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June 10, 2020

Peter J. Kallio, RN CRNA
Chair, Wisconsin Board of Nursing
Pamela K. White, DNP RN
Vice Chair, Wisconsin Board of Nursing
Department of Safety and Professional Services
PO Box 8366
Madison, WI 53708-8366

Dear Chair Kallio, Vice Chair White, and Members of the Wisconsin Board of Nursing:

The Wisconsin Hospital Association (WHA) and our members thank the Board of Nursing for their foresight in publishing a Statement of Scope to review Chapters N1 through N8 for requirements that may be needed in Emergency Situations.

The scope statement describes the objective of “establishing waivers and alternate requirements that the Board may utilize to respond to emergency situations”, including “temporary licensure for graduate nurses and graduate practical nurses”.

WHA has been in contact with our members regarding the postponement of NCLEX exams at Wisconsin testing sites during the COVID-19 outbreak. In fact, members are reporting their new hire graduate nurses are unable to schedule their NCLEX exam prior to September. This means some graduate nurses will exhaust the timeframe currently available under N 2.34 if NCLEX exam slots do not become available.

WHA has also heard concerns from our members regarding the need to quickly enable nurses and other health care providers to practice across borders, whether due to localized emergency surge need or enable telemedicine, in response to COVID.

Both of these issues had been addressed through rule suspensions addressed in Emergency Order 16. However, these issues have reemerged because Emergency Order 16 has now expired. WHA requests that the board consider utilizing the emergency and permanent rulemaking process to readdress these two issues. We have attached draft rulemaking language for the Board to consider.

As always, WHA looks forward to continuing to work with the Board on our mutual objectives.

Sincerely,

Ann Zenk
/s/
Vice President Workforce and Clinical Practice
Wisconsin Hospital Association

Matthew Stanford
/s/
General Counsel
Wisconsin Hospital Association

Cc: Valerie Payne
Executive Director Board of Nursing

Dan Hereth
Assistant Deputy Secretary
Wisconsin Department of Safety and Professional Services

SUGGESTED EMERGENCY AND PERMANENT RULEMAKING:

Special Temporary Licensure Due to Limited NCLEX Testing Due to Disaster or Emergency

Proposal in plain language

Continue the rule suspension provided in Emergency Order 16 authorizing the Board of Nursing to issue temporary licenses until NCLEX testing is again regularly available.

This would enable new graduates to practice until NCLEX testing is again regularly available.

Statutory Authority

441.08 Temporary permit. A nurse who has graduated from a school approved by the board or that the board has authorized to admit students pending approval but who is not licensed in this state may be granted a temporary permit upon payment of the fee specified in s. [440.05 \(6\)](#) by the board to practice for compensation until the nurse can qualify for licensure. The temporary permit may be renewed once. Further renewals may be granted in hardship cases. The board may promulgate rules limiting the use and duration of temporary permits and providing for revocation of temporary permits.

DRAFT Proposed Administrative Rule Amendment (changes in [red](#))

N 2.30 Definitions. In this subchapter:

- (1) "G.N." means graduate nurse.
- (2) "G.P.N." means graduate practical nurse.

N 2.31 Application. A nurse who has graduated from a board-approved school or comparable school or granted a certificate of completion by a board-approved school may be granted a temporary permit. An applicant shall submit a completed application and pay the applicable fee. The application shall include any of the following:

- (1) Verification from a board-approved school via the electronic application process that the applicant has graduated or received a certificate of completion.
- (2) A certification of graduation or completion from a board-approved school.
- (3) An official transcript of nursing education submitted by the school of professional nursing or practical nursing directly to the department.

Note: A temporary permit does not grant multistate licensure privileges.

N 2.32 Title.

- (1) A registered nurse applicant for licensure by exam who is granted a temporary permit may use the title "graduate nurse" or the letters "G.N."
- (2) A practical nurse applicant for licensure by exam who is granted a temporary permit may use the title "graduate practical nurse" or the letters "G.P.N."
- (3) A registered nurse or practical nurse for licensure by endorsement who is granted a temporary permit may use the title "registered nurse" or "licensed practical nurse."

N 2.33 Supervision.

- (1) Except as provided in sub. (2), the holder of a temporary permit shall practice only under the direct supervision of a registered nurse.
- (2) (a) A holder of a temporary permit who is currently licensed as a registered nurse or practical nurse in another jurisdiction may practice without the direct supervision of a registered nurse.
(b) The board may authorize a holder of or applicant for a temporary permit granted under N.2.34(b) to practice as a registered nurse in a licensed hospital or nursing home without direct supervision of a registered nurse if all of the following conditions are met:
 1. The individual meets the qualifications for the applicable license under N 2.10(1) or (1m) except for NCLEX passage because the applicant has been unable to take the NCLEX due to limited NCLEX testing in Wisconsin due to disaster or other emergency recognized by the board;
 2. The individual and his or her employing hospital or nursing home is requesting that the holder be permitted to practice as a registered nurse without the direct supervision of a registered nurse; and
 3. The individual meets any additional individual qualifications or requirements determined by the board.

N 2.34 Duration.

- (a) The temporary permit is valid for a period of 3 months or until the holder receives notification of failing the NCLEX, whichever occurs first. Practice under temporary permits, including renewals under s. N 2.35, may not exceed 6 months total duration.
- (b) Notwithstanding sub. (a), if an applicant has not taken the NCLEX and if the board has determined that NCLEX testing is limited in Wisconsin due to disaster or other emergency recognized by the board, the board may grant temporary permits with a duration of up to 6 months following the resumption of normal NCLEX testing capacity in Wisconsin.

N 2.35 Renewal.

- (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 applicable fees.
- (2) Subsequent renewals may be granted in hardship cases including illness, family illness or death, accident, natural disaster or delay of verification from another state. The board shall consider each application for renewal under this subsection individually on its merits, and the board may grant a renewal as deemed appropriate.

N 2.36 Denial or revocation. A temporary permit may be denied or revoked for the following:

- (1) Providing fraudulent information on an application for licensure.
- (2) Misrepresentation of being an R.N., G.N., L.P.N. or G.P.N. without holding a valid temporary permit.
- (3) Violation of any of the rules of conduct set forth in ch. N 7.

SUGGESTED EMERGENCY AND PERMANENT RULEMAKING:

Special Temporary Non-Compact Licensure

Proposal in plain language

Continue the rule suspension provided in Emergency Order 16 enabling nurses and other health care professionals with a valid out-of-state license to temporarily practice in Wisconsin pending the completion of the regular licensure application process.

With additional employer review and attestation safeguards in place, this proposal would enable RNs and APNPs with licenses in good standing to immediately begin practice in Wisconsin pending completion of the full licensure/certification process by the Board of Nursing. The Board of Nursing could revoke a temporary license/certification for good cause at any time.

Statutory Authority:

441.06 (1m) The holder of a license as a registered nurse under the laws of another state or territory or province of Canada may be granted a license as a registered nurse in this state without examination if the holder's credentials of general and professional educational qualifications and other qualifications are comparable to those required in this state during the same period and if the board is satisfied from the holder's employment and professional record that the holder is currently competent to practice the profession. The board shall evaluate the credentials and determine the equivalency and competency in each case. The application for licensure without examination shall be accompanied by the fee prescribed in s. 440.05 (2).

DRAFT Proposed Administrative Rule Amendment

Create new N 2.22:

N 2.22 Temporary non-compact license.

- (1) The holder of a license as a registered nurse or certification as an advanced practice nurse with prescription privileges under the laws of another state or territory or province of Canada shall be granted a temporary non-compact license to practice as a registered nurse or certification as an advanced practice nurse prescriber in Wisconsin if all of the following are submitted to the Department of Safety and Professional Services on a form developed by the board:
 - (a) Evidence that the nurse is currently licensed as a registered nurse or certified to issue prescription orders in Minnesota, Michigan, Illinois, or any other state whose general and professional educational qualifications or other qualifications are comparable to Wisconsin.
 - (b) A signed and dated attestation from the nurse stating the following:
 1. That he or she will apply for a regular, non-temporary Wisconsin nursing license or prescriber certification within 30 days of submission of the information prescribed in this subsection.

2. That he or she is not currently under investigation and does not currently have any restrictions or limitations placed on his or her license by any state or other jurisdiction.
 3. That he or she will only be providing nursing services in Wisconsin while under the employment of the entity making the attestation in sub. (c).
- (c) A signed and dated attestation from the entity that will employ the nurse while providing nursing services in Wisconsin stating the following:
1. The employer has reviewed the nurse's credentials and past employment history and has reasonable belief that the nurse is currently competent to practice nursing, and if applicable, issue prescription orders.
 2. To the best of the employer's knowledge and with a reasonable degree of certainty, the nurse is not currently under investigation and does not currently have any restrictions or limitations placed on his or her license by any other U.S. state or territory or province of Canada.
- (2) The duration of temporary license or prescriber certification under this section N 2.22 shall be from the date of the attestation by the nurse applicable or the employer, whichever is later, until the nurse's regular, non-temporary Wisconsin license or certification is granted or the board withdraws the nurse's authority to temporarily practice as a registered nurse or prescribe in Wisconsin for good cause as determined by the board, whichever is earlier.
- (3) The department shall provide each form received by the Department of Safety and Professional Services under sub. (1) to the board within 45 days. The board shall review each form received and may withdraw the nurse's authority to temporarily practice as a registered nurse or prescribe in Wisconsin for good cause as determined by the board.