

**STATE OF WISCONSIN
BOARD OF NURSING**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
BOARD OF NURSING : CR 19-140**

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:

In 2014, the Board completed a comprehensive update of the licensure provisions in ch. N 2. Since that time, the Board has received stakeholder feedback that has led the Board to determine that some of the licensure provisions in ch. N 2 require revision. In addition, current rules do not reflect 2017 Wisconsin Act 329, which eliminated the requirement that an applicant for renewal of a temporary permit under s. 441.08, Stats., complete the nursing workforce survey administered by the Wisconsin Department of Workforce Development. To address these issues, the proposed rules make the following changes:

- Section N 2.12 (2) (intro.) is revised to clarify that acceptable documentation of nursing education is the same for education completed at a nursing school located in a U.S. territory and education completed at a nursing school located in the United States.
- Section N 2.12 (2) (a) is revised to allow a professional nursing applicant to document education by submitting a credential evaluation service academic report and demonstration of passing a Board-accepted language proficiency exam.
- The requirements for single-state licensure by endorsement in ss. N 2.20 (endorsement of an applicant from a nurse licensure compact state) and N 2.21 (endorsement of an applicant from another U.S. state, U.S. territory, or Canada) are consolidated.
- Section N 2.21 (2) (e), which requires an applicant to provide the Board with all information related to termination from any employment related to nursing, is revised to apply to termination from employment that occurred within the 10 years immediately preceding the date of application.

- Section N 2.35 (1), relating to renewal of a temporary permit for a registered nurse or practical nurse, is revised to reflect the provisions of 2017 Wisconsin Act 329 by eliminating the requirement to complete the nursing workforce survey.

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 December 12, 2019. No one testified or provided written comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

The Legislative Council had no recommendations concerning the proposed rule.

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

N/A

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 19-140)

PROPOSED ORDER

An order of the Board of Nursing to **repeal** N 2.20; to **renumber and amend** N 2.12 (2) (a); to **amend** N 2.12 (2) (intro.), 2.21 (title), (1) (a) (intro.) and (b) (intro.), and (2) (e), and 2.35 (1); and to **create** N 2.12 (2) (a) 1. and 2., relating to licensure.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 441.06, 441.08, and 441.10, Stats..

Statutory authority: Sections 15.08 (5) (b) and 441.01 (3), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides that each examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 441.01 (3), Stats., provides that the Board of Nursing “may establish minimum standards for schools for professional nurses and schools for licensed practical nurses, including all related clinical units and facilities, and make and provide periodic surveys and consultations to such schools. It may also establish rules to prevent unauthorized persons from practicing professional nursing. It shall approve all rules for the administration of this chapter in accordance with ch. 227.”

Related statute or rule:

Sections 441.06, 441.08, and 441.10, Stats..

Plain language analysis:

In 2014, the Board completed a comprehensive update of the licensure provisions in ch. N 2. Since that time, the Board has received stakeholder feedback that has led the Board to determine that some of the licensure provisions in ch. N 2 require revision. In addition, current rules do not reflect 2017 Wisconsin Act 329, which eliminated the requirement that an applicant for renewal of a temporary permit under s. 441.08, Stats., complete the nursing workforce survey administered by the Wisconsin Department of Workforce Development. To address these issues, the proposed rules make the following changes:

- Section N 2.12 (2) (intro.) is revised to clarify that acceptable documentation of nursing education is the same for education completed at a nursing school located in a U.S. territory and education completed at a nursing school located in the United States.
- Section N 2.12 (2) (a) is revised to allow a professional nursing applicant to document education by submitting a credential evaluation service academic report and demonstration of passing a Board-accepted language proficiency exam.
- The requirements for single-state licensure by endorsement in ss. N 2.20 (endorsement of an applicant from a nurse licensure compact state) and N 2.21 (endorsement of an applicant from another U.S. state, U.S. territory, or Canada) are consolidated.
- Section N 2.21 (2) (e), which requires an applicant to provide the Board with all information related to termination from any employment related to nursing, is revised to apply to termination from employment that occurred within the 10 years immediately preceding the date of application.
- Section N 2.35 (1), relating to renewal of a temporary permit for a registered nurse or practical nurse, is revised to reflect the provisions of 2017 Wisconsin Act 329 by eliminating the requirement to complete the nursing workforce survey.

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

None.

Comparison with rules in adjacent states:

Illinois:

An applicant is eligible for nurse licensure by examination if the applicant completes an application, pays the applicable fee, submits to a criminal background check, and graduates from an approved school. If educated outside of the United States, the education must be evaluated by the Commission on Graduates of Foreign Nursing Schools. A nurse is eligible for licensure if the applicant completes an application; pays the fee; submits to a criminal background check; graduates from an approved school; and submits verification of licensure status from the jurisdiction of original licensure, the current state of licensure, and all states the applicant has directly practiced in within the last 5 years. If educated outside of the United States, the education must be evaluated by the Commission on Graduates of Foreign Nursing Schools.

Iowa:

An applicant is eligible for nurse licensure by examination if the applicant graduated from high school or the equivalent, completes an application, pays the applicable fee, graduated from an approved program, and passes the NCLEX. If the person has a criminal conviction history or prior disciplinary action, the applicant must receive board approval. If educated outside of the United States, the education must be evaluated by the Commission on Graduates of Foreign Nursing Schools. A nurse from a compact state must submit a completed application, pay the applicable fee, and declare Iowa as their primary state. A nurse is eligible for licensure by endorsement from a non-compact state if the applicant completes an application, pays the applicable fee, provides verification of original licensure and nursing program transcripts, and submits to a criminal background check. If educated outside of the United States, the education must be evaluated by the Commission on Graduates of Foreign Nursing Schools. If the person has a criminal conviction history or prior disciplinary action, the applicant must receive board approval.

Michigan:

An applicant is eligible for nurse licensure by examination if the applicant completes an application, pays the applicable fees, and verifies successful completion of an approved nursing education program and the NCLEX. If educated outside of the United States, the education must be evaluated by the Commission on Graduates of Foreign Nursing Schools. A nurse is eligible for licensure by endorsement if the applicant completes an application, pays the applicable fee, verifies graduation from an approved school of nursing, and was first licensed in another state pursuant to passage of NCLEX.

Minnesota:

An applicant is eligible for licensure by examination if the applicant completes an application, pays the applicable fee, and verifies graduation from an approved nursing school and successful completion of the NCLEX. If educated outside of the United States, the education must be evaluated by the Commission on Graduates of Foreign Nursing Schools. A nurse is eligible for licensure by endorsement if the applicant completes an application, pays the applicable fee, verifies licensure in another jurisdiction and successful completion of an examination acceptable to the board, and answers questions related to any prior disciplinary actions. If the applicant has not engaged in acceptable nursing practice within the 2 years preceding application, the applicant must complete one contact hour of continuing education for each month that the applicant was not engaged in acceptable practice, subject to a maximum of 60 hours. If the applicant has not practiced for more than 5 years, the applicant must complete a nurse refresher course.

Summary of factual data and analytical methodologies:

The Board reviewed the provisions of ch. N 2, taking into consideration stakeholder feedback and the provisions of 2017 Wisconsin Act 329.

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

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. To be included in the record of rule-making proceedings, comments must be received at or before the public hearing to be held on the proposed rules. Information concerning the date, time, and location of the public hearing will be published in the Wisconsin Administrative Register and posted on the Legislature's website at <https://docs.legis.wisconsin.gov/code/chr/hearings>.

TEXT OF RULE

SECTION 1. N 2.12 (2) (intro.) is amended to read:

N 2.12 (2) (intro.) The school of professional nursing or practical nursing shall forward directly to the department, official transcripts of nursing education for applicants who graduated from the school. If the applicant graduated from a school of professional nursing or practical nursing ~~from a U.S. territory or outside~~ not located in the United States or a U.S. territory, the applicant shall submit any of the following:

SECTION 2. N 2.12 (2) (a) is renumbered N 2.12 (2) (a) (intro.) and amended to read:

N 2.12 (2) (a) (intro.) For a professional nursing applicant, ~~a valid certificate issued by the commission on graduates of foreign nursing schools or another board-approved entity which evaluates education;~~ one of the following:

SECTION 3. N 2.12 (2) (a) 1. and 2. are created to read:

N 2.12 (2) (a) 1. A valid certificate issued by the Commission on Graduates of Foreign Nursing Schools or another board-approved entity that evaluates education.

2. A credential evaluation service academic report and demonstration of passing a board-accepted language proficiency exam.

SECTION 4. N 2.20 is repealed.

SECTION 5. N 2.21 (title), (1) (a) (intro.) and (b) (intro.), and (2) (e) are amended to read:

N 2.21 (title) ~~Endorsement of an applicant from another U.S. state, territory or Canada for a single state license.~~

(1) (a) (intro.) A license from a another U.S. state ~~that has not adopted the nurse licensure compact under s. 441.51, Stats.,~~ a U.S. territory, or Canada is considered to have met educational and other qualifications comparable to those required in this state provided the requirements of the initial license included all of the following:

(b) (intro.) An applicant, whose initial license from another U.S. state, U.S. territory, or Canada does not meet the requirements in par. (a), shall submit all of the following to the board to assist the board in determining whether the qualifications are comparable:

(2) (e) An applicant who has been terminated from any employment related to nursing within the 10 years immediately preceding the date of application shall provide the board with all related information necessary to determine current competency.

SECTION 6. N 2.35 (1) is amended to read:

N 2.35 (1) A temporary permit for a registered nurse or practical nurse may be renewed once by completing an application, ~~completing a nursing workforce survey~~ and ~~payment of~~ paying applicable fees.

SECTION 7. 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 12/12/2019

Agency 
Board Chair
Board of Nursing

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date October 28, 2019
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) N 2	
4. Subject Licensure	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected 20.165(1)(g)
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule In 2014, the Board completed a comprehensive update of the licensure provisions in ch. N 2. Since that time, the Board has received stakeholder feedback that has led the Board to determine that some of the licensure provisions in ch. N 2 require revision. In addition, current rules do not reflect 2017 Wisconsin Act 329, which eliminated the requirement that an applicant for renewal of a temporary permit under s. 441.08, Stats., complete the nursing workforce survey administered by the Wisconsin Department of Workforce Development. To address these issues, the proposed rules make the following changes: <ul style="list-style-type: none">• Section N 2.12 (2) (intro.) is revised to clarify that acceptable documentation of nursing education is the same for education completed at a nursing school located in a U.S. territory and education completed at a nursing school located in the United States.• Section N 2.12 (2) (a) is revised to allow a professional nursing applicant to document education by submitting a credential evaluation service academic report and demonstration of passing a Board-accepted language proficiency exam.• The requirements for single-state licensure by endorsement in ss. N 2.20 (endorsement of an applicant from a nurse licensure compact state) and N 2.21 (endorsement of an applicant from another U.S. state, U.S. territory, or Canada) are consolidated.• Section N 2.21 (2) (e), which requires an applicant to provide the Board with all information related to termination from any employment related to nursing, is revised to apply to termination from employment that occurred within the 10 years immediately preceding the date of application.• Section N 2.35 (1), relating to renewal of a temporary permit for a registered nurse or practical nurse, is revised to reflect the provisions of 2017 Wisconsin Act 329 by eliminating the requirement to complete the nursing workforce survey.	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

12. 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.

The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

No local governmental units participated in the development of this EIA.

14. 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)

The proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole.

The Department estimates one-time administrative costs of \$1,060.72. These costs may be absorbed in the agency budget.

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

The benefit to implementing the rule is providing consistency with current licensing practices and applicable Wisconsin statutes. If the rule is not implemented, it will continue to reflect outdated practices and statutes.

16. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is providing consistency with current licensing practices and applicable Wisconsin statutes.

17. Compare With Approaches Being Used by Federal Government

None

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

Illinois:

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ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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19. Contact Name Dale Kleven, Administrative Rules Coordinator	20. Contact Phone Number (608) 261-4472
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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
-