

CHAPTER 441

BOARD OF NURSING

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Cross-reference: See definitions in s. 440.01.

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

(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.

(4) The board shall direct that those schools which qualify be placed on the accredited list of schools for professional nurses or of schools for licensed practical nurses on application and proof of qualifications; and shall make a study of nursing education and initiate rules and policies to improve it.

(5) The board may promote the professional education of graduate registered nurses licensed in Wisconsin, through creation of scholarships available to such graduate registered nurses, by foundation of professorships in nursing courses in Wisconsin colleges and universities, by conducting educational meetings, seminars, lectures, demonstrations and the like open to registered nurses, by publication and dissemination of technical information or by other similar activities designed to improve the standards of the nursing profession in this state. The board may promote the training of licensed practical nurses through support of workshops and institutes and by conducting meetings, lectures, demonstrations and the like open to licensed practical nurses.

(6) The board shall investigate any nurse anesthetist who is found to have acted negligently by a panel established under s. 655.02, 1983 stats., or by a court.

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.

441.04 Requisites for examination as a registered nurse. Any person who has graduated from a high school or its equivalent as determined by the board, does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, holds a diploma of graduation from an accredited school of nursing and, if the school is located outside this state, submits evidence of general and professional educational qualifications comparable to those required in this state at the time of graduation may apply to the department for licensure by the board as a registered nurse, and upon payment of the fee specified under s. 440.05 (1) shall be entitled to examination.

History: 1971 c. 125; 1975 c. 39, 199; 1977 c. 29; 1979 c. 337; 1981 c. 380; 1981 c. 391 s. 211; 1987 a. 264.

441.05 Examination for nurses. The examining council on registered nurses shall prepare or select written questions in areas it determines and prescribe rules, subject to the approval of the board, for conducting examinations and the preservation of the examination papers for one year. Examinations shall be held at least twice a year at times and places designated by the examining council, and at least 30 days' public notice shall be given. Examinations may also be held at other times and places with or without public notice as directed by the examining council. The examin-

ing council may also proctor an examination of another state for the convenience of a candidate and charge such fee therefor as the department fixes to cover the actual cost of the service rendered.

History: 1977 c. 29.

441.06 Licensure; civil liability exemption. (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).

(2) The holder of the license is a "registered nurse", may append "R.N." to his or her name and is authorized to practice professional nursing.

(3) A registered nurse practicing for compensation shall, on or before the applicable renewal date specified under s. 440.08 (2) (a), submit to the board on furnished blanks a statement giving name, residence and other facts as the board requires, with the applicable renewal fee specified under s. 440.08 (2) (a).

(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.

(6) No person licensed as a registered nurse under this section is liable for any civil damages resulting from his or her refusal to perform sterilization procedures or to remove or aid in the removal of a human embryo or fetus from a person, if the refusal is based on religious or moral precepts.

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.

441.07 Revocation. (1) The board may, after disciplinary proceedings conducted in accordance with rules promulgated under s. 440.03 (1), revoke, limit, suspend or deny renewal of a license of a registered nurse, a nurse-midwife or a licensed practical nurse, may revoke, limit, suspend or deny renewal of a certificate to prescribe drugs or devices granted under s. 441.16, or may reprimand a registered nurse, nurse-midwife or licensed practical nurse, if the board finds that the person committed any of the following:

(a) Fraud in the procuring or renewal of the certificate or license.

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

(c) Acts which show the registered nurse, nurse-midwife or licensed practical nurse to be unfit or incompetent by reason of negligence, abuse of alcohol or other drugs or mental incompetency.

(d) Misconduct or unprofessional conduct.

(e) A violation of any state or federal law that regulates prescribing or dispensing drugs or devices, if the person has a certificate to prescribe drugs or devices under s. 441.16.

(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.

(2) The board may reinstate a revoked license, no earlier than one year following revocation, upon receipt of an application for reinstatement.

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.

441.08 Temporary permit. A nurse who has graduated from an accredited school but is not licensed in this state may be granted a temporary permit upon payment of the fee specified in s. 440.05(6) by the board to practice for compensation until the nurse can qualify for licensure. The temporary permit may be renewed once. Further renewals may be granted in hardship cases. The board may promulgate rules limiting the use and duration of temporary permits and providing for revocation of temporary permits.

History: 1971 c. 125; 1977 c. 29; 1979 c. 337; 1987 a. 264.

441.10 Licensed practical nurses. (1) PREREQUISITES FOR EXAMINATION AS LICENSED PRACTICAL NURSES. A person who is 18 years of age or older, does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, has completed 2 years of high school or its equivalent as determined by the board and holds a diploma of graduation from an accredited school for licensed practical nurses approved by that board, may apply to the board for licensing as a licensed practical nurse, and, upon payment of the examination fee specified in s. 440.05(1), shall be entitled to take an examination. Any school for licensed practical nurses, in order to be accredited, must offer a course of not less than 9 months.

(2) **EXAMINATION** The examining council on licensed practical nurses shall prepare or select written questions in areas it determines and prescribe rules, subject to the approval of the board, for the examination of those desirous of becoming licensed practical nurses, and the examination papers of all applicants shall be preserved for one year. Examinations shall be held at least twice annually at times and places designated by the board, and at least 30 days' public notice shall be given of each examination. Examinations may also be held at other times and places with or without public notice as directed by the examining council. The examining council may also proctor an examination of another state for the convenience of a candidate and shall charge such fee therefor as the department fixes to cover the actual cost of the services rendered.

(3) **LICENSING** (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.

(b) On or before the applicable renewal date specified under s. 440.08(2)(a), a licensed practical nurse practicing for compensation shall submit to the board, on blanks furnished by the department, an application for license renewal, together with a statement giving name, residence, nature and extent of practice as a licensed practical nurse during the prior year and prior unreported years and other facts bearing upon current competency as

the board requires, accompanied by the applicable license renewal fee specified under s. 440.08(2)(a).

(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.

(d) The board may license without examination any person who has been licensed as a licensed attendant or licensed practical nurse in another state or territory or province of Canada if the person's general education, training, prior practice and other qualifications, in the opinion of the board, are at least comparable to those of this state for licensed practical nurses and current licensing or renewal. The fee for licensing without examination is specified in s. 440.05(2).

(e) The board may grant a temporary permit to a practical nurse who has graduated from an accredited school but is not licensed in this state, upon payment of the fee specified in s. 440.05(6), to practice for compensation until the practical nurse qualifies for licensure. The board may grant further renewals in hardship cases. The board may promulgate rules limiting the use and duration of temporary permits and providing for revocation of temporary permits.

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.

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).

(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 or dentist licensed under ch. 447, 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 does not require any substantial nursing skill, knowledge or training, or the application of nursing principles based on biological, physical or social sciences, or the understanding of cause and effect in such acts and is one which is of a nature of those approved by the board for the curriculum of schools for licensed practical nurses.

(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 physi-

cian, podiatrist licensed under ch. 448 or dentist licensed under ch. 447, 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.

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.

This section is not safety statute. *Leahy v Kenosha Memorial Hospital*, 118 W (2d) 441, 348 NW (2d) 607 (Ct. App. 1984).

441.115 Exceptions. This chapter 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 herself as a registered, trained, certified or graduate nurse unless registered under this chapter.

History: 1983 a. 189 s. 273

441.12 Administration; nonaccredited schools.

(1) The board shall enforce this chapter and cause the prosecution of persons violating it.

(2) No person shall operate in this state a school for professional nurses or a school for practical nurses unless the same shall be accredited by the board. No solicitation shall be made in this state of the sale of, or registration in, a course by correspondence or conducted without the state for practical nurses unless all written material used in such solicitation plainly states in type as large as any other type on the material that the course is not accredited in this state for training of practical nurses.

History: 1979 c. 34.

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.

(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.

441.15 Nurse-midwives. (1) In this section, "the practice of nurse-midwifery" means the management of care of a woman in normal childbirth and the provision of prenatal, intrapart, postpart and nonsurgical contraceptive methods and care for the mother and the newborn.

(2) No person may practice nurse-midwifery:

(a) Without a certificate issued by the board under sub. (3) (a).

(b) Unless such practice occurs in a health care facility approved by the board by rule under sub. (3) (c), under the general supervision of a physician with training in obstetrics and pursuant to a formal written agreement with that physician.

(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).

(b) On or before the applicable renewal date specified under s. 440.08 (2) (a), a person issued a certificate under par. (a) and practicing nurse-midwifery shall submit to the board on furnished blanks a statement giving his or her name, residence and other information as the board requires by rule, with the applicable renewal fee specified under s. 440.08 (2) (a).

(c) The board shall promulgate rules necessary to administer this section, including the establishment of appropriate limitations on the scope of the practice of nurse-midwifery, the facilities in which such practice may occur and the granting of temporary permits to practice nurse-midwifery pending qualification for certification.

(4) A nurse-midwife who discovers evidence that any aspect of care involves any complication which jeopardizes the health or life of the newborn or mother shall immediately refer the patient to the supervising physician under sub. (2) (b) or, if that physician is unavailable, to another physician.

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

NOTE: Chapter 317, laws of 1979, which created this section, states legislative intent in Section 1.

441.16 Prescription privileges of nurses. (1) In this section:

(a) "Device" has the meaning given in s. 450.01 (6).

(b) "Drug" has the meaning given in s. 450.01 (10) and includes all of the following:

1. Prescription drugs, as defined in s. 450.01 (20) (a).

2. Controlled substances, as defined in s. 161.01 (4).

(c) "Prescription order" has the meaning given in s. 450.01 (21).

(2) The board shall grant a certificate to issue prescription orders to an advanced practice nurse who meets the education, training and examination requirements established by the board for a certificate to issue prescription orders, and who pays the fee specified under s. 440.05 (1).

(3) The board shall promulgate rules necessary to administer this section, including rules for all of the following:

(a) Establishing the education, training or experience requirements that a registered nurse must satisfy to be an advanced practice nurse. The rules promulgated under this paragraph shall require a registered nurse to have education, training or experience that is in addition to the education, training or experience required for licensure as a registered nurse.

(am) Establishing the appropriate education, training and examination requirements that an advanced practice nurse must satisfy to qualify for a certificate to issue prescription orders.

(b) Defining the scope of practice within which an advanced practice nurse may issue prescription orders.

(c) Specifying the classes of drugs, individual drugs or devices that may not be prescribed by an advanced practice nurse.

(cm) Specifying the conditions to be met for a registered nurse to do the following:

1. Administer a drug prescribed by an advanced practice nurse who is certified to issue prescription orders.

2. Administer a drug at the direction of an advanced practice nurse who is certified to issue prescription orders.

(d) Establishing procedures for maintaining a certificate to issue prescription orders, including requirements for continuing education.

(e) Establishing the minimum amount of malpractice liability insurance coverage that an advanced practice nurse shall have if he or she is certified to issue prescription orders. The board shall promulgate rules under this paragraph in consultation with the commissioner of insurance.

(4) Every advanced practice nurse who is certified to issue prescription orders shall annually submit to the board evidence satisfactory to the board that he or she has in effect malpractice liability insurance coverage in the minimum amounts required by the rules of the board.

(5) An advanced practice nurse who is certified to issue prescription orders may not delegate the act of issuing a prescription order to any nurse who is not certified to issue prescription orders.

(6) Nothing in this section prohibits a nurse from issuing a prescription order as an act delegated by a physician.

History: 1993 a. 138.