

# School Nursing and Health Services Laws

## Introduction

The State of Wisconsin provides legal guidance regarding the type of health services schools must provide to meet the health and safety needs of students and staff. Wisconsin Statute sec. [121.02\(1\)\(g\)](#) requires school districts to provide emergency nursing services. The Wisconsin administrative rule, [PI 8.01\(2\)\(g\)](#) provides a framework for emergency nursing services in Wisconsin. The law states that a professional or registered nurse licensed in Wisconsin, in cooperation with other school district personnel and representatives from the community health agencies, must cooperate in the development of policies for emergency nursing services. In addition, federal laws such as the [Individuals with Disabilities Education Act \(IDEA\) Subch. V, Wis. Stat. ch. 115](#), and the [U.S. Rehabilitation Act of 1973, Section 504](#), provide guidance regarding the type of school health services needed to ensure an appropriate education (FAPE) to children eligible under either of these programs.

Many nurses coming from other practice settings may be unfamiliar with statutes governing their day-to-day nursing practice. Due to the independent nature of the school nursing practice, school nurses are generally responsible for knowing and implementing nursing and health-related laws within the school setting. With the many demands of school nursing practice, it can be difficult to devote time and effort to becoming familiar with the laws. A number of federal laws, state statutes, and local school board policies shape the nursing and health services programs that schools provide.

This chapter is intended to provide basic information regarding the major laws affecting school nursing, with more detailed information in the subsequent chapters as indicated. The direct citation of the law is linked for more information. This chapter is not meant to provide legal advice; such may be sought from school districts' attorneys. The laws within the chapter are divided into the federal and state mandates.

## Federal Laws

Federal laws and codes influencing the provision of health care to children with special health care needs include:

- [Individuals with Disabilities Education Act \(IDEA\)](#)
- [Americans with Disabilities Act \(ADA\)](#)
- [Section 504 of the Rehabilitation Act of 1973](#)
- [Occupational Safety and Health Administration Bloodborne Pathogens Standard](#)
- [Family Educational Rights and Privacy Act \(FERPA\)](#)
- [Health Insurance Portability and Accountability Act \(HIPAA\)](#)
- [U.S. Department of Agriculture Regulations on Children with Special Dietary Needs](#)

### Individuals with Disabilities Education Act (IDEA)

The [Individuals with Disabilities Education Act](#) (IDEA) requires public schools to make a free, appropriate, public education (FAPE) in the least restrictive environment available to all children with disabilities. IDEA requires public school systems to develop appropriate Individualized Education Programs (IEPs) for each child with a disability. The specific special education and related services outlined in each IEP reflect the individualized needs of each student.

IDEA also mandates that particular procedures be followed in the development of the IEP. Each student's IEP must be developed by a team of knowledgeable persons and must be reviewed at least annually. The team includes the parents of the child (subject to certain limited exceptions listed in [34 C.F.R. Part 300.30](#)); at least one regular education teacher of the child (if the child is or may be participating in the regular education environment); at least one special education teacher or provider of the child; a school district representative that is qualified to provide or supervise the provision of special education, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of the school district's resources; and whenever appropriate, the child with a disability. The team must also include someone who can interpret the instructional implications of evaluation results. This person may also serve another role on the team. Finally, the school district or parent may invite someone to participate on the team that has knowledge or special expertise about the child. The school district must have written parental consent to invite another person who has knowledge or special expertise about the child ([34 C.F.R. Part 300.321\(a\)](#)).

An IEP must include health and nursing services, if they are necessary for the student to receive FAPE. School nursing services must be provided by a qualified school nurse. School health services may be provided by either a qualified school nurse or other qualified person ([34 C.F.R. Part 300.34\(c\)\(13\)](#)).

See Chapter 8, Children and Youth with Special Health Care Needs, for the roles of school nurses in IEPs.

### Americans with Disabilities Act

The Americans with Disability Act (ADA), [42 U.S.C. 121101](#), prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state, and local government services, public accommodations, commercial facilities, and transportation. This law is divided into chapters and titles.

- Title I–Employment
- Title II–State and local governments and public transportation
- Title III–Public accommodations
- Title IV–Telecommunication relay services

The Department of Justice governs Title II of the ADA which prohibits discrimination on the basis of disability in public schools. After March 15, 2012, compliance with the 2010 [Standards for Accessible Design](#) will be required for new construction and significant structural alterations.

School nurses may be asked by the school districts to assess the accessibility of school buildings and areas in the school for provision of health services.

### Section 504 of the Americans with Disabilities Act

Section 504 of the Rehabilitation and Americans with Disabilities Act, [29 U.S.C. sec. 794](#), states “no otherwise qualified individual with a disability...shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” (P.L. 93-112, 87 Stat. 394) Public schools are affected by this law because almost every school district receives some form of federal funds. The regulations surrounding Section 504 were written in coordination with the first set of regulations to the law which is now IDEA. The major difference between Section 504 and IDEA is that all children covered by IDEA are also covered by Section 504. However, Section 504 protects a much broader group of students than IDEA, so not all children who qualify under Section 504 will qualify as a child with a disability under Individual with Disability Act. The responsibility to not discriminate applies to all school personnel.

For a student with a disability to be eligible for Section 504 accommodations, the school district must assess the student and determine the following:

- Does the student have a physical or mental impairment that substantially limits one or more major life activities? OR
- Does the student have a record of such impairment? OR
- Is the student regarded as having such an impairment?

In September 2008, the ADA [Amendment Act to Section 504, P.L. 110-325](#) made changes to the list of major life activities, which now include but are not limited to: caring for oneself, performing manual tasks, seeing, eating, sleeping, standing, walking, lifting, bending, speaking, breathing, reading, concentrating, thinking, communicating, or working. The act also states that major life activities also include “the operation of major bodily function, including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.” An impairment which is episodic or in remission must be considered a disability if it also substantially limits a major life activity when active.

Finally, the act also states that eligibility determinations must be made without regard to mitigating factors such as medication, medical supplies, equipment, appliances, low-vision devices (except eyeglasses and contact lenses), prosthetics, hearing aids, mobility devices, hearing devices, or oxygen therapy or equipment. Section 504 requires school districts to provide eligible students with disabilities appropriate regular or special education and related aids and services that are designed to meet the individual needs of students to the same extent as the needs of students without disabilities.

The U.S. Department of Education (ED) regulates Section 504 in programs and activities that receive funds from ED including public school districts, institutions of higher education, and other state and local education agencies. The Department of Education has published regulations

for implementing Section 504 ([34 C.F.R. Part 104](#)) and maintains the Office for Civil Rights (OCR), with 12 enforcement offices throughout the United States to enforce Section 504 and other civil rights laws. The [Office of Civil Rights in Chicago](#) governs Wisconsin compliance with Section 504 accommodations. More information is available at the [National Office of Civil Rights](#) website.

See Chapter 8, Children and Youth with Special Health Care Needs, for the role of school nurses in the Section 504 Accommodation Plans.

### Bloodborne Pathogens Standard

In accordance with the Occupational Safety and Health Administration (OSHA) Bloodborne Pathogen Standard, [29 C.F.R. 1910.1030](#), school districts must develop an exposure control plan. The exposure control plan is a written program developed and implemented by the school district and outlines the methods of compliance with universal precautions, hepatitis B vaccinations, post-exposure evaluation and follow-up, communication of hazards to employees, and recordkeeping of significant exposure and training sessions.

The Department of Public Instruction has a [Model Bloodborne Pathogen plan](#).

### Family Educational Rights and Privacy Act (FERPA)

In 1974, the Family Educational Rights and Privacy Act ([20 U.S.C. § 1232g](#), [34 C.F.R. Part 99](#)), was enacted into law. This federal law outlines how public schools that receive federal funds are to protect the privacy of educational records. Any record produced by school employees becomes a pupil or educational record. FERPA provides parents with rights related to educational records. Once a student turns 18 years old, these rights transfer directly to the student. The law allows educational institutions to disclose education records in the case of a health or safety emergency. The language allows an educational agency or institution to take into account the totality of the circumstances pertaining to a threat to the safety or health of a student or other individuals. If the educational agency or institution determines that there is an “articulable and significant threat” to the health or safety of a student or other individuals, it may disclose information from education records to third parties whose knowledge of the information is necessary to protect them.

Schools need to be aware that FERPA does not replace the requirements in Wisconsin statutes that govern the handling of pupil records and patient health care records. Schools must comply with Wis. Stat. secs. [146.82](#), [118.126](#) and [118.127](#). School nurses often create and handle student records. It is critical that school nurses understand how records must be protected, maintained, disclosed, and transferred when students leave the school district.

See Chapter 11, Administrative Issues, for more information regarding the Family Educational Rights and Privacy Act.

### Health Insurance Portability and Accountability Act of 1996 (HIPAA)

The Health Insurance Portability and Accountability Act ([P.L. 104-191](#)) protects the privacy of an individual's personally identifiable health information. "Individually identifiable health information" is information, including demographic data, that relates to:

- the individual's past, present, or future physical or mental health or condition;
- the provision of health care to the individual; or
- the past, present, or future payment for the provision of health care to the individual, and that identifies the individual or for which there is a reasonable basis to believe it can be used to identify the individual. Individually identifiable health information includes many common identifiers (e.g., name, address, birth date, social security number).

School districts that accept federal funds and bill Medicaid for health care services provided by a school employee must comply with HIPAA Transaction Rules and use uniform code sets when requesting reimbursement electronically. These rights and safeguards only apply if a school is considered a covered entity under HIPAA and records not covered by FERPA. HIPAA does not replace the privacy protections in Wisconsin Statutes. School districts must comply with Wis. Stat. secs. [146.82](#) and [118.125](#).

See Chapter 11, Administrative Issues, for more information regarding the Health Insurance Portability and Accountability Act.

### Children with Special Dietary Needs

USDA regulation [7 C.F.R. Part 15B](#) requires participants in the school lunch program to substitute or modify school meals for children whose disabilities restrict their diets. A child with a disability must be provided substitution in foods when the need is supported by a statement signed by a licensed physician. The physician's statement must identify:

- the child's disability,
- an explanation of why the disability restricts the child's diet,
- the major life activity affected by the disability, and
- the food or foods to be omitted from the child's diet and the food or choice of foods that must be substituted.

A template of the [physician form](#) is available. School nurses often consult with families and physicians regarding nutritional accommodations that may be required for students with special dietary needs. Knowing the law will help school nurses understand the school district's obligations to make accommodations necessary for students to receive a free, appropriate public education.

## Wisconsin State Laws and Administrative Code

There are many state laws that affect school nursing and health services. Wisconsin public school districts are not required to employ a school nurse. However, school districts need to be

able to meet the health needs of the students, so all students can receive a free, appropriate public education.

Under Wisconsin law, the local school board is the governing body for the school district. As such, it must develop policies and procedures that comply with state and federal regulations. In doing so, the school board must meet all of the requirements of the laws, but is free to decide how it will comply with the law, depending upon the desires and resources of their community. The school district is free to go beyond the requirements of the law or be more restrictive, as long as the basic requirements of the law are met. When reviewing statutes, one should pay careful attention to the words “shall” and “may.” “Shall” indicates what is mandated by the law and means compliance is required. The word “may” indicates permissive language for provisions that are optional.

In the section that follows, the following state laws are described:

- Administration of Drugs to Pupils and Emergency Care—[Wis. Stat. sec. 118.29](#)
- Asthmatic Pupils; Possession and Use of Inhalers—[Wis. Stat. sec. 118.291](#)
- Children’s Code—[Wis. Stat. ch. 48](#)
- Emergency Nursing Services—[Wis. Admin. Code sec. PI 8.01\(2\)\(g\)](#)
- Epinephrine—[Wis. Stat. sec. 118.292](#), [Wis. Stat. sec. 118.2925](#)
- Eye Examination and Evaluations—[Wis. Stat. sec. 118.135](#)
- Health Examinations—[Wis. Stat. sec. 118.25](#)
- Health and Safety Requirements—[Wis. Stat. sec. 118.07](#)
- Human Growth and Development Instruction—[Wis. Stat. sec. 118.019](#)
- Immunization of Students—[Wis. Admin. Code sec. DHS 144](#)
- Informed Consent for Testing or Disclosure—[Wis. Stat. sec. 252.15\(7\)a](#)
- Mental Health Treatment for Minors Aged 14 or Older—[Wis. Stat. sec. 51.14\(3\)](#)
- Nurse Practice Act—[Wis. Stat. ch. 441](#); and Standards of Practice for Registered Nurses and Licensed Practical Nurses—[Wis. Admin. Code sec. N 6](#)
- Policy on Bullying—[Wis. Stat. sec. 118.46](#)
- Privileged Communications—[Wis. Stat. sec. 118.126](#)
- Pupil Discrimination Prohibited—[Wis. Stat. sec. 118.13](#)
- Pupil Records and Health Care Records—Wis. Stat. secs. [118.125](#) and [146.81\(4\)](#)
- Release of Immunization Information—[Wis. Admin. Code sec. DHS 144](#)
- Release of Mental Health Records by Minors—[Wis. Stat. sec. 51.30\(5\)](#)
- Restriction of use of HIV Test—[Wis. Stat. sec. 252.15\(3\)](#)
- School Safety—[Wis. Stat. sec. 118.07\(4\)\(a\)](#)
- Shaken Baby Syndrome Instruction—[Wis. Stat. sec. 48.67](#)
- Tobacco Products and School—[Wis. Stat. sec. 120.12\(20\)](#)

### Administration of Drugs to Students and Emergency Care

[Wisconsin Statute sec. 118.29](#) governs the administration of medications in schools. This statute allows private or public school administrators, principals, school boards, or cooperative

educational service agency to assign the administration of a student's medication to any employee or volunteer of a school, county children with disabilities education board, and cooperative educational service agency.

Written instructions of a practitioner and parent or guardian consent are required for all prescription medication administered to pupils. Practitioner is defined as a physician, dentist, optometrist, physician assistant, advanced practice nurse prescriber, or podiatrist. Any employee or volunteer of the school board, county children with disabilities education board, cooperative educational service agency, or bus driver may administer over the counter medication (medication sold without a prescription) to a pupil with required written permission and instructions from the pupil's parent or guardian ([Wis. Stat. sec. 118.29\(2\)\(a\)\(1-2\)](#)).

The law allows for administration of two emergency medications without practitioner instructions and parent permission. School administrators, principals, school boards, or cooperative educational service agencies may administer epinephrine by auto-injector for a suspected severe allergic reaction and glucagon for a severe hypoglycemic event. As soon as practical, the school personnel, school bus operators, and volunteers must call the emergency medical service.

Individuals selected to administer medications must receive the assignment in writing and receive the appropriate instruction or training by a health care professional. The law states that individuals may not be required to administer medications to students by any means other than ingestion; however, if individuals are willing, they may be trained to give medications by other routes of administration. School personnel acting in good faith in rendering emergency care, which includes administering medications to students, are exempt from civil liability. Health care providers are not exempt from liability. Consultation with appropriate health care professionals is needed in the development and periodic review of written policies governing the administration, storage, record keeping, and training of authorized individuals administering medications.

School personnel must receive Department of Public Instruction (DPI) approved medication training for medication administered via injection, inhaled, rectal, gastrostomy, jejunostomy, and nasogastric routes. For more information regarding DPI approved medication training with further recommendations, please go to the DPI [medication training website](#).

The administration of medication in school is a complex process influenced by the health status of the student, the nature of the medication, the routes of administration, availability of nursing staff to delegate administration, and availability of school staff to assume this responsibility. In determining if a task, such as medication administration, is appropriate to be delegated to personnel without a health care license, nurses are governed by [Wis. Admin. Code ch. N 6](#).

For additional information, please access the Department of Public Instruction's question and answer document regarding the [Administration of Medications to Pupils](#).

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### Asthmatic Pupils; Possession and Use of Inhaler

A student is allowed to carry a metered dose or dry powder inhaler used prior to exercise to prevent the onset of asthmatic symptoms or to alleviate the asthmatic symptoms during the school day and all school sponsored events. The law requires the student to have the written permission to self-carry the inhaler from the medical provider and parent and this authorization needs to be given to the principal of the school.

### Children's Code

[Chapter 48](#) of the Wisconsin Statutes protects children from emotional, physical, and sexual harm and the detrimental effects of children not receiving what they need to live. All school personnel are required to report situations to the child protective services or local law enforcement whenever there is a reasonable cause to suspect that a child seen abused or neglected, or has reason to believe a child seen in the course of his or her professional duties has been threatened with abuse or neglect and that abuse or neglect will occur ([Wis. Stat. sec. 48.981](#)). Under the law, school nurses are considered mandated reporters. Students may reveal to school nurses information about maltreatment in their lives. Nurses must document what is shared by the student and any observable physical evidence of harm, and report to child protective services or law enforcement if there is reasonable cause to suspect that abused or neglect occurred. There is a limited exception to this requirement when the abuse falls under the Health Care Provider Exception ([Wis. Stat. sec. 48.981\(2m\)](#)). Please find more information in Chapter 6, Child Protection Chapter.

### Emergency Nursing Services

[Section 121.02\(1\)\(g\)](#) of the Wisconsin Statutes outlines 20 standards that each school district must meet to ensure a reasonable equality of educational opportunities for all Wisconsin children. Standard G states that each school district is mandated to “provide for emergency nursing service.”

[Chapter PI 8.01\(2\)\(g\)](#), of the Wisconsin Administrative Code defines what policies school districts are required to develop and implement for emergency nursing services. School districts must develop emergency nursing services policies and protocols dealing with management of illness, accidental injury, and medication administration during school and at all school-sponsored events. It is necessary to secure a relationship with a medical advisor. School districts must make available emergency pupil information, first aid supplies, and appropriate and accessible space for the rendering of emergency nursing services. The school board must review and evaluate the emergency nursing services program at least annually. See Chapter 9 on Emergency Care for more information.

### Epinephrine Law

[Section 118.292](#) of the Wisconsin Statutes requires school district to allow students to self carry an epinephrine auto-injector for the treatment of severe allergic reactions during the school day



and all school sponsored events. The student must provide the principal of the school district with a written medical provider and parent authorization.

[Section 118.2925](#) of the Wisconsin Statutes allows the governing body of a school to adopt a physician-approved plan for the management of pupils attending the school who have life-threatening allergies including the training necessary to use epinephrine auto-injectors. A physician, advanced practice nurse prescriber or a physician assistant may prescribe epinephrine auto-injectors to be maintained by the school for use if a school has adopted a plan. The governing body of a school that has adopted a plan may also authorize a school nurse or designated school personnel to do any of the following on school premises or at a school-sponsored activity:

1. Provide an epinephrine auto-injector to a pupil to self-administer the epinephrine auto-injector in accordance with that pupil's prescription.
2. Administer an epinephrine auto-injector to a pupil in accordance with that pupil's prescription.
3. Administer an epinephrine auto-injector to a pupil or other person who the school nurse or designated school personnel believes is experiencing anaphylaxis in accordance with a standing protocol from a physician, an advanced practice nurse prescriber, or a physician assistant. If that pupil or other person does not have a prescription for an epinephrine auto-injector, the person administering the epinephrine auto-injector must, as soon as practicable, dial "911" or in an area where "911" is not available, the telephone number for an emergency medical service provider.

### Eye Examination and Evaluation

[Wisconsin Statute sec. 118.135](#) states that each school district and charter school must request that each student have an eye examination by an optometrist or physician upon students entering kindergarten. Students complying with the eye examination request must provide evidence that the student has had the examination or evaluation by December 31st following the pupil's enrollment in kindergarten. School districts are asked to provide a [form](#) from the Department of Safety and Professional Services (formerly the Department of Regulation and Licensing) for documentation of the eye examination.

### Health Examinations

[Wisconsin Statute sec. 118.25](#) states that as a condition of employment, the school board, except Milwaukee, shall require a physical examination, including a chest X-ray or tuberculin test, of every school employee of the school district. Freedom from tuberculosis in a communicable form is a condition of employment. In the case of a new school employee, the school board may permit the school employee to submit proof of an examination, chest X-ray, or tuberculin test complying with this section which was taken within the past 90 days in lieu of requiring such examination, X-ray, or test. If the reaction to the tuberculin test is positive, a chest X-ray shall be required. Additional physical examinations shall be required thereafter at intervals determined by the school board. The school employee shall be examined by a physician in the employ of or

under contract with the school district, but if a physician is not employed or under contract, the examination shall be made by a physician selected by the school employee.

As a condition of employment, special teachers, school psychologists, school social workers, cooperative educational service agency personnel, and other personnel working in public schools must have physical examinations. The employing school district or agency shall pay the cost of such examinations. If a physical exam, tuberculin test, or chest X-ray is contrary to the religious and/or spiritual beliefs of the employee, the employee may sign an affidavit stating to the best of their knowledge and belief they are in good health.

### Health and Safety Requirements

[Wisconsin Statute sec. 118.07](#) requires every school district and private school to provide a standard first aid kit for use in cases of emergency. The law is not specific as to items that need to be included in the first aid kit.

### Human Growth and Development Instruction

The purpose of the Human Growth and Development Instruction statute ([Wis. Stat. sec. 118.019](#)) is to encourage school districts to provide human growth and development instruction in order to promote accurate and comprehensive knowledge, responsible decision-making, and support parents in the moral guidance of their children.

By state law, a school board may provide an instructional program in human growth and development in grades kindergarten through 12. If provided, the program shall offer medically-accurate information and age-appropriate instruction in all nine different areas. The instructional methods and materials used must not promote bias against pupils of any race, gender, religion, sexual orientation, or ethnic or cultural background, against sexually-active pupils, or children with disabilities. For more information, see Chapter 11 on Health Literacy.

Each school district that provides human growth and development instruction must annually provide the parents or guardians of each student enrolled in the school district with an outline of the curriculum used in the pupil's grade level, and information on how parents and guardians may inspect the complete curriculum and instructional materials. The materials must be made available for inspection at all times including prior to instructional use. Parents may exempt their child from participation in the human growth and development curriculum by providing a written request to a teacher or principal.

Each school board that provides human growth and development instruction must appoint an advisory committee to develop the curriculum and advise the school board on the design, review, and implementation of the curriculum. The advisory board is to be composed of parents, teachers, administrators, students, health care professionals, members of the clergy, and other residents of the school district. The advisory committee must review the curriculum at least every three years ([Wis. Stat. sec. 118.019](#)).

### Immunization of Students

[Wisconsin Administrative Code sec. DHS 144](#) outlines the minimum immunization requirements that are necessary for a student to attend Wisconsin schools. School districts shall require each student to present evidence of completed basic and booster immunization unless the adult student, parent, or guardian has submitted a written waiver ([Wis. Stat. sec. 252.04\(3\)](#)). The district must, in cooperation with the local health department, develop and implement a plan to encourage compliance with the immunization requirements and submit that plan, annually by September 1<sup>st</sup>, to the Department of Health Services ([Wis. Stat. sec. 120.12\(16\)](#)). The law provides waivers for parents who do not want their child immunized based on health, religious, or personal conviction considerations. See Chapter 4, Communicable Disease and Immunization, for more information.

### Informed Consent for Testing or Disclosure

If in the course of performing employment duties, a school employee is significantly exposed to another individual's body fluid, the school employee may subject the individual to a test or series of tests for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV, and may receive the disclosure of results. After testing is complete, the individual's test results may be disclosed to the employee significantly exposed. If the individual is unwilling to have the test, the school employee can apply to the circuit court for an order for the individual to submit to the testing and disclosure of test results. School employee is defined as an employee of the school district, cooperative educational service agency, charter school, and private school, the Wisconsin Educational Service Program for the Deaf and Hard of Hearing, or the Wisconsin Center for the Blind and Visually Impaired ([Wis. Stat. sec. 252.15\(7\)a](#)). See Chapter 4, Communicable Disease and Immunization, for more information.

### Lifesaving Skill Instruction

Beginning in the 2011-2012 school year, school boards, charter and private schools operating a high school must offer instruction regarding the psychomotor skills in the use of automated external defibrillators, and cardiopulmonary, cardiocerebral resuscitation to enrolled high school students. Schools must use programs from the American Heart Association, American Red Cross, or other nationally recognized, evidence-based guidelines for cardiopulmonary and cardiocerebral resuscitation. The law states schools must offer instruction although certification is not required ([Wis. Stat. sec. 118.076\(2\)](#)).

### Mental Health Treatment for Minors Ages 14 or Older

[Wisconsin Statute sec. 51.14\(3\)](#) states that a minor who is 14 years of age or older, or person acting on behalf of the minor, may petition the mental health review office in the county in which the minor's parent or guardian resides, for parental refusal or inability of the parents to provide informed consent for outpatient mental health services. In the situation where the parents or guardians are providing consent for outpatient treatment, despite the minor's refusal, the treatment director of the outpatient facility may file a petition for review of the informed consent

on behalf of the minor. More information is available at [dhs.wisconsin.gov/clientrights/minors.htm](https://dhs.wisconsin.gov/clientrights/minors.htm).

### Nurse Practice Act

The Nurse Practice Act or [Wis. Stat. ch. 441](#) and Wis. Admin. Code chs. [N6](#) and [N7](#), is a set of state laws that govern specific aspects of the nursing profession. The Nurse Practice Act defines the practice of nursing, requirements for nursing licensure, grounds for discipline, and revocation of the nursing license. The Nurse Practice Act also defines the scope of authority of the Board of Nursing.

Licensed practical nursing is defined as the performance for compensation of any “simple act” in the care of the sick, injured, or convalescing person or more acutely ill or injured person under the specific direction of a nurse or dentist or medical provider. “Simple act” is then defined as the 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.” The law also states that a practical nurse can do the following under the general supervision of a nurse, or direction of physician, podiatrist, dentist, or optometrist:

- accept patient assignment for which the practical nurse is competent to perform;
- provide basic nursing care;
- record nursing care and report changes in patient to appropriate person;
- consult with professional providing supervision or direction when a delegated nursing or medical act may harm the patient; and
- perform other activities including assisting with data collection, development and revision of nursing care plan, reinforcing teaching provided by other medical personnel, and meeting basic patient care needs.

A licensed practical nurse’s education is one year focused on basic practical nursing skills ([Wis. Stat. sec. 441\(3\)](#)).

Professional nursing is defined as the performance for compensation of “any act in the observation or care of the ill, injured, or infirmed, 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.” The law further states that professional nursing includes:

- the observation and recording of symptoms and reactions;
- the execution of procedures and techniques in treating the sick under the general or special supervision of a physician, dentist, or optometrist licensed to practice medicine in Wisconsin or any other state;
- the execution of general nursing procedures and techniques; and
- the supervision of a patient and the supervision and direction of a licensed practical nurse and less skilled assistants.

Professional nurses have options for educational preparation, including the associate and baccalaureate degrees. The associate degree includes a two-year course of study of basic nursing  
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Student Services/Prevention and Wellness Team

principles. The baccalaureate degree includes a four-year course of study of basic nursing principles with public health knowledge and leadership skills.

If nurses do not have multi-state licenses, they would need to obtain a Wisconsin license from the Board of Nursing to practice nursing within this state. There is, however, an exception for those that may be travelling through the state for short periods of time. Wisconsin Statute ch. [441.115](#) allows for temporary practice of no more than 72 consecutive hours with prior notification to the board.

### Standards of Practice for Registered and Licensed Practical Nurses

Standards of practice and rules of conduct for registered nurses and licensed practical nurses are articulated in Wis. Admin. Code chs. [N 6](#) and [N 7](#). Wisconsin Administrative Code sec. N 6.01(1)(a)(b)(c)(d) outlines the standards of practice for registered nurses. It states that RNs will use a critical-thinking process in carrying out general nursing procedures in the maintenance of health, prevention of illness, or care of the ill. The critical-thinking process consists of the steps of assessment, planning, intervention, and evaluation, which are defined as follows:

- **Assessment:** The systematic and continual collection and analysis of data about the health status of a patient culminating in the formulation of a nursing diagnosis.
- **Planning:** The development of a nursing plan-of-care for a patient which includes goals and priorities derived from the nursing diagnosis.
- **Intervention:** The nursing action taken to implement the plan-of-care by directly administering care or by directing and supervising nursing acts delegated to LPNs or less-skilled assistants.
- **Evaluation:** The determination of the patient's progress or lack of progress toward goal achievement which may lead to modification of the nursing diagnosis and plan-of-care.

School nurses are responsible for assessing the health needs of a given population, the students in a school district or school building, and developing a school health service program to respond to those needs. To be effective, the school nurse must link the health service program with the school curricula and student support services found within the school and among surrounding community agencies serving children and adolescents. The school nurse must also connect the school health-service program with the school's and child's social and physical environment. This process also applies to the development and maintenance of a coordinated health-service program in the school setting.

A school nurse may decide to delegate a nursing task to a licensed practical nurse (LPN) or 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.

### Policy on Bullying

School districts must develop a policy prohibiting bullying. The school shall provide a copy of the policy to any person who requests it. Annually, the school board shall distribute the policy to all enrolled students and their parents and guardians ([Wis. Stat. sec. 118.46](#)).

### Privileged Communications

A school psychologist, counselor, social worker, nurse, teacher, or administrator who is designated by the school board to engage in alcohol and other drug abuse program activities, shall keep confidential that a student is using or is experiencing problems resulting from the use of alcohol or other drugs. Disclosure is protected unless the following is occurring:

- The student who is using or experiencing problems as a result of the use of alcohol or drugs signs a release of information for disclosure.
- The school district professional, previously mentioned, has reason to believe that there is imminent danger to the health, safety, or life of any person and that disclosure of the information to another person will have the skills or resources to alleviate the serious and potential danger. No more information than is required to alleviate the serious and imminent danger may be disclosed.
- The information is required to be reported as part of a referral for child protection for suspected abuse and neglect of a child or unborn child.

The school district personnel, mentioned previously, who engage in working with drug use and abuse program activities, and who, in good faith, discloses or fails to disclose information regarding a student's use, abuse, or imminent danger is immune from civil liability exemptions for such acts of omission ([Wis. Stat. sec. 118.126](#)).

### Pupil Discrimination Prohibited

No person may be denied admission to any public school or be denied participation in, be denied benefits of, or be discriminated against in any curricular, extracurricular, pupil services, recreational, or other program or activity based on a person's sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability. Each school district must have policies and procedures related to antidiscrimination, and mechanisms for complaints for discriminatory behavior. Any school official, teacher, or employee who intentionally engages in conduct which discriminates against another person or causes a person to be denied rights, benefits, or privileges, may be required to forfeit not more than \$1,000 ([Wis. Stat. sec. 118.13](#)).

## Pupil Records

Wisconsin Statute secs. [118.125](#) and [146.81\(4\)](#) gives definitions of student records including: pupil, progress, directory, behavioral, pupil physical health, and patient health care records. The laws outline the requirements for access, maintenance, confidentiality, transfer, and storage of pupil records. See Chapter 12, Administrative Issues, for more information.

## Release of Immunization Information

[DHS 144](#) of the Wisconsin Administrative Code requires vaccine providers to disclose a student's immunization information, including the student's name, date of birth, gender, and the day, month, and year of vaccine administered, to schools and daycare centers upon verbal and written requests. Written and verbal permission from an 18 year-old or older student or parent is not required to release this information to a school or daycare center. Vaccine providers include any health care facility, physician's office, or local health department that administers vaccinations to the public. At this time, the law does not allow schools, unless they are vaccine providers, to release a student's immunization information without verbal or written permission from an 18 year-old or older student or parent.

## Release of Mental Health Records by Minors

A minor who is age 14 or older may consent to the release of confidential information in court or mental health treatment records without the consent of the minor's parent, guardian, or person in the place of a parent ([Wis. Stat. sec. 51.30\(5\)](#)).

## Restriction of use of HIV Test

[Wisconsin Statute sec. 252.15\(3\)](#) states that the results of an HIV test are confidential and may only be disclosed to the individual who received the test or to other persons with the informed consent of the tested individual. In the case of a student under the age of 18, parents or guardians may authorize release of their child's HIV status to others.

## School Safety

By March 27, 2013, each school board shall have in effect a school safety plan. School safety plans should be developed with appropriate community providers including: local law enforcement officers, fire fighters, school administrators, teachers, pupil services professionals, and mental health professionals. The plan must include general guidelines specifying procedures for emergency prevention and mitigation, preparedness, response, and recovery, as well as methods for conducting drills required to comply with the safety plan.

Once each month and without previous warning, school districts are required to provide a drill in which all students depart from the building, except when the administrators deems that the health of the students may be endangered by inclement weather conditions. At least twice annually and without previous warning, the school district shall drill all students in the proper methods of evacuation or other appropriate action in case of a schools safety incident. A safety drill may be substituted for any other required drill ([Wis. Stat. sec. 118.07\(4\) \(a\)](#)).

### Shaken Baby Syndrome Instruction

As part of the [Wis. Stat. sec. 48.67](#), school boards must provide or arrange with a nonprofit organization or health care provider to provide age-appropriate instruction related to shaken baby syndrome (SBS) and impacted babies for pupils in one of grades 5 to 8 and in one of grades 10 to 12. As a health care provider in the school setting, school nurses may be asked to provide information or instruction for shaken baby syndrome.

### Tobacco Products and School

[Section 120.12\(20\)](#) of the Wisconsin Statutes prohibits the use of all tobacco products on public school property. [Wisconsin Statute sec.101.123](#), the Clean Indoor Air Act, prohibits smoking in educational facilities, including private schools and daycare centers. These laws apply to students, staff, and visitors.

### Conclusion

Schools and school nurses need to be knowledgeable regarding the laws that affect school nursing and health programs. In particular, nurses are often in a position of educating other school district personnel regarding the laws specific to nursing. Continuing surveillance to changes in laws is critical to providing comprehensive and safe nursing care in the school setting.

## Resources

1. Bergren, Martha. April 2004. "HIPAA-FERPA Revisted." *Journal of School Nursing*. Volume 20, Number 2.
2. [United States Department of Health and Human Services](#).
3. Department of Public Instruction document "[Student Records and Confidentiality](#)."
4. Department of Public Instruction document "[Sharing Information Across Systems](#)."
5. Department of Public Instruction document "[Bloodborne Pathogens: Model Exposure Control Plan for Wisconsin Schools](#)."



