

2019 DRAFTING REQUEST

Bill

For: **Mike Rohrkaste (608) 266-5719** Drafter: **mduchek**
 By: **Matt** Secondary Drafters: **tdodge**
 Date: **10/10/2018** May Contact:
 Same as LRB:

Submit via email: **YES**
 Requester's email: **Rep.Rohrkaste@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Changes relating to the practice of advanced practice registered nurses

Instructions:

Redraft 17-5823/P1 with changes

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 11/7/2018	eweiss 11/15/2018			
/P1	mduchek 1/2/2019	kfollett 1/4/2019	dwalker 11/15/2018		State
/P2	mduchek 1/8/2019	kfollett 1/10/2019	dwalker 1/4/2019		State
/P3	mduchek 1/29/2019	kfollett 1/31/2019	mbarman 1/10/2019		State
/P4	mduchek 2/7/2019	kfollett 2/8/2019	mbarman 1/31/2019		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P5	mduchek 3/1/2019	kfollett 3/1/2019	dwalker 2/8/2019		State
/P6	mduchek 3/8/2019	kfollett 3/8/2019	jmurphy 3/1/2019		State
/1			lparisi 3/8/2019	dwalker 5/10/2019	State

FE Sent For:

at 2
intro

<END>

Duchek, Michael

From: Pulda, Matt
Sent: Wednesday, October 10, 2018 3:42 PM
To: Duchek, Michael
Cc: Rohrkaste, Mike
Subject: FW: WNA Response to Drafter Questions 2017 LRB-5823/P1
Attachments: WNA Response to Drafter and DSPS recommendations APRN LRB 5823_P1.pdf;
Comments - LRB 5823_P1 (APRN).docx

Hi, Mike,

I apologize for the delay in feedback for LRB 5823, but I have finally heard back from the WI Nurses Ass'n, which in turn reviewed the feedback from the Board of Nursing (both attached). Please revise the bill draft accordingly, but if you have any questions, let me know. I am currently out on paternity leave, but I check my voicemail and e-mail a few times a day, and I do plan to be in the office for an hour or two tomorrow afternoon to catch up on snail mail and our constituent database. Otherwise, please feel free to talk to Forbes McIntosh or Gina Dennik-Champion, too, but keep me in the loop if you do so.

Thanks!

Matt Pulda
Legislative Assistant
Office of State Rep. Mike Rohrkaste
(608) 266-5719.

From: Gina Dennik-Champion [gina@wisconsinnurses.org]
Sent: Wednesday, October 10, 2018 2:56 PM
To: Pulda, Matt
Cc: Rep.Rohrkaste
Subject: WNA Response to Drafter Questions 2017 LRB-5823/P1

Hello Matt, I was talking with Rep. Rohrkaste this past Monday and I told him that we were ready to provide feedback to the drafter on the APRN LRB. He is ok with you forwarding this on to the drafter. Attached is WNA's combined response to the drafter questions/comments and those submitted by DSPS, as it relates to the APRN LRB-5823/P1. I do not know if you have received DSPS response so I am attaching this document as well. Could you please forward these to the drafter?

Thank you,
Gina



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Interested in seeing how WNA supports professional nursing practice go to www.wisconsinnurses.org

COMMENTS ON 2017 LRB-5823/P1
("Advanced Practice Registered Nurses")

NOTE: The following are some suggested modifications to the "/P1" draft, including responses to the drafter's notes, following recent discussions with the Board of Nursing chair:

★ 1) **Issue:** References to "prescribing authority".

Background: As the drafter's note on page 40 indicates, it would be unusual for the Board of Nursing to be provided with the ability to "grant, deny, or limit" prescribing authority. Also, professional disciplinary action, such as suspension or revocation, could not be imposed under the prescription authorization provided for in the bill as currently written.

(Note: Also see item #7)

Recommendation: Replace the references to prescription authorization provided in the bill with references to a permit for advance practice registered nurses to issue prescription orders, of which the Board of Nursing could grant, deny, or limit.

Specifically, it is recommended that the "/P1" draft be modified as follows:

- Page 5, line 13: delete "has prescribing authority" and substitute "holds a permit to issue prescription orders".
- Page 5, line 22: delete "has prescribing authority" and substitute "holds a permit to issue prescription orders".
- Page 8, line 23: delete the material beginning with "has prescribing" and ending with "authority" on line 24 and substitute "holds a permit to issue prescription orders".
- Page 16, line 5: delete the material beginning with "with prescribing" and ending with "authority" on line 6 and substitute "who holds a permit to issue prescription orders".
- Page 16, line 10: delete "has prescribing authority" and substitute "holds a permit to issue prescription orders".
- Page 16, line 18: delete "has prescribing authority" and substitute "holds a permit to issue prescription orders".
- Page 17, line 6: delete "has prescribing authority" and substitute "holds a permit to issue prescription orders".
- Page 18, line 14: delete the material beginning with "has" and ending with "authority" on line 15 and substitute "~~has a certificate to issue prescription orders under s. 441.16 (2)~~ holds a permit to issue prescription orders".
- Page 18, line 19: delete the material beginning with "has" and ending with "authority" on line 20 and substitute "~~has a certificate to issue prescription orders under s. 441.16 (2)~~ holds a permit to issue prescription orders".
- Page 18, line 24: delete the material beginning with "has" and ending with "authority" on page 19, line 1 and substitute "~~has a certificate to issue prescription orders under s. 441.16 (2)~~ holds a permit to issue prescription orders".
- Page 19, line 22: delete "have prescribing authority" and substitute "holds a permit to issue prescription orders".
- Page 27, line 23: delete "has prescribing authority" and substitute "holds a permit to issue prescription orders".
- Page 42, line 18: delete "has authority" and substitute "holds a permit".
- Page 43, line 1: delete "authorized" and substitute "permitted".
- Page 43, line 11: delete "to be granted the authority" and substitute "for a permit".

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(“Advanced Practice Registered Nurses”)

- Page 44, line 11: delete “has prescribing authority” and substitute “holds a permit to issue prescription orders”.
- Page 45, line 23: delete “has prescribing authority” and substitute “holds a permit to issue prescription orders”.
- Page 49, line 7: delete “has prescribing authority” and substitute “holds a permit to issue prescription orders”.
- Page 49, line 10: delete the material beginning with “has” and ending with “authority” on line 11 and substitute “holds a permit to issue prescription orders”.
- Page 50, line 22: delete “has prescribing authority” and substitute “holds a permit to issue prescription orders”.
- Page 51, line 3: delete “has prescribing authority” and substitute “holds a permit to issue prescription orders”.
- Page 52, line 19: delete the material beginning with “has” and ending with “authority” on line 20 and substitute “holds a permit to issue prescription orders”.
- Page 53, line 1: delete the material beginning with “has” and ending with “authority” on line 2 and substitute “holds a permit to issue prescription orders”.

2) Issue: Defined scope of practice for “recognized roles”.

Background: Under the bill as currently drafted, the scope of practice for nurse-midwifery, which is one of the four recognized roles provided for in the bill, is defined on page 37, lines 11 to 15. However, none of the three other recognized roles provided for in the bill have their respective scopes of practice defined in the bill.

Recommendation: Page 37, line 11: delete lines 11 to 15.

3) Issue: Drafter’s Note (page 38, between lines 7 and 8).

Response: Ok.



4) Issue: Use of the word “enhanced” in *enhanced nurse licensure compact*.

Background: The Interstate Commission of Nurse Licensure Compact Administrators refer to the *enhanced nurse licensure compact (eNLC)* as simply the nurse licensure compact.

Recommendation:

- Page 38, line 7: delete “enhanced”.

5) Issue: Multistate licenses issued by another state that has adopted the nurse licensure compact.

Background: The bill as currently drafted makes reference to a multistate license issued another state that has adopted the nurse licensure compact *under s. 441.51*. However, party states (i.e. adopted the compact) did not adopt the nurse licensure compact

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("Advanced Practice Registered Nurses")

enumerated in Wisconsin Statutes, but rather adopted the compact under their own respective statutory laws.

Recommendation:

- Page 38, line 7: delete "under s. 441.51".

✓ **6) Issue:** Drafter's Note (page 38, between lines 14 and 15).

Response: No, that is not necessary; Correct, references to "approved by the board" means the Wisconsin Board of Nursing.

7) Issue: Authority to issue prescription orders.

Background: As the drafter's note on page 40 indicates, it would be unusual for the Board of Nursing to be provided with the ability to "grant, deny, or limit" prescribing authority. Also, professional disciplinary action, such as suspension or revocation, could not be imposed under the prescription authorization provided for in the bill as currently written.

Recommendation: Replace the references to prescription authorization with references to an additional permit for an advance practice registered nurse to issue prescription orders, of which the Board of Nursing could grant, deny, or limit.

- Page 39, line 18: delete "authority" and substitute "an additional permit".
- Page 39, line 21: delete "authority to issue" and substitute "a permit to issue".
- Page 39, line 21: delete "the authority to" and substitute "the permit to".
- Page 39, line 23: delete "authority" and substitute "permit".
- Page 39, line 25: delete "the authority" and substitute "a permit".

8) Issue: Reference to continuing education requirements for license renewal.

Background: See item #14 for additional clarification.

Recommendation:

- Page 40, line 7: delete "under sub. (6)" and substitute "specified in rules promulgated under sub. (9) (f)".

9) Issue: Continuing education requirements on page 42, lines 4 to 8.

Background: Specific continuing education requirements are more appropriately placed in administrative rule, rather than in state statute.

Recommendation:

- Page 42, line 4: delete lines 4 to 8.

(Note: See item #14 for additional clarification)

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("Advanced Practice Registered Nurses")

10) Issue: Drafter's Note (page 42, between lines 8 and 9).

Response: See item #14.

11) Issue: Malpractice liability insurance.

Background: The following language mirrors other malpractice liability insurance provisions currently existing for other nursing professions in ch. 441, Stats.

Recommendation:

- Page 9, line 9: delete lines 9 to 17 and substitute:
“(7) MALPRACTICE LIABILITY INSURANCE. Except for a person whose employer has in effect malpractice liability insurance that provides coverage for the person in the amounts specified under s. 655.23 (4), no person may practice advanced practice registered nursing unless he or she at all times has in effect malpractice liability insurance coverage in the minimum amounts required by the rules of the board. An advanced practice registered nurse shall submit evidence of that coverage to the board when applying for an initial license under this section or a renewal of a license under this section. An advanced practice registered nurse shall also submit such evidence to the board upon request of the board.”.

12) Issue: Rules relating to scope of practice.

Background: The following modification mirrors the related language currently existing for advanced practice nurse prescribers under s. 441.16, Stats.

Recommendation:

- Page 43, line 6: delete “the authorization to” and substitute “within which an advanced practice registered nurse may”.

13) Issue: Use of the word “authorized” on page 43, line 14.

Background: The following modification reflects the permitting method specified above items #1 and 7, rather than the prescription authorization provided for in the bill as currently written.

Recommendation:

- Page 43, line 14: delete “authorized” and substitute “permitted”.

14) Issue: Rules relating to continuing education and malpractice liability insurance.

Background: The following language mirrors the related provisions currently existing for advanced practice nurse prescribers under s. 441.16, Stats.

COMMENTS ON 2017 LRB-5823/P1
("Advanced Practice Registered Nurses")

Recommendation:

- Page 43, line 18: after that line insert:
 “(f) Establishing procedures for maintaining a permit to issue prescription orders, including requirements for continuing education.
 (g) Establishing the minimum amount of malpractice liability insurance coverage that an advanced practice registered nurse shall at all times have in effect. The board shall promulgate rules under this paragraph in consultation with the commissioner of insurance.”.

A

15) Issue: Delegation of the practice of podiatry for an advance practice registered nurse.

Background: A podiatrist does not have the same type of supervisory relationship with an advanced practice registered nurse that it does with a physician assistant. Advanced practice registered nurses do not engage in professional practice under the supervision and direction of a podiatrist.

Recommendation:

- Page 48, line 1: delete lines 1 to 6.

➤ **Drafter's Notes in "LRB-5823/P1dn":**

- *Note #1 Response:* Ok.
- *Note #2 Response:* Ok.
- *Note #3 Response:* No changes necessary.

DSPS RESPONSE NOTE: The following are some suggested modifications to the "/P1" draft, including responses to the drafter's notes, following recent discussions with the Board of Nursing chair.

The information below contains WNA's Response to the Drafter Questions and the responses forwarded to WNA by DSPS/BON.

Issue/page/lines	WNA Response
<p>1) Issue: References to "prescribing authority".</p> <p>Background: As the drafter's note on page 40 indicates, it would be unusual for the Board of Nursing to be provided with the ability to "grant, deny, or limit" prescribing authority. Also, professional disciplinary action, such as suspension or revocation, could not be imposed under the prescription authorization provided for in the bill as currently written. <i>(Note: Also see item #7)</i></p> <p>Recommendation: Replace the references to prescription authorization provided in the bill with references to a permit for advance practice registered nurses to issue prescription orders, of which the Board of Nursing could grant, deny, or limit.</p> <p>Specifically, it is recommended that the "/P1" draft be modified as follows:</p> <ul style="list-style-type: none"> • ✓ Page 5, line 13: delete "<u>has prescribing authority</u>" and substitute "<u>holds a permit to issue prescription orders</u>". • ✓ Page 5, line 22: delete "<u>has prescribing authority</u>" and substitute "<u>holds a permit to issue prescription orders</u>". • ✓ Page 8, line 23: delete the material beginning with "<u>has prescribing</u>" and ending with "<u>authority</u>" on line 24 and substitute "<u>holds a permit to issue prescription orders</u>". • ✓ Page 16, line 5: delete the material beginning with "<u>with prescribing</u>" and ending with "<u>authority</u>" on line 6 and substitute "<u>who holds a permit to issue prescription orders</u>". • ✓ Page 16, line 10: delete "<u>has prescribing authority</u>" and substitute "<u>holds a permit to issue prescription orders</u>". • ✓ Page 16, line 18: delete "<u>has prescribing authority</u>" and substitute "<u>holds a permit to issue prescription orders</u>". • ✓ Page 17, line 6: delete "<u>has prescribing authority</u>" and substitute "<u>holds a permit to issue prescription orders</u>". • ✓ Page 18, line 14: delete the material beginning with "<u>has</u>" and ending with "<u>authority</u>" on line 15 and substitute "<u>has a certificate to issue prescription orders under s. 441.16 (2) holds a permit to issue prescription orders</u>". 	<p>WNA Response to DSPS "permit". We are willing to accept language, although it seems like we are going back to the concept of an APRN who wants to prescribe needs a certificate.</p> <p><u>Question for drafter:</u> What if at the time of APRN licensure or relicensure there is the assumption that all APRNs can prescribe, but they indicate that they want to opt out of the prescriber function? (There are more prescribers that there are non-prescribers.</p> <p>Also, in lieu of a permit, can the license of the APRN indicate that he/she is a prescriber rather than an additional permit? This can be costly to the license holder and DSPS.</p>

	<ul style="list-style-type: none"> • ✓ Page 18, line 19: delete the material beginning with “has” and ending with “authority” on line 20 and substitute “has a certificate to issue prescription orders under s. 441.16 (2) holds a permit to issue prescription orders”. Page 18, line 24: delete the material beginning with “has” and ending with “authority” on page 19, line 1 and substitute “has a certificate to issue prescription orders under s. 441.16 (2) holds a permit to issue prescription orders”. • ✓ Page 19, line 22: delete “have prescribing authority” and substitute “holds a permit to issue prescription orders”. • ✓ Page 27, line 23: delete “has prescribing authority” and substitute “holds a permit to issue prescription orders”. • ✓ Page 42, line 18: delete “has authority” and substitute “holds a permit”. • ✓ Page 43, line 1: delete “authorized” and substitute “permitted”. • ✓ Page 43, line 11: delete “to be granted the authority” and substitute “for a permit”. • ✓ Page 44, line 11: delete “has prescribing authority” and substitute “holds a permit to issue prescription orders”. • ✓ Page 45, line 23: delete “has prescribing authority” and substitute “holds a permit to issue prescription orders”. • ✓ Page 49, line 7: delete “has prescribing authority” and substitute “holds a permit to issue prescription orders”. • ✓ Page 49, line 10: delete the material beginning with “has” and ending with “authority” on line 11 and substitute “holds a permit to issue prescription orders”. • ✓ Page 50, line 22: delete “has prescribing authority” and substitute “holds a permit to issue prescription orders”. • ✓ Page 51, line 3: delete “has prescribing authority” and substitute “holds a permit to issue prescription orders”. • ✓ Page 52, line 19: delete the material beginning with “has” and ending with “authority” on line 20 and substitute “holds a permit to issue prescription orders”. • ✓ Page 53, line 1: delete the material beginning with “has” and ending with “authority” on line 2 and substitute “holds a permit to issue prescription orders”.
<p>WNA agrees with DSPS to delete.</p>	<p>2) Background: Under the bill as currently drafted, the scope of practice for nurse-midwifery, which is one of the four recognized roles provided for in the bill, is defined on page 37, lines 11 to 15. However, none of the three other recognized roles provided for in the bill have their respective scopes of practice defined in the bill. Recommendation: Page 37, line 11: delete lines 11 to 15.</p>
<p>WNA Response Add:</p>	<p>3) Issue: Defined scope of practice for “recognized roles”.</p>

	<p>Scope of Practice and Role definitions page 37 line 11 The practice of the APRN is defined by the education, training and experience of the APRN.</p> <p>WNA OK DSPS OK</p>
<p>4) Drafter's Note (page 38, between lines 7 and 8).</p>	<p>WNA Agree with DSPS deletion of the word "enhanced"</p>
<p>5) Issue: Use of the word "enhanced" in enhanced nurse licensure compact. Background: The Interstate Commission of Nurse Licensure Compact Administrators refer to the enhanced nurse licensure compact (eNLC) as simply the nurse licensure compact. Recommendation: Page 38, line 7: delete "enhanced".</p> <p>6) Multistate licenses issued by another state that has adopted the nurse licensure compact. Background: The bill as currently drafted makes reference to a multistate license issued another state that has adopted the nurse licensure compact under s. 441.51. However, party states (i.e. adopted the compact) did not adopt the nurse licensure compact enumerated in Wisconsin Statutes, but rather adopted the compact under their own respective statutory laws. Recommendation: Page 38, line 7: delete "under s. 441.51".</p>	<p>WNA Agrees with DSPS to delete "under s. 441.51"</p>
<p>7) Issue: Drafter's Note (page 38, between lines 14 and 15). Response: No, that is not necessary; Correct, references to "approved by the board" means the Wisconsin Board of Nursing.</p>	<p>WNA Agrees with DSPS response.</p>
<p>8) Issue: Authority to issue prescription orders. Background: As the drafter's note on page 40 indicates, it would be unusual for the Board of Nursing to be provided with the ability to "grant, deny, or limit" prescribing authority. Also, professional disciplinary action, such as suspension or revocation, could not be imposed under the prescription authorization provided for in the bill as currently written. Recommendation: Replace the references to prescription authorization with references to an additional permit for an advance practice registered nurse to issue prescription orders, of which the Board of Nursing could grant, deny, or limit. • Page 39, line 18: delete "authority" and substitute "an additional permit".</p>	<p>WNA agree with DSPS on the following response: As the drafter's note on page 40 indicates, it would be unusual for the Board of Nursing to be provided with the ability to "grant, deny, or limit" prescribing authority. Also, professional disciplinary action, such as suspension or</p>

<ul style="list-style-type: none"> • Page 39, line 21: delete “authority to issue” and substitute “a permit to issue”. • Page 39, line 21: delete “the authority to” and substitute “the permit to”. • Page 39, line 23: delete “authority” and substitute “permit”. • Page 39, line 25: delete “the authority” and substitute “a permit”. <p>See WNA response in the first section.</p>	<p>revocation, could not be imposed under the prescription authorization provided for in the bill as currently written.</p>
<p>9) Issue: Reference to continuing education requirements for license renewal. Page 40, line 7: delete “under sub. (6)” and substitute “specified in rules promulgated under sub. (9) (f)”.</p>	<p>WNA Agree with DSPS recommendation.</p>
<p>10) Issue: Continuing education requirements on page 42, lines 4 to 8. Drafter’s Note: Page 42 after line 8 Background: Specific continuing education requirements are more appropriately placed in administrative rule, rather than in state statute. Recommendation: • Page 42, line 4: delete lines 4 to 8.</p>	<p>WNA Agree with DSPS to delete lines 4 – 8 on Page 42.</p>
<p>11) Issue: Malpractice liability insurance. Background: The following language mirrors other malpractice liability insurance provisions currently existing for other nursing professions in ch. 441, Stats. Recommendation: Page 42, line 9: delete lines 9 to 17 and substitute: “(7) MALPRACTICE LIABILITY INSURANCE. Except for a person whose employer has in effect malpractice liability insurance that provides coverage for the person in the amounts specified under s. 655.23 (4), no person may practice advanced practice registered nursing unless he or she at all times has in effect malpractice liability insurance coverage in the minimum amounts required by the rules of the board. An advanced practice registered nurse shall submit evidence of that coverage to the board when applying for an initial license under this section or a renewal of a license under this section. An advanced practice registered nurse shall also submit such evidence to the board upon request of the board.”</p>	<p>WNA Agrees with DSPS recommendation</p>
<p>12) Issue: Rules relating to scope of practice. Background: The following modification mirrors the related language currently existing for advanced practice nurse prescribers under s. 441.16, Stats.</p>	<p>WNA agrees with DSPS recommendation</p>

<p>Recommendation: Page 43, line 6: delete “the authorization to” and substitute “within which an advanced practice registered nurse may”.</p>	<p>VNA agrees with DSPS recommendation</p>
<p>13) Issue: Rules relating to scope of practice. Background: The following modification mirrors the related language currently existing for advanced practice nurse prescribers under s. 441.16, Stats. Recommendation: Page 43, line 6: delete “the authorization to” and substitute “within which an advanced practice registered nurse may”.</p>	<p>VNA agrees with DSPS recommendation</p>
<p>14) Issue: Use of the word “authorized” on page 43, line 14. Background: The following modification reflects the permitting method specified above items #1 and 7, rather than the prescription authorization provided for in the bill as currently written. Recommendation: Page 43, line 14: delete “authorized” and substitute “permitted”.</p>	<p>VNA Agrees with DSPS</p>
<p>15) Issue: Rules relating to continuing education and malpractice liability insurance. Background: The following language mirrors the related provisions currently existing for advanced practice nurse prescribers under s. 441.16, Stats. Recommendation: Page 43, line 18: after that line insert: “(f) Establishing procedures for maintaining a permit to issue prescription orders, including requirements for continuing education. (g) Establishing the minimum amount of malpractice liability insurance coverage that an advanced practice registered nurse shall at all times have in effect. The board shall promulgate rules under this paragraph in consultation with the commissioner of insurance.”.</p>	<p>VNA Agrees with DSPS recommendations</p>
<p>16) Issue: Delegation of the practice of podiatry for an advance practice registered nurse. Background: A podiatrist does not have the same type of supervisory relationship with an advanced practice registered nurse that it does with a physician assistant. Advanced practice registered nurses do not engage in professional practice under the supervision and direction of a podiatrist.</p>	<p>VNA Agrees with DSPS recommendations</p>

<p>Recommendation: Page 48, line 1: delete lines 1 to 6.</p>	<p>17) Drafter's Notes in "LRB-5823/P1dn": Note #1 Response: Ok. Note #2 Response: Ok. Note #3 Response: No changes necessary</p>
	<p>WNA Agrees with DSPS recommendations</p>

Duchek, Michael

From: Pulda, Matt
Sent: Wednesday, October 10, 2018 5:14 PM
To: Duchek, Michael
Subject: Additional APRN info
Attachments: MP Thoughts on DSPS Feedback.08172018.docx

Hi, Mike,

I just recalled that after I received the DSPS/Board of Nursing feedback in August, I shared my own thoughts with Forbes as he prepared to meet with WNA. Attached is what I sent him. I don't know whether they took any of my comments into account (I didn't have them in front of me when I looked over the WNA feedback this afternoon), but I wanted you to have them, too, in case you find them helpful. (Obviously the Board of Nursing and WNA comments take precedence for now.)

Thanks!

Matt

APRN Bill – LRB 5823/P1
Matt Pulda's comments on BoN/DSPS feedback

1. References to “prescribing authority”
 - a. I see no problem with changing “prescribing authority” to “permit to issue prescription orders”
 - b. However, the BoN did not answer the question about whether it should also have the authority to revoke or suspend a permit to issue. I think it would make sense for them to have that authority.
 - c. Perhaps because BoN didn't answer revoke/suspend question, it also didn't answer whether there should be specific reasons for revoking or suspending.
2. Defined scope of practice for “recognized roles”
 - a. I don't know why the practice of nurse-midwifery is defined under 441.09(1)(c), while the other recognized roles are not.
 - b. 441.09(9)(a) gives BoN the authority to define each recognized role's scope of practice, so 441.09(1)(c) may not be necessary, unless there is a specific reason to keep it in (again, I don't know)
3. OK
4. Use of the word “enhanced” in *enhanced nurse licensure compact*
 - a. I think “enhanced” should be kept in, since the statutes consistently refer to the “enhanced nurse licensure compact” – see 441.51 (it doesn't matter what the Interstate Commission of Nurse Licensure Compact Administrators choose to call it)
5. Multistate licenses issued by another state....
 - a. I think BoN misunderstands the bill language here (441.09(2)(a)1.c.). I read the reference to 441.51 to simply mean that we're talking about the interstate compact that *Wisconsin* adopted under 441.51, which other states adopted under their own laws. I don't think it's confusing.
6. Loss of certification
 - a. Without knowing more, my gut instinct would be that loss of certification in a “recognized role” *should* be grounds for discipline, at least with regard to APRN status, since certification is a condition of receiving an APRN license in the first place. Without certification, just an RN, right?
7. Prescribing authority (see also 1.)
 - a. Again, it makes sense for BoN to have the authority to revoke/suspend APRN permit to prescribe.
8. Continuing education requirements
 - a. If we literally follow BoN's recommendations, there would be no CE requirements for renewing the APRN license itself, only the prescription permit.
 - b. Perhaps they believe 441.09(9)(c) already covers general APRN CE requirements, but I think it's better to be explicit with regard to renewals.
9. Additional CE recommendations

- a. BoN may be right that they should have more flexibility to determine CE requirements, but (again), their suggested changes look like they would only apply to renewing the prescription permit, not the APRN license itself.
- b. Speaking from past experience working with DSPS on licensing legislation, I've found that the department often needs explicit statutory authority to carry out certain duties. This has been one of the consequences of Right the Rules/Red Tape Review. If the Legislature and stakeholders want DSPS to do certain specific things, it's usually best to spell those out in statute and only leave less important issues to the department's discretion. The boards may operate differently, but better safe than sorry. What those things are, though, are up for discussion.

10. See 9.

11. Malpractice liability insurance

- a. I think we're on the same page here.

12. Rules relating to scope of practice

- a. The drafter makes good points. It may not be necessary to give BoN the authority to further define the scope of APRN practice in general, but we should definitely keep the language giving BoN the authority to define the scope of practice for each recognized role, since those roles are what really make an APRN an APRN (with regard to nurse-midwives, see comments under 2.).
- b. With regard to 441.09(9)(a)'s reference to the permit to prescribe, the drafter may also be right that (9)(c) and (d) cover that ground already.

13. Use of the word "authorized" in 441.09(9)(d)

- a. OK

14. Continuing education and malpractice liability insurance

- a. What, if anything, we do here depends on how we address BoN's comments under 8.-11.
- b. As written, 441.09(6) already gives BoN the authority to promulgate rules for CE.
- c. With regard to malpractice, 441.09(7) refers to minimum amounts "required by the rules of the board". I don't know if it's necessary to further say the board shall or may promulgate rules in this area, or if that's already assumed under the current language. If it's not assumed, we'll need to include it.

15. Podiatry

- a. I'm not sure about the best way to address BoN's concerns about 448.62(2m). If I understand them right, the situation covered under (2m) doesn't exist in the real world. On the other hand, (2m) must be there because *someone* wanted it there (a conscientious drafter?).

Duchek, Michael

From: Duchek, Michael
Sent: Thursday, October 11, 2018 10:35 AM
To: Pulda, Matt
Subject: RE: Additional APRN info
Attachments: MED responses.docx

Matt, see my attached responses. I am happy to chat with Gina, Forbes, or whoever, but as a starting point I put these together to share my thoughts. Do you want to take a look and forward them on to them?

-Mike

From: Pulda, Matt
Sent: Wednesday, October 10, 2018 5:14 PM
To: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Subject: Additional APRN info

Hi, Mike,

I just recalled that after I received the DSPS/Board of Nursing feedback in August, I shared my own thoughts with Forbes as he prepared to meet with WNA. Attached is what I sent him. I don't know whether they took any of my comments into account (I didn't have them in front of me when I looked over the WNA feedback this afternoon), but I wanted you to have them, too, in case you find them helpful. (Obviously the Board of Nursing and WNA comments take precedence for now.)

Thanks!

Matt

1. Prescribing authority – The issue as I see it, and I think BoN/DSPS had/would have something similar to say, is that if you want the board to be able to take action against something, it really should be something tangible, like a license, permit, or certificate, and not something intangible like “authority.” Part of the reason is that by having it be a certificate or permit, it then falls within the definition of “credential” under s. 440.01(2)(a) and various related provisions apply which make everything work with respect to professional discipline.

Now, currently, prescribing authority is granted as a “certificate” under s. 441.16. If you want to call it a “permit” instead, that is probably fine, though you could still just as well call it a certificate if you want.

In any case, I sense that there is still some issue here – you said that it could be costly - if one of the issues is that you don’t want to have them have to pay more fees, then that’s a real easy issue to deal with and we could either have it be a \$10 fee or no fee at all. So if the fee is the real issue, then I suggest we address that instead of trying to find a clever way to have it be sort of a thing but not a thing. Bottom line – if you want it to be a) something that *some* people in a given recognized role have, but *some* people in that same role don’t, and b) something that the board has the authority to exercise professional disciplinary action against *independent* of the license (i.e., if you want it so the board can suspend someone’s prescribing authority but not their license), then... it should really be a separate credential like a permit or certificate. If a and b are not true, then we should talk further. And to the extent that the issue is the hassle of renewing things at different times, one other thing we can do is align the renewal dates so that everything is renewable at the same time.

As far as having the prescribing being “opt out,” I guess I don’t understand how that would really help, and I had heard that CNS’s may generally not want to have to have prescribing authority, so I’m not sure “opt out” would make sense for them. In any case, it would again be helpful to understand what the real issue is – is it the fee, the renewal date, the hassle of separate applications so we can hopefully find something that makes everyone happy.

2. Continuing education – It sounds like the BoN would prefer to deal with CE by rule. It doesn’t sound like anyone has much objection to that, but Matt wisely picked up on this issue of whether the CE should only be for prescribers or whether it can be for someone who doesn’t have prescribing authority. So this question is sort of contingent on the answer to question #1, but I need to know the answer to Matt’s question on who should be subject to CE – any APRN, or just one who can prescribe?
3. Podiatrists – I don’t quite understand the question/response here, but... 2017 Act 227 was passed because podiatrists wanted to be able to work with APRNs and PAs. It is correct that the physician-PA relationship is separately defined in ch. 448 and the Medical Examining Board’s rules, so we did something similar to add in podiatrists there so there could be a podiatrist-PA relationship as well. However, this provision on page 48, lines 1-6 does not cover PAs. With respect to APRNs, however, we created this provision (at page 48 lines 1-6) that allows a podiatrist to “delegate” his/her practice to an APRN (again, this provision does not deal with PAs, which are dealt with in other provisions because they are different). Without this provision on page 48, lines 1-6, APRNs are not allowed to practice anything that falls within the practice of podiatry except to the extent that it is permitted under the APRN’s own scope of practice, and

apparently the podiatrists felt that they needed this so they could hire APRNs and have them do some stuff that the APRNs couldn't otherwise do. So I would most definitely NOT recommend repealing this provision as this is what the podiatrists asked for to allow podiatrists to delegate their practice to APRNs. The only thing the draft does is change it so it would refer to any APRN instead of a prescriber. Let me know if you want to discuss this further. It may make sense to limit it to NPs, for example, but I'm not sure why you'd repeal it.

4. The compact – I think these changes are fine, though they are essentially very technical as Matt notes and are really not related to the rest of the bill. I don't see the changes as problematic at all and will gladly include them but I will suggest to DSPS that if this bill doesn't pass, they may also want to pursue them as separate legislation.

Duchek, Michael

From: Gina Dennik-Champion <gina@wisconsinnurses.org>
Sent: Tuesday, October 30, 2018 2:31 PM
To: Duchek, Michael
Subject: Follow-up on your APRN Comment/questions
Attachments: MED responses.docx

Importance: High

Hi Mike – do you have time to discuss the questions/comments you forwarded to Rep. Rohrka's office. See attached. I can be reached at 608-228-3300.

Thanks in advance.

gina



Gina Dennik-Champion, MSN, RN, MSHA
Executive Director
Wisconsin Nurses Association
2820 Walton Commons Ln, Suite 136
Madison, WI 53718
Work phone: 608-221-0383 Ext. 202
Mobile: 608-228-3300
gina@wisconsinnurses.org



Interested in seeing how WNA supports professional nursing practice go to www.wisconsinnurses.org

Duchek, Michael

From: Gina Dennik-Champion <gina@wisconsinnurses.org>
Sent: Tuesday, October 30, 2018 3:33 PM
To: Duchek, Michael
Cc: Burton Wagner; Forbes McIntosh (forbes@wis-gps.com); Pulda, Matt
Subject: Response to your questions & comments APRN
Attachments: WNA response to Drafter 10_30_18.docx

Importance: High

Hello Mike, I had a chance to further discuss your questions and comments today with Burt. Please see our response.

Thanks for your assistance.

Sincerely,

Gina



Gina Dennik-Champion, MSN, RN, MSHA
Executive Director
Wisconsin Nurses Association
2820 Walton Commons Ln, Suite 136
Madison, WI 53718
Work phone: 608-221-0383 Ext. 202
Mobile: 608-228-3300
gina@wisconsinnurses.org



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WNA Response to Michael Duchek, Legislative Drafter, LRB-5823/P1dn
10/30/18

1. Prescribing authority – The issue as I see it, and I think BoN/DSPS had/would have something similar to say, is that if you want the board to be able to take action against something, it really should be something tangible, like a license, permit, or certificate, and not something intangible like “authority.” Part of the reason is that by having it be a certificate or permit, it then falls within the definition of “credential” under s. 440.01(2)(a) and various related provisions apply which make everything work with respect to professional discipline.

Now, currently, prescribing authority is granted as a “certificate” under s. 441.16. If you want to call it a “permit” instead, that is probably fine, though you could still just as well call it a certificate if you want.

In any case, I sense that there is still some issue here – you said that it could be costly - if one of the issues is that you don't want to have them have to pay more fees, then that's a real easy issue to deal with and we could either have it be a \$10 fee or no fee at all. So if the fee is the real issue, then I suggest we address that instead of trying to find a clever way to have it be sort of a thing but not a thing. Bottom line – if you want it to be a) something that *some* people in a given recognized role have, but *some* people in that same role don't, and b) something that the board has the authority to exercise professional disciplinary action against *independent* of the license (i.e., if you want it so the board can suspend someone's prescribing authority but not their license), then... it should really be a separate credential like a permit or certificate. If a and b are not true, then we should talk further. And to the extent that the issue is the hassle of renewing things at different times, one other thing we can do is align the renewal dates so that everything is renewable at the same time. WNA agrees to “permit” concept in order for the BON to sanction/revoke an APRN prescriber permit in order for APRN to maintain her/his APRN license.

Do you want a) the board to be able to charge a separate fee for the permit determined by DSPS, b) to set specific nominal fee (i.e., \$10) for the permit, or c) no separate fee for the permit? Also, note that under the draft, it says the board would determine by rule who is eligible for a permit. Is that still OK?

As far as having the prescribing being “opt out,” I guess I don't understand how that would really help, and I had heard that CNS's may generally not want to have to have prescribing authority, so I'm not sure “opt out” would make sense for them. In any case, it would again be helpful to understand what the real issue is – is it the fee, the renewal date, the hassle of separate applications so we can hopefully find something that makes everyone happy. WNA agrees that opt-out is not an option. Thank you for the explanation.

2. Continuing education – It sounds like the BoN would prefer to deal with CE by rule. It doesn't sound like anyone has much objection to that, but Matt wisely picked up on this issue of whether the CE should only be for prescribers or whether it can be for someone who doesn't have prescribing authority. So this question is sort of contingent on the answer to question #1, but I need to know the answer to Matt's question on who should be subject to CE – any APRN, or just one who can prescribe? WNA desires that the CE

requirement extend to all regardless of being a prescriber. WNA supports keeping the number of contact hours in statute at this time.

In the previous document it said WNA agrees with DSPS to just give the board the authority to simply establish CE requirements by rule. Please confirm whether you want to let the board set requirements or if you want the specific number of hours in the statute. (Note that the draft already gave the board the authority to do rules on page 42, lines 7-8, so I think we are just arguing at this point about whether to have a specific # of hours in the statute.)

3. Podiatrists – I don't quite understand the question/response here, but... 2017 Act 227 was passed because podiatrists wanted to be able to work with APRNs and PAs. It is correct that the physician-PA relationship is separately defined in ch. 448 and the Medical Examining Board's rules, so we did something similar to add in podiatrists there so there could be a podiatrist-PA relationship as well. However, this provision on page 48, lines 1-6 does not cover PAs. With respect to APRNs, however, we created this provision (at page 48 lines 1-6) that allows a podiatrist to "delegate" his/her practice to an APRN (again, this provision does not deal with PAs, which are dealt with in other provisions because they are different). Without this provision on page 48, lines 1-6, APRNs are not allowed to practice anything that falls within the practice of podiatry except to the extent that it is permitted under the APRN's own scope of practice, and apparently the podiatrists felt that they needed this so they could hire APRNs and have them do some stuff that the APRNs couldn't otherwise do. So I would most definitely NOT recommend repealing this provision as this is what the podiatrists asked for to allow podiatrists to delegate their practice to APRNs. The only thing the draft does is change it so it would refer to any APRN instead of a prescriber. Let me know if you want to discuss this further. It may make sense to limit it to NPs, for example, but I'm not sure why you'd repeal it. WNA believes this makes sense. Currently 441.001(4)(b) requires this of RNs and if APRNs are going to separately licensed this may want to be continued.

I think we should discuss this further. As I understand it, there is a distinction between delegating one's own practice vs. what one can do under his or her own license. For 2017 Act 227, the podiatrists were asking to be able to delegate their own practice to APRNs. As a separate matter, though, N 8.10 (which is not in the statute) requires that APRNs facilitate collaboration with other health care professionals, at least 1 of whom must be a physician. 2017 Act 227 did not change this requirement in N 8.10, it just allowed a podiatrist to delegate his or her own practice to an APRN. I assume that the collaboration requirement will continue after this bill is passed, but the draft is totally silent on that issue. You are correct that s. 441.001 (4) (b) also references working under podiatrists, but that is the definition of what registered nursing is, and since N8 was on top of that and applies specifically to nurse prescribers and not to all RNs, I guess it controls. Bottom line I am not sure what you are saying in your response in blue, but since we are not defining in the statute any type of collaboration/supervision requirement for APRNs, I'm not sure what else to do except recommend that the language on page 48, lines 1-6 remain as it currently is in the draft. However, if the board's rules had been amended to allow APRNs to collaborate with podiatrists *instead of* physicians, then maybe s. 448.62 (2m) would not have been necessary. Again, we should discuss further.

4. The compact – I think these changes are fine, though they are essentially very technical as Matt notes and are really not related to the rest of the bill. I don't see the changes as problematic at all and will gladly include them but I will suggest to DSPS that if this bill doesn't pass, they may also want to pursue them as separate legislation. WNA agrees.

Duchek, Michael

From: Gina Dennik-Champion <gina@wisconsinnurses.org>
Sent: Thursday, November 01, 2018 5:15 PM
To: Duchek, Michael
Cc: Burton Wagner; Forbes McIntosh (forbes@wis-gps.com); Pulda, Matt
Subject: RE: Response to your questions & comments APRN

Hi Mike, I am trying to set up a call with Burt and Forbes for tomorrow morning. I hope to have a response for you after the call.

gina

Gina Dennik-Champion, MSN, RN, MSHA
Executive Director
Wisconsin Nurses Association
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From: Duchek, Michael [mailto:Michael.Duchek@legis.wisconsin.gov]
Sent: Wednesday, October 31, 2018 3:56 PM
To: Gina Dennik-Champion
Cc: Burton Wagner; Forbes McIntosh (forbes@wis-gps.com); Pulda, Matt
Subject: RE: Response to your questions & comments APRN

Gina,

See attached. Sorry I missed you yesterday. Are you available to chat tomorrow or Friday?

-Mike

From: Gina Dennik-Champion <gina@wisconsinnurses.org>
Sent: Tuesday, October 30, 2018 3:33 PM
To: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Cc: Burton Wagner <bawagner@wisc.edu>; Forbes McIntosh (forbes@wis-gps.com) <forbes@wis-gps.com>; Pulda, Matt <Matt.Pulda@legis.wisconsin.gov>
Subject: Response to your questions & comments APRN
Importance: High

Hello Mike, I had a chance to further discuss your questions and comments today with Burt. Please see our response. Thanks for your assistance.
Sincerely,

Gina



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Duchek, Michael

From: Pulda, Matt
Sent: Friday, November 02, 2018 2:24 PM
To: Duchek, Michael
Subject: RE: MED responses.docx

I think this looks good for now - you can go ahead with the drafting. Thanks!

Matt

From: Duchek, Michael
Sent: Friday, November 02, 2018 2:02 PM
To: Pulda, Matt
Subject: MED responses.docx

Matt,

I talked to Gina today (who had talked to Forbes and Burt) and I just wanted to share with you her responses. Let me know if you don't want me to go with what she has. Otherwise, I think I can work on a draft now and can try to get it to you soon.

Mike Duchek
Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
(608) 504-5830

WNA Response to Michael Duchek, Legislative Drafter, LRB-5823/P1dn
10/30/18

1. Prescribing authority – The issue as I see it, and I think BoN/DSPS had/would have something similar to say, is that if you want the board to be able to take action against something, it really should be something tangible, like a license, permit, or certificate, and not something intangible like “authority.” Part of the reason is that by having it be a certificate or permit, it then falls within the definition of “credential” under s. 440.01(2)(a) and various related provisions apply which make everything work with respect to professional discipline.

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Gina: DSPS can determine fee

As far as having the prescribing being “opt out,” I guess I don’t understand how that would really help, and I had heard that CNS’s may generally not want to have to have prescribing authority, so I’m not sure “opt out” would make sense for them. In any case, it would again be helpful to understand what the real issue is – is it the fee, the renewal date, the hassle of separate applications so we can hopefully find something that makes everyone happy. WNA agrees that opt-out is not an option. Thank you for the explanation.

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Gina: Keep 16 in bill.

3. Podiatrists – I don't quite understand the question/response here, but... 2017 Act 227 was passed because podiatrists wanted to be able to work with APRNs and PAs. It is correct that the physician-PA relationship is separately defined in ch. 448 and the Medical Examining Board's rules, so we did something similar to add in podiatrists there so there could be a podiatrist-PA relationship as well. However, this provision on page 48, lines 1-6 does not cover PAs. With respect to APRNs, however, we created this provision (at page 48 lines 1-6) that allows a podiatrist to "delegate" his/her practice to an APRN (again, this provision does not deal with PAs, which are dealt with in other provisions because they are different). Without this provision on page 48, lines 1-6, APRNs are not allowed to practice anything that falls within the practice of podiatry except to the extent that it is permitted under the APRN's own scope of practice, and apparently the podiatrists felt that they needed this so they could hire APRNs and have them do some stuff that the APRNs couldn't otherwise do. So I would most definitely NOT recommend repealing this provision as this is what the podiatrists asked for to allow podiatrists to delegate their practice to APRNs. The only thing the draft does is change it so it would refer to any APRN instead of a prescriber. Let me know if you want to discuss this further. It may make sense to limit it to NPs, for example, but I'm not sure why you'd repeal it. WNA believes this makes sense. Currently 441.001(4)(b) requires this of RNs and if APRNs are going to separately licensed this may want to be continued.

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of physicians, then maybe s. 448.62 (2m) would not have been necessary. Again, we should discuss further.

Gina: Leave it the way it is as a delegated act

4. The compact – I think these changes are fine, though they are essentially very technical as Matt notes and are really not related to the rest of the bill. I don't see the changes as problematic at all and will gladly include them but I will suggest to DSPS that if this bill doesn't pass, they may also want to pursue them as separate legislation. WNA agrees.



RESEARCH APPENDIX

Drafting History Reproduction Request Form

Drafting Attorneys: Please complete form below and give to Mike Barman (lead PA).

Requested by	MED
Date	10-11-2018

*Note: Except for companion bills, both drafts should have same requester.

<input checked="" type="checkbox"/>	Please transfer the drafting file for:	
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2017 LRB	-5823	For Rep./Sen. Rohrka
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To the drafting file for:

2019 LRB	-0429	For Rep./Sen. Rohrka
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OR

<input type="checkbox"/>	Please copy the drafting file for:	
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2019 LRB	/	For Rep./Sen.
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And place it in the drafting file for:

2019 LRB		For Rep./Sen.
----------	--	---------------

Companion bills?	<input type="checkbox"/> YES*	<input type="checkbox"/> NO
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*If yes, the transfer or copy of the file was authorized by whom in the original requester's office?

Done
AMB