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IN THE MATTER OF A PETITION FOR
DECLARATORY RULING INVOLVING

FINAL DECISION AND ORDER ON PETITIONER'S
REQUEST

LYDIA BERTRAND,

FOR DECLARATORY RULING

PETITIONER,

LS0710191NUR

AND

MARQUETTE UNIVERSITY COLLEGE OF NURSING
MASTER OF SCIENCE NURSING PROGRAM FOR
NON-NURSING GRADUATES, (DIRECT ENTRY PROGRAM)

INTERESTED PARTY.

STATEMENT OF THE PETITION

The petitioner has submitted a petition to the Wisconsin Board of Nursing (hereinafter referred to as the "Board") regarding the Master of Science in Nursing Program for Non-Nursing Graduates at Marquette University College of Nursing (hereinafter referred to as the "Direct Entry Program"). [\[1\]](#) The petitioner claims that the Board's approval of the Direct Entry Program violates the Nurse Practice Act, Wis. Stat. § 441.04 and the requirements for examination and licensure for registered nurses, pursuant to Wis. Admin. Code § N2.03(1)(c) because the Program does not issue diplomas of graduation to students who complete the basic nursing curriculum phase of the Program and are allowed to take the nurse licensure examination and obtain a license. Instead, the Direct Entry Program issues a Certificate of Completion to students who complete the basic nursing curriculum phase since they have not completed a second bachelor's degree. The Master's of Science in Nursing degree is conferred when the student has fully completed all of the graduate level courses and clinical components of the Program.

In support of her claims, the petitioner has requested that the Board take the following actions:

- 1) dissolve the "Special Agreement" with Marquette University College of Nursing regarding the approval of the Direct Entry Program;
- 2) instruct the Department of Regulation and Licensing to cease issuing nursing licenses to students who have completed the basic nursing curriculum of the Direct Entry Program and received a Certificate of Completion from Marquette University College of Nursing; or,
- 3) require that Marquette University College of Nursing place a graduation date on the petitioner's official college transcript or grant a diploma of graduation to the petitioner. [\[2\]](#)

The petitioner's claims have been reviewed under Wis. Stat. § 227.41, Declaratory rulings, which provides that (1) Any agency may, on petition by any interested person, issue a declaratory ruling with respect to the applicability to any person, property or state of facts of any rule or statute enforced by it. A declaratory ruling is an order in which an agency declares the

rights, duties, status or other legal relations between the parties and is similar to a declaratory judgment issued by a court and is the remedy to resolve a controversy where there may be doubts about legal rights.

DECISION SUMMARY

After a comprehensive review of the petitioner's claims, including oral presentations and written materials submitted by the petitioner, by the Marquette University College of Nursing and by the Board's Legal Counsel, the Board has determined that the approval of the Direct Entry Program does not contravene the legal requirements for examination and licensure. Furthermore, the Board determined that its approval of the Direct Entry Program was consistent with the statutory authority of the Board and conforms to the applicable law governing the examination and licensure for registered nurses. Accordingly the Board has rendered the following determinations with regard to the petitioner's requests:

- 1) The Board denies the request that it dissolve the "Special Agreement" with Marquette University regarding the approval of the Direct Entry Program.
- 2) The Board denies the request that the Department of Regulation and Licensing cease issuing nursing licenses to students who have completed the basic nursing curriculum of the Direct Entry Program and received a Certificate of Completion from the Program, on the basis that the Certificate is a "diploma of graduation" from an accredited school of nursing within the meaning of the Wisconsin Nurse Practice Act, Wis. Stat. § 441.04, which entitles the applicant to apply to the Department for licensure by the Board as a registered nurse in accordance with Wis. Stat. § 441.04.
- 3) The Board finds that the Certificate of Completion is evidence that the applicant has advanced to a new level of skill or activity and is qualified as proficient in the practice of nursing at the completion of the basic nursing curriculum of the Direct Entry Program and has, therefore, graduated from a Board-approved school of professional nursing within the meaning of Wis. Admin. Code § N. 2.03(1)(c).
- 4) The Board denies the request that it require Marquette University College of Nursing to place a graduation date on the official transcript or grant a diploma of graduation to students who complete the basic nursing curriculum of the Direct Entry Program on the basis that it does not have the jurisdiction to impose such a requirement.
- 5) The Board finds that the Direct Entry Program is in full compliance with the provisions of Wisconsin Statutes and the Wisconsin Administrative Code, including the Wisconsin Nurse Practice Act, Wis. Stat. § 441.04, and Wis. Admin. Code § N2.03(1)(c), and continues to be a valid Board-approved school of professional nursing program.

APPLICABLE LAW

Wis. Stat. § 441.04, Requisites for Examination as a Registered Nurse. Any person who has graduated from high school or its equivalent as determined by the board, does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, holds a diploma of graduation from an accredited school of nursing, and if the school is located outside this state, submits evidence of general and professional educational qualifications comparable to those required in this state at the time of graduation may apply to the department for licensure by the board as a registered nurse, and upon payment of the fee specified under s. 440.05(1) shall be entitled to examination.

Wis. Admin. Code § N2.03(1), Registered Nurse Applicants. An applicant is eligible for examination for registered nurses if the applicant: (a) Does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, Stats.; (b) Has graduated from high school or its equivalent; and (c) Has graduated from a board-approved school of professional nursing.

DESCRIPTION OF THE DIRECT ENTRY PROGRAM

The Direct Entry Program at Marquette University College of Nursing is a graduate level program for individuals who hold baccalaureate degrees in fields other than nursing who wish to become nurses. (Attachment 1) The Direct Entry Program builds upon the student's broad education by providing an intense, accelerated curriculum leading to a Master's of Science (hereinafter referred to as the "MSN") in nursing. The student is required to complete 61 credits in basic nursing curriculum, known as the pre-MSN phase, within the first 15 months. Students who successfully complete the pre-MSN phase receive a Certificate of Completion which verifies that they have completed the undergraduate nursing objectives; however, they do not receive another bachelor's degree as they do not satisfy the additional credit requirements for a second undergraduate degree. The Direct Entry Program is designed to allow the student to attain a graduate level degree in far less time than if they had to complete a second bachelor's degree.

Upon completion of the pre-MSN phase, and in order to progress into graduate coursework, the student in the Direct Entry Program is required to pass the licensing examination for registered nurses (hereinafter referred to as the "NCLEX"). Eligibility to sit for the NCLEX is based upon receipt of a Certificate of Completion from the Direct Entry Program which verifies that the student has satisfied the nursing education objectives for examination. Upon passage of the NCLEX, the student is eligible for licensure as a registered nurse (hereinafter referred to as a "RN"). The granting of licensure enables the student to complete the graduate courses and be eligible to provide direct patient care in the clinical component of the MSN phase of the program.

After completing the pre-MSN phase and obtaining RN licensure, the student is required to complete two years of graduate level coursework and clinical training in a nursing specialty. Upon completion of the entire course of study, the MSN degree is conferred and the student is eligible to take the appropriate certification examination administered by the American Nurses Credentialing Center or other specialty certification body. When the student obtains the MSN degree, he or she is not only eligible for specialty certification, but also for licensure as an advance practice nurse in Wisconsin and other jurisdictions. The concept of direct entry remains a desirable option for those with non-nursing undergraduate degrees to enter the nursing profession as shown by the high number of students who have applied for admission to the Direct Entry Program and the growing prevalence of such programs in other states. [\[3\]](#)

APPROVAL OF THE DIRECT ENTRY PROGRAM

When the Direct Entry Program was initially proposed in 1998, the Dean of the College of Nursing at Marquette University, Madeline Wake, wrote to Wayne Austin, the Legal Counsel for the Board of Nursing, and asked the following question:

Please confirm in writing that students who completed the nursing requirement of basic nursing education and progress to the MSN phase of the program would meet the intent of Chapter N2.03 *"Has graduated from a board-approved school of professional nursing"* and be eligible to sit for the examination for registered nurses.

The letter from Dean Wake indicated that the Marquette University College of Nursing interpreted the term *"graduated"* to include progression to the MSN phase. (Attachment 4) On February 1, 1999, Wayne Austin drafted a response to Dean Wake confirming her understanding that students who completed the basic nursing coursework would meet the intent of Wis. Admin. Code § N2.03 and, therefore, would be eligible both to take the NCLEX and for licensure as an RN. (Attachment 5) Mr. Austin's letter indicates that the Board of Nursing considered his response on January 28, 1999, and concurred with his opinion. [\[4\]](#) The Department and the Board were cognizant of the fact that the student who completed only the pre-MSN

phase had progressed to the next phase but would not receive a degree until the entire master's of science coursework was completed.

LEGAL ANALYSIS OF THE REQUIREMENTS FOR EXAMINATION AND LICENSURE

At issue in this proceeding is the statutory language for nurse licensure examination in the Nurse Practice Act, Wis. Stat. § 441.04, which states that a person “holds a diploma of graduation from an accredited school of nursing.” The prerequisite for licensure examination in the accompanying rule requires that the person has “graduated from a board-approved school of professional nursing.” Wis. Admin. Code § N2.03(1)(c). The petitioner contends that this language requires the Direct Entry Program to either issue a diploma or place a graduation date on her official college transcript before she could be allowed to take the NCLEX and obtain a license as an RN.

A) Statutory Interpretation

The interpretation of a statute begins with the language of the statute; it is assumed that the intent of the provision is expressed in the words it uses. *Orion Flight Serv. v. Basler Flight Serv.*, 2006 WI 51, ¶ 16, 290 Wis. 2d 421, 714 N.W.2d 130. Words that are not defined in a statute are given their common, ordinary and accepted meaning, as explicated in a recognized dictionary. *Id.*, ¶¶ 16, 24. Words used in a statute are also considered in the context in which they are used, including related provisions. *Id.*, ¶ 16. Thus, if the meaning of a provision is plain, the inquiry ends. *Id.*, ¶ 17.

The words “diploma,” “diploma of graduation” or “graduated from a board-approved school” are not expressly defined in Wis. Stat. § 441.04 or Wis. Admin. Code § N2.03(1)(c). As result, in the absence of a statutory or rule definition, the common dictionary definition of the words is controlling. The American Heritage Dictionary (3d ed. 1996) defines “diploma” as a document issued by an educational institution signifying that the recipient has earned a degree or successfully completed a course of study. *Id.* at 526. Webster's Third New International Dictionary (unabridged ed. 1986) defines “diploma” as a document conferring an honor or privilege, or evidencing graduation from an educational institution. *Id.* at 638. The Certificate of Completion is a “diploma” under the second American Heritage definition since it is a document issued by a college indicating that the recipient has successfully completed the course of study in basic nursing training. The Certificate of Completion is a “diploma” under Webster's first definition since it confers the privilege of taking the registered nurse exam and of entering the next phase of the Direct Entry Program if the student passes the NCLEX.

In addition, the Certificate of Completion is a “diploma” under a related standard definition of the phrase “graduate”. The American Heritage Dictionary defines “graduate” as being granted an academic degree or diploma, or advancing to a new level of skill or activity. *Id.* at 785. Webster's Third New International Dictionary defines “graduate” as being granted an academic degree, diploma or certificate, or to qualify as proficient or learned in a particular field at the completion of a course. *Id.* at 985. When a student completes the basic training phase of the Direct Entry Program, the student in effect “graduates” under the second American Heritage Definition since he or she advances to a new level of skill and activity in nursing, from the basic to the graduate level. A student who completes the basic training phase in effect “graduates” under the second Webster's definition since she or he now qualifies as proficient in the practice of nursing at the completion of the basic training course. The issuance of a Certificate of Completion to a student who has successfully completed the pre-MSN phase of the Direct Entry Program, therefore, fulfills the requirement that an applicant has “graduated from a board-approved school of nursing” which appears in Wis. Admin. Code § N2.03 (1)(c).

B) Legislative History

The genesis of the words “diploma of graduation” began with the 1911 Wis. Laws, ch. 346, § 1, a session law which created

Wis. Stat. § 1409a-5, and provided that a person could apply for registration as a registered nurse if she or he “graduated” from a training school associated with a hospital after at least two years of training. The 1911 session law first used the words “diploma of graduation” to refer to the document that was issued by accredited hospitals which were the exclusive providers of nursing education and training at the turn of the century. This is further supported by a review of Chapter 365, published June 17, 1921, which refers to the “diploma of graduation from an accredited school of nursing as a course of not less than two years for nurses within four months following the date of application.” Wis. Stat. § 38.22(1) provided that a nurse who had attended high school for at least one year and who held a “diploma of graduation from an accredited school of nursing” after completing a course at least two years long could take the registered nurse exam. The statute was not referring to a college degree since a person with only a year of high school could not even get into college.

A combination of the words “diploma” and “graduation” next appeared in 1915 Wis. Laws, ch. 438, which created a new statute which provided that a person could apply for certification as a registered nurse if she or he had “a diploma or other certificate of graduation” from a reputable training school. This provision made clear that a diploma was not a college degree but again was merely some kind of certificate that a person had completed a nursing training program. Shortly thereafter, the 1915 Wis. Laws, ch. 595, §§ 2 & 3, was repealed and the 1911 version of the law was reinstated. The law was finally revised again by 1921 Wis. Laws, ch. 365, § 2. This session law created a statute that first used the phrase “diploma of graduation” which continues to be used in the present law. There is no reference to the meaning of those words or phrases. Rather, in accord with the earlier 1915 provision, the “diploma of graduation” was merely a term to describe a kind of certificate indicating that a nurse had successfully completed a nursing training program.

Although the law has been amended in various ways since 1921, the words “diploma of graduation from an accredited school of nursing” has remained the same through all these revisions. The current Wis. Stat. § 441.04 uses verbatim the same language as former Wis. Stat. § 38.22(1). The various amendments offer no reason to believe that the Legislature intended the meaning of this phrase to change over the years when its language remained the same. However, there is a significant difference between the old and new statutes. Present Wis. Stat. § 441.04 does not contain the former requirement that the diploma of graduation be issued after completion of a nursing training course that is at least two years long. The origin of the “diploma of graduation” also counters the argument that it is synonymous with present day academic degrees offered by universities or other post-secondary institutions.^[5] The term “diploma of graduation” or “graduated” did not mean earning a bachelor’s degree in nursing after four years in college; or receiving an academic degree; it simply meant completing an approved training program in nursing.

Accordingly, based upon both the tenants of statutory construction and the legislative history, the Certificate of Completion which is awarded to students upon completion of pre-MSN basic training phase of the Direct Entry Program is, in fact, a “diploma of graduation” from an accredited school of nursing within the meaning of Wis. Stat. § 441.04, and, as such, the Program does not violate the law. Applying the common dictionary definitions of the terms used in the statute and rule, the Certificate of Completion is a “diploma of graduation” and is evidence of “graduation” because it is a document issued by a school of nursing to evidence the fact that the recipient has successfully completed the course of study in basic nursing training, is proficient as a nurse, and is qualified to go on to the next level of training.

CONCLUSIONS OF LAW

1. The Certificate of Completion issued by the Marquette University School of Nursing Direct Entry Program is a “diploma of graduation” from an accredited school of nursing within the meaning of the Wisconsin Nurse Practice Act, Wis. Stat. § 441.04, which entitles the applicant to sit for licensure examination under Wis. Admin. Code § N2.03(1)(c) and to apply to the Department for licensure by the Board as a registered nurse

in accordance with Wis. Stat. § 441.04.

2. The Certificate of Completion is evidence that the applicant has “graduated from a Board-approved school of professional nursing” within the meaning of Wis. Admin. Code § N2.03(1)(c) because it demonstrates that the student has advanced to a new level of skill or activity and is qualified as proficient in the practice of nursing at the completion of the pre-MSN phase of the Direct Entry Program.
3. The Marquette University Direct Entry Program is in full compliance with the provisions of Wisconsin Statutes and the Wisconsin Administrative Code., including the Wisconsin Nurse Practice Act, Wis. Stat. § 441.04, and Wis. Admin. Code § N2.03(1)(c), and continues to be a valid Board-approved school of professional nursing program.

NOW, THEREFORE, IT ORDERED that the findings stated herein constitute the Declaratory Ruling of the Wisconsin Board of Nursing in response to the petitioner’s claims and requests regarding the Marquette University College of Nursing Master of Science in Nursing Program for Non-Nursing Graduates (“Direct Entry Program”).

The rights of a party aggrieved by this ruling to petition the department for rehearing and petition for judicial review are set forth on the attached “Notice of Appeal Information.”

Dated this 22nd day of October, 2007.

Marilyn Kaufman, RN, PhD
Chair
Wisconsin Board of Nursing

[1] The Direct Entry Program at Marquette University was approved by the Board in 1999. It is designed as a master’s program for individuals who hold baccalaureate degrees in fields other than nursing who wish to become nurses. (Attachment 1)

[2] The petitioner completed the accelerated pre-MSN basic nursing curriculum phase, received a Certificate of Completion from Marquette University and was allowed by the Department to take the national licensure examination for registered nurses (RN). Upon successful passage of the examination, the petitioner was granted an RN license in Wisconsin.

[3] In the current class of 2007-08, only 48 students were admitted from an applicant pool of 886, with no students leaving the Direct Entry Program. In the class of 2006-07, only 35 were admitted from an applicant pool of 852, with only one student leaving the program. (Attachment 2) There are approximately 60 similar programs offered by nursing schools throughout the country. The majority do not require the award of a second undergraduate degree in nursing prior to completing the graduate level courses. (Attachment 3) Instead, such programs serve important public interests; to increase the number of advance practice nurses.

[4] There is a prior signed version of Mr. Austin’s February 1, 1999 letter to Dean Wake. Dr. Wake, the current Provost of Marquette University, who in 1999 was the Dean of the College of Nursing, requested that Mr. Austin revise the last paragraph of page 2 of the original letter to clarify that a degree was not required to enable a student who completed the Pre-MSN basic nursing requirements to sit for the NCLEX and to obtain RN licensure. (Attachment 6) Dean Wake’s request was consistent with the question that she had asked in her December 15, 1998, letter to Mr. Austin regarding *whether “ . . . students who complete the nursing requirements of basic nursing education and progress to the MSN phase of the program would meet the intent of Chapter N2.03 ‘Has graduated from a board-approved school of professional nursing,’ and be eligible to sit for the examination for registered nurses. We interpret ‘graduated’ to include progression to the MSN phase. At that time, the student will have met all requirements for basic nursing education.”* (Emphasis added. See Attachment 4). Accordingly, Mr. Austin revised the last paragraph of page 2 of his letter by replacing the term “graduate” with the term “participant”,

perhaps in an effort to avoid the misconception that the definition of the word “graduate” requires possession of a degree.

[\[5\]](#) The unique origin and status of the diploma of graduation is also shown by the acknowledgement of this as a separate category for RN licensure on the DRL form for RN examination, referenced as DIP, an acronym which stands for “diploma” for those applicants who are applying with a diploma of graduation.