
Wisconsin Legislative Council



Anne Sappenfield
Director

TO: SENATOR DIANNE HESSELBEIN

FROM: Margit Kelley, Principal Attorney

RE: Comparison of Advanced Practice Registered Nurse Licensure Requirements Under 2023 LRB-0589/1 and the Governor's Proposed 2023-25 Biennial Budget Bill

DATE: March 15, 2023

This memorandum provides an overview of the general regulation of advanced practice registered nurses (APRNs) provided in 2023 LRB-0589/1 and the Governor's proposed 2023-25 biennial budget bill.¹ The memorandum also provides a brief description and comparison between the two bills for specific aspects of the proposed APRN licensure in each.

GENERAL REGULATION OF APRNS

Both LRB-0589/1 and the biennial budget bill create a new system of licensure that allows a registered nurse (RN) to be licensed by the Board of Nursing as an APRN. Among other things, the bills generally authorize an APRN to issue prescription orders, use the title "A.P.R.N.," and delegate certain tasks to other clinically trained health care workers. The system of APRN licensure replaces certain authorities granted to a person who is certified under current law as an advanced practice nurse prescriber.

The bills provide a number of paths that allow a registered nurse to be licensed as an APRN, though whether a registered nurse must apply for a license, is automatically granted a license, or has any limitations on the license, generally depends on the registered nurse's education, experience, and the type of registered nurse license the person holds. The same pathways are available in both bills.

The bills recognize four distinct APRN roles: certified nurse-midwife (CNM); certified registered nurse anesthetist (CRNA); clinical nurse specialist (CNS); and nurse practitioner (NP). The bills require the board, upon granting a person an APRN license, to also grant the person one or more specialty designations corresponding to the recognized role or roles for which the person qualifies.

The bills also require the board to promulgate administrative rules necessary to administer the newly created APRN law, including rules establishing certain criteria an APRN must satisfy for licensure and defining the scope of practice of APRNs. The board may also promulgate rules to oversee the required continuing education. However, the board may not promulgate rules that expand the scope of practice of an APRN beyond the practices within advanced practice registered nursing.

¹The 2023-25 biennial budget bill has been introduced as companion bills [2023 Assembly Bill 43](#) and [2023 Senate Bill 70](#).

PRESCRIBING AUTHORITY

Under current law, an advanced practice nurse who meets certain education, training, and examination requirements may obtain certification to issue prescription orders. Providers who receive a certificate to issue prescription orders are generally referred to as “advanced practice nurse prescribers.” The statute provides rulemaking authority for the board to establish the education, training, and experience requirements, scope of practice for the prescribing authority, and the drugs and devices that may be prescribed. [s. 441.16, Stats.]

LRB-0589/1 removes the advanced practice nurse prescriber certification, but maintains the board’s rulemaking authority to establish the scope of practice for an APRN’s prescribing authority and the drugs and devices that may be prescribed. [SEC. 103 of LRB-0589/1.]

The biennial budget bill makes the same changes regarding prescribing authority. [SEC. 2864 of the biennial budget bill.]

COLLABORATION REQUIREMENT

Current administrative rules require a person who is certified as an advanced practice nurse prescriber to work in a collaborative relationship with a physician or dentist. The collaborative relationship may include working in each other’s presence, when necessary, to deliver health care services. An advanced practice nurse prescriber is also required to document the collaborative relationship. [s. N 8.10 (7), Wis. Adm. Code.]

LRB-0589/1 specifies that an APRN is required to practice in collaboration with a physician or dentist, subject to two exceptions. First, a certified nurse midwife is fully exempt from the collaboration requirement but must submit and follow a plan for births outside of a hospital. Second, an APRN who meets the bill’s requirements for independent practice is largely exempt from the collaboration requirement. Similar to the current administrative rules for an advanced practice nurse prescriber, a collaborative relationship must be documented and may include working in each other’s presence when necessary. [SEC. 103 of LRB-0589/1.]

To qualify for independent practice under LRB-0589/1, an APRN must have completed 3,840 clinical hours of APRN practice in the recognized role while working with a physician or dentist in a documented mutual, professional relationship.

As a limitation on a person who has met the standards for independent practice, LRB-0589/1 specifies that an APRN who is providing pain management services outside of a hospital or hospital-associated clinic must practice in collaboration with a physician, even if the APRN has met the independent practice standard. On the other hand, an APRN who is providing pain management services in a hospital or hospital-associated clinic may provide the services without collaboration if the APRN has met the independent practice standard and an employer or the hospital has not established additional requirements.

The biennial budget bill places substantially similar collaboration requirements on an APRN, with two differences. First, to qualify for independent practice, an APRN must have completed 3,840 hours of RN-level professional nursing in a clinical setting, which may include clinical hours in an RN educational program, with at least 24 months passing since the APRN started the RN clinical hours. An APRN must also have completed an additional 3,840 clinical hours of APRN practice in the recognized role, with at least 24 months passing since the APRN started practicing as an APRN in the recognized role. The APRN clinical hours must occur while working in the immediate availability of a physician or

dentist who accepted responsibility for the APRN's practice. APRN-level clinical hours above 3,840 may count towards the required RN-level hours. [SEC. 2864 of the biennial budget bill.]

Second, the biennial budget bill specifies that if an APRN provides pain management services outside of a hospital or hospital-associated clinic in collaboration with a physician, as also authorized under LRB-0589/1, the physician must specialize in pain management. The physician's specialty is identified through education, training, and experience.

Under both bills, an employer or entity with a relationship with an APRN may establish additional requirements as a condition of the employment or relationship, even if an APRN is otherwise exempt from the collaboration requirement.

INJURED PATIENTS AND FAMILIES COMPENSATION FUND

Current law requires nurse anesthetists to participate in the Injured Patients and Families Compensation Fund (the fund) under ch. 655, Stats., but does not require a holder of any other type of nursing license to participate in the fund. Each health care provider who is subject to the provisions of ch. 655, Stats., is required to maintain at least \$1 million liability insurance coverage and to participate in the fund by paying an annual assessment. [ss. 655.23 and 655.27 (3) (a), Stats.] The fund then provides medical malpractice coverage on an occurrence basis for participating health care providers and pays out that portion of any medical malpractice claim in excess of \$1 million. [s. 655.27 (1), Stats.]

LRB-0589/1 removes nurse anesthetists from the provisions of ch. 655, Stats., and instead applies the fund's requirements to APRNs, using a special definition of APRN that is applicable only for the purposes of that chapter. Under that chapter, the bill defines APRNs as only those licensed APRNs who are qualified to practice independently in the person's recognized role, and who practice advanced practice registered nursing outside of a collaborative relationship with a physician or dentist or other employment relationship. However, the bill's definition of APRN for ch. 655, Stats., excludes an individual who only practices as a certified nurse-midwife. [SECS. 135 to 155 of LRB-0589/1.]

In other words, the bill expands the type of health care providers required to participate in the fund to include all APRNs who have met the independent practice standard and do practice independently, other than certified nurse-midwives.

The biennial budget bill makes the same changes to APRN participation in the fund. [SECS. 3112 to 3132 of the biennial budget bill.]

NURSING WORKFORCE SURVEY

Under current law, among the requirements to renew a license, an RN must complete a nursing workforce survey. The board cannot grant a renewal unless a person submits the completed survey. [s. 441.01 (7), Stats.]

LRB-0589/1 maintains the requirement to complete a nursing workforce survey as a condition of issuing a renewed license, and identifies APRNs as being subject to this renewal requirement. [SECS. 95 to 97 of LRB-0589/1.]

The biennial budget bill also maintains the requirement to complete a nursing workforce survey and identifies APRNs as being subject to the requirement. However, the biennial budget bill revises the requirement, for all nurses, and no longer requires completion as a condition of renewal. Biennial

completion is required, but not as a condition of renewal. [SECS. 2854 to 2857 of the biennial budget bill.]

RENEWAL DATE

Under current law, an advanced practice nurse prescriber's renewal date is October 1 of each even-numbered year, and a nurse-midwife's renewal date is March 1 of each even-numbered year. [s. 440.08 (2) (a) 4m. and 50., Stats.]

LRB-0589/1 repeals the advanced practice nurse prescriber and nurse-midwife renewal dates and specifies that an APRN's renewal date is March 1 of each even-numbered year. [SECS. 78 to 80 of LRB-0589/1.]

The biennial budget bill generally repeals the renewal schedules for most professions, including nursing, and specifies that the Department of Safety and Professional Services (DSPS), in consultation with the credentialing boards, must establish renewal dates on periodic renewal cycles. DSPS and the credentialing boards may adjust or prorate continuing education requirements, including establishing interim reporting, to align and account for the length of new renewal cycles. [SECS. 2806 to 2817 of the biennial budget bill.]

CERTAIN TECHNICAL DIFFERENCES

The bills apply different dates in relation to a person's existing status for certain provisions of the bill. In particular, **LRB-0589/1** specifies that a licensed RN who is practicing in an APRN-recognized role on January 1, 2024, is eligible to apply for an APRN license. **The biennial budget bill** establishes that eligibility as of January 1, 2023. Additionally, a person who does not hold a certificate as an advanced practice nurse prescriber on January 1, 2024, under LRB-0589/1, or on January 1, 2023, under the biennial budget bill, and does not meet certain other requirements, may not be authorized to issue prescription orders. [SEC. 103 of LRB-0589/1 and SEC. 2864 of the biennial budget bill.]

LRB-0589/1 specifies that a person who holds an APRN specialty designation may use the acronym for the person's APRN-recognized role. **The biennial budget bill** allows the same use of specialty designations, but also creates a list of protected specialty titles for physicians and specifies that an APRN may use a specialty designation notwithstanding the physicians' protected specialty titles. [SEC. 103 of LRB-0589/1 and SECS. 2864 and 2946 of the biennial budget bill.]

LRB-0589/1 specifies that an APRN must have malpractice liability insurance coverage in the minimum amounts required by rule, unless an employer has coverage for the APRN in the amounts specified for participation in the Injured Patients and Families Compensation Fund. **The biennial budget bill** similarly specifies that an APRN must have malpractice liability insurance coverage but specifies only that it must be in the amounts specified for participation in the fund. [SEC. 103 of LRB-0589/1 and SEC. 2864 of the biennial budget bill.]

Please let me know if I can provide any further assistance.

MSK:jal