Chapter N 6

PLEADING, PRACTICE AND PROCEDURE

N 6.01 Definitions
N 6.02 How proceedings initiated
N 6.03 Style of pleadings, etc.
N 6.04 Notice of hearing and statement of issues
N 6.05 Answer
N 6.06 Admission by not denying
N 6.07 Default; relief therefrom
N 6.08 Service and filing of papers
N 6.09 Conduct of hearings; continuances; appearances; examinations of witnesses
N 6.10 Subpoenas; witness fees
N 6.11 Prehearing conferences
N 6.12 Arguments
N 6.13 Variances
N 6.14 Petition for rules or declaratory rulings

History: Chapter N 6 as it existed on August 31, 1970 was repealed and a new chapter N 6 was created, Register, August, 1970, No. 176, effective September 1, 1970.

N 6.01 Definitions. As used in these rules "board" means the board of nursing; "executive committee" means the executive committee of the board of nursing; "secretary" means the secretary of the board of nursing who also is the administrator of the division of nurses; "chairman" means the member of the board of nursing elected to serve as presiding officer of the board of nursing; "administrator" means the registered nurse, appointed by the board of nursing, in charge of the division of nurses; "hearing officer" means the person authorized by the board to conduct hearings under this chapter.

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

N 6.02 How proceedings initiated. Proceedings to revoke the certificate of a registered nurse or the license of a licensed trained practical nurse, or to remove a school of nursing from the accredited list may be initiated by the board, the executive committee or the secretary of the board. The secretary shall initiate such proceedings whenever ordered to do so by the board.

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

N 6.03 Style of pleadings, etc. All pleadings, notices, orders and other papers filed in such proceedings shall be captioned, "Before the State of Wisconsin Board of Nursing" and shall be entitled "In the Matter of the Revocation of the certificate of_____, R. N., (or, the license of_____, T.P.N.) Respondent" or "In the Matter of the Removal of the_____School of Nursing (or School for Trained Practical Nurses), Respondent, from the Accredited List."

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

N 6.04 Notice of hearing and statement of issues. Notices of hearing shall be addressed to the respondent at his last post office address, shown on the records of the board, shall include the statement of issues and shall be in substantially the following form:

(1) IF FOR REVOCATION OF A CERTIFICATE OR LICENSE:

"To _____R.N. (or T. P. N.)
_____St.
_____Wis.
Respondent

"Please take notice that a hearing will be held on the_____day of_____, 19____, at room no._____(or other proper designation) of the _____building (or other proper designation) no._____st. in the city of_____Wis. at_____o'clock,_____m., or as soon thereafter as the matter may be reached, on the question of whether the_____
(license or certificate
_____heretofore issued to the above named respondent
of registration)
pursuant to chapter 441 of the Wis. Stats. should be revoked.

"The issues involved and the charges there to be considered are as follows: (Here set out the alleged grounds for revocation as provided by section 441.07 Wis. Stats., with sufficient particularity to permit the respondent to answer and defend the charges.)

"You are required to make answer in writing to the said charges at least_____days before the time set for said hearing; otherwise the charges will be deemed to be admitted.

"Dated at Madison, Wisconsin this_____day of_____, 19____

STATE OF WISCONSIN BOARD OF NURSING
By _____
Secretary (or Chairman)"

(2) IF FOR REMOVAL OF A SCHOOL OF NURSING (OR SCHOOL FOR TRAINED PRACTICAL NURSES) FROM THE ACCREDITED LIST.

"TO_____School of Nursing
_____St.
_____Wis.
Respondent

"Please take notice that a hearing will be held on the_____day of_____, 19____, at room no._____(or other proper designation) of the_____building (or other proper designation) No._____st. in the city of_____, Wis. at _____o'clock,____m., or as soon thereafter as the matter may be reached, on the question whether the respondent above named should be removed from the list of accredited schools of nursing.

"The issues involved and the matters there to be considered are whether the said respondent meets the standards established for such schools pursuant to sec. 441.01 (3) Wis. Stats. in the following respects:

(Here set out matters in which it is claimed the school is deficient)

"Dated at Madison, Wisconsin, this_____day of_____, 19_____.

STATE OF WISCONSIN BOARD OF NURSING
By _____
Secretary (or Chairman)"

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

N 6.05 Answer. A written answer shall be filed in all cases involving revocation of licenses and certificates of registration, but not in cases involving accrediting of schools. The answer shall be verified, unless an admission of the allegations might subject the party to prosecution for a felony, and shall be filed with the administrator in triplicate (original and 2 copies) within at least one-half the time intervening between the notice of hearing and the time set for said

hearing, and such time for answer shall be stated in said notice as required by section N 6.04. The answer must contain:

(1) A specified denial of each material allegation of the charges controverted by the respondent.

(2) A statement of any new matter constituting a defense or mitigating the offense charged, which the respondent wishes to have considered.

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

N 6.06 Admission by not denying. Every material allegation of the charges not controverted as prescribed shall be taken as true, but new matter in the answer shall be deemed controverted without any reply being served or filed.

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

N 6.07 Default; relief therefrom. In case the respondent fails to submit an answer as required by section N 6.05, or fails to appear at the hearing at the time fixed therefor, the charges specified may be taken as true and the board may make findings and enter its order on the basis of the facts revealed by its investigation and made part of the record. But the administrator, executive committee or board may, for good cause shown, relieve the respondent from the effect of such default and permit him to answer and defend the proceeding, at any time before the board enters its order or within 60 days thereafter.

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

N 6.08 Service and filing of papers. Unless otherwise provided by law, all orders, notices and other papers may be served by the administrator or the board by first class or registered mail addressed to the party at the last post office address, shown on the records of the board, or to his attorney of record. Papers required to be filed with the administrator or board may be mailed to the address designated by the administrator or board.

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

N 6.09 Conduct of hearings; continuances; appearances; examinations of witnesses. Unless otherwise ordered by the board, all hearings shall be conducted on behalf of the board by a hearing officer designated by the administrator or deputy administrator, who shall swear all witnesses competent to take an oath. Continuances and adjournments may be granted by the hearing officer for cause shown. The respondent may appear in person or by any officer, regular employee or attorney. Witnesses may be examined on behalf of the board by any member of the board or executive committee or by a representative of the attorney general acting as counsel for board. The respondent or any of its agents, officers or employees may be examined adversely and depositions taken as prescribed by the Wis. Stats. governing such matters in civil court proceedings.

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

N 6.10 Subpoenas; witness fees. Subpoenas may be signed and issued by the secretary, any member of the board or the clerk of any court of record. Witness fees and mileage of witnesses subpoenaed on behalf of the board shall be paid at the rate prescribed for witnesses in circuit court, upon filing with the secretary their affidavits

of attendance and travel, and shall be charged to appropriation for the administration of the Wis. Stats. governing such matters.

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

N 6.11 Prehearing conferences. Prehearing conferences may be held at the convenience of the parties and shall be conducted by the hearing officer, who shall keep and preserve a record of any agreement as to the issues or procedure or admission of fact which may be made at such conference. Such record shall be attached to the file and constitute a part of the official record of the case.

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

N 6.12 Arguments. Except as provided in section 227.12 Wis. Stats., arguments shall be submitted to the board in writing unless otherwise ordered. Ten copies of such written arguments shall be filed with the hearing officer within such time as may be fixed at the hearing. The hearing officer shall forthwith send a copy to each member of the board.

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

N 6.13 Variances. The provisions of the Wis. Stats., governing variances between the allegations and the proof in civil court proceedings shall apply to proceedings under these rules.

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

N 6.14 Petition for rules or declaratory rulings. (1) Petitions for the adoption, repeal or amendment of rules and for declaratory rulings shall be governed by sections 227.015 through 227.022, and section 227.06, Wis. Stats.

(2) Petitions shall be captioned, "Before the State of Wisconsin Board of Nursing."

(3) The duties with reference to investigation, filing of papers, giving of notices, etc. shall be performed by the administrator.

(4) Hearings shall be conducted by the administrator unless otherwise ordered by the board.

(5) All final determinations shall be made by the board.

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.