



Final Regulation Agency Background Document

Agency name	Board of Nursing, Department of Health Professions
Virginia Administrative Code (VAC) citation	18 VAC 90-30
Regulation title	Regulations Governing the Licensure of Nurse Practitioners
Action title	Inactive licensure
Document preparation date	10/18/07

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*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Amended regulations change regulations for nurse practitioners to specify that a person must hold a current, unrestricted license as a registered nurse in order to hold a license and practice as a nurse practitioner.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On September 18, 2007, the Board of Nursing and on October 18, 2007, the Board of Medicine adopted final amended regulations 18VAC90-30-10 et seq., Regulations Governing the Licensure of Nurse Practitioners, specifying active licensure as a registered nurse to maintain a nurse practitioner license.

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 numbers, 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, which provides the Boards of Nursing and Medicine the authority to promulgate regulations to administer the regulatory system and to issue inactive licenses:

§ 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.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate, license or multistate licensure privilege which such board has authority to issue for causes enumerated in applicable law and regulations. ...*
- 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.*

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Amendments are proposed in Sections 80 and 160 to clarify that in order to hold a license and practice as a nurse practitioner in Virginia, one must hold an active, current license as a registered nurse in Virginia or hold a current multistate licensure privilege as a registered nurse. Nurse practitioner licensure has always been based on the RN license, but since the Board of Nursing has adopted an inactive RN license, Chapter 30 had to be amended to ensure that it was clear that someone could not have an inactive RN license and maintain licensure as a nurse practitioner. Licensure and practice as a nurse practitioner is dependent on the foundational license as a registered nurse, and it is necessary for public health and safety to maintain a current, active license. If the RN license is suspended or revoked by the Boards, the nurse practitioner license is likewise restricted or revoked.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Amendments to Chapter 30, Regulations Governing the Practice of Nursing will clarify that it is necessary to have a current, active license as a registered nurse in order to practice as a nurse practitioner.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

- 1) There are no disadvantages to the public. Nurses who would request inactive RN licensure would not be actively practicing in any setting, so their inactive status would disqualify them from practicing as a nurse practitioner.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth.
- 3) There is no other pertinent matter of interest related to this action.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

There were no changes made since the publication of the proposed stage.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Proposed regulations were published in the Virginia Register of Regulations on May 14, 2007. Public comment was requested for a 60-day period ending July 13, 2007. A Public Hearing before the Board was held on May 15, 2007. There was no public comment.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
80	n/a	Sets out qualifications for licensure as a nurse practitioner	Clarifies that in order to be licensed as a nurse practitioner, an applicant must hold a <u>current, active</u> license as a registered nurse. The clarification is necessary because the Board of Nursing has proposed inactive licenses be established for registered nurses who are retired and no longer practicing but who want to maintain a Virginia license.
160	n/a	Sets out the conditions by which practice as a nurse practitioner is prohibited	Clarifies that practice as a nurse practitioner is prohibited if the license as a registered nurse is lapse or inactive.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

The Board has assessed the impact of the proposed regulatory action and does not believe there will be any impact on the family or family stability.