

WISCONSIN LEGISLATIVE COUNCIL STAFF



OCT 04 1999

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 99-126

AN ORDER to create N 8.06 (1m), relating to prescribing limitations for advanced practice nurse prescribers.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

08-24-99 RECEIVED BY LEGISLATIVE COUNCIL.

09-21-99 REPORT SENT TO AGENCY.

RNS:LR:jal;ksm

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

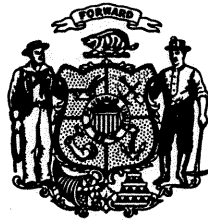
Comment Attached YES NO

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CLEARINGHOUSE RULE 99-126

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

The last sentence of the analysis should be expanded by placing a comma after the word "competence" and adding "which is necessary to assist the advanced practice nurse prescriber in issuing a prescription order." This clarifies that the nurse's ability to independently order and utilize diagnostic testing is done in conjunction with issuing a prescription order. In addition, s. N 8.06 (1m) should be expressed in the positive, as is done in the analysis. This paragraph could be rephrased to read: "May independently order laboratory testing, radiographs or electrocardiograms only if necessary to assist the advanced practice nurse prescriber in issuing a prescription order appropriate to the advanced practice nurse prescriber's areas of competence, as established by his or her education, training or experience."

STATE OF WISCONSIN
BOARD OF NURSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : BOARD OF NURSING
BOARD OF NURSING : ADOPTING RULES
: (CLEARINGHOUSE RULE 99-)

PROPOSED ORDER

An order of the Board of Nursing to *create* N 8.06 (1m) relating to prescribing limitations for advanced practice nurse prescribers.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 441.16 (3) (b), Stats.

Statutes interpreted: s. 441.16 (3) (b), Stats.

Section 441.16, Stats., requires that the Board of Nursing promulgate rules "defining the scope of practice within which an advanced practice nurse may issue prescription orders." The rules created by the board in response to this mandate establish a number of prescribing limitations specifying that the advanced practice nurse prescriber "may issue only those prescription orders appropriate to the advanced practice nurse prescriber's areas of competence, as established by his or her education, training or experience." Not included within these rules, however, is any specification as to those practices and procedures which are an integral and necessary part of the independent preparation of a prescription order, including the physical assessment of the patient necessary to make an intelligent prescribing judgment. Assessment is defined as "the systematic and continued collection and analysis of data about the health status of a patient culminating in the formulation of a nursing diagnosis." It seems clear that the collection and analysis of data about the health care status of a patient must, to the extent they are consistent with the advanced practice nurse's areas of practice, include basic diagnostic tests, including laboratory testing, x-rays and EKG's. The proposed rule would confirm that the advanced practice nurse prescriber may independently order and utilize diagnostic testing, consistent with his or her area of competence, *which is necessary to assist to give prescriber in issuing the order.*

TEXT OF RULE

SECTION 1. N 8.06 (1m) is created to read:

N 8.06 (1m) May not independently order laboratory testing, radiographs or electrocardiograms, except to assist the advanced practice nurse prescriber in issuing a prescription order appropriate to the advanced practice nurse prescriber's areas of competence, as established by his or her education, training or experience.

③
Should be
expressed in
a positive
as in the
analysis.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____

Agency _____

Chairperson
Board of Nursing

FISCAL EFFECT

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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8/23/99

FEB 07 2000

**STATE OF WISCONSIN
BOARD OF NURSING**

**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : BOARD OF NURSING
BOARD OF NURSING : ADOPTING RULES
: (CLEARINGHOUSE RULE 99-126)**

TO: Senator Judy Robson, Senate Co-Chairperson
Joint Committee for the Review of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the BOARD OF NURSING is submitting in final draft form rules relating to prescribing limitations for advanced practice nurse prescribers.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.



Tommy G. Thompson
Governor

Marlene A. Cummings
Secretary

1400 E. WASHINGTON AVENUE
P.O. BOX 8935
MADISON, WISCONSIN 53708-8935
E-Mail: dorl@mail.state.wi.us
(608) 266-2112
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Administrative Rules in Final Draft Form

Board of Nursing

Relating to: Prescribing Limitations for Advanced Practice Nurse Prescribers

Rule: N 8.06 (1m)

Clearinghouse Rule: No. 99-126

**STATE OF WISCONSIN
BOARD OF NURSING**

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
BOARD OF NURSING : **ON CLEARINGHOUSE RULE 99-126**
: **(s. 227.19 (3), Stats.)**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

Section 441.16, Stats., requires that the Board of Nursing promulgate rules "defining the scope of practice within which an advanced practice nurse may issue prescription orders." The rules created by the board in response to this mandate establish a number of prescribing limitations specifying that the advanced practice nurse prescriber "may issue only those prescription orders appropriate to the advanced practice nurse prescriber's areas of competence, as established by his or her education, training or experience." Not included within these rules, however, is any specification as to those practices and procedures which are an integral and necessary part of the independent preparation of a prescription order, including the physical assessment of the patient necessary to make an intelligent prescribing judgment. Assessment is defined as "the systematic and continued collection and analysis of data about the health status of a patient culminating in the formulation of a nursing diagnosis." It seems clear that the collection and analysis of data about the health care status of a patient must, to the extent they are consistent with the advanced practice nurse's areas of practice, include basic diagnostic tests, including laboratory testing, x-rays and EKG's. The proposed rule would confirm that the advanced practice nurse prescriber may independently order and utilize diagnostic testing consistent with his or her area of competence, which is necessary to assist the advanced practice nurse prescriber in issuing a prescription order.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on November 4, 1999. Following is a list of individuals who submitted written comments and/or appeared at the public hearing.

Dennis Stalsberg, CRNA, APNP, La Crosse, WI
Mary Ellen Sorensen, RN, MSN, APNP, Milwaukee, WI
Cary Rosof, M.D., Milwaukee, WI
Victoria Yorke, Milwaukee, WI
John O'Connor, M.D., Milwaukee, WI
Manuel Joseph, Milwaukee, WI
William Treichel, M.D., Milwaukee, WI
Arnold Valerius, New Berlin, WI
Scott Feldy, D.O., Northside Medical Consultants, Kenosha, WI
Jamie Cairo, RN, MSN, Northside Medical Consultants, Kenosha, WI
Judith McDevitt, FNP, UW-Milwaukee, School of Nursing, Milwaukee, WI
Kim Ryan, FNP, UW-Milwaukee, School of Nursing, Milwaukee, WI
Paul Maes, D.O., UW-Milwaukee, School of Nursing, Milwaukee, WI
Carlethia Harris, WHNP, UW-Milwaukee, School of Nursing, Milwaukee, WI
Eugenie Hildebrandt, ANP, UW-School of Nursing, Milwaukee, WI
Scott J. Spear, M.D., Director of Clinical Services, University Health Services, Assistant Professor of Pediatrics, UW-Madison, Madison, WI
Diane M. Peters, RN, MS, NHA
Michael A. San Dretto, M.D., President, Wisconsin Radiological Society, Pewaukee, WI
Patricia Safavi, MD, FAAP, Children's Health System, Milwaukee, WI
Kae Ferber, MD, Geriatrics, Dean Medical Center, Madison, WI
Alan L. Detwiler, M.D., Donald L. Williams, M.D., Steven C. George, M.D., Paul J. Neary, M.D., Thomas J. Tackman, M.D., Eric A. Andersen, M.D., Kristi A. Sharkus, M.D., Larua M. Koenig, M.D., Internal Medicine & Pediatrics, S.C., Fort Atkinson & Whitewater, WI
Marshfield Clinic, Eau Claire, WI
Michelle M. Cullen, MSN, APNP-C, Internal Medicine
Peggy Rosenzweig, State Senator, 5th District, Madison, WI
Lori A. Deprez King, RN, APNP, Sherwood, WI
Louis Kutzke, RN, BSN, Wisconsin Dells, WI
Robin Timm, RNC-WHNP, Certified Women's Health Nurse Practitioner, Platteville, WI
James Ehlers, APNP, FNP, UW-Whitewater, Health and Counseling Services, Whitewater, WI
Jamie Bonell, RN, MSN, APNP, American Academy of Nurse Practitioner, Wisconsin State Representative, Oshkosh, WI
Lynn A. Van Ells, APNP, Psychology Associates, Madison, WI
Maureen Van Dinter, Legislative Chair, WI Association of Pediatric Nurse Associates and Practitioners
Karinn Barber, RN, APNP
Laurel M. Bear, M.D., Pediatrician, Neonatal Follow Up Program, Karen M. Kopschke, MS, RNC, Neonatal Nurse Practitioner, Department of Neonatology and Neonatal

Follow Up Program, and Donna M. Harris, MS, RN, CS, Pediatric Nurse Practitioner, Neonatal Follow Up Program, Children's Hospital of Wisconsin, Milwaukee, WI
Nancy Brandt, APNP
Deborah Bretl, CPNP, Julie Raaum, FNP, Mary Ho, CPNP, Kristin Hagland, Milwaukee Adolescent Health Program, Milwaukee, WI
Mary Parish Gavinski, MD, Medical Director, Community Care for the Elderly, Milwaukee, WI
Lynn R. Maloney, RN, MSN, CS, ANP-GNP, Adult/Geriatric Nurse Practitioner, Senior Health Center, Waukesha Memorial Hospital, Waukesha, WI
Jeanne Prochnow, RN, MSN, Director of Quality Improvement, Community Care for the Elderly, Milwaukee, WI
Rebecca Richards, APNP
Nancy Rudd, RN, CPNP, Pediatric Cardiology, Michelle Steltzer, RN, CPNP, Pediatric Cardiology, Stuart Berger, MD, Assistant Professor, Pediatrics, Medical Director-The Heart Center, Peter Frommelt, MD, Assistant Professor, Pediatric Cardiology, Michelle Frommelt, MD, Assistant Professor, Pediatric Cardiology, Raymond Fedderly, MD, Assistant Professor, Pediatric Cardiology, David Lewis, MD, Assistant Professor, Pediatrics, Director of Medical Education, and Andrew Pelech, MD, Associate Professor/Director of Cardiac Cath Lab & Research, The Heart Center-Children's Hospital of Wisconsin, Milwaukee, WI
Debra Schmidt, MSN, RN, FNP, New London, WI
Rose Schultz, APNP, Madison, WI
Deborah Schwallie, Immediate Past President of the Wisconsin Nurses Association, Madison, WI
Joyce A. Smith, RN, CSA, APNP, Riverview Center, Eau Claire, WI
Leona VandeVusse, Ph.D., CNM, Director, Nurse-Midwifery Program, Assistant Professor, Marquette University College of Nursing
Lora Wiggins, MD, Medical Director, Elder Care of Dane County, Madison, WI
Lori Poss, APNP, Neenah, WI
Richard P. Keeling, MD, Chief Executive Officer, The College Health Hub, New York, NY
Linda Fikes, MD, Gregory Nierengrten, DO, Shelly Brodjeski, MD, Mary P. Gavinski, CCE Medical Director, Marilyn Sincaban, MD, Community Care for the Elderly, Milwaukee, WI
Joan M. Anderson, RN, MSM, CS-FNP, Community Nursing Clinic, Pewaukee, WI
Sandra Mikolas, RN, CS, APNP, Northside Medical Consultants, Kenosha, WI
Bonnie Groessl, MSN, FNP, APNP, Algoma, WI
Carol I. Jacobs, RNC, MSN, ANP, GNP, APNP and Ikram Rashid, M.D., Collaborating Physician, Aurora Health Center, Kenosha, WI
Amy J. Miller, MS, APNP, Adult and Women's Health Nurse Practitioner, Madison, WI
William Peplinski, MD, Department of Veterans Affairs, Appleton, WI
Robert E. Kettler, M.D., President, Wisconsin Society of Anesthesiologists, Inc.
James E. Albrecht, M.D., Donated Health Care Services, Inc., West Bend, WI
Donn Fuhrmann, MD, President, Wisconsin Academy of Family Physicians, Mequon, WI
Ronald Grossman, MD, Secretary, Wisconsin Medical Examining Board, Madison, WI

Lynn Reinke, RN, MSN, ANP and Ralph M. Schapira, MD, Consultant Care Division Manager, Milwaukee, WI
Kesavan Kutty, MD, Professor of Medicine, Medical College of Wisconsin, Academic Chairman of Medicine, St. Joseph's Hospital, Milwaukee, WI
Howard Croft, MD, FACEP and William Haselow, MD, FACEP, Government Chairman, American College of Emergency Physicians, Madison, WI
Carl S. L. Eisenberg, MD, FAAP, Legislative Co-Chair, Wisconsin Chapter, American Academy of Pediatrics, Mequon, WI
George C. Mejicano, MD, MS, Madison, WI
Frank M. Graziano, MD, Ph.D., FACP, Governor, American College of Physicians – American Society of Internal Medicine Wisconsin Chapter, Madison, WI
M. Colleen Wilson, Madison, WI
Dennis Stalsberg, La Crosse, WI

Postcard below was received from 210 individuals:

“Dear Chairman Burns and Members of the Board of Nursing:

“As a member of the Wisconsin Nursing Community I support the Board of Nursing’s proposed rule which clarifies the scope of practice for the Advanced Practice Nurse Prescriber (APNP). The inclusion of the ordering of laboratory, radiographics and electrocardiograms as part of APNP prescribing authority has many benefits.

“Passage of this rule clarification will improve patient safety through the promotion of continuity of care and access to health care services.

“I want to personally thank you for taking the lead on this proposed rule clarification. It is appreciated.”

Appearances in Support:

Maureen Van Dinter, Madison, WI
Juliana L. Olson, Delafield, WI
Burton A. Wagner, Madison, WI
Gina Dennik-Champion, Madison, WI
Laura Kirkegaard, Kewaskum, WI
Deborah L. Schwalle, Wauwatosa, WI
Kimberly Watson, Janesville, WI
Moyo Elegbede, Madison, WI

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Response to Comment 5. The wording of the proposed rule was purposely expressed in the negative to emphasize that the ordering of diagnostic testing should be the exception rather than the rule in an advanced practice nurse prescriber’s practice. It is also consistent with the other related subsections, which begin “may not.”

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

STATE OF WISCONSIN
BOARD OF NURSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : BOARD OF NURSING
BOARD OF NURSING : ADOPTING RULES
: (CLEARINGHOUSE RULE 99-126)

PROPOSED ORDER

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TEXT OF RULE

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prescription order appropriate to the advanced practice nurse prescriber's areas of competence, as established by his or her education, training or experience.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____ Agency _____
Chairperson
Board of Nursing

FISCAL EFFECT

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These rules will have no economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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2/7/2000