

## CHAPTER 441

### BOARD OF NURSING

#### SUBCHAPTER I REGULATION OF NURSING

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**Cross-reference:** See definitions in s. 440.01.

#### SUBCHAPTER I REGULATION OF NURSING

**Cross-reference:** See also N, Wis. adm. code.

#### **441.001 Definitions.** In this subchapter:

**(1g) BOARD.** “Board” means the board of nursing.

**(1r) 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, chiropractor licensed under ch. 446, 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, chiropractic, 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, chiropractor licensed under ch. 446, 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, chiropractic, 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; 2017 a. 180; 2017 a. 364 ss. 32, 33.

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.** (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 registered nurse or licensed practical nurse license issued under this chapter to do all of the following as a condition for renewing the license:

1. Complete and submit to the department with the application for renewal of the license 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 registered nurse or licensed practical nurse license 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; 2017 a. 329, 364.

**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.

(1c) The board shall grant a multistate license, as defined in s. 441.51 (2) (h), to an applicant for a multistate registered nurse license under s. 441.51. Subject to s. 441.07 (1g), the requirements under sub. (1) shall apply to such an applicant, except that the requirements under s. 441.51 (3) (c) for granting a multistate license shall supersede the requirements under sub. (1) to the extent of any conflict.

(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 nursing workforce survey and fee required under s. 441.01 (7) and 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 registered nurse who holds a multistate license, as defined in s. 441.51 (2) (h), issued by a jurisdiction, other than this state, that has adopted the enhanced nurse licensure compact under s. 441.51.

(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; 2017 a. 135, 329.

**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. 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; 2017 a. 329.

**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.

(1c) The board shall grant a multistate license, as defined in s. 441.51 (2) (h), to an applicant for a multistate licensed practical nurse license under s. 441.51. Subject to s. 441.07 (1g), the requirements under sub. (1) shall apply to such an applicant, except that the requirements under s. 441.51 (3) (c) for granting a multistate license shall supersede the requirements under sub. (1) to the extent of any conflict.

(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 attend-

ant, 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 licensed practical nurse who holds a multistate license, as defined in s. 441.51 (2) (h), issued by a jurisdiction, other than this state, that has adopted the enhanced nurse licensure compact under s. 441.51.

(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; 2017 a. 135.

**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 licensed 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, except that “nursing credential” does not include a multistate license, as defined in s. 441.51 (2) (h), issued by a party state, as defined in s. 441.51 (2) (k).

(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; 2017 a. 135, 364.

**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 registered nurse who is licensed under this subchapter or who holds a multi-state license, as defined in s. 441.51 (2) (h), issued in a party state, as defined in s. 441.51 (2) (k), 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, 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; 2017 a. 135, 329.

**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.

(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, and nothing in this section prohibits an advanced practice nurse certified under this section from issuing a prescription order as an act delegated by a podiatrist.

**History:** 1993 a. 138; 1995 a. 448; 2009 a. 28, 280; 2013 a. 114; 2017 a. 227, 329.

**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.

**441.19 Maintenance and detoxification treatment under federal waiver. (1)** In this section, “waiver” means a waiver issued by the federal department of health and human services under 21 USC 823 (g) (2) (A).

(2) With respect to the ability of an advanced practice nurse who is certified to issue prescription orders to obtain and practice under a waiver, a physician who meets any of the conditions specified in 21 USC 823 (g) (2) (G) (ii) shall be considered eligible to serve as a qualifying physician for purposes of the requirement under 21 USC 823 (g) (2) (G) (iv) (III), regardless of whether the physician himself or herself holds a waiver.

**History:** 2017 a. 262.

## SUBCHAPTER II

### ENHANCED NURSE LICENSURE COMPACT

**441.51 Enhanced 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 for both nurses and states.

6. That uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

(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.

6. To decrease redundancies in the consideration and issuance of nurse licenses.

7. To provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

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

(a) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.

(b) "Alternative program" means a nondisciplinary monitoring program approved by a 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 that is administered by a nonprofit organization composed of and controlled by 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) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

(f) "Home state" means the party state which is the nurse's primary state of residence.

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

(h) "Multistate license" means a license to practice as a registered or a licensed practical/vocational nurse issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

(i) "Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of

nursing as either a registered nurse or licensed practical/vocational nurse in a remote state.

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

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

(L) "Remote state" means a party state, other than the home state.

(m) "Single-state license" means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

(n) "State" means a state, territory, or possession of the United States and the District of Columbia.

(o) "State practice laws" means a party state's laws, rules, 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 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 multistate license to practice registered or 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 nurse to practice as a registered nurse or as a licensed practical/vocational nurse, under a multistate licensure privilege, in each party state.

(b) A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

(c) Each party state shall require all of the following for an applicant to obtain or retain a multistate license in the home state:

1. Meets the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable state laws.

2. Satisfies one of the following:

a. Has graduated or is eligible to graduate from a licensing board-approved registered nurse or licensed practical/vocational nurse prelicensure education program.

b. Has graduated from a foreign registered nurse or licensed practical/vocational nurse prelicensure education program that has been approved by the authorized accrediting body in the applicable country and has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program.

3. Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing, and listening.

4. Has successfully passed an NCLEX-RN or NCLEX-PN Examination or recognized predecessor, as applicable.

5. Is eligible for or holds an active, unencumbered license.

6. Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

7. Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law.

8. Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis.

9. Is not currently enrolled in an alternative program.

10. Is subject to self–disclosure requirements regarding current participation in an alternative program.

11. Has a valid United States social security number.

(d) All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse’s multistate licensure privilege such as revocation, suspension, probation or any other action that affects a nurse’s authorization to practice under a multistate licensure privilege, including cease and desist actions. 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.

(e) A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the client is located at the time service is provided.

(f) Individuals not residing in a party state shall continue to be able to apply for a party state’s single–state license as provided under the laws of each party state. However, the single–state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this compact shall affect the requirements established by a party state for the issuance of a single–state license.

(g) Any nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by the nurse’s then–current home state, provided that:

1. A nurse, who changes primary state of residence after this compact’s effective date, must meet all applicable requirements under par. (c) to obtain a multistate license from a new home state.

2. A nurse who fails to satisfy the multistate licensure requirements in par. (c) due to a disqualifying event occurring after this compact’s effective date shall be ineligible to retain or renew a multistate license, and the nurse’s multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the interstate commission of nurse licensure compact administrators (“commission”).

**(4) ARTICLE IV — APPLICATIONS FOR LICENSURE IN A PARTY STATE.** (a) Upon application for a multistate license, the licensing board in the issuing 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 encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant, and whether the applicant is currently participating in an alternative program.

(b) A nurse may hold a multistate license, issued by the home state, in only one party state at a time.

(c) 1. If a nurse changes primary state of residence by moving between 2 party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the commission.

2. The nurse may apply for licensure in advance of a change in primary state of residence.

3. A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

(d) If a nurse changes primary state of residence by moving from a party state to a non–party state, the multistate license issued by the prior home state will convert to a single–state license, valid only in the former home state.

**(5) ARTICLE V — ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE LICENSING BOARDS.** (a) In addition to the other powers conferred by state law, a licensing board shall have the authority to do any of the following:

1. Take adverse action against a nurse’s multistate licensure privilege to practice within that party state, subject to all of the following:

a. Only the home state shall have the power to take adverse action against a nurse’s license issued by the home state.

b. For purposes of taking adverse action, the home state licensing board 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, the home state shall apply its own state laws to determine appropriate action.

2. Issue cease and desist orders or impose an encumbrance on a nurse’s authority to practice within that party state.

3. Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action 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.

4. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses 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 in which the witnesses or evidence are located.

5. Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric–based information to the federal bureau of investigation for criminal background checks, receive the results of the federal bureau of investigation record search on criminal background checks, and use the results in making licensure decisions.

6. 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.

7. Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.

(b) If adverse action is taken by the home state against a nurse’s multistate license, the nurse’s multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse’s multistate license shall include a statement that the nurse’s multistate licensure privilege is deactivated in all party states during the pendency of the order.

(c) Nothing in this compact shall override a party state’s decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse’s participation in an alternative program.

**(6) ARTICLE VI — COORDINATED LICENSURE INFORMATION SYSTEM AND EXCHANGE OF INFORMATION.** (a) All party states shall participate in a coordinated licensure information system 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 submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(b) The commission, 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.

(c) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials), and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

(d) Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(e) Notwithstanding any other provision of law, all party state 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.

(f) Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall 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.

(g) 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.

(h) The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum, all of the following:

1. Identifying information.
2. Licensure data.
3. Information related to alternative program participation.
4. Other information that may facilitate the administration of this compact, as determined by commission rules.

(i) The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

**(7) ARTICLE VII — ESTABLISHMENT OF THE INTERSTATE COMMISSION OF NURSE LICENSURE COMPACT ADMINISTRATORS.** (a) 1. The party states hereby create and establish a joint public entity known as the interstate commission of nurse licensure compact administrators.

2. The commission is an instrumentality of the party states.

3. Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

4. Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(b) Membership, voting, and meetings:

1. Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission shall be filled in

accordance with the laws of the party state in which the vacancy exists.

2. Each administrator shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

3. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.

4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rule-making provisions in sub. (8).

5. The commission may convene in a closed, nonpublic meeting if the commission must discuss any of the following:

a. Noncompliance of a party state with its obligations under this compact.

b. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures.

c. Current, threatened, or reasonably anticipated litigation.

d. Negotiation of contracts for the purchase or sale of goods, services, or real estate.

e. Accusing any person of a crime or formally censuring any person.

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential.

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

h. Disclosure of investigatory records compiled for law enforcement purposes.

i. Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact.

j. Matters specifically exempted from disclosure by federal or state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(c) The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including but not limited to any of the following:

1. Establishing the fiscal year of the commission.

2. Providing reasonable standards and procedures:

a. For the establishment and meetings of other committees; and

b. Governing any general or specific delegation of any authority or function of the commission.

3. Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of



individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed.

4. Establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission.

5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the commission.

6. Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations.

(d) The commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the commission.

(e) The commission shall maintain its financial records in accordance with the bylaws.

(f) The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(g) The commission shall have all of the following powers:

1. To promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all party states.

2. To bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected.

3. To purchase and maintain insurance and bonds.

4. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a party state or non-profit organizations.

5. To cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space, or other resources.

6. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.

7. To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest.

8. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, whether real, personal, or mixed; provided that at all times the commission shall avoid any appearance of impropriety.

9. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed.

10. To establish a budget and make expenditures.

11. To borrow money.

12. To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons.

13. To provide and receive information from, and to cooperate with, law enforcement agencies.

14. To adopt and use an official seal.

15. To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

(h) Financing of the commission:

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities, and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states.

3. The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the party states, except by, and with the authority of, such party state.

4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(i) Qualified immunity, defense and indemnification:

1. The administrators, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided that nothing in this subdivision shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.

2. The commission shall defend any administrator, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct.

3. The commission shall indemnify and hold harmless any administrator, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that person.

**(8) ARTICLE VIII — RULE MAKING.** (a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this subsection and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this compact.

(b) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(c) Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking on all of the following:

1. The website of the commission.
2. The website of each licensing board or the publication in which each state would otherwise publish proposed rules.

(d) The notice of proposed rule making shall include all of the following:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon.
2. The text of the proposed rule or amendment, and the reason for the proposed rule.
3. A request for comments on the proposed rule from any interested person.
4. The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(e) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(f) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

(g) The commission shall publish the place, time, and date of the scheduled public hearing.

1. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.
2. Nothing in this subsection shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this subsection.

(h) If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.

(i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(j) The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rule-making record and the full text of the rule.

(k) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rule-making procedures provided in this compact and in this subsection shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to do any of the following:

1. Meet an imminent threat to public health, safety, or welfare.
2. Prevent a loss of commission or party state funds.
3. Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

(L) The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a

material change to a rule. A challenge shall be made in writing, and delivered to the commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

**(9) ARTICLE IX — OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT.** (a) *Oversight.* 1. Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.

2. The commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities, or actions of the commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(b) *Default, technical assistance, and termination.* 1. If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall do all of the following:

a. Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission.

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.

4. A state whose membership in this compact has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated unless agreed upon in writing between the commission and the defaulting state.

6. The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(c) *Dispute resolution.* 1. Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states.

2. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

3. In the event the commission cannot resolve disputes among party states arising under this compact, all of the following apply:

a. The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

b. The decision of a majority of the arbitrators shall be final and binding.

(d) *Enforcement.* 1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. By majority vote, the commission may initiate legal action in the U.S. District Court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

3. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

**(10) ARTICLE X — EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT.** (a) This compact shall become effective and binding on the earlier of the date of legislative enactment of this compact into law by no less than 26 states or December 31, 2018. All party states to this compact, that also were parties to the prior nurse licensure compact, superseded by this compact, ("prior compact"), s. 441.50, 2015 stats., shall be deemed to have withdrawn from said prior compact within 6 months after the effective date of this compact.

(b) Each party state to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior compact until such party state has withdrawn from the prior compact.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal shall

not take effect until 6 months after enactment of the repealing statute.

(d) A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

(e) 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.

(f) 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.

(g) Representatives of nonparty states to this compact shall be invited to participate in the activities of the commission, on a non-voting basis, prior to the adoption of this compact by all states.

**(11) ARTICLE XI – CONSTRUCTION AND SEVERABILITY.** 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 if 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 to be contrary to the constitution of any party state, this 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.

**History:** 2017 a. 135.