



Appendix A: Questions and Answers

Roles and responsibilities for nursing procedures and health-related activities in school and during all school-sponsored activities is complex and, at times, difficult to understand. Because various standards, rules, and policies exist, select questions and answers contained within this appendix are an attempt to provide clarity and understanding for school nursing services to ensure the safety of all students. The questions and answers contained in this resource guide are excerpts from a complete list of questions and answers from the following publications, produced by the Wisconsin Department of Public Instruction (publications are available electronically as indicated):

1. Delegation, The Nurse Practice Act, and School Nursing in Wisconsin (<http://dpi.wi.gov/sspw/pdf/snpracticeact.pdf>)
2. Administration of Drugs to Pupils (<http://dpi.wi.gov/sspw/pdf/sndrugs.pdf>)
3. Emergency Nursing Services in Wisconsin Schools (<http://dpi.wi.gov/sspw/pdf/snemergency.pdf>).

The answers to the following questions were formulated based on Wis. Stat §121.02, Wis. Admin. Code §PI8.01, and Wis. Admin. Code §N6.03. A complete copy of state statutes and administrative codes is available online at: <http://www.legis.state.wi.us>.

1. What are the legal definition and educational requirements of the school nurse?

The legal definition of the professional nurse is defined in Wisconsin Chapter 441 of the Nurse Practice Act. Professional nursing is defined as “the performance for compensation of any act in the observation or care of the ill, injured, or infirm, or for the maintenance of health or prevention of illness of others, that requires substantial nursing skill, knowledge, or training, or application of nursing principles based on biological, physical, and social sciences.” Professional nursing also includes:

1. The observation and recording of symptoms and reactions
2. The execution of procedures and techniques in the treatment of the sick under the general or special supervision of a physician, podiatrist, dentist, optometrist, or under an order of a person who is licensed to practice medicine, podiatry, dentistry, or optometry in Wisconsin or any other state
3. The execution of general nursing procedures and techniques
4. Supervision of a patient and the supervision and direction of a licensed practical nurse and less skilled assistants

Educational preparation for a professional registered nurse includes two⁸³ options:

- Associate degree, which is a two-year course of study on basic nursing principles
- Baccalaureate degree, which is a four-year course of study on basic nursing principles with public health knowledge and leadership skills

By law, individuals may not use the title, initials or practice as a registered nurse unless they are licensed with the Wisconsin board of nursing or other states in the nurse licensure compact.⁸⁴ A school nurse is defined as a registered nurse licensed under the Wis. Stat. ch. 441, who is certified by the Department of Public Instruction as qualified to perform professional nursing services in a public school.⁸⁵ Department licensure for school nurses is optional.⁸⁶

⁸³ A diploma degree was a three-year course of study which is no longer offered as an option.

⁸⁴ Wis. Stat. §441.06(4)

⁸⁵ Wis. Stat. §115.001(11)

⁸⁶ Wis. Admin. Code §PI34.31(2)

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2. Which federal laws relate to school districts' legal responsibilities for the provision of nursing procedures and health services for students?

Two federal laws provide guidance to school districts for the provision of nursing services for children. Section 504 of the Rehabilitation Act of 1973 is an anti-discrimination law requiring school districts to ensure that students with disabilities⁸⁷ have an equal opportunity to participate in academic, nonacademic, and extra-curricular activities available to all students enrolled in the school district. To ensure an equal opportunity of participation for students with disabilities, school districts must develop a verbal or written plan to meet student health needs or provide accommodations relating to handicapping conditions. This Section 504 Plan may include school nurse or school health services. A student's Healthcare Plan, developed by a school nurse, can be a critical element of a Section 504 Plan.

The Individuals with Disabilities Education Act (IDEA) is a federal law that requires a school district to provide students who have a disability with a free and appropriate public education⁸⁸ by implementing an Individualized Educational Plan (IEP) designed to meet each child's unique academic, physical, social, and emotional needs. The IEP must include health and nursing services if these are necessary for the student to receive a free and appropriate public education.⁸⁹

If the Section 504 Plan or IEP includes school health services or school nursing services, the school district must arrange for an appropriately licensed health care professional to offer the service or have that person delegate the performance of the procedure to a trained unlicensed person. Federal law defines the difference between school nursing and school health services in the related services section of the individual education plans. School nurse services are provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.⁸⁶

3. Are Wisconsin public schools required to have a school nurse?

While Wisconsin public school districts are not specifically required to employ a school nurse, school districts are required to provide for emergency nursing services.⁹⁰ Furthermore, school districts must provide these services under a written policy adopted and implemented by the school board.⁹¹ A registered nurse must develop the policies in cooperation with other school district personnel and representatives from community health agencies and services. Also, keep in mind, the two federal laws discussed in Question 2 (above) dictate situations where a school district must provide the necessary nursing care for students with disabilities so they can benefit from their education.

4. Are school districts authorized to employ an emergency medical technician (EMT) or a licensed practical nurse (LPN) instead of a registered nurse (RN) to provide health care to children with special health needs?

School districts may hire an EMT as a health aide/assistant but not as a school nurse, unless they hold a registered nursing license. Appropriately trained and supervised EMTs may perform health-related procedures under the delegation of a RN. However, an EMT, just like any other state licensed health care provider, must follow the laws and rules that govern the practice for which they hold a license. An EMT is licensed to provide pre-hospital first-aid under specific guidelines and under the supervision of a physician. If an EMT is employed as a health assistant in a school, the EMT would be held to the standards of their EMT license, as well as to the standards of care for the tasks in their job description. An LPN may be hired as a health aide/assistant.

87 As defined in 34 C.F.R. §104.3(j)

88 34 C.F.R. §300.101

89 34 C.F.R. §300.34(c)(13)

90 Wis. Stat. §121.02(1)(g)

91 Wis. Admin. Code §PI 8.01(2)(g)

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5. Can a school nurse refuse to administer a prescribed medication or nursing procedure?

Yes, under certain circumstances a school nurse may refuse to provide certain nursing services. A nurse can only accept a medical act or task delegated by a medical provider for which the nurse is competent to perform, based on the nurse's education, training, or experience. However, the nurse's inability to perform the task does not erase the school district's obligation to provide the nursing service for the student to benefit from his/her education. The nurse may have to secure specialized training or another health care provider may need to be employed by the school district to meet the student's health care needs. The nurse must refuse to perform a delegated task if the nurse suspects performance of the task may harm the student. If a nurse believes that medical directive is not safe or not appropriate, the nurse cannot legally comply with the order.⁹² If the nurse complies, the nurse could face disciplinary action by the Wisconsin board of nursing.⁹³ If a nurse refuses to administer a medication or perform a procedure, he/she must notify the prescribing medical provider and parent/guardian.

6. What is nursing delegation as it applies to the school setting?

A registered nurse may decide to delegate a nursing task to a licensed practical nurse (LPN) or trained school personnel without a health care license if a student requires the administration of medications or performance of nursing procedures during the school day to benefit from their education. Delegation is a legal term that refers to the transferring to a competent individual the authority to perform a selected nursing task in a selected situation. The registered nurse retains accountability for the delegation.⁹⁴ The registered nurse must determine if the task is appropriate to the educational preparation and demonstrated abilities of the personnel being asked to perform the task. When the registered nurse delegates a nursing task, the process starts by training school personnel to perform a nursing task. After the initial training, the registered nurse must also provide ongoing observation, monitoring, direction, and assistance to those performing the task.⁹⁵ When nurses delegate, they should have adequate time in the school or the school district to perform these required tasks.⁹⁶

7. What types of nursing tasks may be delegated and to whom?

There is not a state statute listing nursing tasks that are appropriate for delegation to school staff without a health care license. The decision to delegate the nursing task is based on the nurse's assessment of the complexity of the nursing task and care, predictability of the health status of the student, and the educational preparation and demonstrated abilities of the school staff without a health care license. Nursing tasks are categorized as simple or complex. Simple nursing tasks are more likely eligible for delegation than complex nursing tasks. Simple nursing tasks are described as tasks that do not require substantial nursing skill, knowledge, or training, or the application of nursing principles based on biological, physical, or social sciences or the understanding of cause and effect of the act.⁹⁷

Similarly, there is a distinction between basic and complex nursing care. When a student's health is predictable and does not require frequent or complex modifications in the health care provider's orders or the plan of care, then the student requires basic nursing care. Complex nursing care is when the student's health condition and response to intervention is not predictable, requiring frequent changes or modification of the health care provider's orders and the nursing plan of care.⁹⁸ Complex nursing care cannot be delegated to people without a health care license. Nursing tasks may be delegated when the

92 Wis. Admin. Code §N6.03(2)(b,c)

93 Wis. Admin. Code §N6.05

94 National Council of State Boards of Nursing. (1995). *Concepts and Decision-Making Process National Council Position Paper*. Retrieved from: <https://www.ncsbn.org/323.htm>.

95 Wis. Admin. Code §N6.03(3)

96 Wisconsin Board of Nursing. (2004). *Position Paper on Delegation*. Retrieved from: <http://drl.wi.gov/boards/nur/pap/pap05.pdf>.

97 Wis. Stat. §441.001(3)

98 Wis. Admin. Code §N6.02(3)

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task does not require assessment and evaluation of the student's health and modifications to the plan of care. The school nurse determines the necessary training required to safely delegate the nursing task to school staff without a health care license.

While employers and administrators may suggest which nursing acts to delegate and/or to whom the delegation may be made, it is the nurse who must make, and is legally responsible for making, the decision whether, and under what circumstances, the delegation occurs. If the nurse decides that the delegation may not appropriately or safely take place, then the school nurse should not engage in such delegation.⁹⁹ Nurses are encouraged to work with school district administrators to problem solve solutions to assist with issues of delegation.

8. What are some of the criteria that a nurse might use in determining delegation of a nursing-related task?

The delegated nursing task must fall within the responsibilities of the nursing license. The nurse must have the nursing education, training, and experience to delegate the nursing task. The nursing task that is delegated must be commensurate with the educational preparation and abilities of the employee accepting the delegation. The nurse must provide supervision, direction, and assistance to the employee and provide observation and monitoring of the delegated tasks.¹⁰⁰ School employees, other than health care personnel, must be willing to accept a nursing task, such as administration of non-oral medication, for a nurse to legally delegate the task to the employee.¹⁰¹ It is also considered best practice by the National Association of School Nurses that delegated tasks be routine, predictable, and repetitive and not require any nursing judgment for completion of the task.¹⁰² The Wisconsin Nurse's Association has provided an algorithm for decision making regarding delegation.¹⁰³ The National Council of State Boards of Nursing also has an available delegation decision-making tree.¹⁰⁴

9. May a parent delegate to a nurse?

No, a parent may not delegate to a nurse. Nurses are mandated by the Standards of Practice to accept delegation from health care providers.¹⁰⁵ Individuals who are employed in an educational setting and administering medication in the school must receive appropriate instruction.¹⁰⁶ The parent could come into a school and instruct school staff regarding medication administration without the assistance of a nurse. In this model, the authority for performing the task comes from the parent. However, written permission from the health care provider and parent/guardian is still required.¹⁰⁷

99 Wis. Admin. Code §N6.03(3); Wisconsin Board of Nursing. (2004). *Position Paper on Delegation*. Retrieved from: <http://drl.wi.gov/boards/nur/pap/pap05.pdf>.

100 Wis. Admin. Code §N6.03(2-3)

101 Wis. Stat. §118.29(5)

102 National Association of School Nurses. (2006). *Position Statement on Delegation*. Retrieved from: <http://www.nasn.org/Default.aspx?tabid=349>.

103 Wisconsin Nurses Association. (2002). *Guidelines for Registered Nurse Delegation to Unlicensed Assistive Personnel*. Retrieved from: http://www.wisconsinnurses.org/work_advoc/pdf_files/uaps.pdf.

104 National Council of State Boards of Nursing, Inc. (1997). *Delegation Decision-Making Tree*. Retrieved from: <https://www.ncsbn.org/delegationtree.pdf>.

105 Wis. Admin. Code §N6.03(2)(a,d)

106 Wis. Stat. §118.29(4)

107 Wis. Stat. §118.29(2); Wisconsin Board of Nursing. (2004). *Position Paper on Delegation*. Retrieved from: <http://drl.wi.gov/boards/nur/pap/pap05.pdf>.

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10. Can a licensed practical nurse (LPN) provide school health services as long as supervision is provided by a nurse, physician, podiatrist, dentist, or optometrist?

Yes. An LPN's scope of practice requires they practice under the general supervision and direction of an RN or the direction of physician, podiatrist, dentist, or optometrist. An RN may delegate a task to an LPN provided that the LPN has adequate knowledge to perform the task and the nurse is available for consultation and direction. Delegated tasks must either be part of a student's Healthcare Plan that is developed, maintained, and evaluated by a school nurse, or under approved practice protocols or policies. Direction does not necessarily need to be on-site, but adequate supervision including, at a minimum, availability by telephone of the registered nurse, physician, podiatrist, dentist, or optometrist, is essential.¹⁰⁸

11. What are the legal definition and educational requirements of a licensed practical nurse (LPN)?

The legal definition of an LPN is outlined in Chapter 441 of the Wisconsin Statutes, also known as the Nurse Practice Act. Licensed practical nursing is defined as the performance for compensation of any simple acts in the care of the sick, injured or convalescing person, or more acutely ill or injured person under the specific direction of a registered nurse, dentist, podiatrist, optometrist, or medical provider.¹⁰⁹ "Simple act" is defined as an act that "does not require any substantial nursing skill, knowledge, or training or the application of nursing principles based on biological, physical, or social sciences, or the understanding of cause and effect in the act."¹¹⁰ The law goes on to say that an LPN can do the following under the general supervision of a registered nurse, or direction of physician, podiatrist, dentist, or optometrist:

1. Accept only patient care assignments which the LPN is competent to perform
2. Provide basic nursing care
3. Record nursing care given and report to the appropriate person changes in the condition of a patient
4. Consult with an RN, physician, podiatrist, dentist, or optometrist in cases where an LPN knows or should know a delegated nursing or medical act may harm the patient
5. Perform the following other acts when applicable
 - Assist with the collection of data
 - Assist with the development and revision of a nursing care plan
 - Reinforce the teaching provided by an RN, physician, podiatrist, dentist, or optometrist and provide basic health care instruction; or,
 - Participate with other health team members in meeting basic patient needs

A licensed practical nurse's education is a one year program, focused on basic practical nursing skills.¹¹¹ LPNs must practice under supervision of a registered nurse or medical provider.¹¹²

108 Wis. Admin. Code §N6.04

109 Wis. Stat. §441.001(3)(a)

110 Wis. Stat. §441.001(3)(b)

111 Wis. Stat. §441.001(3)

112 Wis. Admin. Code §N6.04(3)

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12. What are the Wisconsin board of nursing directives regarding nursing tasks that may not be delegated to LPNs and school personnel without a health care license?

The Wisconsin board of nursing has indicated that there are two nursing tasks that nurses may not delegate. The first nursing task is the performance of intravenous (IV) therapy, including starting peripheral IV lines, adding medication to the intravenous fluids and monitoring of IV fluids for hydration purposes. It is the opinion of the Wisconsin board of nursing that delegation of these nursing acts requires direct supervision, and the board has interpreted direct supervision,¹¹³ as necessitating on-site supervision. Accordingly, the nurse supervising the LPN in the performance of IV therapy must be physically present in the facility and immediately available. It is not the board's intent that observation of IV infusions on controlled infusion pumps by the LPN requires direct supervision. If the nurse pre-programs the IV infusion on a controlled pump and performs the client assessment, then the LPN may monitor the infusion under general supervision of the nurse and report any concerns or problems with the infusion to the nurse.

Second, the Wisconsin board of nursing also indicated that a nurse may not delegate the nursing tasks of assessment and evaluation to a less skilled individual. LPNs and school personnel without a health care license may assist the nurse in these functions by providing health information, but may not perform the tasks in their entirety.

13. How often should the registered nurse monitor the delegation of a procedure?

Frequency and extent of monitoring depends on the health status of the student, the complexity of the procedure, as well as the learning style of the person doing the procedure. For example, monitoring a tube feeding that has very predictable steps for a child with a history of tolerating this procedure well may require less supervision than for insulin administration to a child newly diagnosed with type 1 diabetes. The complexity of the task and the need for monitoring an oral medication administration is usually less involved than that for an injectable medication. The level of training, experience, and educational preparation of the person assuming the delegation from the registered nurse will also determine the monitoring needs. The registered nurse may rescind delegation of the nursing task whenever he or she believes that the student's safety is being compromised or for other reasons according to the judgment of the nurse.¹¹⁴

14. What is the difference between training and delegation?

Training is the process of providing general health information to others regarding a health skill, condition, injury, medication, or procedure. When the training becomes specific to a certain student's health care needs, medications, and/or procedures, then the training by the nurse is part of the process of delegation. The process of delegation includes instruction regarding the plan of care, administration of medication and/or procedure; direction, assistance, and observation of those supervised; and evaluation of the effectiveness of the delegated nursing act.

For example, a nurse providing instruction to school personnel regarding the effectiveness of administration of rectal valium to students who are experiencing ongoing continuous seizure activity is considered training. When a nurse provides training to school personnel who will be responsible to administer rectal valium to a specific student after three minutes of continuous seizure activity, then training becomes part of the process of the delegation. The nurse must provide direction, assistance, observation, and monitoring of activities to those supervised and evaluation of the effectiveness of the task performed under their supervision.

113 Wis. Admin. Code §N6.02(6)

114 National Association of School Nurses. (2006). *Position Statement on Delegation*. Retrieved from: <http://www.nasn.org/Default.aspx?tabid=349>.

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15. What are the primary state laws regarding emergency nursing services in schools?

Wisconsin state law defines necessary emergency nursing services.¹¹⁵ School districts must develop emergency nursing policies and protocols dealing with management of illness, accidental injury, and medication administration at all school-sponsored activities. School districts must make available emergency pupil information, first aid supplies, and appropriate and accessible space for the rendering of emergency nursing services.¹¹⁶ The school board needs to review and evaluate emergency nursing services annually.¹¹⁷

16. Do public schools across the state have to follow similar procedures and provide health services in a consistent manner?

Wisconsin is a “local control” state. Basically, this means the local school board is the governing body for the school district and, as such, must develop policies and procedures that comply with federal and state regulations. The school board is free to decide how to implement the law by taking into account the desires and resources of the community. Additionally, as long as all legal requirements are met, the school district may decide to exceed the requirements stated within the law.

17. What elements should be considered in developing a student’s Emergency Action Plan?

The goal of an Emergency Action Plan is to provide critical information necessary to help school personnel and emergency responders act appropriately for the student in a variety of emergency situations. Each student situation must be examined individually. Consider these critical questions when developing a student’s Emergency Action Plan:

- What might happen that would require immediate action?
- What are the precipitating factors that may trigger an event at school?
- What action is required to respond to the emergency?
- What knowledge, skill, and attitude is required of someone to act, or more importantly, to prevent the emergency in the first place?
- Is there a person with the required ability to act available?
- What are the availability, skill level, and response time of community emergency medical services?
- Who has a need to know about the potential situation?
- Who will have the responsibility to act, including “back-up” individuals?

18. How does the Administration of Drugs to Pupils and Emergency Care Law differ from the Nurse Practice Act?

The school medication law is the only Wisconsin law that allows individuals who are not licensed in a health care field to administer prescription medications to non-family members. School administrators may assign school personnel to administer oral medications to students with appropriate training. The medication law requires school districts to develop policies regarding medication administration in school to ensure safety.¹¹⁸

The Nurse Practice Act defines scope of nursing practice in the state of Wisconsin, describing what a registered nurse (RN) and licensed practical nurse (LPN) can do and how it must be done.¹¹⁹ Associated rules for the practice of nursing outline the nurse’s responsibilities and the duties associated with the delegation of medication administration to others.¹²⁰

115 Wis. Admin. Code §PI8.01(2)(g). These services are commonly known as “Standard G.”

116 Wis. Stat. §121.02(1)(g)

117 Wis. Admin. Code §PI8.01(2)(g)(6)

118 Wis. Stat. §118.29

119 Wis. Stat. Ch. 441

120 Wis. Admin. Code §§N6.03-.04; National Council of State Boards of Nursing. (1995). *Concepts and Decision-Making Process National Council Position Paper*. Retrieved from: <https://www.ncsbn.org/323.htm>.

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19. Who may administer over-the-counter medication and prescription medication to pupils?

By law, the following individuals are able to administer over-the-counter and prescription medications to students:

- health care provider
- school board employee
- county Children with Disabilities Education Board employee
- cooperative education service agency employee
- bus driver
- volunteer

A school or public health nurse may delegate the administration of medication to personnel without a health care license in the school setting with appropriate training, supervision, and evaluation of school personnel.¹²¹

20. What route of medication administration can be given at school?

Route describes the method of administering medication to the pupil and includes: oral, topical, inhalant, eye, ear, nasal, rectal, intravenous, intramuscular, and subcutaneous. State statute dictates that no employee, other than a health care provider, is required to administer a drug or prescription drug to a pupil by any other means other than ingestion.¹²² An employee may assume the responsibility of giving a medication by non-oral route, if they are willing, appropriate instruction is available,¹²³ and it is a task that can be delegated to an employee without a health care license.¹²⁴

21. Can a school accept telephone orders for a medication from a licensed health care provider or parent?

No. The school medication law specifically states written instructions and consent are required for administration of prescription medication.¹²⁵ School personnel are not permitted to accept verbal or telephone medical provider orders because accuracy can be compromised and, therefore, presents a safety concern. Providers may generate written instructions and consent and send electronically if school personnel maintain the student's privacy and confidentiality with all transmitted communications. According to the Wisconsin board of nursing, a registered nurse may accept a telephone order for a medication from a licensed health care provider, but not from a parent. The medical provider must confirm a telephone order through a written order.¹²⁶

121 Wis. Admin. Code §N6.03(3)

122 Wis. Stat. §118.29(5)

123 Wis. Stats. §118.29(4)

124 Wis. Admin. Code §N6.03(3)

125 Wis. Stat. §118.29

126 Wis. Admin. Code §N6.03(2)(a)

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22. Does the school medication administration law apply to private schools?

Yes. Private schools must follow all requirements listed in the school medication administration law.¹²⁷ Private school employees and volunteers who are authorized in writing by their administrator(s) or principal(s) may administer medication in the private school setting.

23. Does Wis. Stat. §118.29 address the administration of medication given on an “as needed” or emergency basis?

Yes. The medication law applies to any medication regardless if given “as needed” or on an emergency basis. Over-the-counter drugs require written consent and instructions from a parent or guardian. Prescription medications require written instructions from a licensed health care provider and written consent from the parent/guardian. The written instructions should include under what circumstances the drug is to be given to the student.¹²⁸

There are two emergency situations addressed in state law including severe allergic reactions and hypoglycemic events. State law permits an individual to administer epinephrine via an epinephrine auto-injector to a student who appears to be experiencing a severe allergic reaction without written consent or instructions from parent/guardian or health care provider. Similarly, the law permits an individual to administer Glucagon to a pupil who appears to be experiencing a severe hypoglycemic event.¹²⁹ The individual who administers the epinephrine or Glucagon is required to call 9-1-1, or if 9-1-1 is not available, the phone number for an emergency medical service provider, as soon as practical.

24. How should school districts handle the issue of administering medications when students go on field trips or participate in after-school activities?

School districts must have policies that include protocols for emergency medication administration at all school-sponsored activities, including fieldtrips or after school activities.¹³⁰ The parent or guardian may attend the activity and administer the medication to their child, but the school has the ultimate responsibility to ensure that a responsible individual is available to administer the medication. In addition, a student’s 504 Plan or individualized education program (IEP) should include a plan for medication administration and provision of health services at all school-sponsored activities, so all students can receive a free, appropriate public education.

25. Does the Nurse Practice Act apply to the delivery of health services for children attending preschool programs, day care centers, summer programs, residential programs, and camp programs?

The Nurse Practice Act applies to all people licensed as an RN or LPN in any setting in which they practice, including a volunteer position. Different settings may have policies and procedures that govern activity in that particular setting. However, the state law and administrative rules governing the practice of nursing in Wisconsin apply to all settings. A school district, day care setting, or another agency or organization cannot do less than what the law requires.¹³¹

127 Wis. Stat. §118.29

128 Wis. Stat. §118.29(2)

129 Wis. Stat. §118.29(2)(a)(2r)

130 Wis. Admin. Code §PI8.01(2)(g)(2)

131 Wis. Stat. Ch. 441

