

STATE OF WISCONSIN
BOARD OF NURSING

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : BOARD OF NURSING
BOARD OF NURSING : ADOPTING RULES
: (CLEARINGHOUSE RULE 03-009)

ORDER

An order of the Board of Nursing to repeal N 4.02 (5) and (7); to renumber N 4.02 (8); to renumber and amend N 4.02 (3) and (4); to amend N 4.01 (2), 4.03 (intro.), (1) and (2), N 4.04 (1) (intro.), (a) to (c) and (4), 4.05 (5) (b), 4.06 and 4.07 (1) and (2); and to create N 4.02 (3) and 4.10, relating to the practice of nurse-wives.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2), Stats., and ss. 441.15 (2) (c), 441.15 (3) (a) 3. and 441.15 (5), Stats., as created by 2001 Wisconsin Act 52, and s. 441.15 (3) (bm), Stats., as amended by 2001 Wisconsin Act 52.

Statutes interpreted: s. 441.15 (2) (c), 441.15 (3) (bm) and 441.15 (5) (b), Stats.

2001 Wisconsin Act 52 makes a number of changes to the provisions affecting nurse-midwives, including that licensed nurse-midwives carry malpractice insurance in an amount determined by these rules. Also, throughout the rule-making order words are capitalized in accordance with the Administrative Rules Procedural Manual at s. 1.01 (4), on page 3 on the Manual.

Section 1 is amended to include the malpractice insurance requirements.

Section 2 is amended to update the definition of complications that are consistent with the standards of practice of the American College of Nurse-Midwives.

Section 3 creates a definition of collaboration.

Section 4 amends the definition of formal written agreement to written agreement.

Sections 5 and 6 repeal requirements that are no longer required.

Section 7 renumbers a subsection.

Section 8 updates the requirements for licensure and Section 9 amends the application procedures for licensure. Section 9 also, and Section 10 provides a second certification council.

Sections 11 and 12 modify the scope of practice relating to referrals.

Section 13 creates the malpractice insurance coverage for nurse-midwives.

TEXT OF RULE

SECTION 1. N 4.01 (2) is amended to read:

N 4.01 (2) The intent of the board of nursing in adopting rules in this chapter, interpreting s. 441.15, Stats., is to specify the requirements for obtaining licensure as a nurse-midwife; the scope of practice of nurse-midwifery; ~~and~~ the types of facilities in which such practice may occur; and malpractice insurance requirements for nurse-midwives.

SECTION 2. N 4.02 (3) is renumbered N 4.02 (4) and amended to read:

N 4.02 (4) “Complications” means those conditions which jeopardized the health or life of the ~~newborn or mother~~ patient and which deviate from normal as defined in the ~~formal~~ written agreement ~~and as recognized in the nurse-midwife profession, including but not limited to: hemorrhage, heart disease, diabetics, infection, hypertension of pregnancy and hemolytic disease of the newborn~~ consistent with the standards of practice of the American College of Nurse-Midwives.

SECTION 3. N 4.02 (2m) is created to read:

N 4.02 (2m) “Collaboration” has the meaning specified in s. 441.15 (1) (a), Stats.

SECTION 4. N 4.02 (4) is renumbered N 4.02 (6) and amended to read:

N 4.02 (6) ~~“Formal written~~ “Written agreement” means an agreement between the ~~supervising~~ collaborating physician and the nurse-midwife which is permanently recorded, dated and signed by both parties, is available for inspection upon reasonable request, and consists of at least the following: framework of mutually approved ~~protocols~~ guidelines including conditions of ~~supervision~~ collaboration and referral, ~~clearly delineated lines of referral in the event the supervising physician is not available, health care facilities to be used and evidence of annual review.~~

SECTION 5. N 4.02 (5) is repealed.

SECTION 6. N 4.02 (7) is repealed.

SECTION 7. N 4.02 (8) is renumbered N 4.02 (5).

SECTION 8. N 4.03 (intro.), (1) and (2) are amended to read:

N 4.03 Qualifications for licensure. (intro.) An applicant for licensure as a nurse-midwife shall be granted licensure by the board, provided that the applicant meets all of the following:

(1) Has completed an educational program in nurse-midwifery ~~approved~~ accredited by the American ~~college of nurse midwives~~; College of Nurse-Midwives.

(2) Holds a certificate issued by the American ~~college of nurse midwives~~; and, College of Nurse-Midwives or the American College of Nurse-Midwives Certification Council.

SECTION 9. N 4.04 (1) (intro.), (a) to (c) and (4) are amended to read:

N 4.04 Application procedures for licensure. (1) (intro.) An applicant for licensure to practice as a nurse-midwife shall file a completed, notarized application on a form provided by the bureau. The application shall include all of the following:

(a) Signature of the applicant;

(b) Fee specified under s. 440.05 (1), Stats.;

(c) Evidence of completion of an educational program in nurse-midwifery approved by the American ~~college of nurse midwives~~ College of Nurse-Midwives and evidence of certification as a nurse-midwife from the American ~~college of nurse midwives~~; College of Nurse-Midwives or the American College of Nurse-Midwives Certification Council.

(4) The applicant for renewal shall inform the board whether the certificate issued to him or her by the American ~~college of nurse midwives~~ College of Nurse-Midwives or the American College of Nurse-Midwives Certification Council has been revoked or suspended.

SECTION 10. N 4.05 (5) (b) is amended to read:

N 4.05 (5) DURATION. (b) The temporary permit of a candidate who is unsuccessful on the examination administered by the American ~~college of nurse midwives~~ College of Nurse-Midwives Certification Council is void upon receipt of the examination results by the holder and shall be returned by the holder to the board immediately. Failure to return the permit promptly shall, without further notice or process, result in a board order to revoke the permit.

SECTION 11. N 4.06 is amended to read:

N 4.06 Scope of practice. (1) ~~The scope of practice is the overall management of care of a woman in normal childbirth and the provision of prenatal, intrapartal, postpartal and nonsurgical contraceptive methods and care for the mother and the newborn~~ women's health care, pregnancy, childbirth, postpartum care for newborns, family planning, and gynecological services consistent with the standards of practice of the American College of Nurse-Midwives and the education, training, and experience of the nurse-midwife.

(2) ~~The nurse-midwife shall practice under the general supervision of~~ collaborate with a physician with postgraduate training in obstetrics pursuant to a formal written agreement with that physician.

(3) ~~The nurse-midwife shall immediately refer to the supervising physician a patient with any complication discovered by the nurse-midwife~~ consult with the consulting physician regarding any complications discovered by the nurse-midwife, or refer the patient pursuant to the written agreement.

(4) ~~Upon referral to the supervising physician,~~ the nurse-midwife may manage that part of the care of the patient which is appropriate to the knowledge and skills of the nurse-midwife.

SECTION 12. N 4.07 (1) and (2) are amended to read:

N 4.07 (1) ~~The nurse-midwife shall not be involved in the independent management of patients with complications and shall refer those patients to the physician~~ independently manage those complications that require referral pursuant to the written agreement.

(2) ~~The nurse-midwife may not perform deliveries by mechanical means forceps or Caesarean section.~~ The nurse-midwife may use vacuum extractors only in emergency delivery situations.

SECTION 13. N 4.10 is created to read:

N 4.10 Malpractice insurance coverage. (1) Nurse-midwives shall maintain in effect malpractice insurance evidenced by one of the following:

(a) Personal liability coverage in the amounts specified in s. 655.23 (4), Stats.

(b) Coverage under a group liability policy providing individual coverage for the nurse-midwife in the amounts set forth in s. 655.23 (4), Stats.

(2) Notwithstanding sub. (1), malpractice insurance is not required for any of the following:

(a) A federal, state, county, city, village or town employee who practices nurse-midwifery within the scope of his or her employment.

(b) A nurse-midwife who practices as an employee of the federal public health service under 42 USC 233 (g).

(c) A nurse-midwife who does not provide care for patients.

(3) A nurse-midwife shall submit to the board satisfactory evidence that he or she has in effect malpractice insurance required by sub. (1) at the time established for credential renewal under s. 440.08 (2) (a) 50., Stats.

Note: Forms are available from the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(END OF TEXT)

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.), Wis. Stats.

Dated _____ Agency _____
Linda M. Sanner, R.N., Chairperson
Board of Nursing

FISCAL ESTIMATE

The estimated cost associated with enforcement of this rule is \$1,250 annually. This cost is based on the annual review of evidence of insurance and follow-up with credential holders where appropriate. (125 holders @ \$10.00 = \$1,250.00)

FINAL REGULATORY FLEXIBILITY ANALYSIS

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Wis. Stat.