

Report From Agency

**STATE OF WISCONSIN
BOARD OF NURSING**

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
BOARD OF NURSING : **CR 12-004**
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I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

None

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The Board of Nursing is granted the authority to promulgate rules for its own guidance and for the guidance of the nursing profession to which it pertains and specifically may establish rules to prevent unauthorized persons from practicing professional nursing.

The current rule prohibits a person licensed as a nurse in another state, territory, province or country from obtaining licensure as a registered nurse or licensed practical nurse through the endorsement process if there has ever been disciplinary action against their nurse license in any state, territory, province or country.

The proposed rule advances the goal of licensing qualified nurses by allowing the Board of Nursing to evaluate the disciplinary action in the other jurisdiction including, but not limited to, the length of time since the action took place, the circumstances involving the action, and the rehabilitation of the nurse.

V. SUMMARY OF PUBLIC COMMENTS AND THE SECTION'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Board of Nursing held a public hearing on February 23, 2012. The following people either testified at the hearing, or submitted written comments:

Peggy L. Ingersoll Church, RN
Gina Dennik-Champion, RN, representing the Wisconsin Nurses Association
Elizabeth S. Markham, PhD, RN, representing Kenosha Racine District 1 Nurses

The Board of Nursing summarizes the comments received either by hearing testimony or by written submission as follows:

Those supporting the proposed rule stated that the Board using its discretion when licensing by endorsement is reasonable and prudent. The process would be similar to the method used by the Board in determining if disciplinary action is warranted for current license holders. The process will allow the Board to perform a case-by-case review of the application for licensure by endorsement and thereby ensure public safety and increase the supply of qualified nurses. Furthermore, it was stated that the current rule is too restrictive and negatively impacts the nursing workforce supply and employment opportunities in Wisconsin. The proposed rule would enhance mobility of nurses.

One person opposed the proposed rule for the following reasons: she did not want a new board created to review the applications; the proposed rule might make Wisconsin a desirable location for those with encumbered licenses; did not want to provide a “second chance” to nurses; and did not want nurses with revoked/suspended/on probation licenses to receive a license in Wisconsin. The Board of Nursing considered her opposition and notes that there is no new board being created; and our neighboring states use their discretion in determining whether a person can receive a license through their endorsement process, therefore, Wisconsin would not be a magnet for nurses with encumbered licenses. The Board of Nursing has experience in evaluating cases to make the determination whether the person should practice nursing in the state of Wisconsin.

The Board of Nursing did not make any modifications to its rule-making proposal prompted by public comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

There is no economic impact on small businesses, therefore, it was not submitted to the SBRRB and a final regulatory flexibility analysis is not required.