

Report From Agency

**STATE OF WISCONSIN
BOARD OF NURSING**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
BOARD OF NURSING : CR 15-099**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS: N/A

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 purpose of the rule is to update the renewal process and to clarify the requirements for a license to be renewed after 5 years or reinstated. In addition, the Board updated the standards of practice chapter to ensure the rules are consistent with current nursing standards.

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 January 14, 2016. The following people either testified at the hearing, or submitted written comments:

Gina Dennik-Champion representing Wisconsin Nurses Association
Katherine Andrews, representing Wisconsin Nurses Association
Cali Trepp

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

Wisconsin Nurses Association is in favor of the proposed rules.
Ms. Trepp registered neither for nor against the rule and did not provide comments.

The Board of Nursing explains modifications to its rule-making proposal prompted by public comments as follows:

The Board did not make any changes in response to comments received at the public hearing.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 2b: Based upon the language of s. N 2.40 (3) (intro.) and (d) 1., does the agency create a situation where a credential holder who is reviewing a credential that has been expired for more than 5 years must provide documentation of employment requiring a license within the last five years? Is this provision intended to force applicants to self-identify instances of unlicensed practice? If not, what is the agency's intent regarding the combination of these provisions?

Response: The Board's intent is to ensure the person can competently practice nursing by either documenting the nurse has been practicing at some point within the last five years or completing a nursing refresher course. The nurse may have an expired Wisconsin credential but has been practicing in another state. The Board does not want to require a nurse to undergo the time and expense of a nursing refresher course if the person has been working as a nurse during the last five years.

Comment 2d: Is there a rule provision that applies to reinstatement of a credential holder who has unmet disciplinary requirements, has not surrendered the credential or had it revoked, and wishes to renew the credential within five years? Section N 2.41 appears to apply only to credential holders with unmet disciplinary requirements who fail to renew within five years or whose credential has been surrendered or revoked. Should ch. N 2 contain a provision similar to s. Phar 5.04, as amended by CR 15-081?

Response: The Board may put additional requirements that the Board determines are necessary to protect the public health, safety or welfare on a licensee who is renewing a license beyond 5 years. Therefore, prior to 5 years a licensee is required to meet the requirements for renewal and if the person is under a disciplinary order complete the terms of the order or additional sanctions can be placed for violating a Board order. After the 5 years, the Board may have additional requirements for renew and the Board is providing those additional requirements in V. 2.41 for a person who has unmet disciplinary requirements. The Board is not pursuing a prohibition to renewal for a person who is suspended as the Pharmacy Examining Board did in s. Phar 5.04. While the Board is allowing a person to renew a suspended a license, the person may not practice while the license is suspended, therefore, the public is protected.

Comment 5d: Because s. N 2.41 relates to reinstatement and licensees with unmet disciplinary requirements, is it necessary to use the phrase "if applicable" at the end of s. N 2.41 (2)? Under what circumstances would evidence of completion of disciplinary requirements be inapplicable?

Response: It is necessary to use the phrase "if applicable" because the section pertains to surrender and revocation in addition to those with unmet disciplinary requirements. A

person who surrendered or had their license revoked may not have unmet disciplinary requirements.

Comment 5e: As it relates to the use of the phrase “delegated act” in the proposed rule, should the agency identify the authorities responsible for the delegation? These authorities were identified in the existing s. N 6.02 (4) and (5), but only appear to be implied by context in the proposed rule.

Response: The Board intentionally removed the authority responsible for the delegation in recognition of current nursing practice where the delegated act itself is the focus rather than the professional doing the delegation.

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:

This rule does not have an impact on small business.