



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Nursing, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC90-20-10 et seq.
Regulation title	Regulations Governing the Practice of Nursing
Action title	Inactive license
Document preparation date	9/22/05

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

In response to a petition for rule-making, the Board of Nursing voted on September 20, 2005 to consider amendments to Chapter 20, Regulations Governing the Practice of Nursing that would allow a nurse with an active, unrestricted license to take an inactive status.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, including the authority for the Board of Nursing to promulgate regulations to administer the regulatory system (6) and to issue an inactive license (12):

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

- 1. To establish the qualifications for registration, certification, licensure or the issuance of a multistate licensure privilege in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify, license or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification, licensure, and the issuance of a multistate licensure privilege.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title....*
- 12. To issue inactive licenses or certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of licenses or certificates.*

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

Amendments may be proposed in Section 30, which sets out the fee schedule for the licensure of nurses and in Section 220, which establishes requirements for renewal. In determining the rules for inactive licensure, the fee is typically set at one-half the cost of renewing an active license. A new section may be added to specify that holding an inactive license does not entitle an individual to practice nursing and to set out requirements for reactivation of an inactive license.

The Board will need to examine qualifications and criteria for reactivation as necessary to protect the health, safety and welfare of the public. Continuing education is not required for renewal of an active license, since it is presumed that the nurse is engaged in active practice and is therefore maintaining her knowledge and skills. However, to ensure that an inactive nurse is competent

and ready to resume practice, the Board may require some evidence of continued competency, such as continuing education, retesting, or active practice in another jurisdiction.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

There are no alternatives to a regulatory action as requested by the nurse who petitioned for an amendment to regulations. In the petition for rule-making, it was noted that many retired nurses do not need to maintain an active license but are reluctant to give up the nursing license that they have held all of their adult lives. However, as the renewal fee has increased, many of these nurses question the need to continue paying for an active license and choose not to renew. While the Board will realize less revenue from inactive licenses than active licenses, it may offset the loss by the number of nurses who would choose an inactive license versus non-renewal.

The Board will also need to consider the implications of an inactive license as it relates to the Nurse Licensure Compact and issuance of a multistate licensure privilege. Since the Board has the authority to issue a single state license, the issuance of a single state inactive license should not be problematic, but related factors will need to be considered in the development of regulatory language.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

The proposed regulatory action will have no impact on the institution of the family and family stability.