



April 24, 2006

To: John Buonora
From: Tony Driessen
Re: "Grand Fathering" under Wisconsin's APNP law and rules

You have asked me to advise you how Wisconsin's APNP law and related rules deal with the master's degree requirement that went into effect as of July 1, 1998.

First, it is important to recognize that the master's degree requirement is not a statutory provision that the Wisconsin legislature and Governor created. (See s. 441.16, the APNP law, a copy of which is attached.) The statute instead directs the Wisconsin Board of Nursing to establish, by rule, the education and other requirements for an RN to become an APNP.

Second, the APNP certification rules of the Wisconsin Board of Nursing are set out in much detail in Chapter N 8 of the Board's rules. (A copy is attached.) Two particular rules are relevant to the master's degree requirement:

1. N 8.03 regarding qualifications for certification as an APNP; and
2. N 8.04 regarding the APNP application procedure.

Both N 8.03(3) and N 8.04(4) approach the master's degree requirement for Wisconsin APNPs in the same manner. The key is when was the CRNA (or nurse practitioner, or certified nurse-midwife, or clinical nurse specialist) **nationally certified**? If the CRNA received national certification after July 1, 1998, then a master's degree in nursing or a related field from an accredited college or university is required. A necessary inference from these two rules is that no such master's degree requirement applies to applicants for APNP certification in Wisconsin if the CRNA received national certification on or before July 1, 1998. Please note this key date does **not** link to when the professional nurse was licensed in Wisconsin. Therefore, a CRNA from another state, or one licensed in Wisconsin, can qualify for certification as an APNP today, without having a master's degree so long as they had received national certification as a CRNA on or before July 1, 1998.

I have a phone call in to the legal counsel to the Wisconsin Board of Nursing to confirm that this interpretation of N 8 is shared by the Board.

I hope this explanation of the master's degree requirement for APNPs under Wisconsin law is clear to you. Should you have any questions, please contact me.

AHD:ibb
Attachments

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1. Submits evidence satisfactory to the board that he or she meets the educational and training prerequisites established by the board for the practice of nurse-midwifery.

2. Pays the fee specified under s. 440.05 (1).

3. If applicable, submits evidence satisfactory to the board that he or she has in effect the malpractice liability insurance required under the rules promulgated under sub. (5) (bm).

(b) On or before the applicable renewal date specified under s. 440.08 (2) (a), a person issued a license under par. (a) and practicing nurse-midwifery shall submit to the board on furnished forms a statement giving his or her name, residence, and other information that the board requires by rule, with the applicable renewal fee specified under s. 440.08 (2) (a). If applicable, the person shall also submit evidence satisfactory to the board that he or she has in effect the malpractice liability insurance required under the rules promulgated under sub. (5) (bm).

(c) The board shall promulgate rules necessary to administer this section, including the establishment of appropriate limitations on the scope of the practice of nurse-midwifery, the facilities in which such practice may occur and the granting of temporary permits to practice nurse-midwifery pending qualification for certification.

(4) A nurse-midwife who discovers evidence that any aspect of care involves any complication which jeopardizes the health or life of a newborn or mother shall consult with the collaborating physician under sub. (2) (b) or the physician's designee, or make a referral as specified in a written agreement under sub. (2) (b).

(5) (a) Except for any of the following, no person may practice nurse-midwifery unless he or she has in effect malpractice liability insurance in an amount that is at least the minimum amount specified in rules promulgated under par. (bm):

1. A federal, state, county, city, village, or town employee who practices nurse-midwifery within the scope of his or her employment.

2. A person who is considered to be an employee of the federal public health service under 42 USC 233 (g).

3. A person whose employer has in effect malpractice liability insurance that provides coverage for the person in an amount that is at least the minimum amount specified in the rules.

4. A person who does not provide care for patients.

(bm) The board shall promulgate rules establishing the minimum amount of malpractice liability insurance that is required for a person to practice nurse-midwifery, which shall be the same as the amount established by the board under s. 441.16 (3) (e).

History: 1979 c. 317; 1983 a. 273; 1987 a. 264; 1991 a. 39; 1999 a. 22; 2001 a. 52, 105, 107; 2003 a. 321.

NOTE: Chapter 317, laws of 1979, which created this section, states legislative intent in Section 1.

Cross Reference: See also ch. N 5, Wis. adm. code.

441.16 Prescription privileges of nurses. (1) In this section:

(a) "Device" has the meaning given in s. 450.01 (6).

(b) "Drug" has the meaning given in s. 450.01 (10) and includes all of the following:

1. Prescription drugs, as defined in s. 450.01 (20) (a).

2. Controlled substances, as defined in s. 961.01 (4).

(c) "Prescription order" has the meaning given in s. 450.01 (21).

(2) The board shall grant a certificate to issue prescription orders to an advanced practice nurse who meets the education, training and examination requirements established by the board for a certificate to issue prescription orders, and who pays the fee specified under s. 440.05 (1).

(3) The board shall promulgate rules necessary to administer this section, including rules for all of the following:

(a) Establishing the education, training or experience requirements that a registered nurse must satisfy to be an advanced prac-

tice nurse. The rules promulgated under this paragraph 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.

(am) Establishing the appropriate education, training and examination requirements that an advanced practice nurse must satisfy to qualify for a certificate to issue prescription orders.

(b) Defining the scope of practice within which an advanced practice nurse may issue prescription orders.

(c) Specifying the classes of drugs, individual drugs or devices that may not be prescribed by an advanced practice nurse.

(cm) Specifying the conditions to be met for a registered nurse to do the following:

1. Administer a drug prescribed by an advanced practice nurse who is certified to issue prescription orders.

2. Administer a drug at the direction of an advanced practice nurse who is certified to issue prescription orders.

(d) Establishing procedures for maintaining a certificate to issue prescription orders, including requirements for continuing education.

(e) Establishing the minimum amount of malpractice liability insurance coverage that an advanced practice nurse shall have if he or she is certified to issue prescription orders. The board shall promulgate rules under this paragraph in consultation with the commissioner of insurance.

(4) Every advanced practice nurse who is certified to issue prescription orders shall annually submit to the board evidence satisfactory to the board that he or she has in effect malpractice liability insurance coverage in the minimum amounts required by the rules of the board.

(5) An advanced practice nurse who is certified to issue prescription orders may not delegate the act of issuing a prescription order to any nurse who is not certified to issue prescription orders.

(6) Nothing in this section prohibits a nurse from issuing a prescription order as an act delegated by a physician.

History: 1993 a. 138; 1995 a. 448.

Cross Reference: See also ch. N 8, Wis. adm. code.

SUBCHAPTER II

NURSE LICENSURE COMPACT

441.50 Nurse licensure compact. (1) ARTICLE I - FINDINGS AND DECLARATION OF PURPOSE. (a) The party states find all of the following:

1. That the health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws.

2. That violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public.

3. That the expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation.

4. That new practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex.

5. That the current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.

(b) The general purposes of this compact are as follows:

1. To facilitate the states' responsibility to protect the public's health and safety.

2. To ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation.

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Chapter N 8

CERTIFICATION OF ADVANCED PRACTICE NURSE PRESCRIBERS

N 8.01	Authority and intent.	N 8.06	Prescribing limitations.
N 8.02	Definitions.	N 8.07	Prescription orders.
N 8.03	Qualifications for certification as an advanced practice nurse prescriber.	N 8.08	Malpractice insurance coverage.
N 8.04	Application procedure.	N 8.09	Dispensing.
N 8.05	Continuing education.	N 8.10	Case management and collaboration with other health care professionals.

N 8.01 Authority and intent. (1) The rules in this chapter are adopted pursuant to authority of ss. 15.08 (5) (b), 227.11 (2) and 441.16, Stats., and interpret s. 441.16, Stats.

(2) The intent of the board of nursing in adopting rules in this chapter is to specify education, training or experience that a registered nurse must satisfy to call himself or herself an advanced practice nurse; to establish appropriate education, training and examination requirements that an advanced practice nurse must satisfy to qualify for a certificate to issue prescription orders; to define the scope of practice within which an advanced practice nurse prescriber may issue prescription orders; to specify the classes of drugs, individual drugs or devices that may not be prescribed by an advanced practice nurse prescriber; to specify the conditions to be met for a registered nurse to administer a drug prescribed or directed by an advanced practice nurse prescriber; to establish procedures for maintaining a certificate to issue prescription orders, including requirements for continuing education; and to establish the minimum amount of malpractice insurance required of an advanced practice nurse prescriber.

History: Cr. Register, February, 1995, No. 470, eff. 3-1-95.

N 8.02 Definitions. As used in this chapter:

(1) "Advanced practice nurse" means a registered nurse who possesses the following qualifications:

(a) The registered nurse has a current license to practice professional nursing in this state, or has a current license to practice professional nursing in another state which has adopted the nurse licensure compact;

(b) The registered nurse is currently certified by a national certifying body approved by the board as a nurse practitioner, certified nurse-midwife, certified registered nurse anesthetist or clinical nurse specialist; and,

(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 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.

(2) "Advanced practice nurse prescriber" means an advanced practice nurse who has been granted a certificate to issue prescription orders under s. 441.16 (2), Stats.

(3) "Board" means the board of nursing.

(4) "Clinical pharmacology/therapeutics" means the identification of individual and classes of drugs, their indications and contraindications, their likelihood of success, 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.

(5) "Collaboration" means a process which involves 2 or more health care professionals working together, in each other's presence when necessary, each contributing one's respective area

of expertise to provide more comprehensive care than one alone can offer.

(6) "Health care professional" has the meaning given under s. 180.1901 (1m), Stats.

(6m) "One contact hour" means a period of attendance in a continuing education program of at least 50 minutes.

(7) "Patient health care record" has the meaning given under s. 146.81 (4), Stats.

History: Cr. Register, February, 1995, No. 470, eff. 3-1-95; CR 00-168: cr. (6m), Register August 2001 No. 548, eff. 9-1-01; CR 01-046: am. (1) (a), Register October 2001 No. 550, eff. 11-1-01.

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

(1) Has 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.

(2) Is currently certified 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 a master's degree in nursing or a related health field granted by a college or university accredited by a regional accrediting agency approved by the state board of education in the state in which the college or university is located.

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

(5) Has passed a jurisprudence examination for advanced practice nurse prescribers.

History: Cr. Register, February, 1995, No. 470, eff. 3-1-95; CR 01-046: am. (1), Register October 2001 No. 550, eff. 11-1-01.

N 8.04 Application procedure. An applicant for a certificate to practice as an advanced practice nurse prescriber shall file a completed notarized application on a form provided by the board. The application shall include:

(1) The signature of the applicant.

(2) The fee specified under s. 440.05 (1), Stats.

(3) 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.

(4) 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, certification of the grant of a master's degree in nursing or a related health field from, and submitted directly to the board by a college or university accredited by a regional accrediting agency approved by

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the state board of education in the state in which the college or university is located.

(5) Satisfactory evidence of completion of at least 45 contact hours in clinical pharmacology/therapeutics within 3 years preceding the application for a certificate.

Note: Application forms are available on request to the Board of Nursing, 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

History: Cr. Register, February, 1995, No. 470, eff. 3-1-95.

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 contact hours per year in clinical pharmacology/therapeutics relevant to the advanced practice nurse prescriber's area of practice.

(2) Evidence of completion of continuing education meeting the requirements of sub. (1) shall be submitted to the board on a schedule consistent with the schedule for submission of evidence of continuing education hours established by the advanced practice nurse prescriber's national certifying body.

(3) Every advanced practice nurse prescriber shall retain for a minimum period of 4 years, and shall make available to the board or its agent upon request, certificates of attendance issued by the program sponsor for all continuing education programs for which he or she claims credit for purposes of renewal of his or her certificate.

History: Cr. Register, February, 1995, No. 470, eff. 3-1-95; CR 00-168: cr. (3), Register August 2001 No. 548, eff. 9-1-01.

N 8.06 Prescribing limitations. The advanced practice nurse prescriber:

(1) May issue only those prescription orders appropriate to the advanced practice nurse prescriber's areas of competence, as established by his or her education, training or experience.

(2) May not issue a prescription order for any schedule I controlled substance.

(3) May not prescribe, dispense or administer any amphetamine, sympathomimetic amine drug or compound designated as a schedule II controlled substance pursuant to the provisions of s. 961.16 (5), Stats., to or for any person except for any of the following:

(a) Use as an adjunct to opioid analgesic compounds for the treatment of cancer-related pain.

(b) Treatment of narcolepsy.

(c) Treatment of hyperkinesis.

(d) Treatment of drug-induced brain dysfunction.

(e) Treatment of epilepsy.

(f) Treatment of depression shown to be refractory to other therapeutic modalities.

(4) May not prescribe, order, dispense or administer any anabolic steroid for the purpose of enhancing athletic performance or for other nonmedical purpose.

(5) Shall, in prescribing or ordering a drug for administration by a registered nurse or licensed practical nurse under s. 441.16 (3) (cm), Stats., present evidence to the nurse and 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.

History: Cr. Register, February, 1995, No. 470, eff. 3-1-95; correction in (3) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 2000, No. 538.

N 8.07 Prescription orders. (1) Prescription orders issued by an advanced practice nurse prescribers shall:

(a) Specify the date of issue.

(b) Specify the name and address of the patient.

(c) Specify the name, address and business telephone number of the advanced practice nurse prescriber.

(d) Specify the name and quantity of the drug product or device prescribed, including directions for use.

(e) Bear the signature of the advanced practice nurse prescriber.

(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, and shall contain the practitioner's controlled substances number.

History: Cr. Register, February, 1995, No. 470, eff. 3-1-95.

N 8.08 Malpractice insurance coverage.

(1) Advanced practice nurse prescribers who prescribe independently shall maintain in effect malpractice insurance evidenced by one of the following:

(a) Personal liability coverage in the amounts specified in s. 655.23 (4), Stats.

(b) Coverage under a group liability policy providing individual coverage for the nurse in the amounts set forth in s. 655.23 (4), Stats. An advanced practice nurse prescriber covered under one or more such group policies shall certify on forms provided by the board that the nurse will independently prescribe only within the limits of the policy's coverage, or shall obtain personal liability coverage for independent prescribing outside the scope of the group liability policy or policies.

(2) Notwithstanding sub. (1), an advanced practice nurse prescriber who practices as an employee of this state or a governmental subdivision, as defined under s. 180.0103, Stats., is not required to maintain in effect malpractice insurance coverage, but the nurse shall certify on forms provided by the board that the nurse will prescribe within employment policies.

(3) An advanced practice nurse prescriber who prescribes under the supervision and delegation of a physician or CRNA shall certify on forms provided by the board that the nurse complies with s. N 6.03 (2) and (3), regarding delegated acts.

(4) An advanced practice nurse prescriber who prescribes in more than one setting or capacity shall comply with the provisions of subs. (1), (2) and (3) applicable to each setting or capacity. An advanced practice nurse prescriber who is not an employee of this state or a governmental subdivision, and who prescribes independently in some situations and prescribes under the supervision and delegation of a physician or CRNA in other situations, shall meet the requirements of sub. (1) with respect to independent prescribing and the requirements of sub. (3) with respect to delegated prescribing.

Note: Forms are available from the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(5) Every advanced practice nurse who is certified to issue prescription orders shall annually submit to the board satisfactory evidence that he or she has in effect malpractice insurance required by sub. (1).

History: Cr. Register, February, 1995, No. 470, eff. 3-1-95; r. and recr. (1), renun. (2) to be (5) and cr. (2), (3) and (4), Register, October, 1996, No. 490, eff. 11-1-96.

N 8.09 Dispensing. (1) Except as provided in sub. (2), advanced practice nurse prescribers shall restrict their dispensing of prescription drugs to complimentary samples dispensed in original containers or packaging supplied by a pharmaceutical manufacturer or distributor.

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

History: Cr. Register, February, 1995, No. 470, eff. 3-1-95.

N 8.10 Case management and collaboration with other health care professionals. (1) Advanced practice nurse prescribers shall communicate with patients through the use of modern communication techniques.

(2) Advanced practice nurse prescribers shall facilitate collaboration with other health care professionals, at least 1 of whom shall be a physician, through the use of modern communication techniques.

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(3) Advanced practice nurse prescribers shall facilitate referral of patient health care records to other health care professionals and shall notify patients of their right to have their health care records referred to other health care professionals.

(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 case management and improved collaboration.

(5) The board shall promote communication and collaboration among advanced practice nurses, 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 advanced practice nurse prescriber may order laboratory testing, radiographs or electrocardiograms appropriate to his or her area of competence as established by his or her education, training, or experience.

(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. The advanced practice nurse prescriber and the physician must document this relationship.

History: Cr. Register, February, 1995, No. 470, eff. 3-1-95; cr. (6) and (7), Register, October, 2000, No. 538, eff. 11-1-00.