CHAPTER 441

BOARD OF NURSING

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SUBCHAPTER I

REGULATION OF NURSING

Cross−reference: See also N, Wis. adm. code.

441.001 Definitions. In this subchapter:

(1) COMPENSATION. "Compensation" includes indirect compensation, direct compensation, and the expectation of compensation, whether actually received or not.

(2) NURSE. Except as provided under s. 441.08, "nurse," when used without modification or amplification, means only a registered nurse.

(2m) NURSING. "Nursing," when used without modification or amplification, means professional nursing.

(3) PRACTICAL NURSING. (a) "Practical nursing" means the performance for compensation of any simple acts in the care of convalescent, subacutely or chronically ill, injured or infirm persons, or of any act or procedure in the care of the more acutely ill, injured or infirm under the specific direction of a nurse, physician, podiatrist 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.

(b) In par. (a), "simple act" means an act to which all of the following apply:

1. The act does not require any substantial nursing skill, knowledge, or training, or the application of nursing principles based on biological, physical, or social sciences, or the understanding of cause and effect in the act.

2. The act is one that is of a nature of those approved by the board for the curriculum of schools for licensed practical nurses.

(4) PROFESSIONAL NURSING. "Professional nursing" means the performance for compensation of any act in the observation or care of the ill, injured, or infirm, or for the maintenance of health or prevention of illness of others, that requires substantial nursing skill, knowledge, or training, or application of nursing principles based on biological, physical, and social sciences. Professional nursing includes any of the following:

(a) The observation and recording of symptoms and reactions.

(b) 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 the person making the order prepared the order after examining the patient in that other state and directs that the order be carried out in this state.

(c) The execution of general nursing procedures and techniques.

(d) Except as provided in s. 50.04 (2) (b), 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; 1997 a. 62; 1999 a. 22; 2001 a. 107 ss. 72, 75 to 80; Stats. 2001 s. 441.001; 2003 a. 321; 2005 a. 149.

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

441.01 Board of nursing. (1) In this subchapter, "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 that qualify be placed on a list of schools the board has approved for professional nurses or of schools the board has approved 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.

(7) (a) The board shall require each applicant for the renewal of a license, certificate, or permit issued under this chapter to do all of the following as a condition for renewing the license, certificate, or permit:

1. Complete and submit to the department with the application for renewal of the license, certificate, or permit a nursing workforce survey developed by the department of workforce development under s. 106.30 (2).

2. Pay a nursing workforce survey fee of $4. All moneys received under this subdivision shall be deposited into the general fund and credited to the appropriation account under s. 20.165 (1) (jm).

(b) The board may not renew a license, certificate, or permit under this chapter unless the renewal applicant has completed the nursing workforce survey to the satisfaction of the board. The

board shall establish standards to determine whether the survey has been completed. The board shall, by no later than June 30 of each odd−numbered year, submit all completed nursing workforce survey forms to the department of workforce development.

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; 1999 a. 22; 2009 a. 28; 2013 a. 124.

Cross−reference: See also chs. N 1 and 2, Wis. adm. code.

441.06 Licensure; civil liability exemptions. (1) Subject to s. 441.07 (1g), the board shall grant a license as a registered nurse to an applicant for licensure who complies with all of the following requirements:

(a) The applicant graduates from a high school or its equivalent as determined by the board.

(b) The applicant does not have an arrest or conviction record, subject to ss. 111.321, 111.322, and 111.335.

(c) The applicant holds a diploma of graduation from a school of nursing approved by the board or that the board has authorized to admit students pending approval, and, if that 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.

(d) The applicant pays the fee specified in s. 440.05 (1).

(e) The applicant passes the examination approved by the board to receive a license as a registered nurse in this state. The applicant may not take the examination before receiving a diploma under par. (c) unless the applicant obtains a certificate of approval to take the examination from the school of nursing the applicant attends and submits that certificate to the board prior to examination.

(1m) The holder of a license as a registered nurse under the laws of another state or territory or province of Canada may be granted a license as a registered nurse in this state 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 forms a statement giving name, residence, and other facts that the board requires, with the applicable renewal fee determined by the department under s. 440.03 (9) (a).

(4) Except as provided in s. 257.03, 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. Except as provided in s. 257.03, 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. This subsection does not apply to any person who is licensed to practice nursing by a jurisdiction, other than this state, that has adopted the nurse licensure compact under s. 441.50.

(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.

(7) No person certified as an advanced practice nurse prescriber under s. 441.16 (2) is liable for civil damages for any of the following:

(a) Reporting in good faith to the department of transportation under s. 146.82 (3) a patient's name and other information relevant to a physical or mental condition of the patient that in the advanced practice nurse prescriber's judgment impairs the patient's ability to exercise reasonable and ordinary control over a motor vehicle.

(b) In good faith, not reporting to the department of transportation under s. 146.82 (3) a patient's name and other information relevant to a physical or mental condition of the patient that in the advanced practice nurse prescriber's judgment does not impair the patient's ability to exercise reasonable and ordinary control over a motor vehicle.

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; 1999 a. 22; 2001 a. 107; 2005 a. 96, 187; 2007 a. 20; 2009 a. 42; 2013 a. 114 ss. 4, 5; 2013 a. 124 s. 28; 2015 a. 55, 195.

Cross−reference: See also chs. N 2 and 3, Wis. adm. code.

441.07 Disciplinary proceedings and actions. (1c) Subject to the rules promulgated under s. 440.03 (1), the board may conduct investigations and hearings to determine whether a person has violated this chapter or a rule promulgated under this chapter.

(1g) Subject to the rules promulgated under s. 440.03 (1), the board may deny an initial license or revoke, limit, suspend, or deny the renewal of a license of a registered nurse, nurse−midwife, or licensed practical nurse; deny an initial certificate or revoke, limit, suspend, or deny the renewal of a certificate to prescribe drugs or devices granted under s. 441.16; or reprimand a registered nurse, nurse−midwife, or licensed practical nurse, if the board finds that the applicant or licensee committed any of the following:

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

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

(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. In this paragraph, "misconduct" and "unprofessional conduct" do not include any of the following:

1. Providing expedited partner therapy as described in s. 448.035.

2. Prescribing or delivering an opioid antagonist in accordance with s. 441.18 (2).

(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.

(f) A violation of the requirements of s. 253.10 (3) (c) 2., 3., 4., 5., 6. or 7.

(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. This subsection does not apply to a license that is revoked under s. 440.12.

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; 1999 a. 22; 2009 a. 280; 2013 a. 114, 200.

Cross−reference: See also ch. N 7, Wis. adm. code.

441.08 Temporary permit. A nurse who has graduated from a school approved by the board or that the board has authorized to admit students pending approval but who 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. Each applicant for renewal of a temporary permit under this section shall complete the nursing workforce survey and pay the fee required under s. 441.01 (7). 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; 2009 a. 28; 2013 a. 124.

441.10 Licensed practical nurses. (1) Subject to s. 441.07 (1g), the board shall grant a license as a licensed practical nurse to an applicant for licensure who satisfies all of the following conditions:

(a) The applicant is 18 years of age or older.

(b) The applicant does not have an arrest or conviction record, subject to ss. 111.321, 111.322, and 111.335.

(c) The applicant has completed 2 years of high school or its equivalent as determined by the board.

(d) The applicant holds a diploma of graduation from a school for licensed practical nurses approved by the board or that the board has authorized to admit students pending approval.

(e) The applicant pays the fee specified in s. 440.05 (1).

(f) The applicant passes the examination approved by the board for licensure as a licensed practical nurse in this state. The applicant may not take the examination before receiving a diploma under par. (d) unless the applicant obtains a certificate of approval to take the examination from the school of nursing the applicant attends and submits that certificate to the board prior to examination.

(4) Any school for licensed practical nurses, in order to be approved by the board, must offer a course of not less than 9 months.

(5) The holder of a license under this section 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.

(6) 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 forms 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, the nursing workforce survey and fee required under s. 441.01 (7), and other facts bearing upon current competency that the board requires, accompanied by the applicable license renewal fee determined by the department under s. 440.03 (9) (a).

(7) No license is required for practical nursing, but, except as provided in s. 257.03, 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. This subsection does not apply to any person who is licensed to practice practical nursing by a jurisdiction, other than this state, that has adopted the nurse licensure compact under s. 441.50.

(8) 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).

(9) The board may grant a temporary permit to a practical nurse who has graduated from a school approved by the board or that the board has authorized to admit students pending approval but who 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; 1999 a. 22; 2001 a. 107; 2005 a. 96; 2007 a. 20; 2009 a. 28, 42; 2013 a. 114, 124; 2015 a. 55, 195.

Cross−reference: See also ch. N 6, Wis. adm. code.

441.11 Nurse anesthetists. (1) In this section:

(a) "Anesthesiologist" has the meaning given in s. 448.015 (1b).

(b) "Nurse anesthetist" has the meaning given in s. 655.001 (9).

(2) The provisions of s. 448.04 (1) (g) do not apply to a nurse anesthetist.

(3) A nurse who is in a training program to become a nurse anesthetist and who is assisting an anesthesiologist as part of that training program must be supervised by an anesthesiologist who is supervising no more than one other nurse in such a training program.

History: 2011 a. 160.

441.115 Exceptions; temporary practice. (1) This chapter may not be construed to affect nursing by friends, members of the family, or undergraduates in a school approved by the board, 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 those persons may represent himself or herself as a registered, trained, certified, or graduate nurse unless registered under this subchapter.

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

(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 subchapter 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 subchapter. 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.

(c) A person who is permitted to practice professional or practical nursing under par. (b) may practice professional or practical nursing only for the following persons:

1. A person who is being transported through or into this state for the purpose of receiving medical care.

2. A person who is in this state temporarily, if the person is a resident of the state, territory, country or province that granted the nursing credential to the person permitted to practice professional or practical nursing under par. (b).

History: 1983 a. 189 s. 273; 1995 a. 146; 1999 a. 22; 2013 a. 124.

Cross−reference: See also ch. N 6, Wis. adm. code.

441.12 Administration; nonaccredited schools. (1) The board shall enforce this chapter and cause the prosecution of persons violating it.

(2) No person may operate in this state a school for professional nurses or a school for practical nurses unless the school is approved by the board. No solicitation may be made in this state of the sale of, or registration in, a course by correspondence or conducted outside of the state for practical nurses unless all written material used in the solicitation plainly states in type as large as any other type on the material that the course is not approved by the board for training of practical nurses.

History: 1979 c. 34; 2013 a. 124.

441.13 Penalty. (1) Any person violating this subchapter or knowingly employing another in violation of this subchapter 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 subchapter.

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

History: 1999 a. 22.

441.15 Nurse−midwives. (1) In this section:

(a) "Collaboration" means a process that involves 2 or more health care professionals working together and, when necessary, in each other's presence, and in which each health care professional contributes his or her expertise to provide more comprehensive care than one health care professional alone can offer.

(b) "Practice of nurse−midwifery" means the management of women's health care, pregnancy, childbirth, postpartum care for newborns, family planning, and gynecological services consistent with the standards of practice of the American College of Nurse−Midwives and the education, training, and experience of the nurse−midwife.

(2) Except as provided in sub. (2m) and s. 257.03, no person may engage in the practice of nurse−midwifery unless each of the following conditions is satisfied:

(a) The person is issued a license by the board under sub. (3) (a).

(b) The practice occurs in a health care facility approved by the board by rule under sub. (3) (c), in collaboration with a physician with postgraduate training in obstetrics, and pursuant to a written agreement with that physician.

(c) Except as provided in sub. (5) (a), the person has in effect the malpractice liability insurance required under the rules promulgated under sub. (5) (bm).

(2m) Subsection (2) does not apply to a person granted a license to practice midwifery under subch. XIII of ch. 440.

(3) (a) Subject to s. 441.07 (1g), the board shall grant a license to engage in the practice of nurse−midwifery to any person licensed as a registered nurse under this subchapter or in a party state, as defined in s. 441.50 (2) (j), who does all of the following:

1. Submits evidence satisfactory to the board that he or she meets the educational and training prerequisites established by the board for the practice of nurse−midwifery.

2. Pays the initial credential fee determined by the department under s. 440.03 (9) (a).

3. If applicable, submits evidence satisfactory to the board that he or she has in effect the malpractice liability insurance required under the rules promulgated under sub. (5) (bm).

(b) On or before the applicable renewal date specified under s. 440.08 (2) (a), a person issued a license under par. (a) and practicing nurse−midwifery shall submit to the board on furnished forms a statement giving his or her name, residence, the nursing workforce survey and fee required under s. 441.01 (7), and other information that the board requires by rule, with the applicable renewal fee determined by the department under s. 440.03 (9) (a). If applicable, the person shall also submit evidence satisfactory to the board that he or she has in effect the malpractice liability insurance required under the rules promulgated under sub. (5) (bm). The board shall grant to a person who pays the fee determined by the department under s. 440.03 (9) (a) for renewal of a license to practice nurse−midwifery and who satisfies the requirements of this paragraph the renewal of his or her license to practice nurse−midwifery and the renewal of his or her license to practice as a registered nurse.

(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 a newborn or mother shall consult with the collaborating physician under sub. (2) (b) or the physician's designee, or make a referral as specified in a written agreement under sub. (2) (b).

(5) (a) Except for any of the following, no person may practice nurse−midwifery unless he or she has in effect malpractice liability insurance in an amount that is at least the minimum amount specified in rules promulgated under par. (bm):

1. A federal, state, county, city, village, or town employee who practices nurse−midwifery within the scope of his or her employment.

2. A person who is considered to be an employee of the federal public health service under 42 USC 233 (g).

3. A person whose employer has in effect malpractice liability insurance that provides coverage for the person in an amount that is at least the minimum amount specified in the rules.

4. A person who does not provide care for patients.

5. The provision of services by a nurse−midwife under s. 257.03.

(bm) The board shall promulgate rules establishing the minimum amount of malpractice liability insurance that is required for a person to practice nurse−midwifery, which shall be the same as the amount established by the board under s. 441.16 (3) (e).

History: 1979 c. 317; 1983 a. 273; 1987 a. 264; 1991 a. 39; 1999 a. 22; 2001 a. 52, 105, 107; 2003 a. 321; 2005 a. 96, 292; 2007 a. 20, 97; 2009 a. 28, 42, 282; 2013 a. 114.

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. 961.01 (4).

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

(2) Subject to s. 441.07 (1g), 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). An

advanced practice nurse certified under this section may provide expedited partner therapy in the manner described in s. 448.035.

(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 and a requirement to complete the nursing workforce survey and submit the fee required under s. 441.01 (7).

(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; 1995 a. 448; 2009 a. 28, 280; 2013 a. 114.

Cross−reference: See also ch. N 8, Wis. adm. code.

441.18 Prescriptions for and delivery of opioid antagonists. (1) In this section:

(a) "Administer" has the meaning given in s. 450.01 (1).

(b) "Deliver" has the meaning given in s. 450.01 (5).

(c) "Dispense" has the meaning given in s. 450.01 (7).

(d) "Opioid antagonist" has the meaning given in s. 450.01 (13v).

(e) "Opioid−related drug overdose" has the meaning given in s. 256.40 (1) (d).

(f) "Standing order" has the meaning given in s. 450.01 (21p).

(2) (a) An advanced practice nurse certified to issue prescription orders under s. 441.16 may do any of the following:

1. Prescribe an opioid antagonist to a person in a position to assist an individual at risk of undergoing an opioid−related drug overdose and may deliver the opioid antagonist to that person. A prescription order under this subdivision need not specify the name and address of the individual to whom the opioid antagonist will be administered, but shall instead specify the name of the person to whom the opioid antagonist is prescribed.

2. Issue a standing order to one or more persons authorizing the dispensing of an opioid antagonist.

(b) An advanced practice nurse who prescribes or delivers an opioid antagonist under par. (a) 1. shall ensure that the person to whom the opioid antagonist is prescribed has or has the capacity to provide the knowledge and training necessary to safely administer the opioid antagonist to an individual undergoing an opioid−related overdose and that the person demonstrates the capacity to ensure that any individual to whom the person further delivers the opioid antagonist has or receives that knowledge and training.

(3) An advanced practice nurse who, acting in good faith, prescribes or delivers an opioid antagonist in accordance with sub. (2), or who, acting in good faith, otherwise lawfully prescribes or dispenses an opioid antagonist, shall be immune from criminal or civil liability and may not be subject to professional discipline under s. 441.07 for any outcomes resulting from prescribing, delivering, or dispensing the opioid antagonist.

History: 2013 a. 200; 2015 a. 115.

SUBCHAPTER II

NURSE LICENSURE COMPACT

441.50 Nurse licensure compact. (1) ARTICLE I — FINDINGS AND DECLARATION OF PURPOSE. (a) The party states find all of the following:

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

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

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

5. That 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 as follows:

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

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

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

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

5. To 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.

(2) ARTICLE II — DEFINITIONS. As used in this compact:

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

(b) "Alternative program" means a voluntary, nondisciplinary 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 nonprofit organization composed of and controlled by state nurse licensing boards.

(d) "Current significant investigative information" means any of the following:

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.

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 that 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 that 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 that 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 that 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, where the patient is located at the time nursing care is provided, or, 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 any of the following:

1. Any administrative, civil, equitable or criminal action permitted by a remote state's laws that 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.

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 state's 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.

(3) 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.

(4) 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 license.

(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 his or her 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 the change in his or her primary state of residence satisfactory to the new home state's licensing board.

(d) 1. When a nurse changes his or her primary state of residence by 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. When a nurse changes his or her primary state of residence by moving from a nonparty state to a party state, and obtains a license from the new home state, the individual state license issued by the nonparty state is not affected and will remain in full force if so provided by the laws of the nonparty state.

3. When a nurse changes his or her primary state of residence by moving from a party state to a nonparty 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.

(5) ARTICLE V — ADVERSE ACTIONS. In addition to the general provisions described in sub. (3), 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 his or her primary state of residence during the course of such investigations. It shall also have the authority to take appropriate actions, and shall promptly report the conclusions of such investi-

gations 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 nonpublic 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.

(6) 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 do any of the following:

(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 that 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, or the production of evidence from another party state, or both, 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 or evidence, or both, 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 sub. (8) (c).

(7) ARTICLE VII — COORDINATED LICENSURE INFORMATION SYSTEM. (a) All party states shall participate in a cooperative effort to create a coordinated database 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 nonparty 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 state's licensing board from the coordinated licensure information system may not be shared with nonparty 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.

(8) ARTICLE VIII — COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION. (a) The secretary of the department, or his or her designee, shall be the administrator of this compact for this 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 sub. (6) (d).

(9) 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.

(10) 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 6 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 nonparty 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.

(11) 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, the party states may submit the issues in dispute to an arbitration panel that will be comprised of an indi-

vidual appointed by the compact administrator in the home state, an individual appointed by the compact administrator in the remote state or states involved and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute. The decision of a majority of the arbitrators shall be final and binding.

History: 1999 a. 22, 185; 2003 a. 321; 2013 a. 168 s. 21.