

**STATE OF WISCONSIN
BOARD OF NURSING**

IN THE MATTER OF RULEMAKING	:	
PROCEEDINGS BEFORE THE	:	REPORT TO THE LEGISLATURE
BOARD OF NURSING	:	CR 16-020

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 proposed rule is a comprehensive update to the rules governing advance practice nurse prescribers. The chapter N 8 was created in 1995 and has only undergone a few minor revisions. The Board did a comprehensive review, evaluation and updated the rules to reflect current procedures and practice of the profession.

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 March 10, 2016. The following people either testified at the hearing, or submitted written comments:

- Jon Lehrmann, Chair, Dept of Psychiatry & Behavioral Medicine, Medical College of Wisconsin
- Steve Rush representing Wisconsin Hospital Association
- Tina Bettin
- Mary Beck Metzger
- Debra Dahlke representing Wisconsin Association of Nurse Anesthetists
- Julie Banda representing Wis. Chapter of National Association of Pediatric Nurse Practitioners
- Mark Grapentine representing Wisconsin Medical Society
- Rosalyn McFarland; Leona VandeVusse; Tina Bethin; Deb Dahlke; Julie Bauda representing APRN Coalition

Registered in favor (did not provide testimony):

- Jeremy Levin representing Rural Wisconsin Health Cooperative
- Kathy Bruning representing Wisconsin Association of Clinical Nurse Specialists
- Alyson Leon representing Wisconsin Association of Clinical Nurse Specialists
- Allison Mohammadi representing Wisconsin Association of Clinical Nurse Specialists

JoAnn Wagner Navak representing Wis. Chapter of National Association of Pediatric Nurse Practitioners

Deborah Brett representing Wis. Chapter of National Association of Pediatric Nurse Practitioners

Registered to provide information (did not provide testimony nor information):

Gina Dennik-Champion representing the Wisconsin Nurses Association

Rita Lease

Gina Bryan

Sonia Ayisi Johnson

Jenell Pierce

Elizabeth Hill Karbowski representing Wis. Affiliate of the American College of Nurse-Midwives

Staci Kothbauer representing Wisconsin Association of Nurse Anesthetists

Erika Bourdeaux representing the UW-Madison School of Nursing

Melissa Mellum representing the UW-Madison School of Nursing

Kathleen Sawin representing Wis. Chapter of National Association of Pediatric Nurse Practitioners

Crystal Bales representing Wis. Chapter of National Association of Pediatric Nurse Practitioners

The (Board or Department) summarizes the comments received either by hearing testimony or by written submission as follows:

Dr. Lehrmann supports the rule. He indicates “hyperkinesis” is an outdated term and supports the clarity the addition of attention deficit hyperactivity disorder (ADHD) brings to the rule. Dr. Lehrmann supports the continued ability for APNP’s to prescribe stimulant medications for the therapeutic treatment of ADHD.

Wisconsin Hospital Association supports the rule. The Wisconsin Hospital Association did suggest a minor change to return the requirement that the nurse and physician document the collaboration relationship.

Wisconsin Association of Nurse Anesthetists and Wis. Chapter of National Association of Pediatric Nurse Practitioners support the rule.

Wisconsin Medical Society is neutral on the rule and appreciated the collaborative discussions regarding the rule while being promulgated.

The APRN Coalition is support of the rule changes. The APRN Coalition indicated the requirement for an APNP to practice in collaboration with a physician hinders health care in communities with serious shortages of healthcare providers.

Ms. Bettin and Ms. Betzer made comments focused on APRN issues.

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

The Board of Nursing did not make any changes to the rule as a result of the public comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

This rule will not impact small businesses.

STATE OF WISCONSIN
BOARD OF NURSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : BOARD OF NURSING
BOARD OF NURSING : ADOPTING RULES
: (CLEARINGHOUSE RULE 16-020)

PROPOSED ORDER

An order of the Board of Nursing to repeal N 8.04 and 8.05 (2); to renumber and amend N 8.03 (1); to amend N 8.02 (1) (c), 8.02 (4), 8.03 (intro.), 8.03 (2) to (5), 8.05 (1), 8.06 (3) (c), 8.06 (5), 8.07 (2), 8.09 (2), 8.10 (title) and 8.10 (4) to (7); and to create N 8.03 (1) and 8.045 relating to advanced practice nurse prescribers.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 441.16, Stats.

Statutory authority: ss. 15.08 (5) (b) and 441.16 (3), Stats.

Explanation of agency authority:

The Board shall promulgate rules for its own guidance and for the guidance of the profession and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the profession. [s. 15.08 (5) (b), Stats.]

The Board shall promulgate rules necessary to administer s. 441.16, including rules for all of the following:

- Establishing the education, training or experience requirements that a registered nurse must satisfy to be an advanced practice nurse. The rules shall require a registered nurse to have education, training or experience that is in addition to the education, training or experience required for licensure as a registered nurse.
- Establish the appropriate education, training and examination requirements that an advanced practice nurse must satisfy to qualify for a certificate to issue prescription orders.
- Defining the scope of practice within which an advanced practice nurse may issue prescription orders.
- Specifying the classes of drugs, individual drugs or devices that may not be prescribed by an advanced practice nurse.
- Establishing procedures for maintaining a certificate to issue prescription orders, including requirements for continuing education and a requirement to complete the

nursing workforce survey and submit the fee required under s. 441.01 (7). [s. 441.16 (3), Stats]

Related statute or rule: n/a

Plain language analysis:

Section 1 adds a doctoral degree in nursing or a related health field as a qualifying degree. The Board recognizes that some schools are offering doctoral degrees in lieu of master's degrees and did not want those obtaining a higher degree to be ineligible for the certificate.

Section 2 modifies the definition of "clinical pharmacology or therapeutics" by changing the phrase "likelihood of success" to "efficacy" in order to be clearer and more accurate.

Sections 3, 4, 5, 6 and 7 consolidate the qualifications required for the certification and the application requirements into one section. Language to accommodate this consolidation has been updated. The degree required is updated to recognize a doctoral degree in addition to the master's degree. The applicant is required to have obtained 45 contact hours in clinical pharmacology or therapeutics 5 years, instead of 3 years, preceding the application in order to accommodate graduates from programs which offer the pharmacology course early in the curriculum sequence rather than requiring the applicant to repeat the course creating unnecessary delay and expense.

Section 8 creates renewal provisions. In order to renew an advance practice nurse prescriber certificate the certificate holder must pay a renewal fee, complete the nursing workforce survey, certify completion of the continuing education and provide evidence of current certification by an approved certifying body of nurse practitioner, certified nurse-midwife, certified registered nurse anesthetist or clinical nurse specialist.

Sections 9 and 10 updates the continuing education requirements. A nurse prescriber shall complete 16 contact hours during the biennium. The Sections remove the provisions allowing for an average minimum number per year which is then reported on a schedule consistent with the national certifying body. The Board is requiring continuing education to be completed each biennium. In addition, two of those contact hours shall be in responsible prescribing of controlled substances. The Board is requiring the specific hours in responsible prescribing of controlled substances due to the current prescription drug addiction public health crisis.

Section 11 clarifies that attention deficit hyperactivity disorder is included in hyperkinesis.

Section 12 updates language for the advance practice nurse prescriber to provide upon request evidence of the advance practice nurse prescriber certification.

Section 13 updates language to allow prescriptions to be submitted electronically as permitted by state and federal law and removes the outdated typewritten provision. It also updates language to require the drug enforcement agency number of the license.

Section 14 removes the mileage limitation but clarifies the dispensing of drugs is at the treatment facility.

Sections 15 and 16 update language. The word “care” replaces “case” which is more reflective of current practice. One reference to advanced practice nurses is corrected to state advanced practice nurse prescribers. The Board removed the provision relating to notification to advanced practice nurses of mutual educational opportunities and available communication networks. The provisions regarding tests which may be ordered by an advanced practice nurse prescriber have been updated and clarified. The language regarding the collaborative relationship has been updated to reflect the standard language of “training, education and experience” instead of “professional expertise” and to remove the requirement that the physician document this relationship in recognition that the Board does not have jurisdiction over a physician.

Summary of, and comparison with, existing or proposed federal regulation: None

Comparison with rules in adjacent states:

Illinois: Illinois licenses nurses at three levels: licensed practice nurse, registered nurse and advance practice nurse. Illinois requires an advanced practice nurse to additionally hold a separate license for the prescribing of controlled substances. In Illinois a collaborating physician may delegate prescriptive authority to a nurse holding an advanced practice nurse license. An APN who has been given controlled substances prescriptive authority shall be required to obtain an Illinois mid-level practitioner controlled substances license. The requirements for obtaining a mid-level practitioner controlled substances license are to be a physician assistant or advanced practice nurse with an active license in good standing; provide the license number and controlled substances license number of the delegating or collaborating physician or podiatrist; written notice of delegation of prescriptive authority signed by the physician or podiatrist including the schedule of controlled substances or the specific Schedule II controlled substances that the mid-level practitioner may dispense or prescribe; and if license is issued with Schedule II authority, the advance practice nurse must have taken at least 45 hours of graduate contact hours in pharmacology. The mid-level practitioner controlled substances license requires 5 hours annually of continuing education in pharmacology. The mid-level practitioner controlled substances license only allows prescribing and dispensing of controlled substances the collaborating physician prescribes.

Iowa: Iowa licenses nurses at three levels: licensed practice nurse, registered nurse and advance registered nurse practitioner. The advanced registered nurse prescriber has a scope of practice which includes prescriptive authority. There is no equivalent certification in Iowa to the Wisconsin advance practice nurse prescriber certificate.

Michigan: Michigan licenses nurses at two levels: licensed practice nurse and registered nurse. Michigan has specialty certifications for a nurse anesthetist, nurse midwife and nurse practitioner. A physician who supervises a nurse practitioner or nurse midwife may delegate the prescribing of non-controlled prescriptions and Schedules 3-5 controlled substances if the delegating physician establishes a written authorization. A delegating physician may delegate the prescription of Schedule 2 controlled substances only if the nurse practitioner or nurse

midwife is practicing in a surgical outpatient facility, hospital and hospice with the patient being located within the facility. There is no equivalent certification in Michigan to the Wisconsin advance practice nurse prescriber certificate.

Minnesota: Effective January 1, 2015, Minnesota licenses nurses at three levels: licensed practice nurse, registered nurse and advanced practice registered nurse. The advanced practice registered nurse has a scope of practice which includes prescriptive authority. There is no equivalent certification in Minnesota to the Wisconsin advance practice nurse prescriber certificate.

Summary of factual data and analytical methodologies:

The Board reviewed their rules and consulted with stakeholders.

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

This rule was posted for a period of 14 days for economic comments and none were received.

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 Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at Sharon.Henes@wisconsin.gov.

TEXT OF RULE

SECTION 1. N 8.02 (1) (c) is amended to read:

N 8.02 (1) (c) For applicants who receive national certification as a nurse practitioner, certified nurse-midwife, certified registered nurse anesthetist or clinical nurse specialist after July 1, 1998, the registered nurse holds a master's or doctoral degree in nursing or a related health field granted by a college or university accredited by a regional accrediting agency approved by the board of education in the state in which the college or university is located.

SECTION 2. N 8.02 (4) is amended to read:

N 8.02 (4) “Clinical pharmacology or therapeutics” means the identification of individual and classes of drugs, their indications and contraindications, their ~~likelihood of success~~ efficacy, their side-effects and their interactions, as well as, clinical judgment skills and decision-making, based on thorough interviewing, history-taking, physical assessment, test selection and interpretation, pathophysiology, epidemiology, diagnostic reasoning, differentiation of conditions, treatment decisions, case evaluation and non-pharmacologic interventions.

SECTION 3. N 8.03 (intro) is amended to read:

N 8.03 ~~Qualifications for certification~~ Certification as an advanced practice nurse prescriber. An applicant for initial certification ~~to issue prescription orders as an advanced practice nurse prescriber~~ shall be granted a certificate by the board if the applicant complies with all of the following:

SECTION 4. N 8.03 (1) is renumbered to N 8.03 (1m) and amended to read:

N 8.03 (1m) ~~Has~~ Provides evidence of holding a current license to practice as a professional nurse in this state or ~~has~~ a current license to practice professional nursing in another state which has adopted the nurse licensure compact.

SECTION 5. N 8.03 (1) is created to read:

N 8.03 (1) Submits an application form and the fee under s. 440.05(1), Stats.

SECTION 6. N 8.03 (2) to (5) are amended to read:

N 8.03 (2) ~~Is currently certified~~ Provides evidence of current certification by a national certifying body approved by the board as a nurse practitioner, certified nurse-midwife, certified registered nurse anesthetist or clinical nurse specialist.

(3) ~~For applicants who receive national certification as a nurse practitioner, certified nurse-midwife, certified registered nurse anesthetist or clinical nurse specialist after July 1, 1998, holds~~ Provides evidence of a master’s or doctoral degree in nursing or a related health field granted by a college or university accredited by a regional accrediting agency organization approved by the state board of education in the state in which the college or university is located Council for Higher Education Accreditation. This subsection does not apply to those who received national certification as a nurse practitioner, certified nurse-midwife, certified registered nurse anesthetist or clinical nurse specialist before July 1, 1998.

(4) ~~Has completed at least~~ Provides evidence of completion of 45 contact hours in clinical pharmacology/ or therapeutics within ~~3~~ 5 years preceding the application for a certificate ~~to issue prescription orders.~~

(5) ~~Has passed~~ Evidence of passing a jurisprudence examination for advanced practice nurse prescribers.

SECTION 7. N 8.04 is repealed.

SECTION 8. N 8.045 is created to read:

N 8.045 Renewal. A person holding an advanced practice nurse prescriber may renew the certificate by doing all of the following:

- (1) Pay the renewal fee as determined by the department under s. 440.03(9)(a), Stats., the workforce survey fee, and any applicable late renewal fee.
- (2) Complete the nursing workforce survey to the satisfaction of the board.
- (3) Certify completion of the continuing education required under N 8.05.
- (4) Provide evidence of current certification by a national certifying body approved by the board as a nurse practitioner, certified nurse-midwife, certified registered nurse anesthetist, or clinical nurse specialist.

SECTION 9. N 8.05 (1) is amended to read:

N 8.05 Continuing education. (1) Every advanced practice nurse prescriber shall ~~submit to the board evidence of having completed an average of at least 8~~ complete 16 contact hours per year biennium in clinical pharmacology ~~or~~ or therapeutics relevant to the advanced practice nurse prescriber's area of practice, including at least 2 contact hours in responsible prescribing of controlled substances.

SECTION 10. N 8.05 (2) is repealed.

SECTION 11. N 8.06 (3) (c) is amended to read:

N 8.06 (3) (c) Treatment of hyperkinesis, including attention deficit hyperactivity disorder.

SECTION 12. N 8.06 (5) is amended to read:

N 8.06 (5) Shall, ~~in prescribing or ordering a drug for administration by a registered nurse or licensed practical nurse under s. 441.16 (3) (em), Stats. upon request,~~ present evidence to the nurse ~~and~~ or to the administration of the facility where the prescription or order is to be carried out that the advanced practice nurse prescriber is properly certified to issue prescription orders.

SECTION 13. N 8.07 (2) is amended to read:

N 8.07 (2) Prescription orders issued by advanced practice nurse prescribers for a controlled substance shall be written in ink or indelible pencil or shall be ~~typewritten~~ submitted electronically as permitted by state and federal law, and shall contain the practitioner's ~~controlled substances~~ drug enforcement agency number.

SECTION 14. N 8.09 (2) is amended to read:

N 8.09 (2) An advanced practice nurse prescriber may dispense drugs to a patient ~~if at the treatment facility at which the patient is treated is located at least 30 miles from the nearest pharmacy.~~

SECTION 15. N 8.10 (title) is amended to read:

N 8.10 Case Care management and collaboration with other health care professionals.

SECTION 16. N 8.10 (4) to (7) are amended to read:

N 8.10 (4) Advanced practice nurse prescribers shall provide a summary of a patient's health care records, including diagnosis, surgeries, allergies and current medications to other health care providers as a means of facilitating ease-care management and improved collaboration.

(5) The board shall promote communication and collaboration among advanced practice ~~nurses~~ nurse prescribers, physicians, and other health care professionals, ~~including notification to advanced practice nurses of mutual educational opportunities and available communication networks.~~

(6) ~~To promote case management, the~~ The advanced practice nurse prescriber may order treatment, therapeutics, laboratory and testing, radiographs or electrocardiograms appropriate to his or her area of competence as established by his or her education, training, or experience, to provide care management.

(7) Advanced practice nurse prescribers shall work in a collaborative relationship with a physician. The collaborative relationship is a process in which an advanced practice nurse prescriber is working with a physician, in each other's presence when necessary, to deliver health care services within the scope of the practitioner's professional expertise training, education, and experience. The advanced practice nurse prescriber ~~and the physician must~~ shall document this relationship.

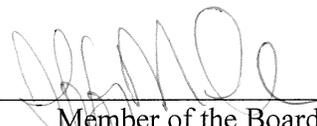
SECTION 17. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

This Proposed Order of the Board of Nursing is approved for submission to the Governor and Legislature.

Dated March 11th 2016

Agency _____



Member of the Board
Board of Nursing

(D)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

N 8

3. Subject

Advanced Practice Nurse Prescribers

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.165 (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 Board did a comprehensive review, evaluation and updated the rules governing advanced practice nurse prescribers. The proposed rule updates language, continuing education requirements, including a provision requiring continuing education in responsible prescribing of controlled substances, and clarifies attention deficient hyperactivity disorder is included in hyperkinesis.

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 economic comments and none were received.

11. Identify the local governmental units that participated in the development of this EIA.

None. This rule does not impact local governmental units.

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 does 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.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefit to implementing the rule is providing clarity and updates to a rule which has not had a comprehensive review since 1995 when it was created.

14. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is clarity and updated standards.

15. Compare With Approaches Being Used by Federal Government

None

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Iowa, Michigan and Minnesota do not have equivalent certification to the Wisconsin advance practice nurse prescriber certificate. Illinois requires an advanced practice nurse to additionally hold a separate license for prescribing of

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

controlled substances based upon a collaborating physician delegating prescriptive authority to a nurse.

17. Contact Name

Sharon Henes

18. Contact Phone Number

(608) 261-2377

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

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-