

CHAPTER 441

DIVISION OF NURSES

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

(2) In this chapter, "division" means division of nurses.

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

(4) The board shall direct that those schools which qualify be placed on the accredited list of schools for professional nurses or of schools for trained 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 nurses registered in Wisconsin, through creation of scholarships available to such graduate 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 trained 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 or by a court.

History: 1971 c. 125; 1975 c. 37; 1977 c. 29, 418.

441.02 Administrator. (1) The board shall appoint the administrator of the division of nurses, fix his or her salary, and prescribe his or her duties. The administrator shall have at least the following minimum qualifications:

(a) A citizen of the United States.

(b) A graduate of a recognized college or university.

(c) A registered nurse.

(d) Five years' experience as an executive of a school of nursing of not less than 35 nurses.

(2) The administrative powers and duties of the division shall be vested in the administrator to be administered under the statutes and subject to the policies and in accordance with the principles established by the board.

(3) The administrator, with prior approval of the board, shall establish rules and regulations for administering the division and performing the duties assigned to it.

History: 1977 c. 418

441.04 Requisites for examination as a registered nurse. Any person who is a citizen or who has legally declared an intention to become a citizen and of good moral character, who has graduated from a high school or its equivalent as determined by the board and who holds a diploma of graduation from an accredited school of nursing may apply to the department for registration by the board as a registered nurse, and upon payment of the fee specified under s. 440.05 (1) shall be entitled to examination.

History: 1971 c. 125; 1975 c. 39, 199; 1977 c. 29.

Sections 441.04, 441.07 and 441.10, making citizenship a prerequisite to obtaining a certificate/license to practice nursing in Wisconsin, are unconstitutional under the 14th amendment of the U S constitution when applied to resident aliens 64 Atty. Gen. 65

441.05 Examination for nurses. The examining council on registered nurses shall prepare

or select written questions in areas it determines and prescribe rules, subject to the approval of the board, for conducting examinations and the preservation of the examination papers for one year. Examinations shall be held at least twice a year at times and places designated by the examining council, and at least 30 days' public notice shall be given. Examinations may also be held at other times and places with or without public notice as directed by the examining council. The examining council may also proctor an examination of another state for the convenience of a candidate and charge such fee therefor as the department fixes to cover the actual cost of the service rendered.

History: 1977 c. 29.

441.06 Certificate; civil liability exemption.

(1) An applicant for registration as a nurse who complies with the requirements of this chapter and satisfactorily passes an examination shall receive a certificate of registration. The holder of such a certificate of registration of another state or territory or province of Canada may be granted a certificate 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 registering without examination shall be accompanied by the fee prescribed in s. 440.05 (2).

(2) The certificate shall be signed by the chairman of the board and countersigned by the secretary of the examining council. The holder of such certificate is a "registered nurse" and may append "R.N." to his name, and is authorized to practice professional nursing.

(3) A registered nurse practicing for compensation shall, during January of the even-numbered years submit to the division on furnished blanks a statement giving name, residence and other facts as the board requires, with the renewal fee specified in s. 440.05 (3).

(4) No person shall practice or attempt to practice professional nursing, nor use the title, letters, or anything else to indicate that she is a registered or professional nurse unless she is registered under this section. No person not so registered shall use in connection with her nursing employment or vocation any title or

anything else to indicate that she is a trained, certified or graduate nurse.

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

History: 1971 c. 125, 215; 1973 c. 159; 1975 c. 39, 199; 1977 c. 29, 164.

441.07 Revocation. The board may revoke, limit, suspend or deny renewal of a certificate of registration of a nurse or license of a trained practical nurse, or may reprimand a nurse or trained practical nurse, upon proof that the person was guilty of fraud in the procuring or renewal of the certificate or license, has failed to become a citizen within 7 years after declaring such intent, has wilfully or repeatedly violated this chapter, or is unfit or incompetent by reason of negligence, habitual intemperance, addiction to the use of habit-forming drugs, mental incompetency or moral delinquency, or, in the case of a registered nurse, unprofessional conduct, after a hearing conducted under the rules promulgated under s. 440.03 (1). A certificate or license revoked may, after one year, upon application be reinstated by the board.

History: 1977 c. 418.

See note to 441.04, citing 64 Atty. Gen. 65.

441.08 Temporary permit. A nurse who has graduated from an accredited school but is not registered 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 registration. The temporary permit may be granted for a period of 3 months and may be renewed once. Further renewals may be granted in hardship cases.

History: 1971 c. 125; 1977 c. 29.

441.09 Temporary trainee permits; foreign nurses. The board may grant upon payment of the fee specified in s. 440.05 (6) temporary trainee permits for the purpose of supplementing the education of nurses trained outside the United States. The board may establish requirements for such permits, which may include but need not be limited to the following: legal authorization to practice professional nursing in the applicant's own country, approval by the international exchange of the U.S. department of state, proficiency in the English language, financial independence and other qualifications it deems necessary. The board may establish rules limiting the use and

duration of such permits and providing for their revocation. No institution or agency may offer or undertake a program of supplemental education for holders of temporary trainee permits without prior authorization by the board and without the approval of such program by the board. Such authorization or approval may be withdrawn for cause at any time. The department may charge fees and expenses for consultations in the establishment of supplemental programs and for appraisals thereof.

History: 1971 c. 125; 1977 c. 29.

441.10 Trained practical nurses. (1) PRE-REQUISITES FOR EXAMINATION AS TRAINED PRACTICAL NURSES. A citizen or an alien who has legally declared an intention to become a citizen, who is at least 18 years of age and of good moral character, who has completed 2 years of high school or its equivalent as determined by the board and who has completed the work prescribed by an accredited school for trained practical nurses approved by that board, which school shall be connected with an institution providing hospital facilities for the care of medical, surgical and obstetrical cases, may apply to the board for licensing as a trained practical nurse, and upon the payment of the examination fee specified in s. 440.05 (1), shall be entitled to take an examination. Any school for trained practical nurses, in order to be accredited, must offer a course of not less than 9 months. The size or average daily census of an institution shall not be a determinative factor in qualifying a school for trained practical nurses. The board may waive the requirement of attendance at a school when it deems the applicant to have had comparable training.

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

(3) LICENSING. (a) On complying with this chapter relating to applicants for licensure as trained practical nurses, and passing a satisfactory examination, the applicant shall receive a license as a trained practical nurse, signed by the chairperson of the board and countersigned by the secretary of the examining council on licensed practical nurses. The holder of the license is a "licensed trained practical nurse" and may append the letters "T.P.N." to his or her name. The board may reprimand or may limit, suspend or revoke the license of a licensed trained practical nurse under s. 441.07.

(b) A licensed trained practical nurse practicing for compensation shall submit in July of odd-numbered years to the division, on blanks furnished by the department, an application for license renewal, together with a statement giving name, residence, nature and extent of practice as a trained practical nurse during the prior year and prior unreported years and other facts bearing upon current competency as the board requires, accompanied by the license renewal fee specified in s. 440.05 (3).

(c) No license is required for practical nursing, but no person without a license shall hold himself out as a trained 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.", nor otherwise seek to indicate that he is a trained practical nurse or licensed attendant; nor shall a trained practical nurse or a licensed attendant use the title, or otherwise seek to act as a registered, trained, certified, 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 trained practical nurse to any person who was on July 1, 1949, a licensed attendant.

(d) The board may license without examination any person who has been licensed as a licensed attendant or trained 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 trained practical nurses and current licensing or renewal. The fee for licensing without examination is specified in s. 440.05 (2).

(e) A temporary license may be granted to an applicant who is qualified for examination, to practice as a licensed trained practical nurse and who pays the fee specified in s. 440.05 (6) until a regular license may be had, for a period of 3 months and may be renewed for a like

period. Further renewals may be granted in hardship cases.

History: 1971 c. 125, 215; 1975 c. 39, 199; 1977 c. 29, 418.
See note to 441.04, citing 64 Atty. Gen. 65

441.11 Definitions. (1) PRACTICE OF PROFESSIONAL NURSING. The practice of professional nursing within the terms of this chapter means the performance for compensation of any act in the observation or care of the ill, injured or infirm, or for the maintenance of health or prevention of illness of others, which act requires substantial nursing skill, knowledge or training, or application of nursing principles based on biological, physical and social sciences, such as the supervision of a patient, the observation and recording of symptoms and reactions, the execution of procedures and techniques in the treatment of the sick under the general or special supervision or direction of a physician, podiatrist or dentist, the execution of general nursing procedures and techniques and the supervision and direction of trained practical nurses and less skilled assistants.

(2) PRACTICE OF PRACTICAL NURSING. The practice of practical nursing under this chapter means the performance for compensation of any simple acts in the care of convalescent, subacutely or chronically ill, injured or infirm persons, or of any act or procedure in the care of the more acutely ill, injured or infirm under the specific direction of a nurse, physician, podiatrist or dentist. A simple act is one which does not require any substantial nursing skill, knowledge or training, or the application of nursing principles based on biological, physical or social sciences, or the understanding of cause and effect in such acts and is one which is of a nature of those approved by the board for the curriculum of schools for trained practical nurses.

(3) NURSE AND NURSING. Wherever the term "nurse" is used in this chapter without modification or amplification it shall mean only a registered nurse. Wherever the term "nursing" is used in this chapter without modification or amplification it shall mean the practice of professional nursing as herein defined.

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

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

History: 1975 c. 303; 1977 c. 86.
A licensed practical nurse may serve as a "charge nurse".
65 Atty. Gen. 71.

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

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

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

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

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