

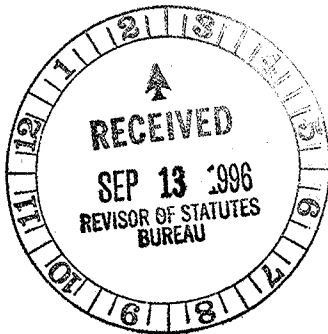
CERTIFICATE

**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

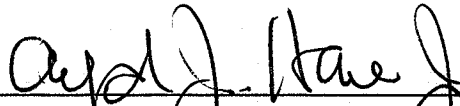
TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Alfred J. Hall, Jr., Director, Bureau of Health Service Professions in the Wisconsin Department of Regulation and Licensing and custodian of the official records of the Board of Nursing, do hereby certify that the annexed rules were duly approved and adopted by the Board of Nursing on the 12th day of September, 1996.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

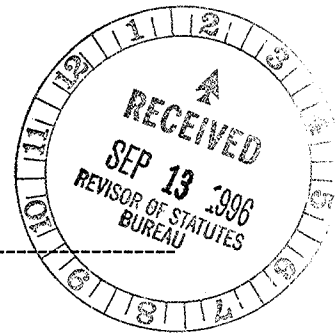


IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the board at 1400 East Washington Avenue, Madison, Wisconsin this 12th day of September, 1996.



Alfred J. Hall, Jr., Director, Bureau of Health Service Professions, Department of Regulation and Licensing

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 95-187)

ORDER

An order of the Board of Nursing to renumber N 8.08 (2); to repeal and recreate N 8.08 (1); and to create N 8.08 (2), (3) and (4), relating to requirements for malpractice insurance coverage for advanced practice nurse prescribers.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2), 441.01 (3) and 441.16 (3), Stats.

Statutes interpreted: s. 441.16 (4), Stats.

In this proposed rule-making order the Board of Nursing repeals and recreates s. N 8.08 (1), renumbers N 8.08 (2), and creates N 8.08 (2), (3) and (4) to better define the requirements for malpractice insurance coverage for advanced practice nurse prescribers (APNPs). The current rule specifies merely that APNPs must "maintain in effect malpractice insurance in an amount not less than the amount set forth in s. 655.23 (4), Stats." The rule fails to specify that the insurance policy must provide individual coverage rather than shared coverage. In shared coverage, the policy limits apply to malpractice incidents, regardless of the number of individual insured parties who are involved. The current rule also does not account for APNPs who practice in employment settings where they are covered under the patient compensation fund, and APNPs who are employed by state and local governmental subdivisions and who are therefore immune from personal liability while so employed.

The Assembly Health Committee conducted a hearing on June 20, 1996. The hearing concluded with a unanimous vote to advise the Board of Nursing to adopt the language proposed by the State Medical Society, with the concurrence of the Wisconsin Nurses Association and the Wisconsin Hospital Association. [That language is found at s. N 8.08 (1), (2), (3) and (4)].

The new language provides the same exemption from the malpractice insurance requirement that the board's draft provides in terms of government employees and APNPs prescribing as delegated acts. The substitute draft diverges from the board's proposed rule in not providing an exemption for APNPs who, because they are employed by persons covered by the patient compensation fund, are themselves covered by the fund. It was in fact these persons -- including

hospitals and physicians -- who were most insistent that the rule now in place be changed. Under the substitute language, those persons will not get the exemption they sought, but in a very real sense, it is now beyond the board's power to provide it.

As to why the substitute language was created, the State Medical Society has taken the position that there is a question whether nurses employed by qualifying health care providers (physicians and hospitals, among others) are in fact covered under the patient compensation fund.

TEXT OF RULE

SECTION 1. N 8.08 (1) is repealed and recreated to read:

N 8.08 MALPRACTICE INSURANCE COVERAGE. (1) Advanced practice nurse prescribers who prescribe independently 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 in the amounts set forth in s. 655.23 (4), Stats. An advanced practice nurse prescriber covered under one or more such group policies shall certify on forms provided by the board that the nurse will independently prescribe only within the limits of the policy's coverage, or shall obtain personal liability coverage for independent prescribing outside the scope of the group liability policy or policies.

SECTION 2. N 8.08 (2) is renumbered (5).

SECTION 3. N 8.08 (2), (3) and (4) are created to read:

N 8.08 (2) Notwithstanding sub. (1), an advanced practice nurse prescriber who practices as an employee of this state or a governmental subdivision, as defined under s. 180.0103, Stats., is not required to maintain in effect malpractice insurance coverage, but the nurse shall certify on forms provided by the board that the nurse will prescribe within employment policies.

(3) An advanced practice nurse prescriber who prescribes under the supervision and delegation of a physician or CRNA shall certify on forms provided by the board that the nurse complies with s. N 6.03 (2) and (3), regarding delegated acts.

(4) An advanced practice nurse prescriber who prescribes in more than one setting or capacity shall comply with the provisions of subs. (1), (2) and (3) applicable to each setting or capacity. An advanced practice nurse prescriber who is not an employee of this state or a governmental subdivision, and who prescribes independently in some situations and prescribes under the supervision and delegation of a physician or CRNA in other situations, shall meet the

requirements of sub. (1) with respect to independent prescribing and the requirements of sub. (3) with respect to delegated prescribing.

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

(END OF TEXT OF RULE)

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.

Dated 12 Sept '96

Agency Theresa D. Burrows RN
Chairperson
Board of Nursing

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8/23/96



State of Wisconsin
DEPARTMENT OF REGULATION AND LICENSING
CORRESPONDENCE/MEMORANDUM

DATE: September 13, 1996

TO: Gary Poulson
Assistant Revisor of Statutes

FROM: Pamela A. Haack, Rules Center Coordinator
Department of Regulation and Licensing
Office of Administrative Rules

SUBJECT: Final Order Adopting Rules



Agency: BOARD OF NURSING

Clearinghouse Rule 95-187

Attached is a copy and a certified copy of a final order adopting rules. Would you please publish these rules in the register.

Please stamp or sign a copy of this letter to acknowledge receipt.

Thank you.