

Phone: 608-266-2112 Web: http://dsps.wi.gov Email: dsps@wisconsin.gov

Tony Evers, Governor Dan Hereth, Secretary

VIRTUIAL/TELECONFERENCE BOARD OF NURSING

4822 Madison Yards Way, Madison Contact: Brad Wojciechowski (608) 266-2112 May 9, 2024

The following agenda describes the issues that the Board 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 record of the actions of the Board.

AGENDA

8:00 A.M.

OPEN SESSION - CALL TO ORDER - ROLL CALL

- A. Adoption of Agenda (1-5)
- B. Approval of Minutes of April 11, 2024 (6-12)
- C. Reminders: Conflicts of Interests, Scheduling Concerns
- D. Introductions, Announcements and Recognition Discussion and Consideration
 - 1. Recognition: Nurses Month
- E. 8:00 A.M. Public Hearing CR 24-031 revising N 6, Relating to Delegated Acts (13-24)
 - 1. Review Public Hearing Comments and Clearinghouse Report
- F. Administrative Matters Discussion and Consideration
 - 1. Department, Staff and Board Updates
 - 2. Appointments of Liaisons and Alternates, Delegation of Authorities
 - 3. Board Members Term Expiration Dates
 - a. Anderson, John G.– 7/1/2025
 - b. Edelstein, Janice A. -7/1/2024
 - c. Guyton, Vera L. $-\frac{7}{1}/2025$
 - d. Kane, Amanda K. -7/1/2027
 - e. Malak, Jennifer L. -7/1/2026
 - f. McNally, Patrick J. -7/1/2026
 - g. Sabourin, Shelly R. -7/1/2027
 - h. Saldivar Frias, Christian -7/1/2023
 - i. Weinman, Robert W. -7/1/2027
- **G.** Education and Examination Matters Discussion and Consideration

- **H.** Credentialing Matters Discussion and Consideration
- I. Legislative and Policy Matters Discussion and Consideration
- J. Administrative Rule Matters Discussion and Consideration (25-27)
 - 1. Pending and Possible Rulemaking Projects (26-27)
- K. Interdisciplinary Advisory Council Discussion and Consideration (28)
- L. Speaking Engagements, Travel, or Public Relation Requests, and Reports Discussion and Consideration
- M. Newsletter Matters Discussion and Consideration (29)
- N. Nurse Licensure Compact (NLC) Update Discussion and Consideration
- **O.** Liaison Reports Discussion and Consideration
- P. Discussion and Consideration of Items Added After Preparation of Agenda:
 - 1. Introductions, Announcements and Recognition
 - 2. Administrative Matters
 - 3. Election of Officers
 - 4. Appointment of Liaisons and Alternates
 - 5. Delegation of Authorities
 - 6. Education and Examination Matters
 - 7. Credentialing Matters
 - 8. Practice Matters
 - 9. Legislative and Policy Matters
 - 10. Administrative Rule Matters
 - 11. Liaison Reports
 - 12. Board Liaison Training and Appointment of Mentors
 - 13. Public Health Emergencies
 - 14. Informational Items
 - 15. Division of Legal Services and Compliance (DLSC) Matters
 - 16. Presentations of Petitions for Summary Suspension
 - 17. Petitions for Designation of Hearing Examiner
 - 18. Presentation of Stipulations, Final Decisions and Orders
 - 19. Presentation of Proposed Final Decisions and Orders
 - 20. Presentation of Interim Orders
 - 21. Petitions for Re-Hearing
 - 22. Petitions for Assessments
 - 23. Petitions to Vacate Orders
 - 24. Requests for Disciplinary Proceeding Presentations
 - 25. Motions
 - 26. Petitions
 - 27. Appearances from Requests Received or Renewed
 - 28. Speaking Engagements, Travel, Public Relation Requests, and Reports

Q. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

R. Deliberation on Division of Legal Services and Compliance Matters

- 1. Administrative Warnings (30-45)
 - a. 21 NUR 769 K.E.P. (30-31)
 - b. 22 NUR 789 A.M.L. (32-33)
 - c. 23 NUR 101 J.J.H. (34-35)
 - d. 23 NUR 395 A.I.R. (36-37)
 - e. 23 NUR 447 M.E.C. (38-39)
 - f. 23 NUR 528 A.L.K. (40-41)
 - g. 23 NUR 528 C.J.B. (42-43)
 - h. 23 NUR 597 A.M.F. (44-45)
- 2. Case Closings (46-135)
 - a. 22 NUR 843 A.E.S. (46-51)
 - b. 23 NUR 113 K.N.T. (52-59)
 - c. 23 NUR 149 C.J.Y. (60-64)
 - d. 23 NUR 188 L.M.K. (65-69)
 - e. 23 NUR 191 K.K.C. (70-80)
 - f. 23 NUR 314 J.D.N. (81-86)
 - g. 23 NUR 374 J.M.S. **(87-90)**
 - h. 23 NUR 443 A.B. (91-96)
 - i. 23 NUR 488 A.C.N. (97-100)
 - j. 23 NUR 489 E.N.F. (101-104)
 - k. 23 NUR 576 U. (105-109)
 - 1. 23 NUR 638 A.M.D. (110-114)
 - m. 23 NUR 715 B.L.C. (115-122)
 - n. 23 NUR 853 A.A.P. (123-126)
 - o. 23 NUR 870 E.G.W. (127-131)
 - p. 24 NUR 054 A.L.L. (132-135)

3. Proposed Stipulations, Final Decisions, and Orders (136-227)

- a. 21 NUR 289 and 21 NUR 726 Amy M. Merten (136-143)
- b. 22 NUR 414 Roshanda E. Frazier (144-151)
- c. 22 NUR 880 Julie A. Garfield (152-164)
- d. 23 NUR 037 Jeffrey J. Gemignani (165-171)
- e. 23 NUR 116 Edelyn M. Cash (172-178)
- f. 23 NUR 264 Tonille M. Westphal (179-185)
- g. 23 NUR 477 Katarina L. Resch (186-193)
- h. 23 NUR 514 Jamie L. Daveler (194-200)
- i. 23 NUR 569 Jennifer E. Weith (201-206)
- j. 23 NUR 585 Cathy Bolan (207-212)
- k. 23 NUR 608 Stephanie R. Malesevich (213-220)
- 1. 23 NUR 699 Precious B. York (221-227)

S. Monitoring Matters (228-433)

- 1. Monitor Heller
 - a. Brittani Seroogy, R.N. Requesting Full Licensure (230-257)
- 2. Monitor Wagner
 - a. Kathryn Techmeier, R.N. Requesting Modification of Monitoring Order (258-286)
- 3. Monitor Krogman
 - a. Lori Cuene, R.N. Requesting Full Licensure (287-319)
 - b. Lisa Olsen, L.P.N. Requesting Modification of Monitoring Order (320-340)
- 4. Monitor Olson
 - a. Margaret Cina, R.N. Requesting Full Licensure (341-383)
 - b. Amanda Wing, R.N. Requesting Full Licensure (384-433)

T. Deliberation on Proposed Final Decision and Orders (434-446)

1. Evgenia I. Gutich, L.P.N., Respondent – (DHA Case Number SPS-23-0077/ DLSC Case Number 21 NUR 390) (436-446)

U. Deliberation on Matters Relating to Costs/Orders Fixing Costs (447-506)

- Jennifer J. Hogge, R.N. (DHA Case Number SPS-22-0056/DLSC Case Numbers 21 NUR 639, 22 NUR 341, & 22 NUR 358) (447-488)
- 2. Nancy K. Reddick, R.N. (DHA Case Number SPS-22-0071/DLSC Case Number 22 NUR 182) **(489-506)**

V. Deliberation of Items Added After Preparation of the Agenda

- 1. Education and Examination Matters
- 2. Credentialing Matters
- 3. DLSC Matters
- 4. Monitoring Matters
- 5. Professional Assistance Procedure (PAP) Matters
- 6. Petitions for Summary Suspensions
- 7. Petitions for Designation of Hearing Examiner
- 8. Proposed Stipulations, Final Decisions and Order
- 9. Proposed Interim Orders
- 10. Administrative Warnings
- 11. Review of Administrative Warnings
- 12. Proposed Final Decisions and Orders
- 13. Matters Relating to Costs/Orders Fixing Costs
- 14. Case Closings
- 15. Board Liaison Training
- 16. Petitions for Assessments and Evaluations
- 17. Petitions to Vacate Orders
- 18. Remedial Education Cases
- 19. Motions
- 20. Petitions for Re-Hearing
- 21. Appearances from Requests Received or Renewed

W. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

- X. Vote on Items Considered or Deliberated Upon in Closed Session if Voting is Appropriate
- Y. Open Session Items Noticed Above Not Completed in the Initial Open Session
- Z. Board Meeting Process (Time Allocation, Agenda Items) Discussion and Consideration
- **AA.** Board Strategic Planning and its Mission, Vision and Values Discussion and Consideration

ADJOURNMENT

NEXT MEETING: JUNE 13, 2024

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In order to confirm a meeting or to request a complete copy of the board's agenda, please visit the Department website at https:\\dsps.wi.gov. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, or the Meeting Staff at 608-267-7213.

HYBRID (IN-PERSON/VIRTUAL) BOARD OF NURSING MEETING MINUTES APRIL 11, 2024

PRESENT: John Anderson, Janice Edelstein, Vera Guyton (via Zoom), Amanda Kane,

Jennifer Malak, Patrick McNally, Robert Weinman (arrived at 8:23 a.m. via

Zoom)

EXCUSED: Shelly Sabourin, Christian Saldivar Frias

STAFF: Brad Wojciechowski, Executive Director; Whitney DeVoe, Legal Counsel

Nilajah Hardin, Administrative Rules Coordinator; Brenda Taylor, Board Services

Supervisor; and other Department Staff

CALL TO ORDER

Vera Guyton, Vice Chairperson, called the meeting to order at 8:09 a.m. A quorum was confirmed with Six (6) members present.

ADOPTION OF THE AGENDA

MOTION: John Anderson moved, seconded by Amanda Kane, to adopt the Agenda

as published. Motion carried unanimously.

APPROVAL OF MINUTES MARCH 8, 2024

MOTION: Jennifer Malak moved, seconded by Patrick McNally, to approve the

Minutes of March 8, 2024, as published. Motion carried.

Janice Edelstein abstains.

INTRODUCTIONS, ANNOUNCEMENTS, AND RECOGNITION

Liaisons

LIAISON APPOINTMENTS					
Credentialing Liaison	Janice Edelstein, Vera Guyton (LPN Reviews), Robert Weinman Amanda Kane Alternate: Vera Guyton				
Monitoring Liaison	John Anderson Alternate: Patrick McNally				
Professional Assistance Procedure (PAP) Liaison	Shelly Sabourin Jennifer Malak				

Legislative Liaison	John Anderson, Robert Weinman, Alternate: Patrick McNally			
N 14 1 1	Janice Edelstein, Jennifer Malak			
Newsletter Liaison	Alternate: Vera Guyton			
Communication Liaison	Robert Weinman			
Education and	Janice Edelstein / Amanda Kane			
Examination Liaison	Alternate: Jennifer Malak			
Controlled Substances	Amanda Kane			
Board Liaison as per Wis.	Alternate: Robert Weinman			
Stats. §15.405(5g)	(Primary)			
Wisconsin Coalition for				
Prescription Drug Abuse	Amanda Kane			
Reduction Liaison				
Travel Authorization	Robert Weinman (Chair)			
Liaison	Alternate:			
Liaison	Vera Guyton (Vice Chair)			
COMMITTEE ME	MBER APPOINTMENTS			
Legislation and Rules	Janice Edelstein, Robert Weinman			
Committee	(Chair), John Anderson			
BOARD APPOINTMENT	TO THE INTERSTATE NURSE			
LICENSURE CO	MPACT COMMISSION			
Administrator of the Nurse	Robert Weinman			
Licensure Compact	Alternate:			
Election Compact	Janice Edelstein			

(Robert Weinman arrived at 8:23 a.m. via Zoom)

ADMINISTRATIVE RULE MATTERS

Possible rulemaking project: N 8, relating to APNPs

MOTION: Janice Edelstein moved, seconded by Jennifer Malak, to request DSPS

staff draft a Scope Statement revising N 8, relating to Advanced Practice

Nurse Prescribers. Motion carried unanimously.

OPIOID ABUSE GOAL SETTING AND REPORT PURSUANT TO WIS. STAT. 440.35 (2M)(C)

MOTION: Robert Weinman moved, seconded by John Anderson, to designate

> Amanda Kane to work with DSPS staff to develop and approve the 2024 Opioid Report to the legislature and Governor and to delegate authority to the Chairperson to approve the final report for submission. Motion carried

unanimously.

SPEAKING ENGAGEMENTS, TRAVEL, OR PUBLIC RELATION REQUESTS, AND REPORTS – DISCUSSION AND CONSIDERATION

2024 Discipline Case Management Conference

Jennifer Malak moved, seconded by John Anderson, to designate Rob **MOTION:**

> Weinman, as the Board's delegate, and a DSPS staff member to attend the 2024 Discipline Case Management Conference on May 30-31, 2024, in

Annapolis, MD. Motion carried unanimously.

2024 Executive Officer Summit

MOTION: Robert Weinman moved, seconded by Patrick McNally, to designate Brad

> Wojciechowski, as the Board's delegate, to attend the 2024 Executive Officer Summit on June 19-21, 2024, in Park City, UT. Motion carried

unanimously.

CLOSED SESSION

MOTION: John Anderson moved, seconded by Amanda Kane, to convene to Closed

> Session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigation with administrative warnings (ss. 19.85(1)(b), Stats. and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and, to confer with legal counsel (s. 19.85(1)(g), Stats.). Robert Weinman, Chairperson, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: John Anderson-yes; Janice Edelstein-yes; Vera Guyton-yes; Amanda Kane -yes; Jennifer Malak-yes; Patrick McNally-

ves; and Robert Weinman-yes. Motion carried unanimously.

The Board convened into Closed Session at 9:11 a.m.

CREDENTIALING MATTERS

Application Reviews

Brian Scapardine – RN Renewal Ap

MOTION: Robert Weinman moved, seconded by Jennifer Malak, to approve the

Registered Nurse Renewal application of Brian Scapardine, once all

requirements are met. Motion carried unanimously.

Monitoring Matters

Macy Westphal, R.N. - Requesting Full Licensure

MOTION: Amanda Kane moved, seconded by Robert Weinman, to grant the request of Macy Westphal, R.N., for full licensure. Motion carried unanimously.

Lori Cuene, R.N. – Requesting Full Licensure

MOTION: Jennifer Malak moved, seconded by Patrick McNally, to deny the request of Lori Cuene, R.N., for full licensure. **Reason for Denial**: Failure to demonstrate continuous and successful compliance under the terms of the Board Order (6/8/2006). Motion carried.

Lutrice Strong, L.P.N. - Requesting Full Licensure

MOTION: John Anderson moved, seconded by Robert Weinman, to deny the request of Lutrice Strong, L.P.N., for full licensure. **Reason for Denial**: Failure to demonstrate continuous and successful compliance (i.e. provide work reports as indicated in the Board Order). Respondent needs to fully comply with the complete terms and conditions of the original Board Order (6/7/2012). Motion carried unanimously.

Gretchen Tusler, L.P.N. - Requesting Full Licensure

MOTION: Robert Weinman moved, seconded by Janice Edelstein, to grant the request of Gretchen Tusler, L.P.N., for Full Licensure. Motion carried unanimously.

Nicole Fields, R.N. - Requesting Full Licensure

MOTION: Jennifer Malak moved, seconded by Amanda Kane, to grant the request Nicole Fields, R.N., for Full Licensure. Motion carried unanimously.

Elizabeth Peplinski, R.N. – Requesting
Reduction in Drug Screens
Termination of Treatment Requirement
Restoration of the privilege to access and administer narcotics
Termination of the requirement for direct supervision in the workplace

MOTION: Pat McNally moved, seconded by Amanda Kane, to deny the request of Elizabeth Peplinski, R.N., for a reduction in drug screens and termination of the direct supervision requirement, but to grant the request for access to controlled substances and a reduction of AA/NA meetings to once per week. Reason for Denial: Insufficient time under the Board Order (4/14/2016) to demonstrate adequate compliance. Motion carried. Weinman opposed.

DELIBERATION ON DIVISION OF LEGAL SERVICES AND COMPLIANCE **MATTERS**

Administrative Warnings

MOTION: Amanda Kane moved, seconded by John Anderson, to issue

Administrative Warnings in the following DLSC Cases:

22 NUR 498 – M.C.

23 NUR 672 – M.T.P.

23 NUR 746 – E.M.K.

Motion carried unanimously.

Case Closings

MOTION: Jennifer Malak moved, seconded by Janice Edelstein, to close the

following DLSC Cases for the reasons outlined below:

22 NUR 398, 22 NUR 452 – J.A. – Insufficient Evidence

22 NUR 806 – L.C.C. – No Violation

23 NUR 185 – B.L.S. – Prosecutorial Discretion (P1)

23 NUR 266 – A.B. – Lack of Jurisdiction (L2)

23 NUR 563 – S.A.T. – No Violation

23 NUR 675 – T.K.W. – No Violation

23 NUR 751 – M.B. – No Violation

23 NUR 836 – K.S.H., M.A.H., J.A.C, M.V.Z., M.M.H., and M.R. – No

Violation

Motion carried unanimously.

Proposed Stipulations and Final Decisions and Orders

Jennifer Malak moved, seconded by John Anderson, to adopt the Findings **MOTION:**

of Fact, Conclusions of Law and Order in the matter of the following

20 NUR 501 and 22 NUR 746 – Betty A. Stanley

21 NUR 467 – Geri Ann A. Strigel

21 NUR 610 – Carrie J. Herbst

21 NUR 744 – Chelsea N. Bass

22 NUR 318 – Jessica J. Gums

22 NUR 323 – Sandra K. Groesbeck

22 NUR 701 – Senina L. Brown

22 NUR 761 – Mary B. Fellenz

23 NUR 102 and 23 NUR 553 - Laura J. Harnowski

23 NUR 156 – Katherine M. Thorson

23 NUR 257 – Michelle R. Skroch

23 NUR 590 - Carrie E. Elmer

23 NUR 660 – Diamond A. Ivey

23 NUR 793 – Courtney C. Lestikow

Motion carried unanimously.

DELIBERATION ON PROPOSED FINAL DECISION AND ORDERS

Heather A. Koehler, R.N., L.P.N., Respondent – (DHA Case Number SPS-23-0078/DLSC Case Number 22 NUR 186)

MOTION: Amanda Kane moved, seconded by Robert Weinman, to adopt the

Findings of Fact, Conclusions of Law, and Proposed Decision and Order in the matter of disciplinary proceedings against Heather A. Koehler, R.N., L.P.N., Respondent – DHA Case Number SPS-23-0078/DLSC Case

Number 22 NUR 186. Motion carried unanimously.

(Janice Edelstein recused herself and left the room for deliberation and voting in the matter concerning Heather A. Koehler, R.N., L.P.N., Respondent – DHA Case Number SPS-23-0078/DLSC Case Number 22 NUR 186.)

DELIBERATION ON MATTERS RELATING TO COSTS/ORDERS FIXING COSTS

Nola M. Tyrrell, L.P.N. - DHA Case Number SPS-22-0059/DLSC Case Number 20 NUR 304

MOTION: Jennifer Malak moved, seconded by Patrick McNally, to adopt the Order

Fixing Costs in the matter of disciplinary proceedings against Nola M. Tyrrell, L.P.N. – DHA Case Number SPS-22-0059/DLSC Case Number

20 NUR 304. Motion carried unanimously.

Nichole M. Dorn, L.P.N. – DHA Case Number SPS-22-0037/DLSC Case Numbers 20 NUR 337 and 20 NUR 564

MOTION: John Anderson moved, seconded by Jennifer Malak, to adopt the Order

Fixing Costs in the matter of disciplinary proceedings against Nichole M. Dorn, L.P.N. – DHA Case Number SPS-22-0037/DLSC Case Numbers 20

NUR 337 and 20 NUR 564. Motion carried unanimously.

(Vera Guyton recused herself and left the room for deliberation and voting in the matter concerning Nichole M. Dorn, L.P.N. – DHA Case Number SPS-22-0037/DLSC Case Numbers 20 NUR 337 and 20 NUR 564.)

Amber L. Opdahl, R.N. – DHA Case Number SPS-22-0062/DLSC Case Number 21 NUR 175

MOTION: Patrick McNally moved, seconded by Janice Edelstein, to adopt the Order

Fixing Costs in the matter of disciplinary proceedings against Amber L. Opdahl, R.N. – DHA Case Number SPS-22-0062/DLSC Case Number 21

NUR 175. Motion carried unanimously.

(Robert Weinman recused himself and left the room for deliberation and voting in the matter concerning Amber L. Opdahl, R.N. – DHA Case Number SPS-22-0062/DLSC Case Number 21 NUR 175.)

Noelle C. Stone, L.P.N. – DHA Case Number SPS-22-0053/DLSC Case Number 21 NUR 721

MOTION: John Anderson moved, seconded by Amanda Kane, to adopt the Order

Fixing Costs in the matter of disciplinary proceedings against Noelle C. Stone, L.P.N. – DHA Case Number SPS-22-0053/DLSC Case Number 21

NUR 721. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Jennifer Malak moved, seconded by Patrick McNally, to reconvene into

Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 10:28 a.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Janice Edelstein moved, seconded by Vera Guyton, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the Closed Session motions stand for the purposes of the affirmation vote.)

ADJOURNMENT

MOTION: Amanda Kane moved, seconded by Patrick McNally, to adjourn the

meeting. Motion carried unanimously.

The meeting adjourned at 10:31 a.m.

State of Wisconsin Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and title of pers	on submitting the request:	2) Date when reque	2) Date when request submitted:				
Sofia Anderson, Administr	ative Rules Coordinator	04/29/2024	04/29/2024				
			Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting				
3) Name of Board, Comn	nittee, Council, Sections:	·					
Board of Nursing							
4) Meeting Date:	5) Attachments:	6) How should the item be til	tled on the agenda page?				
May 9, 2024	✓ Yes☐ No	acts.	R 24-031 revising N 6, relating to delegated g comments and Clearinghouse Report.				
7) 51							
7) Place Item in: Open Session	scheduled? (If ye	ce before the Board being es, please complete uest for Non-DSPS Staff)	9) Name of Case Advisor(s), if required: N/A				
Closed Session	☐ Yes ☐ No	dest for Norr DSF 3 Starry					
10) Describe the issue an	nd action that should be add	lressed:					
The Board will hold a Publ	ic Hearing on this rule as requ	ired by the rulemaking process.					
Attachments:							
 Preliminary r 	ule draft as submitted to Clean	ringhouse.					
2. Chapter redl	ined with CH comments.						
3. Clearinghous	se comment report.						
11)		Authorization					
SAnderson	,	Authorization					
Anderson	-						
	,		04/29/2024				
Signature of person making this request Date							
Supervisor (if required) Date							
Executive Director signa	ture (indicates approval to a	add post agenda deadline item	n to agenda) Date				
2. Post Agenda Deadline	attached to any documents so te items must be authorized by	by a Supervisor and the Policy	Development Executive Director. e to the Bureau Assistant prior to the start of a				

STATE OF WISCONSIN BOARD OF NURSING

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

PROPOSED ORDER

An order of the Board of Nursing to repeal N 6.02 (10m) (Note); to amend N 6.02 (5), 6.03 (1) (c), 6.04 (1) (a), (2) (b); to create N 6.02 (13); and to repeal and recreate N 6.02 (10m), relating to delegated acts.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Subchapter I of ch. 441, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), and 441.01 (3), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides an examining board "[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . ."

Section 227.11 (2) (a), Stats., "[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute..."

Section 441.01 (3), Stats., provides "[t]he board may (...) 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:

Subchapter I of ch. 441, Stats.

Plain language analysis:

Section N 6 contains the standards of practice for registered nurses and licensed practical nurses, which includes delegated acts. The Board of Nursing has reviewed and updated ch. N 6 with the following changes:

• Extension of the definition of "delegated acts".

- More general definition of "provider" to broaden the range of professionals who are authorized to delegate acts.
- Addition of a definition of "unlicensed assistive personnel (UAP)".
- Inclusion of UAPs as staff who could be performing interventions under the directing or supervision of registered nurses.
- Replacement of the term "assignments" to "delegated acts" under standards of practice for licensed practical nurses.

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

None.

Comparison with rules in adjacent states:

Illinois:

The Illinois Nurse Practice Act in their Compiled Statutes do not mention a definition of "delegated act", "delegation", or "unlicensed assistive personnel". However, a definition of "delegation" can be found in the Illinois Administrative Code Section 1300.20, and it states that "'delegation' means transferring to a specific individual the authority to perform a specific nursing intervention, in a specific situation". The section indicates that a registered nurse can delegate medication administration to other licensed nurses or to unlicensed personnel in community-based or in-home care settings as long as certain parameters established in the section have been met. The section also specifies the actions that are prohibited to delegate, such as delegating medication administration to unlicensed personnel in any institutional or long-term facility.

Inwa

Neither Iowa's Statutes nor Administrative Code contain a definition of "delegated acts" or "delegation". The Administrative Code contains a definition of "unlicensed assistive personnel" as "an individual who is trained to function in an assistive role to the registered nurse and licensed practical nurse in the provision of nursing care activities as delegated by the registered nurse or licensed practical nurse" [655 IAC 6.1(152)].

Iowa's Administrative Code specifies the parameters that a registered nurse must comply with when delegating tasks to another registered nurse or licensed practical nurse. The Code also specifies that a registered nurse can delegate tasks to unlicensed assistive personnel (UAP) under certain circumstances, which include ensuring that the UAP has appropriate education and training and has demonstrated competency to perform the delegated tasks, that the task does not exceed the UAP scope of employment and that the tasks pose minimal risk to the patient [655 IAC 6.2(7)].

Michigan:

Michigan does not have a specific Nurse Practice Act in its Statutes. Instead, Michigan has an act that regulates the practice of nursing along with other health professions, which is part of the Michigan Public Health Code contained within the Statutes. In this act, there is a definition of "delegation" as "authorization granted by a licensee to a licensed or unlicensed individual to perform selected acts, tasks, or functions that fall within the scope

of practice of the delegator and that are not within the scope of practice of the delegatee and that, in the absence of the authorization, would constitute illegal practice of a licensed profession" [333 MCL Section 16104]

Delegation parameters are detailed in the Michigan's Administrative Code and state that a registered nurse may delegate tasks only within the registered nurse's scope of practice and that the registered nurse holds ultimate responsibility for the delegated acts performed by the delegatee within the scope of the delegation. It also states that the registered nurse has to determine the qualifications, knowledge, and skills of the delegatee before the delegation, and that the registered nurse is responsible for supervising and evaluating the performance of the delegatee. [MI Admin. Code R 338.10104]

Minnesota:

The Minnesota Statutes contains the Nurse Practice Act that provides a definition of "delegation" as a "transfer of authority to another nurse or competent, unlicensed assistive person to perform a specific nursing task or activity in a specific situation" [MN Stats. 148.171 Subd. 7a.] and also provides a definition of "unlicensed assistive personnel" as "any unlicensed person to whom nursing tasks or activities may be delegated or assigned, as approved by the board" [MN Stats. 148.171 Subd. 24.] The Nurse Practice Act in Minnesota does not mention parameters for delegation outside of the basic practice standards of professional nurses, though the Statutes mention that "delegating or accepting delegation of a nursing function or a prescribed health care function when the delegation or acceptance could reasonably be expected to result in unsafe or ineffective patient care" is considered unprofessional conduct. [MN Stats. 148.261 (8)]

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of chapter N 6 and nursing practice standards from the adjacent states (Illinois, Iowa, Michigan, and Minnesota). The Board provided input and feedback to determine any changes or updates needed in addition to reviewing comments from subject matter experts from the Department of Health Services, Department of Public Instruction, and Wisconsin Nurses Association.

Fiscal estimate and economic impact analysis:

The fiscal estimate and economic impact analysis are attached.

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

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local governmental units, and individuals.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-2112.

Agency contact person:

Sofia Anderson, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Sofia Anderson, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing to be held on May 9, 2024, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. N 6.02 (5) is amended to read:

(5) "Delegated act" means acts delegated to a registered nurse or licensed practical nurse or acts delegated by a registered nurse.

SECTION 2. N 6.02 (10m) is repealed and recreated to read:

(10m) "Provider" means any licensed professional who is legally authorized to delegate acts within the scope of their practice.

SECTION 3. N 6.02 (10m) (Note) is repealed.

SECTION 4. N 6.02 (13) is created to read:

(13) "Unlicensed Assistive Personnel (UAP)" means any person who is not licensed under ch. 441, Stats., and who is at least 18 years old to whom nursing tasks or activities may be delegated and has received the appropriate education and documented training required to perform the delegated acts.

SECTION 5. N 6.03 (1) (c) is amended to read:

(c) *Intervention*. Intervention is the nursing action to implement the plan of care by directly administering care or by directing and supervising nursing acts delegated to L.P.N.'ss or less skilled assistants UAPs.

SECTION 6. N 6.04 (1) (a) is amended to read:

(a) Accept only patient care assignments delegated acts which the L.P.N. is competent to perform.

SECTION 7. N 6.04 (2) (b) is amended to read:

(b) Perform delegated acts beyond basic nursing care under the direct supervision of an R.N. or provider. An L.P.N. shall, upon request of the board, provide documentation of his

or her nursing education, training or experience which prepares the L.P.N. to competently perform these assignments delegated acts.

SECTION 8. 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)



Wisconsin Legislative Council Rules Clearinghouse

Scott Grosz Clearinghouse Director Margit Kelley Clearinghouse Assistant Director

Anne Sappenfield
Legislative Council Director

CLEARINGHOUSE RULE 24-031

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

In SECTION 5 of the proposed rule, the treatment "L.P.N.'ss" should be written "L.P.N.s".

4. Adequacy of References to Related Statutes, Rules and Forms

- a. Are unintended consequences created within ch. N 6, Wis. Adm. Code, by the proposed rule's modification of the definition of "provider" from "a physician, podiatrist, dentist, optometrist or advanced practice nurse provider" to "any licensed professional who is legally authorized to delegate acts within the scope of their practice"? For example, s. N 6.03 (2) (c) and (d), Wis. Adm. Code, unchanged by the proposed rule, require an R.N. to "[c]onsult with a provider in cases where the R.N. knows or should know a delegated act may harm a patient" and "[p]erform delegated acts under the general supervision or direction of provider". Could the change in definition inadvertently raise a question of whether an R.N. could consult with another R.N. or perform delegated tasks under the supervision of another R.N.?
- b. Section N 6.04 (1) (e) 3., Wis. Adm. Code, which relates to standards of performance of acts under the general supervision of an R.N. or the direction of a provider, provides that an L.P.N. shall "[r]einforce the teaching provided by an R.N. provider and provide basic health care instruction". Should the phrase "R.N. provider" be modified to contemplate reinforcement of teaching from providers other than an R.N.? Perhaps the phrase could be modified to "R.N. or other provider".

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

a. The rule should add a SECTION to correct a grammatical error in s. N 6.03 (2) (d), Wis. Adm. Code, by adding the word "a" before "provider".

b. Should the agency modify the phrase "nursing tasks or activities" within the definition of UAP created by the rule to "nursing acts" for consistency both within the definition and the rest of ch. N 6, Wis. Adm. Code?

Chapter N 6

STANDARDS OF PRACTICE FOR REGISTERED NURSES AND LICENSED PRACTICAL NURSES

- N 6.01 Authority and intent.
- N 6.02 Definitions.
- N 6.03 Standards of practice for registered nurses.
- N 6.04 Standards of practice for licensed practical nurses.
- N 6.05 Violations of standards.

N 6.01 Authority and intent.

- (1) This chapter is adopted pursuant to authority of ss. <u>15.08 (5) (b)</u>, <u>227.11</u> and <u>441.001 (3)</u> and <u>(4)</u>, Stats., and interprets the statutory definitions of professional and practical nursing.
- (2) The intent of the board of nursing in adopting this chapter is to specify minimum practice standards for which R.N.s and L.P.N.s are responsible, and to clarify the scope of practice for R.N.s and L.P.N.s.

N 6.02 Definitions. As used in this chapter,

- (1) "Advanced practice nurse prescriber" means a registered nurse who holds an advance practice nurse prescriber certificate under s. 441.16, Stats.
- (1m) "Basic nursing care" means care that can be performed following a defined nursing procedure with minimal modification in which the responses of the patient to the nursing care are predictable.
- (2) "Basic patient situation" as determined by an R.N., physician, podiatrist, dentist or optometrist means the following 3 conditions prevail at the same time in a given situation:
 - (a) The patient's clinical condition is predictable;
 - **(b)** Medical or nursing orders are not changing frequently and do not contain complex modifications; and,
 - (c) The patient's clinical condition requires only basic nursing care.
- (3) "Complex patient situation" as determined by an R.N., physician, podiatrist, dentist or optometrist means any one or more of the following conditions exist in a given situation:
 - (a) The patient's clinical condition is not predictable;
 - (b) Medical or nursing orders are likely to involve frequent changes or complex modifications; or,
 - (c) The patient's clinical condition indicates care that is likely to require modification of nursing procedures in which the responses of the patient to the nursing care are not predictable.

- **(5)** "Delegated act" means acts delegated to a registered nurse or licensed practical nurse or acts delegated by a registered nurse.
- **(6)** "Direct supervision" means immediate availability to continually coordinate, direct and inspect at first hand the practice of another.
- (7) "General supervision" means regularly to coordinate, direct and inspect the practice of another.
- (8) "Nursing diagnosis" means a judgment made by an R.N. following a nursing assessment of a patient's actual or potential health needs for the purpose of establishing a nursing care plan.
- (9) "Patient" means a person receiving nursing care by an R.N. or L.P.N. performing nursing services for compensation.
- (10) "Protocol" means a precise and detailed written plan for a regimen of therapy.

(10m) "Provider" means a physician, podiatrist, dentist, optometrist or advanced practice nurse provider.

Note: There was an inadvertent error in <u>CR 15-099</u>. "Advanced practice nurse provider" should be "advanced practice nurse prescriber" consistent with sub. (1) and s. <u>441.16</u>, Stats. The error will be corrected in future rulemaking.

(10m) "Provider" means any licensed professional who is legally authorized to delegate acts within the scope of their practice.

- (11) "R.N." means a registered nurse licensed under ch. <u>441</u>, Stats., or a nurse who has a privilege to practice in Wisconsin under s. <u>441.51</u>, Stats.
- (12) "L.P.N." means a licensed practical nurse licensed under ch. <u>441</u>, Stats., or a nurse who has a privilege to practice in Wisconsin under s. <u>441.51</u>, Stats.
- (13) "Unlicensed Assistive Personnel (UAP)" means any unlicensed person who is at least 18 years old to whom nursing acts may be delegated and has received the appropriate education and documented training required to perform the delegated acts.

N 6.03 Standards of practice for registered nurses.

- (1) General nursing procedures. An R.N. shall utilize the nursing process in the execution of general nursing procedures in the maintenance of health, prevention of illness or care of the ill. The nursing process consists of the steps of assessment, planning, intervention and evaluation. This standard is met through performance of each of the following steps of the nursing process:
 - (a) Assessment. Assessment is the systematic and continual collection and analysis of data about the health status of a patient culminating in the formulation of a nursing diagnosis.
 - **(b)** *Planning.* Planning is developing a nursing plan of care for a patient which includes goals and priorities derived from the nursing diagnosis.

Commented [SA1]: CH comment 4.a.

Discuss with Board after public hearing.

Commented [SA2]: CH comment 5.b.

- (c) Intervention. Intervention is the nursing action to implement the plan of care by directly administering care or by directing and supervising nursing acts delegated to L.P.N.'s L.P.N.s, or less skilled assistants, or UAPs.
- **(d)** *Evaluation*. Evaluation is the determination of a patient's progress or lack of progress toward goal achievement which may lead to modification of the nursing diagnosis.
- (2) Performance of delegated acts. In the performance of delegated acts an R.N. shall do all of the following:
 - (a) Accept only those delegated acts for which there are protocols or written or verbal orders.
 - **(b)** Accept only those delegated acts for which the R.N. is competent to perform based on his or her nursing education, training or experience.
 - (c) Consult with a provider in cases where the R.N. knows or should know a delegated act may harm a patient.
 - (d) Perform delegated acts under the general supervision or direction of a provider.
- (3) Supervision and direction of delegated acts. In the supervision and direction of delegated acts an R.N. shall do all of the following:
 - (a) Delegate tasks commensurate with educational preparation and demonstrated abilities of the person supervised.
 - (b) Provide direction and assistance to those supervised.
 - (c) Observe and monitor the activities of those supervised.
 - (d) Evaluate the effectiveness of acts performed under supervision.

N 6.04 Standards of practice for licensed practical nurses.

- (1) Performance of acts in basic patient situations. In the performance of acts in basic patient situations, the L.P.N. shall, under the general supervision of an R.N. or the direction of a provider:
 - (a) Accept only patient care assignments delegated acts which the L.P.N. is competent to perform.
 - (b) Provide basic nursing care.
 - (c) Record nursing care given and report to the appropriate person changes in the condition of a nation.
 - (d) Consult with a provider in cases where an L.P.N. knows or should know a delegated act may harm a patient.
 - (e) Perform the following other acts when applicable:
 - 1. Assist with the collection of data.
 - 2. Assist with the development and revision of a nursing care plan.

Commented [SA3]: CH comment 2

Commented [SA4]: CH comment 5.a.

- **3.** Reinforce the teaching provided by an R.N. or other provider and provide basic health care instruction.
- 4. Participate with other health team members in meeting basic patient needs.
- (2) Performance of acts in complex patient situations. In the performance of acts in complex patient situations the L.P.N. shall do all of the following:
 - (a) Meet standards under sub. (1) under the general supervision of an R.N., physician, podiatrist, dentist or optometrist.
 - **(b)** Perform delegated acts beyond basic nursing care under the direct supervision of an R.N. or provider. An L.P.N. shall, upon request of the board, provide documentation of his or her nursing education, training or experience which prepares the L.P.N. to competently perform these assignments delegated acts.
- (3) Assumption of charge nurse position in nursing homes. In assuming the position of charge nurse in a nursing home as defined in s. 50.04 (2) (b), Stats., an L.P.N. shall do all of the following:
 - (a) Follow written protocols and procedures developed and approved by an R.N.
 - **(b)** Manage and direct the nursing care and other activities of L.P.N.s and nursing support personnel under the general supervision of an R.N.
 - (c) Accept the charge nurse position only if prepared for the responsibilities of charge nurse based upon education, training and experience beyond the practical nurse curriculum. The L.P.N. shall, upon request of the board, provide documentation of the nursing education, training or experience which prepared the L.P.N. to competently assume the position of charge nurse.
- **N 6.05 Violations of standards.** A violation of the standards of practice constitutes unprofessional conduct or misconduct and may result in the board limiting, suspending, revoking or denying renewal of the license or in the board reprimanding an R.N. or L.P.N.

Commented [SA5]: CH comment 4.b.

State of Wisconsin Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and title of pers	son submitting the request:	2) Date when requ	2) Date when request submitted:		
Sofia Anderson, Administr	rative Rules Coordinator	04/29/2024	04/29/2024		
			Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting		
3) Name of Board, Comr	mittee, Council, Sections:	·			
Board of Nursing					
4) Meeting Date:	5) Attachments:	6) How should the item be to	itled on the agenda page?		
May 9, 2024		Administrative Rules Matters -	- Discussion and Consideration		
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Board of Nursing Rule Projects (Updated 04/29/2024)

Permanent Rules

Clearinghouse Rule Number	Scope #	Scope Expiration	Date Scope Requested by Board	Rules Affected	Relating Clause	Synopsis	Stage of Rule Process	Next step
	030-23	11/15/2025	2/9/2023	N 6	Delegated Acts	Review and update chapter N 6 to clarify and further define delegated acts.	Public Hearing scheduled for May 9, 2024.	Final rule draft and legislative report submission to Governor's office and, after approval, to Legislature.
				N 8	Advanced Practice Nurse Prescribers	The Board will conduct a review of the educational and renewal requirements for APNPs licensure.	Scope Statement requested at the April meeting.	

Scope Statements

Clearinghouse Rule Number	Scope #	Scope Expiration	Date Scope Requested by Board	Rules Affected	Relating Clause	Synopsis	Stage of Rule Process	Next step
			10/8/2020	N 8	APNP prescribing limitations	Review of limitations in N8 regarding APNPs prescribing certain drugs.	Scope submitted to Governor's Office, 11/24/20.	

Board of Nursing

	7/30/2020	N 8	Collaboration with other health care providers	Review of the collaboration requirements in N8 and other changes throughout the chapter.	Scope submitted to Governor's Office, 10/15/20.	
	6/11/2020	N 2	Temporary permits	Requirements for temporary permits to respond to a future emergency and may promulgate a permanent rule to allow the Board to grant a waiver of or variance to the requirements in emergency situations.	Scope submitted to Governor's Office on 10/15/20	

State of Wisconsin Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and title of person submitting the request:				2) Date when request submitted:		
Brad Wojciechowski, Ex	cecutive E	Director		4/29/2024		
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State of Wisconsin Department of Safety & Professional Services

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Brenda Taylor, Board Services Supervisor				4/20/2024					
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 Orders update 	January- <i>F</i>	April 2024							
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1. This form should be saved with any other documents submitted to the Agenda Items folders.									
2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.									

3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.