

Clearinghouse Rule 13-098

STATE OF WISCONSIN
BOARD OF NURSING

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

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PROPOSED ORDER

An order of the Board of Nursing to create N 9 relating to the nurse licensure compact.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

Statutes interpreted: s. 441.50

Statutory authority: ss. 15.08 (5) (b), 227.11 (2); 441.01; 441.50 (6); 441.50 (6)(c)
Stats.

Explanation of agency authority: An examining board shall promulgate rules for its own guidance and for the guidance of the profession to which it pertains. The Board may establish rules to prevent unauthorized persons from practicing professional nursing. The Board shall approve all rules for the administration of ch. 441 in accordance with ch. 227.

The Board shall have the authority to promulgate uniform rules and regulations which are developed by the nurse licensure compact administrators. These uniform rules shall be adopted by party states.

Related statute or rule: s. 441.50

Plain language analysis:

Wisconsin is a party state to the Nurse Licensure Compact. The Nurse Licensure Compact requires the adoption of the uniform rules for facilitation and coordination of the implementation of the Nurse Licensure Compact. The issues the rules address include: issuance of a multi-state license; limitations or discipline on a multi-state

licensure; required data to collect (and who has access to that data); and various reporting to the information system requirements.

Summary of, and comparison with, existing or proposed federal regulation: None

Comparison with rules in adjacent states:

Illinois: Illinois is not part of the nurse licensure compact.

Iowa: Iowa is part of the nurse licensure compact and has adopted the rules.

Michigan: Michigan is not part of the nurse licensure compact.

Minnesota: Minnesota is not part of the nurse licensure compact.

Summary of factual data and analytical methodologies:

The nurse licensure compact administrators approve the uniform rules.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2377; email at Sharon.Henes@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Sharon.Henes@wisconsin.gov. Comments must be received at or before the

public hearing to be held at 8:00 a.m. on December 19, 2013 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. N 9 is created to read:

Chapter N 9
Nurse Licensure Compact

N 9.01. Definitions of terms in the Compact. (1) For the purpose of the compact:

- (a) "Board" means party state's regulatory body responsible for issuing nurse licenses.
- (b) "Information system" means the coordinated licensure information system.
- (c) "Primary state of residence" means the state of a person's declared fixed permanent and principal home for legal purposes; domicile.
- (d) "Public" means any individual or entity other than designated staff or representatives of party state Boards or the National Council of State Boards of Nursing, Inc.

(2) Other terms used in this chapter are to be defined as in s. 441.50, Stats.

N 9.02. Issuance of a license by a compact party state. For the purposes of this compact:

(1) As of July 1, 2005, no applicant for initial licensure will be issued a compact license granting a multi-state privilege to practice unless the applicant first obtains a passing score on the applicable NCLEX examination or any predecessor examination used for licensure.

(2) A nurse applying for a license in a home party state shall produce evidence of the nurse's primary state of residence. Such evidence shall include a declaration signed by the licensee. Further evidence that may be requested may include, but is not limited to:

- (a) Driver's license with a home address;
- (b) Voter registration card displaying a home address;
- (c) Federal income tax return declaring the primary state of residence;
- (d) Military Form No. 2058 – state of legal residence certificate;
- (e) W2 from US Government or any bureau, division or agency thereof indicating the declared state of residence.

(3) A nurse on a visa from another country applying for licensure in a party state may declare either the country of origin or the party state as the primary state of residence. If

the foreign country is declared the primary state of residence, a single state license will be issued by the party state.

(4) A license issued by a party state is valid for practice in all other party states unless clearly designated as valid only in the state which issued the license.

(5) When a party state issues a license authorizing practice only in that state and not authorizing practice in other party states (i.e. a single state license), the license shall be clearly marked with words indicating that it is valid only in the state of issuance.

(6) A nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multi-state licensure privilege during the processing of the nurse's licensure application in the new home state for a period not to exceed ninety (90) days.

(7) The licensure application in the new home state of a nurse under pending investigation by the former home state shall be held in abeyance and the ninety (90) day period in sub. 6 shall be stayed until resolution of the pending investigation.

(8) The former home state license shall no longer be valid upon the issuance of a new home state license.

(9) If a decision is made by the new home state denying licensure, the new home state shall notify the former home state within (10) business days and the former home state may take action in accordance with that state's laws and rules.

N 9.03 Limitations on multi-state licensure privileges – Discipline. (1) Home state boards shall include in all disciplinary orders or agreements, which limit practice or require monitoring the requirement that the licensee is subject to in the order or agreement, the requirement that the licensee will limit the licensee's practice to the home state during the pendency of the order or agreement. This requirement may, in the alternative, allow the nurse to practice in other party states with prior written authorization from both the home state and such other party state boards.

(2) An individual who had a license which was surrendered, revoked, suspended, or an application denied for cause in a prior state of primary residence, may be issued a single state license in a new primary state of residence until such time as the individual would be eligible for an unrestricted license by the prior state(s) of adverse action. Once eligible for licensure in the prior state(s), a multistate license may be issued.

N 9.04 Information System. (1) Levels of access as follows:

- (a) The public shall have access to nurse licensure information limited to:
1. The nurse's name;
 2. Jurisdiction(s) of licensure;
 3. License expiration date;

4. Licensure classification and status;
5. Public emergency and final disciplinary actions, as defined by contributing state authority; and
6. The status of multi-state licensure privileges.

(b) Non-party state boards shall have access to all information system data except current significant investigative information and other information as limited by contributing party state authority.

(c) Party state boards shall have access to all information system data contributed by the party states and other information as limited by contributing non-party state authority.

(2) The licensee may request in writing to the home state board to review the data relating to the licensee in the information system. In the event a licensee asserts that any data relating to him or her is inaccurate, the burden of proof shall be upon the licensee to provide evidence that substantiates such claim. The board shall verify and within ten (10) business days correct inaccurate data to the information system.

(3) The board shall report to the information system within ten (10) business days the following:

- (a) Disciplinary action, agreement or order requiring participation in alternative programs or which limit practice or require monitoring (except agreements and order relating to participation in alternative programs required to remain nonpublic by contributing state authority);
- (b) Dismissal of complaint; and
- (c) Changes in status of disciplinary action, or licensure encumbrance.

(4) Current significant investigative information shall be deleted from the information system within ten (10) business days upon report of disciplinary action, agreement or order requiring participation in alternative programs or agreements which limit practice or require monitoring or dismissal of a complaint.

(5) Changes to licensure information in the information system shall be completed with ten (10) business days upon notification by a board.

SECTION 2. EFFECTIVE DATE. 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.

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(END OF TEXT OF RULE)

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Dated _____

Agency _____

Member of the Board
Board of Nursing