licensure data, and disclosable alternative program participation information to
11 facilitate the administration of this Compact.

12 (c) Compact administrators shall have the authority to develop uniform rules
13 to facilitate and coordinate implementation of this Compact. These uniform rules,
14 shall be adopted by party states, under the authority invested under ^{sub. (c)(d)} ~~Article VII(d)~~

15 (9) ^(CS) ARTICLE IX -

16 Immunity

17 No party state or the officers or employees or agents of a party state's nurse
18 licensing board who acts in accordance with the provisions of this Compact shall be
19 liable on account of any act or omission in good faith while engaged in the
20 performance of their duties under this Compact. Good faith in this article shall not
21 include willful misconduct, gross negligence, or recklessness.

22 (10) ^(CS) ARTICLE X -

23 Entry into Force, Withdrawal and Amendment

24 (a) This Compact shall enter into force and become effective as to any state
25 when it has been enacted into the laws of that state. Any party state may withdraw

secretary of the department, or his or her designee,

1 from this Compact by enacting a statute repealing the same, but no such withdrawal
 2 shall take effect until ⁶ six months after the withdrawing state has given notice of the
 3 withdrawal to the executive heads of all other party states.

4 (b) No withdrawal shall affect the validity or applicability by the licensing
 5 boards of states remaining party to the Compact of any report of adverse action
 6 occurring prior to the withdrawal.

7 (c) Nothing contained in this Compact shall be construed to invalidate or
 8 prevent any nurse licensure agreement or other cooperative arrangement between
 9 a party state and a non-party state that is made in accordance with the other
 10 provisions of this Compact.

11 (d) This Compact may be amended by the party states. No amendment to this
 12 Compact shall become effective and binding upon the party states unless and until
 13 it is enacted into the laws of all party states.

14 (B) (11) ^(S) ARTICLE XI -
 15 Construction and Severability ^(S) (C)

16 (a) This Compact shall be liberally construed so as to effectuate the purposes
 17 thereof. The provisions of this Compact shall be severable and if any phrase, clause,
 18 sentence or provision of this Compact is declared to be contrary to the constitution
 19 of any party state or of the United States or the applicability thereof to any
 20 government, agency, person or circumstance is held invalid, the validity of the
 21 remainder of this Compact and the applicability thereof to any government, agency,
 22 person or circumstance shall not be affected thereby. If this Compact shall be held
 23 contrary to the constitution of any state party thereto, the Compact shall remain in
 24 full force and effect as to the remaining party states and in full force and effect as to
 25 the party state affected as to all severable matters.

1 (b) In the event party states find a need for settling disputes arising under this

2 ~~Compact~~, *and*

3 ~~(1)~~ The party states may submit the issues in dispute to an arbitration panel

4 ~~that~~ *which* will be comprised of an individual appointed by the ~~Compact~~ administrator in

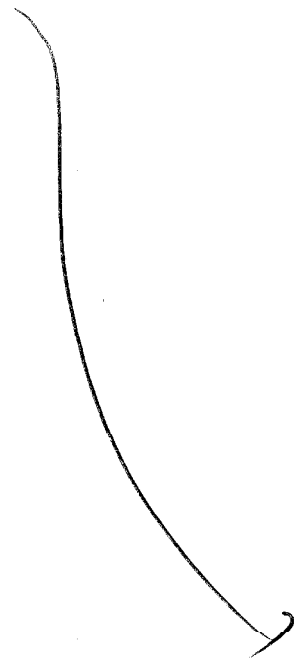
5 the home state; an individual appointed by the ~~Compact~~ administrator in the remote

6 state *or states* ~~involved~~ and an individual mutually agreed upon by the ~~Compact~~

7 administrators of all the party states involved in the dispute. *and*

8 ~~(2)~~ The decision of a majority of the arbitrators shall be final and binding.

~~(End)~~



1999

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EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → *NS: → **effdate**
For the text, execute: **create** → **text:** → *NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # _____ . Effective date.

(#1) () This act takes effect
on

1. In the component bar: For the action phrase, execute: .. **create** → **action:** → *NS: → **effdateE**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # _____ . Effective dates

..... This act takes effect on the day after publication, except as follows:
(#1) () The ^{repeal and recreation} ~~treatment~~ of
sections 441.11 (3) and (4)
of the statutes takes effect on April 1, 2000, or the day after
publication, whichever is later.

1. In the component bar: For the budget action phrase, execute: **create** → **action:** → *NS: → **94XX**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the **9400** department code; and fill in "()" only if a "frozen" number is needed.

SECTION 94 _____ . Effective dates;

(#1) () The treatment of
sections
of the statutes takes effect on

(End)

1A

Section #. 441.06 (4)¹ of the statutes is amended to read:

441.06 (4) 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 is licensed under this section. No person not so licensed may use in connection with his or her nursing employment or vocation any title or anything else to indicate that he or she is a trained, certified or graduate nurse.

History: 1971 c. 125, 215; 1973 c. 159; 1975 c. 39, 199; 1977 c. 29, 164; 1979 c. 34, 162; 1987 a. 27, 264; 1991 a. 39.

This subsection does not apply to any person who is licensed to practice nursing by a jurisdiction that has adopted the nurse licensure compact under s. 441.50. to the extent permitted

2A

Section #. 441.10 (3) (c) of the statutes is amended to read:

441.10 (3) (c) No license is required for practical nursing, but no person without a license may hold himself or herself out as a licensed practical nurse or licensed attendant, use the title or letters "Trained Practical Nurse" or "T.P.N.", "Licensed Practical Nurse" or "L.P.N.", "Licensed Attendant" or "L.A.", "Trained Attendant" or "T.A.", or otherwise seek to indicate that he or she is a licensed practical nurse or licensed attendant. No licensed practical nurse or licensed attendant may use the title, or otherwise seek to act as a registered, licensed, graduate or professional nurse. Anyone violating this subsection shall be subject to the penalties prescribed by s. 441.13. The board shall grant without examination a license as a licensed practical nurse to any person who was on July 1, 1949, a licensed attendant.

History: 1971 c. 125, 215; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 34, 162, 337; 1981 c. 380; 1981 c. 391 s. 211; 1983 a. 273 ss. 3, 8; 1987 a. 27, 264; 1991 a. 39.

This paragraph does not apply to
any person who is licensed
to practice practical nursing
by a jurisdiction that
has accepted the nurse licensure
compact under s. 441.50.

5A

Section #. 441.115 (2) (a) of the statutes is amended to read:

441.115 (2) (a) In this subsection, "nursing credential" means a license, permit or certificate of registration or certification that is granted to a person by another state or territory or by a foreign country or province and that authorizes or qualifies the person holding the credential to perform acts that are substantially the same as those performed by a person licensed as a registered nurse or licensed practical nurse under this chapter.

History: 1983 a. 189 s. 273; 1995 a. 146.

"or territory"

subchapter. In this paragraph, "state" means
~~a state or territory~~ excludes any
state or territory that has adopted
the nurse licensure compact
under s. 441.50

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those performed by a person licensed as a registered nurse or licensed practical nurse under this ~~chapter~~

History: 1983 a. 189 s. 273; 1995 a. 146.

SECTION 10. 441.115 (2) (b) of the statutes is amended to read:

441.115 (2) (b) A person who holds a current, valid nursing credential may practice professional or practical nursing in this state, as provided under par. (c), for not more than 72 consecutive hours each year without holding a license granted by the board under this ~~chapter~~ if the board determines that the requirements for the nursing credential that the person holds are substantially equivalent to the requirements for licensure under this ~~chapter~~. Except in an emergency, the person shall provide to the board, at least 7 days before practicing professional or practical nursing for the person who is specified under par. (c) 2., written notice that includes the name of the person providing notice, the type of nursing credential that the person holds and the name of the state, territory, foreign country or province that granted the nursing credential. In the event of an emergency, the person shall provide to the board written notice that includes the information otherwise required under this paragraph, as soon as practicable.

subchapter

History: 1983 a. 189 s. 273; 1995 a. 146.

SECTION 11. 441.12 (1) of the statutes is amended to read:

441.12 (1) The board shall enforce this ~~chapter~~ ^{subchapter} and cause the prosecution of persons violating it.

History: 1979 c. 34.

SECTION 12. 441.13 of the statutes is amended to read:

441.13 Penalty. (1) Any person violating this ~~chapter~~ or knowingly employing another in violation of this ~~chapter~~ may be fined not more than \$250 or imprisoned not more than one year in the county jail.

subchapter

DN

Please

Please read this draft carefully to

ensure that it accomplishes ^{your} ~~your~~ ^{intent} ~~intent~~.

In addition, please

In particular, note the following:

1. I amended ss. 441.06(4)^v, 441.10(3)(c)^v
and 441.15(2)(a)^v to ^{from these provisions nurses} exclude ~~the~~ licenses

in ~~the~~ other states that have adopted the

compact. Does this ^{work} work? Note that the

compact does not ^{address} ~~address~~ the ^{use} ~~use~~ of

titles ^{and one} differs from our laws in

significant ways. For example, in

Wisconsin no license is required for

practical nursing.

2. In s. 441.50(2)(a)^v, I named the
secretary of the department or ^{his} or ^{her}
or ~~his~~ or ~~her~~.

^{designee} designee to ^{as} the administrator ^{off} ~~of~~ it

The ^{compact} compact for Wisconsin. OK?

Note that the bureau of health service professionals is not created in the statutes; therefore, before the draft would require that the bureau director be the administrator, it would have to create the bureau. This would make ^{any} ~~any~~ future changes to the internal structure of the department ~~is~~ difficult.

3. I did not include ^{the} provisions numbered 1, 5 and 6 from the "Optical Enabling Act Provisions (2)" ~~They~~ I don't think they're necessary.

If you have questions or need more information, please let me know.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2286/P1dn
PG:wlj:ijs

March 3, 1999

Please read this draft carefully to ensure that it accomplishes your intent. In addition, please note the following:

1. I amended ss. 441.06 (4), 441.10 (3) (c) and 441.15 (2) (a) to exclude from these provisions nurses licensed in other states that have adopted the compact. Does this work? Note that the compact does not address the use of titles and differs from our laws in significant ways. For example, in Wisconsin no license is required for practical nursing.

2. In s. 441.50 (8) (a), I named the secretary of the department or his or her designee as the administrator of the compact for Wisconsin. OK? Note that the bureau of health service professionals is not created in the statutes; therefore, before the draft could require that the bureau director be the administrator, it would have to create the bureau. This would make any future changes to the internal structure of the department difficult.

3. I did not include the provisions numbered 1, 5 and 6 from the "Optional Enabling Act Provisions". I don't think they're necessary.

If you have questions or need more information, please let me know.

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: Peter.Grant@legis.state.wi.us

3/8/99

spoke w/ Tom Newman at RSL

RE { 441.08
441.15
ch/subst issue

Wayne Austin, RSL atty is out this week, but he'll review draft next week + get back to me.

Also, change 441.10 (3)(c) to require a license for practical nursing.) (NB)

(Also, am 441.08 + 441.10 (3)(d) to Δ "this state" to "any state" ?) (NB)

Bill Dusso (RSL) 3/14/99

no new subchapter?

temp permits

① just graduated
will take exam
3 month temp permit
pending exam

② license elsewhere
moving here
with paperwork being done,
grant temp permit

4/9/08 OK as is

③ (d) OK as is

(e) OK as is

→ Bill will get back to me

3/12/99 -
Bill: new subchapter is fine
change some refs back to
"chapter"



National Council of State Boards of Nursing, Inc. 676 North St. Clair Street Suite 550 Chicago, Illinois 60611-2921
 312 787.6555 FAX 312 787.6898 http://www.ncsbn.org

TO
 PETER GRANT
 LRB
 4-8522

May 1998

The following document was prepared by Vedder Price and Arent Fox, attorneys at law, at the request of the National Council. The questions and answers incorporates legal issues addressed during the deliberations of the meetings of the Member Board Attorney Comment Group.

Interstate Compact on Nurse Licensure

Questions and Answers

WHAT IS THE INTERSTATE COMPACT ON NURSE LICENSURE?

The Interstate Compact on Nurse Licensure is an agreement among states to coordinate certain activities associated with nurse licensure. The compact, which was approved by the National Council of State Boards of Nursing ("NCSBN") on December 15, 1997, is designed to reduce duplicative licensure requirements, enhance information sharing, and establish mechanisms for disciplinary actions associated with interstate nursing. The full text of the proposed compact is attached as Appendix A.

WHAT ARE THE KEY PROVISIONS OF THE INTERSTATE COMPACT ON NURSE LICENSURE?

Under the interstate compact on nurse licensure, a nurse who is licensed in a party state may practice nursing in all other party states without the necessity of obtaining a license in each state. The nurse only receives one license, from the state in which he/she resides. Every other party state, by operation of the interstate compact, authorizes that licensed nurse to practice in their state. The name of the authority granted to nurses which permits the practice of nursing in party states other than the nurse's home state is the "multistate licensure privilege." The multistate licensure privilege is the heart of the mutual recognition model: it is the grant of authority to practice which is based on a valid home state license.

The interstate compact also creates a more effective and coordinated system of discipline, which will: 1) protect the authority of each individual state to revoke the licensure privilege of any nurse that renders nursing services within that state; 2) require that nurses who render care remotely adhere to the practice laws of the patient's home state; 3) create a mechanism for states to share information about investigations and disciplinary actions taken by other party states; and 4) ensure that all party states will give the same priority to complaints about nurses who render services to patients in any party state as they would if those services were rendered to in-state residents.

Post-it® Fax Note	7671	Date	3/11/99	# of pages	2
To	Peter Grant				
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 Lastly, the interstate compact creates a Coordinated Licensure Information System which will consist of a centralized database of licensure and discipline information, and will facilitate the access to and exchange of such information by the party states.

WHAT ARE THE PRINCIPAL ADVANTAGES OF PARTICIPATING IN THIS COMPACT?

The interstate compact on nurse licensure eliminates the need to acquire multiple licenses while at the same time it increases a state's ability to monitor, track and discipline unsafe nurses. Nurses and states will not need to collect licensure information already in the possession of another state (such as: high school graduation certification, college transcripts, nursing school transcripts, examination scores, letters of reference). Instead, states will be able to focus their resources on preventing unsafe nurses from practicing. With the centralized database and greater exchange of information of disciplinary actions between the states, it will be more difficult for nurses to avoid discipline.

WHAT IS AN INTERSTATE COMPACT?

An interstate compact is an agreement between two or more states, entered into for the purpose of addressing a problem that transcends state lines. Compacts are created when two or more states enact identical statutes establishing and defining the compact and its role. On March 14, 1998, Utah became the first state to adopt the interstate compact on nurse licensure. When a second state adopts the identical statute, the compact is formed. The result is the creation of both a state law and an enforceable contract with all other states that adopt the compact.

Like any other contract, modification of the compact is only possible with the unanimous consent of all party states. In addition, because the compact is also a law, it is subject to the traditional principles of statutory interpretation. As a statute, it takes precedence over prior statutory provisions. An interstate compact gains its forcefulness because of its dual contract/law nature.

DOES THE INTERSTATE COMPACT ON NURSE LICENSURE REQUIRE CONGRESSIONAL CONSENT?

No. The Constitution of the United States recognizes the authority of states to enter into compacts, and the Supreme Court has held that only those compacts that infringe on federally regulated areas require Congressional consent. *Cuyler v. Adams*, 449 U.S. 433, 440 (1981).² Because nurse licensure has always been regulated by the states, there is no reason that this compact infringes on an area of federal regulation. Therefore, Congressional consent is not required for this compact.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2286/P1
PG&MDK:wj:ijs

503m

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

reflect

1 AN ACT to amend 441.01 (1), 441.01 (3), 441.06 (1), 441.06 (4), 441.07 (1) (b),
2 441.07 (1m), 441.10 (3) (a), 441.10 (3) (c), 441.11 (1) to (3), 441.11 (4), 441.115
3 (1), 441.115 (2) (a), 441.115 (2) (b), 441.12 (1), 441.13 and 441.15 (3) (a); to
4 repeal and recreate 441.11 (3) and 441.11 (4); and to create subchapter I
5 (title) of chapter 441 [precedes 441.01] and subchapter II of chapter 441
6 [precedes 441.50] of the statutes; relating to: adopting the nurse licensure
7 compact and granting rule-making authority.

Analysis by the Legislative Reference Bureau

INSERT ✓

~~This is a preliminary draft. An analysis will be provided in a later version.~~
For further information see the **state and local** fiscal estimate, which will be
printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

8 SECTION 1. Subchapter I (title) of chapter 441 [precedes 441.01] of the statutes
9 is created to read:

CHAPTER 441

SUBCHAPTER I

REGULATION OF NURSING

1
2
3
4 **SECTION 2.** 441.01 (1) of the statutes is amended to read:

5 441.01 (1) In this ~~chapter~~ subchapter, “board” means board of nursing.

6 **SECTION 3.** 441.01 (3) of the statutes is amended to read:

7 441.01 (3) The board may establish minimum standards for schools for
8 professional nurses and schools for licensed practical nurses, including all related
9 clinical units and facilities, and make and provide periodic surveys and consultations
10 to such schools. It may also establish rules to prevent unauthorized persons from
11 practicing professional nursing. It shall approve all rules for the administration of
12 this ~~chapter~~ subchapter in accordance with ch. 227.

13 **SECTION 4.** 441.06 (1) of the statutes is amended to read:

14 441.06 (1) An applicant for licensure as a registered nurse who complies with
15 the requirements of this ~~chapter~~ subchapter and satisfactorily passes an
16 examination shall receive a license. The holder of such a license of another state or
17 territory or province of Canada may be granted a license without examination if the
18 holder’s credentials of general and professional educational qualifications and other
19 qualifications are comparable to those required in this state during the same period
20 and if the board is satisfied from the holder’s employment and professional record
21 that the holder is currently competent to practice the profession. The board shall
22 evaluate the credentials and determine the equivalency and competency in each
23 case. The application for licensure without examination shall be accompanied by the
24 fee prescribed in s. 440.05 (2).

25 **SECTION 5.** 441.06 (4) of the statutes is amended to read:

1 441.06 (4) No person may practice or attempt to practice professional nursing,
2 nor use the title, letters, or anything else to indicate that he or she is a registered or
3 professional nurse unless he or she is licensed under this section. No person not so
4 licensed may use in connection with his or her nursing employment or vocation any
5 title or anything else to indicate that he or she is a trained, certified or graduate
6 nurse. This subsection does not apply to any person who is licensed to practice
7 nursing by a jurisdiction that has adopted the nurse licensure compact under s.
8 441.50. other than this state,

9 **SECTION 6.** 441.07 (1) (b) of the statutes is amended to read:

10 441.07 (1) (b) One or more violations of this ~~chapter~~ subchapter or any rule
11 adopted by the board under the authority of this ~~chapter~~ subchapter.

12 **SECTION 7.** 441.07 (1m) of the statutes is amended to read:

13 441.07 (1m) The board may use any information obtained by the board or the
14 department under s. 655.17 (7) (b), as created by 1985 Wisconsin Act 29, in
15 investigations and disciplinary proceedings, including public disciplinary
16 proceedings, conducted under this ~~chapter~~ subchapter.

17 **SECTION 8.** 441.10 (3) (a) of the statutes is amended to read:

18 441.10 (3) (a) On complying with this ~~chapter~~ subchapter relating to applicants
19 for licensure as licensed practical nurses, and passing an examination, the applicant
20 shall receive a license as a licensed practical nurse. The holder of the license is a
21 “licensed practical nurse” and may append the letters “L.P.N.” to his or her name.
22 The board may reprimand or may limit, suspend or revoke the license of a licensed
23 practical nurse under s. 441.07.

24 **SECTION 9.** 441.10 (3) (c) of the statutes is amended to read:

1 441.10 (3) (c) No license is required for practical nursing, but no person without
2 a license may hold himself or herself out as a licensed practical nurse or licensed
3 attendant, use the title or letters "Trained Practical Nurse" or "T.P.N.", "Licensed
4 Practical Nurse" or "L.P.N.", "Licensed Attendant" or "L.A.", "Trained Attendant" or
5 "T.A.", or otherwise seek to indicate that he or she is a licensed practical nurse or
6 licensed attendant. No licensed practical nurse or licensed attendant may use the
7 title, or otherwise seek to act as a registered, licensed, graduate or professional
8 nurse. Anyone violating this subsection shall be subject to the penalties prescribed
9 by s. 441.13. The board shall grant without examination a license as a licensed
10 practical nurse to any person who was on July 1, 1949, a licensed attendant. This
11 paragraph does not apply to any person who is licensed to practice practical nursing
12 by a jurisdiction other than this state that has adopted the nurse licensure compact under s. 441.50.

13 SECTION 10. 441.11 (1) to (3) of the statutes are amended to read:

14 441.11 (1) FOR COMPENSATION. Wherever the term "compensation" is used in
15 this chapter subchapter it shall include indirect compensation as well as direct
16 compensation and also the expectation thereof whether actually received or not.

17 (2) NURSE AND NURSING. Except as provided under s. 441.08, wherever the term
18 "nurse" is used in this chapter subchapter without modification or amplification it
19 shall mean only a registered nurse. Wherever the term "nursing" is used in this
20 chapter subchapter without modification or amplification it shall mean the practice
21 of professional nursing as specified in sub. (4).

22 (3) PRACTICE OF PRACTICAL NURSING. The practice of practical nursing under this
23 chapter subchapter means the performance for compensation of any simple acts in
24 the care of convalescent, subacutely or chronically ill, injured or infirm persons, or
25 of any act or procedure in the care of the more acutely ill, injured or infirm under the

1 specific direction of a nurse, physician, podiatrist licensed under ch. 448, dentist
2 licensed under ch. 447 or optometrist licensed under ch. 449, or under an order of a
3 person who is licensed to practice medicine, podiatry or dentistry in another state if
4 that person prepared the order after examining the patient in that other state and
5 directs that the order be carried out in this state. A simple act is one ~~which~~ that does
6 not require any substantial nursing skill, knowledge or training, or the application
7 of nursing principles based on biological, physical or social sciences, or the
8 understanding of cause and effect in such acts and is one ~~which~~ that is of a nature
9 of those approved by the board for the curriculum of schools for licensed practical
10 nurses.

11 **SECTION 11.** 441.11 (3) of the statutes, as affected by 1997 Wisconsin Act 62,
12 is repealed and recreated to read:

13 **441.11 (3) PRACTICE OF PRACTICAL NURSING.** The practice of practical nursing
14 under this subchapter means the performance for compensation of any simple acts
15 in the care of convalescent, subacutely or chronically ill, injured or infirm persons,
16 or of any act or procedure in the care of the more acutely ill, injured or infirm under
17 the specific direction of a nurse, physician, podiatrist licensed under ch. 448, dentist
18 licensed under ch. 447 or optometrist licensed under ch. 449, or under an order of a
19 person who is licensed to practice medicine, podiatry, dentistry or optometry in
20 another state if that person prepared the order after examining the patient in that
21 other state and directs that the order be carried out in this state. A simple act is one
22 that does not require any substantial nursing skill, knowledge or training, or the
23 application of nursing principles based on biological, physical or social sciences, or
24 the understanding of cause and effect in such acts and is one that is of a nature of

1 those approved by the board for the curriculum of schools for licensed practical
2 nurses.

3 **SECTION 12.** 441.11 (4) of the statutes is amended to read:

4 441.11 (4) PRACTICE OF PROFESSIONAL NURSING. The practice of professional
5 nursing within the terms of this ~~chapter~~ subchapter means the performance for
6 compensation of any act in the observation or care of the ill, injured or infirm, or for
7 the maintenance of health or prevention of illness of others, which act requires
8 substantial nursing skill, knowledge or training, or application of nursing principles
9 based on biological, physical and social sciences, such as the observation and
10 recording of symptoms and reactions, the execution of procedures and techniques in
11 the treatment of the sick under the general or special supervision or direction of a
12 physician, podiatrist licensed under ch. 448, dentist licensed under ch. 447 or
13 optometrist licensed under ch. 449, or under an order of a person who is licensed to
14 practice medicine, podiatry or dentistry in another state if that person prepared the
15 order after examining the patient in that other state and directs that the order be
16 carried out in this state, and the execution of general nursing procedures and
17 techniques. Except as provided in s. 50.04 (2) (b), the practice of professional nursing
18 includes the supervision of a patient and the supervision and direction of licensed
19 practical nurses and less skilled assistants.

20 **SECTION 13.** 441.11 (4) of the statutes, as affected by 1997 Wisconsin Act 62,
21 is repealed and recreated to read:

22 441.11 (4) PRACTICE OF PROFESSIONAL NURSING. The practice of professional
23 nursing within the terms of this subchapter means the performance for
24 compensation of any act in the observation or care of the ill, injured or infirm, or for
25 the maintenance of health or prevention of illness of others, which act requires

1 substantial nursing skill, knowledge or training, or application of nursing principles
2 based on biological, physical and social sciences, such as the observation and
3 recording of symptoms and reactions, the execution of procedures and techniques in
4 the treatment of the sick under the general or special supervision or direction of a
5 physician, podiatrist licensed under ch. 448, dentist licensed under ch. 447 or
6 optometrist licensed under ch. 449, or under an order of a person who is licensed to
7 practice medicine, podiatry, dentistry or optometry in another state if that person
8 prepared the order after examining the patient in that other state and directs that
9 the order be carried out in this state, and the execution of general nursing procedures
10 and techniques. Except as provided in s. 50.04 (2) (b), the practice of professional
11 nursing includes the supervision of a patient and the supervision and direction of
12 licensed practical nurses and less skilled assistants.

13 **SECTION 14.** 441.115 (1) of the statutes is amended to read:

14 441.115 (1) This ~~chapter subchapter~~^{statet} shall not be construed to affect nursing
15 by friends, members of the family or undergraduates in an accredited school, nor be
16 construed to interfere with members of religious communities or orders having
17 charge of hospitals or taking care of the sick in their homes, except that none of such
18 excepted persons while engaged in such activities shall represent himself or herself
19 as a registered, trained, certified or graduate nurse unless registered under this
20 chapter subchapter.

21 **SECTION 15.** 441.115 (2) (a) of the statutes is amended to read:

22 441.115 (2) (a) In this subsection, "nursing credential" means a license, permit
23 or certificate of registration or certification that is granted to a person by another
24 state or territory or by a foreign country or province and that authorizes or qualifies
25 the person holding the credential to perform acts that are substantially the same as

1 those performed by a person licensed as a registered nurse or licensed practical nurse
2 under this ~~chapter subchapter~~. In this paragraph, "state or territory" excludes any
3 state or territory that has adopted the nurse licensure compact under s. 441.50.

4 **SECTION 16.** 441.115 (2) (b) of the statutes is amended to read:

5 441.115 (2) (b) A person who holds a current, valid nursing credential may
6 practice professional or practical nursing in this state, as provided under par. (c), for
7 not more than 72 consecutive hours each year without holding a license granted by
8 the board under this ~~chapter subchapter~~ if the board determines that the
9 requirements for the nursing credential that the person holds are substantially
10 equivalent to the requirements for licensure under this ~~chapter subchapter~~. Except
11 in an emergency, the person shall provide to the board, at least 7 days before
12 practicing professional or practical nursing for the person who is specified under par.
13 (c) 2., written notice that includes the name of the person providing notice, the type
14 of nursing credential that the person holds and the name of the state, territory,
15 foreign country or province that granted the nursing credential. In the event of an
16 emergency, the person shall provide to the board written notice that includes the
17 information otherwise required under this paragraph, as soon as practicable.

18 **SECTION 17.** 441.12 (1) of the statutes is amended to read:

19 ~~441.12 (1) The board shall enforce this ~~chapter subchapter~~ and cause the~~
20 ~~prosecution of persons violating it.~~

21 **SECTION 18.** 441.13 of the statutes is amended to read:

22 **441.13 Penalty.** (1) Any person violating this ~~chapter subchapter~~ or
23 knowingly employing another in violation of this ~~chapter subchapter~~ may be fined
24 not more than \$250 or imprisoned not more than one year in the county jail.

1 (2) No action may be brought or other proceeding had to recover compensation
2 for professional nursing services unless at the time such services were rendered the
3 person rendering the same was a registered nurse or had a temporary permit issued
4 under this ~~chapter~~ subchapter.

5 (3) The remedy of injunction may be used in enforcing this ~~chapter~~ subchapter.

6 SECTION 19. 441.15 (3) (a) of the statutes is amended to read:

7 441.15 (3) (a) The board shall grant a license to engage in the practice of
8 nurse-midwifery to any person licensed as a registered nurse under this ~~chapter~~
9 subchapter who meets the educational and training prerequisites established by the
10 board for the practice of nurse-midwifery and who pays the fee specified under s.
11 440.05 (1).

12 SECTION 20. Subchapter II of chapter 441 [precedes 441.50] of the statutes is
13 created to read:

14 SUBCHAPTER II

15 NURSE LICENSURE COMPACT

16 441.50 Nurse Licensure Compact.

17 (1) ARTICLE I - FINDINGS AND DECLARATION OF PURPOSE.

18 (a) The party states find all of the following:

19 1. That the health and safety of the public are affected by the degree of
20 compliance with and the effectiveness of enforcement activities related to state nurse
21 licensure laws.

22 2. That violations of nurse licensure and other laws regulating the practice of
23 nursing may result in injury or harm to the public.

24 3. That the expanded mobility of nurses and the use of advanced
25 communication technologies as part of our nation's health care delivery system

or in a party state, as defined in s. 441.50 (2) (j),

1 require greater coordination and cooperation among states in the areas of nurse
2 licensure and regulation.

3 4. That new practice modalities and technology make compliance with
4 individual state nurse licensure laws difficult and complex.

5 5. That the current system of duplicative licensure for nurses practicing in
6 multiple states is cumbersome and redundant to both nurses and states.

7 (b) The general purposes of this compact are as follows:

8 1. To facilitate the states' responsibility to protect the public's health and safety.

9 2. To ensure and encourage the cooperation of party states in the areas of nurse
10 licensure and regulation.

11 3. To facilitate the exchange of information between party states in the areas
12 of nurse regulation, investigation and adverse actions.

13 4. To promote compliance with the laws governing the practice of nursing in
14 each jurisdiction.

15 5. To invest all party states with the authority to hold a nurse accountable for
16 meeting all state practice laws in the state in which the patient is located at the time
17 care is rendered through the mutual recognition of party state licenses.

18 **(2) ARTICLE II - DEFINITIONS.** As used in this compact:

19 (a) "Adverse action" means a home or remote state action.

20 (b) "Alternative program" means a voluntary, nondisciplinary monitoring
21 program approved by a nurse licensing board.

22 (c) "Coordinated licensure information system" means an integrated process
23 for collecting, storing and sharing information on nurse licensure and enforcement
24 activities related to nurse licensure laws, which is administered by a nonprofit
25 organization composed of and controlled by state nurse licensing boards.

1 (d) “Current significant investigative information” means any of the following:

2 1. Investigative information that a licensing board, after a preliminary inquiry
3 that includes notification and an opportunity for the nurse to respond if required by
4 state law, has reason to believe is not groundless and, if proved true, would indicate
5 more than a minor infraction.

6 2. Investigative information that indicates that the nurse represents an
7 immediate threat to public health and safety regardless of whether the nurse has
8 been notified and had an opportunity to respond.

9 (e) “Home state” means the party state that is the nurse’s primary state of
10 residence.

11 (f) “Home state action” means any administrative, civil, equitable or criminal
12 action permitted by the home state’s laws that are imposed on a nurse by the home
13 state’s licensing board or other authority including actions against an individual’s
14 license, such as revocation, suspension, probation or any other action that affects a
15 nurse’s authorization to practice.

16 (g) “Licensing board” means a party state’s regulatory body responsible for
17 issuing nurse licenses.

18 (h) “Multistate licensure privilege” means current, official authority from a
19 remote state permitting the practice of nursing as either a registered nurse or a
20 licensed practical/vocational nurse in such party state. All party states have the
21 authority, in accordance with existing state due process law, to take actions against
22 the nurse’s privilege, such as revocation, suspension, probation or any other action
23 that affects a nurse’s authorization to practice.

24 (i) “Nurse” means a registered nurse or licensed practical/vocational nurse, as
25 those terms are defined by each party’s state practice laws.

1 (j) "Party state" means any state that has adopted this compact.

2 (k) "Remote state" means a party state, other than the home state, where the
3 patient is located at the time nursing care is provided, or, in the case of the practice
4 of nursing not involving a patient, in such party state where the recipient of nursing
5 practice is located.

6 (L) "Remote state action" means any of the following:

7 1. Any administrative, civil, equitable or criminal action permitted by a remote
8 state's laws that are imposed on a nurse by the remote state's licensing board or other
9 authority including actions against an individual's multistate licensure privilege to
10 practice in the remote state.

11 2. Cease and desist and other injunctive or equitable orders issued by remote
12 states or the licensing boards thereof.

13 (m) "State" means a state, territory, or possession of the United States, the
14 District of Columbia or the Commonwealth of Puerto Rico.

15 (n) "State practice laws" means those individual party's state laws and
16 regulations that govern the practice of nursing, define the scope of nursing practice,
17 and create the methods and grounds for imposing discipline. "State practice laws"
18 does not include the initial qualifications for licensure or requirements necessary to
19 obtain and retain a license, except for qualifications or requirements of the home
20 state.

21 **(3) ARTICLE III - GENERAL PROVISIONS AND JURISDICTION.**

22 (a) A license to practice registered nursing issued by a home state to a resident
23 in that state will be recognized by each party state as authorizing a multistate
24 licensure privilege to practice as a registered nurse in such party state. A license to
25 practice licensed practical/vocational nursing issued by a home state to a resident in

1 that state will be recognized by each party state as authorizing a multistate licensure
2 privilege to practice as a licensed practical/vocational nurse in such party state. In
3 order to obtain or retain a license, an applicant must meet the home state's
4 qualifications for licensure and license renewal as well as all other applicable state
5 laws.

6 (b) Party states may, in accordance with state due process laws, limit or revoke
7 the multistate licensure privilege of any nurse to practice in their state and may take
8 any other actions under their applicable state laws necessary to protect the health
9 and safety of their citizens. If a party state takes such action, it shall promptly notify
10 the administrator of the coordinated licensure information system. The
11 administrator of the coordinated licensure information system shall promptly notify
12 the home state of any such actions by remote states.

13 (c) Every nurse practicing in a party state must comply with the state practice
14 laws of the state in which the patient is located at the time care is rendered. In
15 addition, the practice of nursing is not limited to patient care, but shall include all
16 nursing practice as defined by the state practice laws of a party state. The practice
17 of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the
18 courts, as well as the laws, in that party state.

19 (d) This compact does not affect additional requirements imposed by states for
20 advanced practice registered nursing. However, a multistate licensure privilege to
21 practice registered nursing granted by a party state shall be recognized by other
22 party states as a license to practice registered nursing if one is required by state law
23 as a precondition for qualifying for advanced practice registered nurse
24 authorization.

1 (e) Individuals not residing in a party state shall continue to be able to apply
2 for nurse licensure as provided for under the laws of each party state. However, the
3 license granted to these individuals will not be recognized as granting the privilege
4 to practice nursing in any other party state unless explicitly agreed to by that party
5 state.

6 **(4) ARTICLE IV - APPLICATIONS FOR LICENSURE IN A PARTY STATE.**

7 (a) Upon application for a license, the licensing board in a party state shall
8 ascertain, through the coordinated licensure information system, whether the
9 applicant has ever held, or is the holder of, a license issued by any other state,
10 whether there are any restrictions on the multistate licensure privilege, and whether
11 any other adverse action by any state has been taken against the license.

12 (b) A nurse in a party state shall hold licensure in only one party state at a time,
13 issued by the home state.

14 (c) A nurse who intends to change his or her primary state of residence may
15 apply for licensure in the new home state in advance of such change. However, new
16 licenses will not be issued by a party state until after a nurse provides evidence of
17 the change in his or her primary state of residence satisfactory to the new home
18 state's licensing board.

19 (d) 1. When a nurse changes his or her primary state of residence by moving
20 between two party states, and obtains a license from the new home state, the license
21 from the former home state is no longer valid.

22 2. When a nurse changes his or her primary state of residence by moving from
23 a nonparty state to a party state, and obtains a license from the new home state, the
24 individual state license issued by the nonparty state is not affected and will remain
25 in full force if so provided by the laws of the nonparty state.

1 3. When a nurse changes his or her primary state of residence by moving from
2 a party state to a nonparty state, the license issued by the prior home state converts
3 to an individual state license, valid only in the former home state, without the
4 multistate licensure privilege to practice in other party states.

5 **(5) ARTICLE V – ADVERSE ACTIONS.** In addition to the general provisions
6 described in sub. (3), the following provisions apply:

7 (a) The licensing board of a remote state shall promptly report to the
8 administrator of the coordinated licensure information system any remote state
9 actions including the factual and legal basis for such action, if known. The licensing
10 board of a remote state shall also promptly report any significant current
11 investigative information yet to result in a remote state action. The administrator
12 of the coordinated licensure information system shall promptly notify the home
13 state of any such reports.

14 (b) The licensing board of a party state shall have the authority to complete any
15 pending investigations for a nurse who changes his or her primary state of residence
16 during the course of such investigations. It shall also have the authority to take
17 appropriate actions, and shall promptly report the conclusions of such investigations
18 to the administrator of the coordinated licensure information system. The
19 administrator of the coordinated licensure information system shall promptly notify
20 the new home state of any such actions.

21 (c) A remote state may take adverse action affecting the multistate licensure
22 privilege to practice within that party state. However, only the home state shall have
23 the power to impose adverse action against the license issued by the home state.

24 (d) For purposes of imposing adverse action, the licensing board of the home
25 state shall give the same priority and effect to reported conduct received from a

1 remote state as it would if such conduct had occurred within the home state. In so
2 doing, it shall apply its own state laws to determine appropriate action.

3 (e) The home state may take adverse action based on the factual findings of the
4 remote state, so long as each state follows its own procedures for imposing such
5 adverse action.

6 (f) Nothing in this compact shall override a party state's decision that
7 participation in an alternative program may be used in lieu of licensure action and
8 that such participation shall remain nonpublic if required by the party state's laws.
9 Party states must require nurses who enter any alternative programs to agree not
10 to practice in any other party state during the term of the alternative program
11 without prior authorization from such other party state.

12 (6) ARTICLE VI – ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE NURSE
13 LICENSING BOARDS. Notwithstanding any other powers, party state nurse licensing
14 boards shall have the authority to do any of the following:

15 (a) If otherwise permitted by state law, recover from the affected nurse the costs
16 of investigations and disposition of cases resulting from any adverse action taken
17 against that nurse.

18 (b) Issue subpoenas for both hearings and investigations that require the
19 attendance and testimony of witnesses, and the production of evidence. Subpoenas
20 issued by a nurse licensing board in a party state for the attendance and testimony
21 of witnesses, or the production of evidence from another party state, or both, shall
22 be enforced in the latter state by any court of competent jurisdiction, according to the
23 practice and procedure of that court applicable to subpoenas issued in proceedings
24 pending before it. The issuing authority shall pay any witness fees, travel expenses,

1 mileage and other fees required by the service statutes of the state where the
2 witnesses or evidence, or both, are located.

3 (c) Issue cease and desist orders to limit or revoke a nurse's authority to practice
4 in their state.

5 (d) Promulgate uniform rules and regulations as provided for in sub. (8) (c).

6 **(7) ARTICLE VII – COORDINATED LICENSURE INFORMATION SYSTEM.**

7 (a) All party states shall participate in a cooperative effort to create a
8 coordinated data base of all licensed registered nurses and licensed
9 practical/vocational nurses. This system will include information on the licensure
10 and disciplinary history of each nurse, as contributed by party states, to assist in the
11 coordination of nurse licensure and enforcement efforts.

12 (b) Notwithstanding any other provision of law, all party states' licensing
13 boards shall promptly report adverse actions, actions against multistate licensure
14 privileges, any current significant investigative information yet to result in adverse
15 action, denials of applications, and the reasons for such denials, to the coordinated
16 licensure information system.

17 (c) Current significant investigative information shall be transmitted through
18 the coordinated licensure information system only to party state licensing boards.

19 (d) Notwithstanding any other provision of law, all party states' licensing
20 boards contributing information to the coordinated licensure information system
21 may designate information that may not be shared with nonparty states or disclosed
22 to other entities or individuals without the express permission of the contributing
23 state.

24 (e) Any personally identifiable information obtained by a party states' licensing
25 board from the coordinated licensure information system may not be shared with

1 nonparty states or disclosed to other entities or individuals except to the extent
2 permitted by the laws of the party state contributing the information.

3 (f) Any information contributed to the coordinated licensure information
4 system that is subsequently required to be expunged by the laws of the party state
5 contributing that information, shall also be expunged from the coordinated licensure
6 information system.

7 (e) The compact administrators, acting jointly with each other and in
8 consultation with the administrator of the coordinated licensure information
9 system, shall formulate necessary and proper procedures for the identification,
10 collection and exchange of information under this compact.

11 **(8) ARTICLE VIII – COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION.**

12 (a) The secretary of the department, or his or her designee, shall be the
13 administrator of this compact for this state.

14 (b) The compact administrator of each party state shall furnish to the compact
15 administrator of each other party state any information and documents including,
16 but not limited to, a uniform data set of investigations, identifying information,
17 licensure data and disclosable alternative program participation information to
18 facilitate the administration of this compact.

19 (c) Compact administrators shall have the authority to develop uniform rules
20 to facilitate and coordinate implementation of this compact. These uniform rules
21 shall be adopted by party states, under the authority invested under sub. (6) (d).

22 **(9) ARTICLE IX – IMMUNITY.** No party state or the officers or employes or agents
23 of a party state's nurse licensing board who acts in accordance with the provisions
24 of this compact shall be liable on account of any act or omission in good faith while

1 engaged in the performance of their duties under this compact. Good faith in this
2 article shall not include wilful misconduct, gross negligence or recklessness.

3 **(10) ARTICLE X – ENTRY INTO FORCE, WITHDRAWAL AND AMENDMENT.**

4 (a) This compact shall enter into force and become effective as to any state when
5 it has been enacted into the laws of that state. Any party state may withdraw from
6 this compact by enacting a statute repealing the same, but no such withdrawal shall
7 take effect until 6 months after the withdrawing state has given notice of the
8 withdrawal to the executive heads of all other party states.

9 (b) No withdrawal shall affect the validity or applicability by the licensing
10 boards of states remaining party to the compact of any report of adverse action
11 occurring prior to the withdrawal.

12 (c) Nothing contained in this compact shall be construed to invalidate or
13 prevent any nurse licensure agreement or other cooperative arrangement between
14 a party state and a nonparty state that is made in accordance with the other
15 provisions of this compact.

16 (d) This compact may be amended by the party states. No amendment to this
17 compact shall become effective and binding upon the party states unless and until
18 it is enacted into the laws of all party states.

19 **(11) ARTICLE XI – CONSTRUCTION AND SEVERABILITY.**

20 (a) This compact shall be liberally construed so as to effectuate the purposes
21 thereof. The provisions of this compact shall be severable and if any phrase, clause,
22 sentence or provision of this compact is declared to be contrary to the constitution of
23 any party state or of the United States or the applicability thereof to any government,
24 agency, person or circumstance is held invalid, the validity of the remainder of this
25 compact and the applicability thereof to any government, agency, person or

1 circumstance shall not be affected thereby. If this compact shall be held contrary to
2 the constitution of any state party thereto, the compact shall remain in full force and
3 effect as to the remaining party states and in full force and effect as to the party state
4 affected as to all severable matters.

5 (b) In the event party states find a need for settling disputes arising under this
6 compact, the party states may submit the issues in dispute to an arbitration panel
7 that will be comprised of an individual appointed by the compact administrator in
8 the home state, an individual appointed by the compact administrator in the remote
9 state or states involved and an individual mutually agreed upon by the compact
10 administrators of all the party states involved in the dispute. The decision of a
11 majority of the arbitrators shall be final and binding.

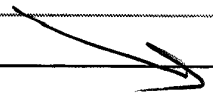
12 **SECTION 21. Effective dates.** This act takes effect on the day after publication,
13 except as follows:

14 (1) The repeal and recreation of section 441.11 (3) and (4) of the statutes takes
15 effect on April 1, 2000, or the day after publication, whichever is later.

16 (END)

ANALYSIS

If under current law, no person may practice professional nursing in this state unless he ^{or} she is licensed ^{as} a registered nurse by the ^{board} board of nursing. Although a license is ^{not} ^{required} required for practical nursing, no person without such a license ^{issued by the board of nursing} may hold himself or herself out as a licensed practical nurse or indicate in any way that he ^{or} she is a licensed practical nurse. Exceptions to these prohibitions are provided for temporary practice. In addition, current law provides a mechanism for ^{persons} persons who are licensed in other states to be licensed in this state without taking ^{an} an examination.



~~ANALYSIS~~ interstate compact on
if this bill ^{adopts} the nurse licensure,
~~compact~~ which was approved by the
National Council of State Boards of

Nursing on December 15, 1997 under

the ^{compact} compact, a nurse who is licensed

in a party state (a state that has
^{adopted} adopted the compact) may practice nursing

in ~~set~~ any other party state without obtaining
a license in the other state. ~~The bill~~

allows each party state to limit ^{or} or revoke
the ^{multistate} "multistate licensure privilege" of ~~any~~
~~nurse to practice to in that state~~

The compact ^{requires} every nurse practicing in a party
No ft state ~~must~~ ^{to} comply with the
No ft practice laws of that state and

The compact ^{also} requires ^{each} party
state to participate in the establishment of
a coordinated data base of all licensed
nurses. The system includes information on
the licensure ^{and} ^{disciplinary} history of
each nurse. ~~Each party state must~~
~~report adverse actions~~

VEN/BN

State of Wisconsin
DEPARTMENT OF REGULATION AND LICENSING
CORRESPONDENCE/MEMORANDUM

Date: March 11, 1999
Memo to: Wayne Austin
From: William Dusso and Tom Neumann
Subject: Nurse Licensure Compact: LRB-2286/P1dn

We talked with Peter Grant about the questions he had concerning the first draft of the Compact legislation. We resolved the questions as described below and he is planning to edit the bill draft and have it available early during the week of March 15. Wayne, would you give the draft an additional review as soon as possible and telephone Peter Grant (7-3362) with any comments? When the bill is ready, the LRB will notify Rep. Johnsrud.

Using subchapters in ch. 441, Stats.

The draft amends ch. 441 by putting most of the current language in subchapter 1. of ch. 441 and adding the compact language as subchapter 2. This use of subchapters in ch.441 preserves the specific language of the compact and also avoids making significant amendments to existing statutes. Tom and I identified several places where the change to "subchapter" is unnecessary: sect. 3, p.2., line 12; sect.7, p.3., line 16; sect. 14, p.7, line 14; and sect. 17, p.8, line 19.

Temporary Permits.

We concluded that there is no need to revise sections of Chapter 441 regarding temporary permits because the compact provides in Article III (a) that "A license to practice" registered nursing or to practice practical nursing is recognized by party states. Chapter 441 does not describe a temporary permit as a license or give the permit the same effect as a license. For example, the right granted by the temporary permit is limited. The temporary permit becomes invalid if holder fails the exam. Temporary permit holders must be supervised by an R.N. Endorsement applicants who obtain permits hold the permits for only a limited time.

No change in Practical Nursing Provisions Necessary in this Legislation.

Chapter 441 does not restrict the practice of practical nursing to licensed practical nurses. This "title protection" aspect of ch. 441, Stats. does not have to be changed in the legislation enacting the compact and probably should be dealt with in a separate legislative proposal. No change is needed for the compact bill because in order to qualify to practice practical nursing in a party state under the mutual recognition terms of the compact, a licensed practical nurse coming from Wisconsin would have to be licensed in Wisconsin.

Add "other than this state"

As drafted, section 5, lines 6-8 and section 9, lines 10-12 could be interpreted as exempting a nurse who resides in Wisconsin from the licensure requirements of this section. To avoid this interpretation, the words "other than Wisconsin" are to be added after the word "jurisdiction" in section 5, page 3, line 7 and section 9, line 12.

cc: Marlene Cummings, Peter Grant, Tim Burns, Jacqueline Johnsrud, Myra Shelton, Kim Nania

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 3/15/99

To: Representative Johnsrud

Relating to LRB drafting number: LRB-2286

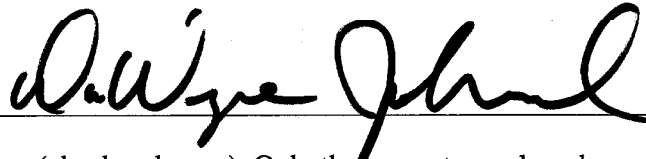
Topic

Interstate nursing compact

Subject(s)

Occupational Reg. - misc

1. **JACKET** the draft for introduction



in the **Senate** ____ or the **Assembly** ____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Mark D. Kunkel, Legislative Attorney
Telephone: (608) 266-0131



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2286/✓ 2
PG&MDK:wjl:lp

1999 BILL

(PR-182)

Regen

1 AN ACT *to amend* 441.01 (1), 441.06 (1), 441.06 (4), 441.07 (1) (b), 441.10 (3) (a),
2 441.10 (3) (c), 441.11 (1) to (3), 441.11 (4), 441.115 (1), 441.115 (2) (a), 441.115
3 (2) (b), 441.13 and 441.15 (3) (a); *to repeal and recreate* 441.11 (3) and 441.11
4 (4); and *to create* subchapter I (title) of chapter 441 [precedes 441.01] and
5 subchapter II of chapter 441 [precedes 441.50] of the statutes; **relating to:**
6 adopting the nurse licensure compact and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, no person may practice professional nursing in this state unless he or she is licensed as a registered nurse by the board of nursing. Although a license is not required for practical nursing, no person without such a license issued by the board of nursing may hold himself or herself out as a licensed practical nurse or indicate in any way that he or she is a licensed practical nurse. Exceptions to these prohibitions are provided for temporary practice. In addition, current law provides a mechanism for persons who are licensed in other states to be issued a license in this state without ~~taking an~~ examination.

This bill adopts the interstate compact on nurse licensure, which was approved by the national council of state boards of nursing on December 15, 1997. Under the compact, a nurse who is licensed in a party state (a state that has adopted the compact) may practice nursing in any other party state without obtaining a license in the other state. The compact requires every nurse practicing in a party state to

retaking the national licensing

BILL

1 case. The application for licensure without examination shall be accompanied by the
2 fee prescribed in s. 440.05 (2).

3 **SECTION 4.** 441.06 (4) of the statutes is amended to read:

4 441.06 (4) No person may practice or attempt to practice professional nursing,
5 nor use the title, letters, or anything else to indicate that he or she is a registered or
6 professional nurse unless he or she is licensed under this section. No person not so
7 licensed may use in connection with his or her nursing employment or vocation any
8 title or anything else to indicate that he or she is a trained, certified or graduate
9 nurse. This subsection does not apply to any person who is licensed to practice
10 nursing by a jurisdiction, other than this state, that has adopted the nurse licensure
11 compact under s. 441.50.

12 **SECTION 5.** 441.07 (1) (b) of the statutes is amended to read:

13 441.07 (1) (b) One or more violations of this ~~chapter~~ subchapter or any rule
14 adopted by the board under the authority of this ~~chapter~~ subchapter.

15 **SECTION 6.** 441.10 (3) (a) of the statutes is amended to read:

16 441.10 (3) (a) On complying with this ~~chapter~~ subchapter relating to applicants
17 for licensure as licensed practical nurses, and passing an examination, the applicant
18 shall receive a license as a licensed practical nurse. The holder of the license is a
19 “licensed practical nurse” and may append the letters “L.P.N.” to his or her name.
20 The board may reprimand or may limit, suspend or revoke the license of a licensed
21 practical nurse under s. 441.07.

22 **SECTION 7.** 441.10 (3) (c) of the statutes is amended to read:

23 441.10 (3) (c) No license is required for practical nursing, but no person without
24 a license may hold himself or herself out as a licensed practical nurse or licensed
25 attendant, use the title or letters “Trained Practical Nurse” or “T.P.N.”, “Licensed

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1 Practical Nurse” or “L.P.N.”, “Licensed Attendant” or “L.A.”, “Trained Attendant” or
2 “T.A.”, or otherwise seek to indicate that he or she is a licensed practical nurse or
3 licensed attendant. No licensed practical nurse or licensed attendant may use the
4 title, or otherwise seek to act as a registered, licensed, graduate or professional
5 nurse. Anyone violating this subsection shall be subject to the penalties prescribed
6 by s. 441.13. The board shall grant without examination a license as a licensed
7 practical nurse to any person who was on July 1, 1949, a licensed attendant. This
8 paragraph does not apply to any person who is licensed to practice practical nursing
9 by a jurisdiction, other than this state, that has adopted the nurse licensure compact
10 under s. 441.50.

11 **SECTION 8.** 441.11 (1) to (3) of the statutes are amended to read:

12 441.11 (1) FOR COMPENSATION. Wherever the term “compensation” is used in
13 this ~~chapter~~ subchapter it shall include indirect compensation as well as direct
14 compensation and also the expectation thereof whether actually received or not.

15 (2) NURSE AND NURSING. Except as provided under s. 441.08, wherever the term
16 “nurse” is used in this ~~chapter~~ subchapter without modification or amplification it
17 shall mean only a registered nurse. Wherever the term “nursing” is used in this
18 ~~chapter~~ subchapter without modification or amplification it shall mean the practice
19 of professional nursing as specified in sub. (4).

20 (3) PRACTICE OF PRACTICAL NURSING. The practice of practical nursing under this
21 ~~chapter~~ subchapter means the performance for compensation of any simple acts in
22 the care of convalescent, subacutely or chronically ill, injured or infirm persons, or
23 of any act or procedure in the care of the more acutely ill, injured or infirm under the
24 specific direction of a nurse, physician, podiatrist licensed under ch. 448, dentist
25 licensed under ch. 447 or optometrist licensed under ch. 449, or under an order of a

BILL

1 person who is licensed to practice medicine, podiatry or dentistry in another state if
2 that person prepared the order after examining the patient in that other state and
3 directs that the order be carried out in this state. A simple act is one ~~which~~ that does
4 not require any substantial nursing skill, knowledge or training, or the application
5 of nursing principles based on biological, physical or social sciences, or the
6 understanding of cause and effect in such acts and is one ~~which~~ that is of a nature
7 of those approved by the board for the curriculum of schools for licensed practical
8 nurses.

9 **SECTION 9.** 441.11 (3) of the statutes, as affected by 1997 Wisconsin Act 62, is
10 repealed and recreated to read:

11 **441.11 (3) PRACTICE OF PRACTICAL NURSING.** The practice of practical nursing
12 under this subchapter means the performance for compensation of any simple acts
13 in the care of convalescent, subacutely or chronically ill, injured or infirm persons,
14 or of any act or procedure in the care of the more acutely ill, injured or infirm under
15 the specific direction of a nurse, physician, podiatrist licensed under ch. 448, dentist
16 licensed under ch. 447 or optometrist licensed under ch. 449, or under an order of a
17 person who is licensed to practice medicine, podiatry, dentistry or optometry in
18 another state if that person prepared the order after examining the patient in that
19 other state and directs that the order be carried out in this state. A simple act is one
20 that does not require any substantial nursing skill, knowledge or training, or the
21 application of nursing principles based on biological, physical or social sciences, or
22 the understanding of cause and effect in such acts and is one that is of a nature of
23 those approved by the board for the curriculum of schools for licensed practical
24 nurses.

25 **SECTION 10.** 441.11 (4) of the statutes is amended to read:

BILL

1 441.11 (4) PRACTICE OF PROFESSIONAL NURSING. The practice of professional
2 nursing within the terms of this ~~chapter~~ subchapter means the performance for
3 compensation of any act in the observation or care of the ill, injured or infirm, or for
4 the maintenance of health or prevention of illness of others, which act requires
5 substantial nursing skill, knowledge or training, or application of nursing principles
6 based on biological, physical and social sciences, such as the observation and
7 recording of symptoms and reactions, the execution of procedures and techniques in
8 the treatment of the sick under the general or special supervision or direction of a
9 physician, podiatrist licensed under ch. 448, dentist licensed under ch. 447 or
10 optometrist licensed under ch. 449, or under an order of a person who is licensed to
11 practice medicine, podiatry or dentistry in another state if that person prepared the
12 order after examining the patient in that other state and directs that the order be
13 carried out in this state, and the execution of general nursing procedures and
14 techniques. Except as provided in s. 50.04 (2) (b), the practice of professional nursing
15 includes the supervision of a patient and the supervision and direction of licensed
16 practical nurses and less skilled assistants.

17 **SECTION 11.** 441.11 (4) of the statutes, as affected by 1997 Wisconsin Act 62,
18 is repealed and recreated to read:

19 441.11 (4) PRACTICE OF PROFESSIONAL NURSING. The practice of professional
20 nursing within the terms of this subchapter means the performance for
21 compensation of any act in the observation or care of the ill, injured or infirm, or for
22 the maintenance of health or prevention of illness of others, which act requires
23 substantial nursing skill, knowledge or training, or application of nursing principles
24 based on biological, physical and social sciences, such as the observation and
25 recording of symptoms and reactions, the execution of procedures and techniques in

BILL

1 the treatment of the sick under the general or special supervision or direction of a
2 physician, podiatrist licensed under ch. 448, dentist licensed under ch. 447 or
3 optometrist licensed under ch. 449, or under an order of a person who is licensed to
4 practice medicine, podiatry, dentistry or optometry in another state if that person
5 prepared the order after examining the patient in that other state and directs that
6 the order be carried out in this state, and the execution of general nursing procedures
7 and techniques. Except as provided in s. 50.04 (2) (b), the practice of professional
8 nursing includes the supervision of a patient and the supervision and direction of
9 licensed practical nurses and less skilled assistants.

10 **SECTION 12.** 441.115 (1) of the statutes is amended to read:

11 441.115 (1) This chapter shall not be construed to affect nursing by friends,
12 members of the family or undergraduates in an accredited school, nor be construed
13 to interfere with members of religious communities or orders having charge of
14 hospitals or taking care of the sick in their homes, except that none of such excepted
15 persons while engaged in such activities shall represent himself or herself as a
16 registered, trained, certified or graduate nurse unless registered under this ~~chapter~~
17 subchapter.

18 **SECTION 13.** 441.115 (2) (a) of the statutes is amended to read:

19 441.115 (2) (a) In this subsection, "nursing credential" means a license, permit
20 or certificate of registration or certification that is granted to a person by another
21 state or territory or by a foreign country or province and that authorizes or qualifies
22 the person holding the credential to perform acts that are substantially the same as
23 those performed by a person licensed as a registered nurse or licensed practical nurse
24 under this ~~chapter~~ subchapter. In this paragraph, "state or territory" excludes any
25 state or territory that has adopted the nurse licensure compact under s. 441.50.

BILL

1 **SECTION 14.** 441.115 (2) (b) of the statutes is amended to read:

2 441.115 (2) (b) A person who holds a current, valid nursing credential may
3 practice professional or practical nursing in this state, as provided under par. (c), for
4 not more than 72 consecutive hours each year without holding a license granted by
5 the board under this ~~chapter~~ subchapter if the board determines that the
6 requirements for the nursing credential that the person holds are substantially
7 equivalent to the requirements for licensure under this ~~chapter~~ subchapter. Except
8 in an emergency, the person shall provide to the board, at least 7 days before
9 practicing professional or practical nursing for the person who is specified under par.
10 (c) 2., written notice that includes the name of the person providing notice, the type
11 of nursing credential that the person holds and the name of the state, territory,
12 foreign country or province that granted the nursing credential. In the event of an
13 emergency, the person shall provide to the board written notice that includes the
14 information otherwise required under this paragraph, as soon as practicable.

15 **SECTION 15.** 441.13 of the statutes is amended to read:

16 **441.13 Penalty.** (1) Any person violating this ~~chapter~~ subchapter or
17 knowingly employing another in violation of this ~~chapter~~ subchapter may be fined
18 not more than \$250 or imprisoned not more than one year in the county jail.

19 (2) No action may be brought or other proceeding had to recover compensation
20 for professional nursing services unless at the time such services were rendered the
21 person rendering the same was a registered nurse or had a temporary permit issued
22 under this ~~chapter~~ subchapter.

23 (3) The remedy of injunction may be used in enforcing this ~~chapter~~ subchapter.

24 **SECTION 16.** 441.15 (3) (a) of the statutes is amended to read:

BILL

1 441.15 (3) (a) The board shall grant a license to engage in the practice of
2 nurse-midwifery to any person licensed as a registered nurse under this ~~chapter~~
3 subchapter or in a party state, as defined in s. 441.50 (2) (j), who meets the
4 educational and training prerequisites established by the board for the practice of
5 nurse-midwifery and who pays the fee specified under s. 440.05 (1).

6 **SECTION 17.** Subchapter II of chapter 441 [precedes 441.50] of the statutes is
7 created to read:

SUBCHAPTER II**NURSE LICENSURE COMPACT****441.50 Nurse Licensure Compact.****(1) ARTICLE I - FINDINGS AND DECLARATION OF PURPOSE.**

12 (a) The party states find all of the following:

13 1. That the health and safety of the public are affected by the degree of
14 compliance with and the effectiveness of enforcement activities related to state nurse
15 licensure laws.

16 2. That violations of nurse licensure and other laws regulating the practice of
17 nursing may result in injury or harm to the public.

18 3. That the expanded mobility of nurses and the use of advanced
19 communication technologies as part of our nation's health care delivery system
20 require greater coordination and cooperation among states in the areas of nurse
21 licensure and regulation.

22 4. That new practice modalities and technology make compliance with
23 individual state nurse licensure laws difficult and complex.

24 5. That the current system of duplicative licensure for nurses practicing in
25 multiple states is cumbersome and redundant to both nurses and states.

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- 1 (b) The general purposes of this compact are as follows:
- 2 1. To facilitate the states' responsibility to protect the public's health and safety.
- 3 2. To ensure and encourage the cooperation of party states in the areas of nurse
- 4 licensure and regulation.
- 5 3. To facilitate the exchange of information between party states in the areas
- 6 of nurse regulation, investigation and adverse actions.
- 7 4. To promote compliance with the laws governing the practice of nursing in
- 8 each jurisdiction.
- 9 5. To invest all party states with the authority to hold a nurse accountable for
- 10 meeting all state practice laws in the state in which the patient is located at the time
- 11 care is rendered through the mutual recognition of party state licenses.
- 12 (2) ARTICLE II - DEFINITIONS. As used in this compact:
- 13 (a) "Adverse action" means a home or remote state action.
- 14 (b) "Alternative program" means a voluntary, nondisciplinary monitoring
- 15 program approved by a nurse licensing board.
- 16 (c) "Coordinated licensure information system" means an integrated process
- 17 for collecting, storing and sharing information on nurse licensure and enforcement
- 18 activities related to nurse licensure laws, which is administered by a nonprofit
- 19 organization composed of and controlled by state nurse licensing boards.
- 20 (d) "Current significant investigative information" means any of the following:
- 21 1. Investigative information that a licensing board, after a preliminary inquiry
- 22 that includes notification and an opportunity for the nurse to respond if required by
- 23 state law, has reason to believe is not groundless and, if proved true, would indicate
- 24 more than a minor infraction.

BILL

1 2. Investigative information that indicates that the nurse represents an
2 immediate threat to public health and safety regardless of whether the nurse has
3 been notified and had an opportunity to respond.

4 (e) "Home state" means the party state that is the nurse's primary state of
5 residence.

6 (f) "Home state action" means any administrative, civil, equitable or criminal
7 action permitted by the home state's laws that are imposed on a nurse by the home
8 state's licensing board or other authority including actions against an individual's
9 license, such as revocation, suspension, probation or any other action that affects a
10 nurse's authorization to practice.

11 (g) "Licensing board" means a party state's regulatory body responsible for
12 issuing nurse licenses.

13 (h) "Multistate licensure privilege" means current, official authority from a
14 remote state permitting the practice of nursing as either a registered nurse or a
15 licensed practical/vocational nurse in such party state. All party states have the
16 authority, in accordance with existing state due process law, to take actions against
17 the nurse's privilege, such as revocation, suspension, probation or any other action
18 that affects a nurse's authorization to practice.

19 (i) "Nurse" means a registered nurse or licensed practical/vocational nurse, as
20 those terms are defined by each party's state practice laws.

21 (j) "Party state" means any state that has adopted this compact.

22 (k) "Remote state" means a party state, other than the home state, where the
23 patient is located at the time nursing care is provided, or, in the case of the practice
24 of nursing not involving a patient, in such party state where the recipient of nursing
25 practice is located.

BILL

1 (L) “Remote state action” means any of the following:

2 1. Any administrative, civil, equitable or criminal action permitted by a remote
3 state’s laws that are imposed on a nurse by the remote state’s licensing board or other
4 authority including actions against an individual’s multistate licensure privilege to
5 practice in the remote state.

6 2. Cease and desist and other injunctive or equitable orders issued by remote
7 states or the licensing boards thereof.

8 (m) “State” means a state, territory, or possession of the United States, the
9 District of Columbia or the Commonwealth of Puerto Rico.

10 (n) “State practice laws” means those individual party’s state laws and
11 regulations that govern the practice of nursing, define the scope of nursing practice,
12 and create the methods and grounds for imposing discipline. “State practice laws”
13 does not include the initial qualifications for licensure or requirements necessary to
14 obtain and retain a license, except for qualifications or requirements of the home
15 state.

16 **(3) ARTICLE III – GENERAL PROVISIONS AND JURISDICTION.**

17 (a) A license to practice registered nursing issued by a home state to a resident
18 in that state will be recognized by each party state as authorizing a multistate
19 licensure privilege to practice as a registered nurse in such party state. A license to
20 practice licensed practical/vocational nursing issued by a home state to a resident in
21 that state will be recognized by each party state as authorizing a multistate licensure
22 privilege to practice as a licensed practical/vocational nurse in such party state. In
23 order to obtain or retain a license, an applicant must meet the home state’s
24 qualifications for licensure and license renewal as well as all other applicable state
25 laws.

BILL

1 (b) Party states may, in accordance with state due process laws, limit or revoke
2 the multistate licensure privilege of any nurse to practice in their state and may take
3 any other actions under their applicable state laws necessary to protect the health
4 and safety of their citizens. If a party state takes such action, it shall promptly notify
5 the administrator of the coordinated licensure information system. The
6 administrator of the coordinated licensure information system shall promptly notify
7 the home state of any such actions by remote states.

8 (c) Every nurse practicing in a party state must comply with the state practice
9 laws of the state in which the patient is located at the time care is rendered. In
10 addition, the practice of nursing is not limited to patient care, but shall include all
11 nursing practice as defined by the state practice laws of a party state. The practice
12 of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the
13 courts, as well as the laws, in that party state.

14 (d) This compact does not affect additional requirements imposed by states for
15 advanced practice registered nursing. However, a multistate licensure privilege to
16 practice registered nursing granted by a party state shall be recognized by other
17 party states as a license to practice registered nursing if one is required by state law
18 as a precondition for qualifying for advanced practice registered nurse
19 authorization.

20 (e) Individuals not residing in a party state shall continue to be able to apply
21 for nurse licensure as provided for under the laws of each party state. However, the
22 license granted to these individuals will not be recognized as granting the privilege
23 to practice nursing in any other party state unless explicitly agreed to by that party
24 state.

25 (4) ARTICLE IV – APPLICATIONS FOR LICENSURE IN A PARTY STATE.

BILL

1 (a) Upon application for a license, the licensing board in a party state shall
2 ascertain, through the coordinated licensure information system, whether the
3 applicant has ever held, or is the holder of, a license issued by any other state,
4 whether there are any restrictions on the multistate licensure privilege, and whether
5 any other adverse action by any state has been taken against the license.

6 (b) A nurse in a party state shall hold licensure in only one party state at a time,
7 issued by the home state.

8 (c) A nurse who intends to change his or her primary state of residence may
9 apply for licensure in the new home state in advance of such change. However, new
10 licenses will not be issued by a party state until after a nurse provides evidence of
11 the change in his or her primary state of residence satisfactory to the new home
12 state's licensing board.

13 (d) 1. When a nurse changes his or her primary state of residence by moving
14 between two party states, and obtains a license from the new home state, the license
15 from the former home state is no longer valid.

16 2. When a nurse changes his or her primary state of residence by moving from
17 a nonparty state to a party state, and obtains a license from the new home state, the
18 individual state license issued by the nonparty state is not affected and will remain
19 in full force if so provided by the laws of the nonparty state.

20 3. When a nurse changes his or her primary state of residence by moving from
21 a party state to a nonparty state, the license issued by the prior home state converts
22 to an individual state license, valid only in the former home state, without the
23 multistate licensure privilege to practice in other party states.

24 (5) ARTICLE V - ADVERSE ACTIONS. In addition to the general provisions
25 described in sub. (3), the following provisions apply:

BILL

1 (a) The licensing board of a remote state shall promptly report to the
2 administrator of the coordinated licensure information system any remote state
3 actions including the factual and legal basis for such action, if known. The licensing
4 board of a remote state shall also promptly report any significant current
5 investigative information yet to result in a remote state action. The administrator
6 of the coordinated licensure information system shall promptly notify the home
7 state of any such reports.

8 (b) The licensing board of a party state shall have the authority to complete any
9 pending investigations for a nurse who changes his or her primary state of residence
10 during the course of such investigations. It shall also have the authority to take
11 appropriate actions, and shall promptly report the conclusions of such investigations
12 to the administrator of the coordinated licensure information system. The
13 administrator of the coordinated licensure information system shall promptly notify
14 the new home state of any such actions.

15 (c) A remote state may take adverse action affecting the multistate licensure
16 privilege to practice within that party state. However, only the home state shall have
17 the power to impose adverse action against the license issued by the home state.

18 (d) For purposes of imposing adverse action, the licensing board of the home
19 state shall give the same priority and effect to reported conduct received from a
20 remote state as it would if such conduct had occurred within the home state. In so
21 doing, it shall apply its own state laws to determine appropriate action.

22 (e) The home state may take adverse action based on the factual findings of the
23 remote state, so long as each state follows its own procedures for imposing such
24 adverse action.

BILL

1 (f) Nothing in this compact shall override a party state's decision that
2 participation in an alternative program may be used in lieu of licensure action and
3 that such participation shall remain nonpublic if required by the party state's laws.
4 Party states must require nurses who enter any alternative programs to agree not
5 to practice in any other party state during the term of the alternative program
6 without prior authorization from such other party state.

7 (6) ARTICLE VI - ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE NURSE
8 LICENSING BOARDS. Notwithstanding any other powers, party state nurse licensing
9 boards shall have the authority to do any of the following:

10 (a) If otherwise permitted by state law, recover from the affected nurse the costs
11 of investigations and disposition of cases resulting from any adverse action taken
12 against that nurse.

13 (b) Issue subpoenas for both hearings and investigations that require the
14 attendance and testimony of witnesses, and the production of evidence. Subpoenas
15 issued by a nurse licensing board in a party state for the attendance and testimony
16 of witnesses, or the production of evidence from another party state, or both, shall
17 be enforced in the latter state by any court of competent jurisdiction, according to the
18 practice and procedure of that court applicable to subpoenas issued in proceedings
19 pending before it. The issuing authority shall pay any witness fees, travel expenses,
20 mileage and other fees required by the service statutes of the state where the
21 witnesses or evidence, or both, are located.

22 (c) Issue cease and desist orders to limit or revoke a nurse's authority to practice
23 in their state.

24 (d) Promulgate uniform rules and regulations as provided for in sub. (8) (c).

25 (7) ARTICLE VII - COORDINATED LICENSURE INFORMATION SYSTEM.

BILL

1 (a) All party states shall participate in a cooperative effort to create a
2 coordinated data base of all licensed registered nurses and licensed
3 practical/vocational nurses. This system will include information on the licensure
4 and disciplinary history of each nurse, as contributed by party states, to assist in the
5 coordination of nurse licensure and enforcement efforts.

6 (b) Notwithstanding any other provision of law, all party states' licensing
7 boards shall promptly report adverse actions, actions against multistate licensure
8 privileges, any current significant investigative information yet to result in adverse
9 action, denials of applications, and the reasons for such denials, to the coordinated
10 licensure information system.

11 (c) Current significant investigative information shall be transmitted through
12 the coordinated licensure information system only to party state licensing boards.

13 (d) Notwithstanding any other provision of law, all party states' licensing
14 boards contributing information to the coordinated licensure information system
15 may designate information that may not be shared with nonparty states or disclosed
16 to other entities or individuals without the express permission of the contributing
17 state.

18 (e) Any personally identifiable information obtained by a party states' licensing
19 board from the coordinated licensure information system may not be shared with
20 nonparty states or disclosed to other entities or individuals except to the extent
21 permitted by the laws of the party state contributing the information.

22 (f) Any information contributed to the coordinated licensure information
23 system that is subsequently required to be expunged by the laws of the party state
24 contributing that information, shall also be expunged from the coordinated licensure
25 information system.

BILL

1 (e) The compact administrators, acting jointly with each other and in
2 consultation with the administrator of the coordinated licensure information
3 system, shall formulate necessary and proper procedures for the identification,
4 collection and exchange of information under this compact.

5 **(8) ARTICLE VIII - COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION.**

6 (a) The secretary of the department, or his or her designee, shall be the
7 administrator of this compact for this state.

8 (b) The compact administrator of each party state shall furnish to the compact
9 administrator of each other party state any information and documents including,
10 but not limited to, a uniform data set of investigations, identifying information,
11 licensure data and disclosable alternative program participation information to
12 facilitate the administration of this compact.

13 (c) Compact administrators shall have the authority to develop uniform rules
14 to facilitate and coordinate implementation of this compact. These uniform rules
15 shall be adopted by party states, under the authority invested under sub. (6) (d).

16 **(9) ARTICLE IX - IMMUNITY.** No party state or the officers or employes or agents
17 of a party state's nurse licensing board who acts in accordance with the provisions
18 of this compact shall be liable on account of any act or omission in good faith while
19 engaged in the performance of their duties under this compact. Good faith in this
20 article shall not include wilful misconduct, gross negligence or recklessness.

21 **(10) ARTICLE X - ENTRY INTO FORCE, WITHDRAWAL AND AMENDMENT.**

22 (a) This compact shall enter into force and become effective as to any state when
23 it has been enacted into the laws of that state. Any party state may withdraw from
24 this compact by enacting a statute repealing the same, but no such withdrawal shall

BILL

1 take effect until 6 months after the withdrawing state has given notice of the
2 withdrawal to the executive heads of all other party states.

3 (b) No withdrawal shall affect the validity or applicability by the licensing
4 boards of states remaining party to the compact of any report of adverse action
5 occurring prior to the withdrawal.

6 (c) Nothing contained in this compact shall be construed to invalidate or
7 prevent any nurse licensure agreement or other cooperative arrangement between
8 a party state and a nonparty state that is made in accordance with the other
9 provisions of this compact.

10 (d) This compact may be amended by the party states. No amendment to this
11 compact shall become effective and binding upon the party states unless and until
12 it is enacted into the laws of all party states.

13 **(11) ARTICLE XI – CONSTRUCTION AND SEVERABILITY.**

14 (a) This compact shall be liberally construed so as to effectuate the purposes
15 thereof. The provisions of this compact shall be severable and if any phrase, clause,
16 sentence or provision of this compact is declared to be contrary to the constitution of
17 any party state or of the United States or the applicability thereof to any government,
18 agency, person or circumstance is held invalid, the validity of the remainder of this
19 compact and the applicability thereof to any government, agency, person or
20 circumstance shall not be affected thereby. If this compact shall be held contrary to
21 the constitution of any state party thereto, the compact shall remain in full force and
22 effect as to the remaining party states and in full force and effect as to the party state
23 affected as to all severable matters.

24 (b) In the event party states find a need for settling disputes arising under this
25 compact, the party states may submit the issues in dispute to an arbitration panel

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1 that will be comprised of an individual appointed by the compact administrator in
2 the home state, an individual appointed by the compact administrator in the remote
3 state or states involved and an individual mutually agreed upon by the compact
4 administrators of all the party states involved in the dispute. The decision of a
5 majority of the arbitrators shall be final and binding.

6 **SECTION 18. Effective dates.** This act takes effect on the day after publication,
7 except as follows:

8 (1) The repeal and recreation of section 441.11 (3) and (4) of the statutes takes
9 effect on April 1, 2000, or the day after publication, whichever is later.

10 (END)



CORRECTIONS IN: **CCC** (LRB-2286/2)

TO 1999 ASSEMBLY BILL 305

(?????????)

Prepared by the Legislative Reference Bureau
(Date?????????????)

1. Page 9, line 7: after that line insert:

"CHAPTER 441".

KMG:

.....

Minor clerical corrections in legislation are authorized under s. 35.17, stats.; Senate Rule 31, Assembly Rule 37 and Joint Rule 56.



State of Wisconsin
1999-2000 LEGISLATURE

CORRECTIONS IN:

1999 ASSEMBLY BILL 305

Prepared by the Legislative Reference Bureau
(May 13, 1999)

1. Page 9, line 7: after that line insert:

"CHAPTER 441".