

**STATE OF WISCONSIN
BOARD OF NURSING**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
BOARD OF NURSING : CR 14-002
:**

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 existing rules have references which no longer exist; the role of the examining councils as outlined in the current rule is obsolete due to modern test taking methodology; and the process in the current rule for approval of an application is not consistent with the modern practices and technologies. The proposed rule updates the rule from 1984 practices to current practices and creates clarity regarding the process of obtaining licensure. The Board of Nursing considered the national Council of State Board of Nursing's model rules and the licensing processes used by our neighboring states.

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

The Board of Nursing held a public hearing on February 13, 2014. No one testified at the hearing. The following person submitted written comments:

Gina Dennik-Champion representing the Wisconsin Nurses Association (WNA).

The Board of Nursing summarizes the comments received by written submission as follows:

The WNA is in support of the proposed changes to chapters N 2 and N 3. The WNA views these changes as apposite as it provides greater clarity of the process for the applicant and the Department.

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

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 1a: In s. N 2.21(3), what is a limited license? Under what authority does the proposed rule make a limited license available to an applicant?

Response: Under s. 441.06(1m), Stats. the board may grant a license if it is satisfied from the credential holders' employment and professional records that holder is currently competent to practice the profession. Since the board has the authority to issue a license, the board also has the authority to issue a license for a limited purpose. If a person has not practiced nor taken any education for a long period of time and the board is not satisfied the person is currently competent to practice nursing, rather than deny the license for not meeting the requirements (and prevent the person from entering Wisconsin's workforce), the Board issues a partial or limited license for the sole purpose of allowing the person to complete a refresher course to satisfy the licensure requirements. Once the course is completed the person is issued a license with full licensure rights.

Comment 1b: Section N 2.32(3) allows a registered nurse or practical nurse for licensure by endorsement who is granted a temporary permit to use the title "registered nurse" or "licensed practical nurse". However, ss. 441.06(4) and 441.10(3)(c), Stats., require that a registered nurse or practical nurse be licensed to use such titles but provide an exception for nurse licensed by a nurse licensure compact state. Under what authority does the proposed rule allow an individual with a temporary permit but who is not licensed as a registered nurse or practical nurse by a nurse licensure compact state to use the title "registered nurse" or "licensed practical nurse"?

Response: Section 441.08, Stats. authorizes the granting of a temporary permit and gives the board authority to promulgate rules limiting the use and duration of temporary permits and providing for revocation of temporary permits. The Clearinghouse cites 441.06(4), Stats. as not allowing a registered nurse to use the title without a license, however, that same section does not allow a registered nurse to practice without a license. While s. 441.08, Stats. does not explicitly state a temporary permit allows a holder to practice as a registered nurse it is clearly the intent. The board is authorized to promulgate rules relating to the use of the temporary permit, and the board has promulgated rules which includes the titles that may be used by a temporary permit holder. This provision for endorsement applicants for licensure as a practical nurse or registered nurse to use those titles while holding a temporary permit is not a new provision and has been in the rules since at least 1984.

Comment 2g: The agency might consider including an initial applicability clause in the proposed rule.

Response: The Board declines to include an initial applicability clause and would like the rule to apply upon the effective date.

Comment 4c: Throughout the proposed rule, when referring to a “fee”, the rule should include a reference to the statute or administrative code section that contains the fee.

Response: There is no statute or administrative code section that contains the fee amount. The department notifies credential holders of the fee adjustments on the department’s internet web site and in credential renewal notices.

Comment 5d: In s. N 2.02(2)(b), what is the “electronic application process”? The agency might consider defining this phrase in s. N 2.02.

Response: The Board declines to define the word and believes the common and plain meaning of the word is clear. The Board would like to leave it open to any electronic application process which is utilized by the Board and Department to process applications in the future rather than limiting it to the current online licensure application system.

Comment 5h: Section N 2.02(8) and (10) should be removed. The proposed rule does not use the acronyms “LPN” and “RN”, so they should not be defined.

Response: The acronyms are used in s. N 2.36(2).

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

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

None. This rule does not have an economic impact on small businesses.