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Scott Walker, Governor
Dave Ross, Secretary

LEGISLATION AND RULES COMMITTEE

BOARD OF NURSING
ROOM 121C, 1400 EAST WASHINGTON AVENUE, MADISON WI
CONTACT: DAN WILLIAMS (608) 266-2112
January 6, 2014

Notice: The following agenda describes the issues that the Committee plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions and deliberations of the Committee. ***A quorum of the Board may be present during the committee meeting.***

9:00 a.m.

AGENDA

CALL TO ORDER – ROLL CALL – OPEN SESSION

A. Approval of Agenda

B. Approval of Legislation and Rules Committee Minutes of December 19, 2013 (3-4)

C. Review of Public Hearing and Clearinghouse Comments – Discussion and Consideration

1) Clearinghouse Rule #13.097 amending N 7 relating to unprofessional conduct **(5-20)**

D. Public Comments

ADJOURNMENT OF LEGISLATION AND RULES COMMITTEE MEETING

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LEGISLATION AND RULES COMMITTEE

BOARD OF NURSING
MEETING MINUTES
DECEMBER 19, 2013

PRESENT: Jeffrey Miller, Lillian Nolan,

STAFF: Sharon Henes, Rules Coordinator; Matt Guidry, Bureau Assistant; Other Department Staff

CALL TO ORDER

The chair called the meeting to order at 9:14a.m. A quorum of two (2) members was confirmed.

ADOPTION OF AGENDA

MOTION: Lillian Nolan, seconded by Jeffrey Miller, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF LEGISLATION AND RULES COMMITTEE MINUTES OF DECEMBER 16, 2013

MOTION: Lillian Nolan moved, seconded by Jeffrey Miller, to approve the minutes of December 16, 2013 as published. Motion carried unanimously.

MOTION: Lillian Nolan moved, seconded by Jeffrey Miller, to recommend to the Board approval of the draft rule text of N 2 and N 3 as revised with the following changes under N 2.34 twelve (12) months to six (6) months, and under N 2.36 add the language of "failure of the NCLEX" based on legal counsel recommendation. Motion carried unanimously.

MOTION: Lillian Nolan moved, seconded by Jeffrey Miller, to recommend to the Board approval of the draft rule text of N 1 with the following changes, adding "Supervisor" to Section N 1.08, change "Patient" to "Clinical Learning Experiences" in section N 1.08(5), change in N 1.09(1)(a) add "a minimum of", add to N 1.08(4) that all curriculum shall be developed by faculty with a minimum of a masters degree, and the amendments read by DSPS Staff. Motion carried unanimously.

ADJOURNMENT

MOTION: Lillian Nolan moved, seconded by Jeffrey Miller, to adjourn the Legislative and Rules Committee meeting. Motion carried unanimously.

The meeting adjourned at 11:23 a.m.

DRAFT

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State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: **Sharon Henes** **Administrative Rules Coordinator**	2) Date When Request Submitted: *26 December 2013* Items will be considered late if submitted after 4:30 p.m. and less than: ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others

3) Name of Board, Committee, Council, Sections:
Board of Nursing – Legislative/Rule Committee

4) Meeting Date: **January 6, 2014**	5) Attachments: ☐ Yes ☐ No	6) How should the item be titled on the agenda page? **Review of Public Hearing and Clearinghouse Comments for CR # 13-.097 amending N 7 relating to unprofessional conduct**

7) Place Item in: ☐ Open Session ☐ Closed Session ☐ Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? ☐ Yes by (name) ☐ No	9) Name of Case Advisor(s), if required:

10) Describe the issue and action that should be addressed:

11) Authorization

Sharon Henes — *26 December 2013*

Signature of person making this request — Date

Supervisor (if required) — Date

Bureau Director signature (indicates approval to add post agenda deadline item to agenda) — Date

Directions for including supporting documents:
1. This form should be attached to any documents submitted to the agenda.
2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director.
3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

LCRC FORM 2

WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Co-Directors

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **13-097**

AN ORDER to repeal N 7.04; to amend N 7.01 (2); to repeal and recreate N 7.03; and to create N 7.02 (1m), relating to code of conduct.

Submitted by **DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

11-15-2013 RECEIVED BY LEGISLATIVE COUNCIL.

12-16-2013 REPORT SENT TO AGENCY.

SG:BL

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LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

   Comment Attached YES ☐ NO ☑

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

   Comment Attached YES ☑ NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

   Comment Attached YES ☐ NO ☑

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

   Comment Attached YES ☐ NO ☑

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

   Comment Attached YES ☑ NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

   Comment Attached YES ☐ NO ☑

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

   Comment Attached YES ☐ NO ☑

WISCONSIN LEGISLATIVE COUNCIL
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CLEARINGHOUSE RULE 13-097

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated November 2011.]

2. Form, Style and Placement in Administrative Code

a. In the analysis, the department should include the word "None" under the section relating to analysis and supporting documents used to determine the effect on small business or in preparation of economic analysis.

b. In the enumeration of sections affected, the department should refer to "N" as the chapter of the administrative code affected by the proposed rule. [See the example following s. 1.02 (1), Manual.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the plain language analysis, the sentence describing SECTION 1 requires editing for clarity. For example, the sentence could end after the word "certificate" (i.e., deleting the words beginning with "due to the…").

b. In s. N 7.03 (1) (b), the department should consider replacing the phrase "otherwise disciplined" with different language. It does not make grammatical sense to describe either a license or a compact privilege as being disciplined.

c. In s. N 7.03 (1) (c), for internal consistency within the provision, the department should replace the words "not acted" with "failed to cooperate".

d. In s. N 7.03 (1) (h), the department should consider rewriting the first sentence for clarity. For example: "Failing to notify the board of a felony or misdemeanor in writing within

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48 hours after the entry of the judgment of conviction, including the date, place, and nature of the conviction or finding.".

e. In s. N 7.03 (1) (i), in the second sentence, should the word "require" be replaced with the word "authorize"?

f. In s. N 7.03 (2), for clarity, the department should consider combining the first two sentences into one sentence. Thus: "...practice of nursing, or being convicted...".

g. In s. N 7.03 (3), the term "dignity" requires definition.

h. In s. N 7.03 (3) (c), are the terms "privacy", "confidentiality", and "dignify" all required elements? Or, should the word "and" be replaced with the word "or"?

i. In s. N 7.03 (4) (c), the word "or" is used too many times. The provisions should be changed to read: "...pain, injury, mental anguish or fear".

j. In s. N 7.03 (4) (e) 2., the department should change the semi-colon to a period.

k. In s. N 7.03 (4) (e) 4. to 6., the terms "dual relationship" and "self-disclosure" require definition.

l. In s. N 7.03 (4) (e) 8., more clarity is required. Under what circumstances is such an agreement between a nurse and patient necessary?

m. In s. N 7.03 (4) (e) 9., the department should insert the word "in" before "the case" and add commas as follows: "...or, in the case emergency treatment, as...".

n. In s. N 7.03 (4) (e) 10., more clarity is required. Is it a violation to accept any cash whatsoever, even cash of minimal value?

o. In s. N 7.03 (4) (f) 1., change "sexual explicit conduct" to "sexually explicit conduct".

p. In s. N 7.03 (4) (f) 2., delete the word "in".

q. In s. N 7.03 (4) (f) 3., what is the intended result if the patient gives consent (for example, asks the nurse to take a picture of the patient and a visitor)"?

r. In s. N 7.03 (4) (f), for clarity, the department should consider removing the vague term "seductive conduct" or defining it.

s. In s. N 7.03 (5) (a), are all the terms mandatory elements, or should the "and" be changed to "or"?

t. In s. N 7.03 (6) (c), more clarity is required, and the department should consider adding a reasonableness standard. For example: "...acceptable nursing practice, if the departure or failure may create unreasonable risk or danger...".

u. In s. N 7.03 (6) (d), the department should consider inserting the word "adequately" before "supervise".

v. In s. N 7.03 (6) (j), more clarity is required. Under what circumstances must a nurse consult with a supervisor? Also, should the provision refer to any delay, or should it refer to an unreasonable delay?

w. In s. N 7.03 (6) (m), should the department remove the words "reasonable or" to avoid creating a violation where a reasonable treatment is not given because an alternative treatment was employed?

x. In s. N 7.03 (6) (n), the word "discriminating" requires definition. In some cases, it may be appropriate to treat individuals differently based on some of these criteria, for example, because of risk factors associated with age or gender.

y. In s. N 7.03 (8) (d), more clarity is required. Is a harmless error a violation?

STATE OF WISCONSIN
BOARD OF NURSING

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

PROPOSED ORDER

An order of the Board of Nursing to repeal 7.04, amend 7.01(2), repeal and recreate 7.03 and create 7.02(1m) relating to code of conduct.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: § 441.07

Statutory authority: §§ 15.08(5)(b) and 227.11(2)(a)

Explanation of agency authority:

The Board of Nursing has general agency authority to promulgate rules interpreting the provisions of any statue enforced or administered by the Board of Nursing.

The Board also has specific agency conferred by the legislature to promulgate rules for its own guidance and for the guidance of the profession and define and enforce professional conduct and unethical practices.

Related statute or rule: § 441.07

Plain language analysis:

Section 1 amends the statement of intent to include certificate due to the disciplinary action may be taken against an advanced practice nurse prescriber certificate.

Section 2 provides a definition for certificate.

Section 3 creates a new section defining the grounds for disciplinary action

Section 4 repeals N 7.04 which defined unprofessional conduct. This proposed rule combines the negligence and unfit to practice section with the unprofessional conduct section to make one section identifying the grounds for disciplinary action.

Summary of, and comparison with, existing or proposed federal regulation:

None

Comparison with rules in adjacent states:

Illinois: The grounds for disciplinary actions in Illinois include: findings of unethical or unprofessional conduct which includes engaging in behavior that crosses professional boundaries; sexual conduct; deceiving, defrauding or harming the public; and departure from or failure to conform to the standards of professional or practical nursing. In addition, Illinois incorporates be reference the "Code for Nurses with Interpretive Statements" and "Standards of Practice and Educational Competencies of Graduates of Practical/Vocational Nursing Programs."

Iowa: The grounds for disciplinary actions in Iowa include: behavior which constitutes knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession; behaviors which constitutes unethical conduct; behavior which constitutes fraud; behavior which constitutes knowingly making misleading, deceptive, untrue or fraudulent representations; and professional incompetency.

Michigan: The grounds for disciplinary actions in Michigan include: personal disqualifications; practicing outside the scope; unprofessional conduct; fraud or deceit; obtaining, possessing or attempting to obtain a controlled substance; and unethical business practices.

Minnesota: The grounds for disciplinary actions in Minnesota include: non-compliance with requirements; practicing outside the scope; criminal convictions; violating confidentiality; engaging in conduct with a patient that is sexual or may reasonably be interpreted as sexual; obtaining money, property or services from a patient through the use of undue influence; engaging in fraud or deceit; failing to or inability to perform professional or practical nursing with reasonable skill and safety; engaging in unprofessional conduct; actual or potential inability to practice nursing with reasonable skill and safety; engaging in any unethical conduct; improper management of patient records; and improper supervision.

Summary of factual data and analytical methodologies:

The Board of Nursing reviewed the recently adopted model rules of the National Council of State Boards of Nursing and the surrounding states as well as utilizing knowledge of current minimum standards to determine what would be in the best interest of the state of Wisconsin when setting forth the practices which constitute grounds for discipline.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2377; email at Sharon.Henes@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Sharon.Henes@wisconsin.gov. Comments must be received on or before * to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. N 7.01 (2) is amended to read:

N 7.01 (2) The intent of the board of nursing in adopting this chapter is to specify grounds for limiting, suspending, revoking or denying renewal of a license or certificate or for reprimanding a license or certificate.

SECTION 2. N 7.02(1m) is created to read:

N 7.02(1m) "Certificate" means a certificate of an advanced practice nurse prescriber.

SECTION 3. N 7.03 is repealed and recreated to read:

N 7.03 **Grounds for denying renewal or disciplinary action.** The grounds for denying renewal or taking disciplinary action on a license or certificate are as follows:

(1) Noncompliance with federal, jurisdictional or reporting requirements including:

(a) Engaging in conduct that violates the security of the licensure examination or the integrity of the examination results.
(b) Having a license to practice nursing or a nurse licensure compact privilege to practice denied, revoked, suspended, limited or otherwise disciplined in another state, territory or country. A certified copy of the record of the board is conclusive evidence of the final action.
(c) After a request of the board, failing to cooperate in a timely manner, with the board's investigation of a complaint filed against a license holder. There is a rebuttable presumption that a credential holder who takes longer than 30 days to respond to a request of the board has not acted in a timely manner.
(d) Practicing without an active license.
(e) Practicing beyond the scope of practice permitted by law.
(f) Failing to inform the board of the advanced practice nurse prescriber's certification status with a national certifying body as a nurse anesthetist, nurse-midwife, nurse practitioner or clinical nurse specialist.
(g) Violating any term, provision or condition of any order of the board.
(h) Failing to notify the board of a felony or misdemeanor in writing of the date, place and nature of the conviction or finding within 48 hours after the entry of the judgment of conviction. Notice shall include a copy of the judgment of conviction and a copy of the complaint or other information which describes the nature of the crime in order that the board may determine whether the circumstances of the crime of which the credential holder was convicted are substantially related to the practice of nursing.
(i) Failing to report to the board or institutional supervisory personnel any violation of the rules of this chapter by a licensee. This provision does not require a nurse to report treatment information which would fall within the nurse-patient privilege set forth in s. 905.04(1)(b).

(2) Violating or aiding and abetting a violation of any law substantially related to the practice of nursing. Being convicted of any crime substantially related to the practice of nursing. A certified copy of a judgment of conviction is prima facie evidence of a violation.

(3) Confidentiality, patient privacy, consent or disclosure violations, including:
(a) Failing to safeguard the patient's dignity, and the right to privacy.
(b) Knowingly, recklessly or negligently divulging a privileged communication or other confidential patient health care information except as required or permitted by state or federal law.
(c) Making statements or disclosures that create a risk of compromising a patient's privacy, confidentiality and dignity, including statements or disclosures via electronic or social media.

(4) Misconduct or abuse, including:
(a) Soliciting, borrowing, misappropriating, obtaining or attempting to obtain money or property from a patient or a patient's family.

(b) Obtaining or attempting to obtain any compensation by fraud, misrepresentation, deceit, duress or undue influence in the course of nursing practice.
(c) Abusing a patient by a single or repeated act of force, violence, harassment, deprivation, neglect, or mental pressure which reasonably could cause physical pain or injury or mental anguish or fear.
(d) Engaging in repeated or significant disruptive behavior or interaction with health care personnel, patients, family members or others that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered.
(e) Violating principles of professional boundaries, including:

1. Failing to establish, maintain or communicate professional boundaries with the patient.
2. Engaging in relationships with patients that could impair the nurse's professional judgment;
3. Exploiting in any manner the professional relationship with a patient for the nurse's emotional, financial, sexual or personal advantage or benefit.
4. Engaging in dual relationships if the nurse's ability to provide appropriate care would be impaired due to the nature of the additional relationship with the patient.
5. Engaging in any dual relationship in mental health nursing.
6. Engaging in self-disclosure to a patient which creates a risk or adversely impacts the patient's care and well-being.
7. Using any confidence of a patient to the patient's disadvantage or for the advantage of the nurse.
8. Failing to have a written agreement with the patient regarding financial matters.
9. Arrangements for reimbursement must be made at the initiation of the nurse-patient relationship or the case of emergency treatment as soon as is practicable.
10. Accepting gifts which are more than minimal value or cash from a patient or patient's family.

This paragraph does not include providing health care services to a person with whom the nurse has a preexisting, established personal relationship where there is no evidence of or potential for exploiting the patient and contact that is necessary for a health care purpose that meets the standards of the profession.
(f) Engaging in sexually misconduct, including:

1. Sexual explicit conduct, sexual contact, exposure, gratification, other sexual behavior with or in the presence of a patient.
2. Conduct that may reasonably be interpreted by a patient as sexual or in any verbal behavior that is sexually harassing to a patient.
3. Posing, photographing or recording the body or any body part of a current or former patient, other than for health care purposes.

4. Transmitting information about a patient via electronic media that can be reasonably interpreted as sexual or sexually demeaning by the current or former patient.

5. Engaging or attempting to engage in sexual or seductive conduct with a former patient if doing so creates a risk that the relationship could cause harm to or exploitation of the former patient.

For the purpose of this paragraph, due to the unique vulnerability of mental health patients, including patients with substance use disorders, nurses are prohibited from engaging in or attempting to engage in sexual or seductive conduct with such former patients, a former patient's immediate family or person responsible for the patient's welfare, for a period of at least 2 years after the termination of nursing services.

(5) Fraud, deception or misrepresentation, including:

(a) Falsifying or inappropriately altering reports, patient documentation, agency records and other health documents.

(b) Intentionally making incorrect entries in a patient's medical record or other related documents.

(c) Engaging in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws or state laws.

(d) Submitting false claims.

(e) Fraud, deceit or material omission in obtaining a license or certification or in the renewal of the license or certification.

(f) Impersonating another licensee or allowing another person to use the licensee's credential for any purpose.

(g) Submitting false information in the course of an investigation.

(h) Misrepresentation of credentials.

(i) Misleading, false or deceptive advertising or marketing.

(6) Unsafe practice or substandard care, including:

(a) Failing to perform nursing with reasonable skill and safety.

(b) Lack of knowledge, skill or ability to discharge professional obligations within the scope of nursing practice.

(c) Departing from or failing to conform to the minimal standards of acceptable nursing practice that may create unnecessary risk or danger to a patient's life, health or safety. Actual injury to a patient need not be established.

(d) Failing to supervise student experiences as a clinical nursing instructor.

(e) Failing to report to or leaving a nursing assignment without properly notifying appropriate supervisory personnel and ensuring the safety and welfare of the patient or client.

(f) Practicing nursing while under the influence of alcohol, illicit drugs or while impaired by the use of legitimately prescribed pharmacological agents or medications.

(g) Unable to practice safely by reason of alcohol or other substance use.

(h) Unable to practice safely by reason of psychological impairment or mental disorder.

(i) Unable to practice safely by reason of physical illness or impairment.
(j) Failure to consult or delay in consultation with supervisor.
(k) Failure to treat.
(L) Inadequate or improper infection control practices.
(m) Failure to provide medically reasonable or necessary items or services.
(n) Discriminating on the basis of age, marital status, gender, sexual preference, race, religion, diagnosis, socioeconomic status or disability while providing nursing services.
(o) Executing an order which the licensee knew or should have known would harm or present the likelihood of harm to a patient.
(p) Failing to execute a medical order unless the order is inappropriate and the licensee reports the inappropriate order to a nursing supervisor or other appropriate person.
(q) Failing to observe the conditions, signs and symptoms of a patient, record them, or report significant changes to the appropriate person.

(7) Improper supervision or allowing unlicensed practice, including:
(a) Delegating a nursing function or a prescribed health function when the delegation could reasonably be expected to result in unsafe or ineffective patient care.
(b) Knowingly aiding, assisting, advising or allowing a person to engage in the unlawful practice of nursing.
(c) Inappropriate or inadequate supervision or delegation.

(8) Improper prescribing, dispensing, administrating medication or drug related offenses, including:
(a) Prescribing of any drug other than in the course of legitimate practice or as otherwise prohibited by law.
(b) Dispensing of any drug other than in the course of legitimate practice or as otherwise prohibited by law.
(c) Administering any drug other than in the course of legitimate practice or as otherwise prohibited by law.
(d) Error in prescribing, dispensing or administering medication.
(e) Obtaining, possessing or attempting to obtain or possess a drug without lawful authority.

SECTION 4. N 7.04 is repealed.

SECTION 5. EFFECTIVE DATE 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.

(END OF TEXT OF RULE)

Dated _____ Agency _____

Member of the Board
Board of Nursing

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number
N 7

3. Subject
Misconduct or unprofessional conduct

4. Fund Sources Affected
☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected
20.165(1)(g)

6. Fiscal Effect of Implementing the Rule
☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes ☒ No

9. Policy Problem Addressed by the Rule
The policy problem addressed by the rule is to update and modernize the misconduct or unprofessional conduct rule which has not been updated since 1995.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.
This rule was posted for 14 days for economic comments and none were received.

11. Identify the local governmental units that participated in the development of this EIA.
None

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
This rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole. The rule addresses conduct of the licensee.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The benefit of implementing the rule is including current minimum standards of the profession necessary for the protection of the public. In addition, as a member state of the Nurse Licensure Compact, the benefit is to have consistency among the compact states as to what practices are construed as misconduct or unprofessional conduct.
The alternate to updating and modernizing the misconduct or unprofessional conduct rule is to continue with a current rule that creates uncertainty to the licensee as to what is misconduct or unprofessional conduct when a situation arises involving technology, practices or laws that were not in place in 1995.

14. Long Range Implications of Implementing the Rule
The long range implication is notice provided to the licensees and public as to what constitutes unprofessional conduct.

15. Compare With Approaches Being Used by Federal Government
None

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
The grounds for disciplinary actions in our neighboring states include: behavior which crosses professional boundaries; sexual conduct; fraud; departure from or failure to conform to the standards of nursing; practicing outside the scope; obtaining, possessing

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

or attempting to obtain a controlled substance outside the practice of nursing; unethical business practices; criminal convictions; violating confidentiality; obtaining money, property or services from a patient through the use of undue influence; failing to or inability to perform nursing with reasonable skill and safety; engaging in unethical practices; improper management of patient records; and improper supervision.

17. Contact Name	18. Contact Phone Number
Sharon Henes	(608) 261-2377

This document can be made available in alternate formats to individuals with disabilities upon request.