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Final Regulation
Agency Background Document

Agency name	Board of Nursing, Department of Health Professions
Virginia Administrative Code (VAC) Chapter citation(s)	18VAC90-27
VAC Chapter title(s)	Regulations Governing Nursing Education Programs
Action title	Use of simulation in nursing education
Date this document prepared	5/18/21

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Board has adopted definitions and qualifications for the use of simulation in lieu of direct client care hours in fulfillment of the clinical hour requirements for nursing education programs. Amended regulations will define terms, require faculty supervising clinical practice by simulation to have knowledge and skills in the methodology, and clarify that the 50% limitation on the number of clinical hours that can fulfilled by simulation applies to the hours in different specialties and population groups across the life span.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

N/A

Statement of Final Agency Action

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 May 18, 2021, the Board of Nursing adopted amendments to 18VAC90-27-10 et seq., Regulations Governing Nursing Education Programs.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

The impetus for the regulatory action is replacement of a Guidance Document that outlined the essential components and major concepts necessary when using simulation in lieu of direct client care. The document presented research on use of simulation in nursing education and best practices for learning outcomes. It also included prescriptive language that appeared to be requirements best set out in regulation. Accordingly, the Board decided to incorporate some of the essential elements of guidance into Chapter 27.

There are no changes to the previously reported information.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6), which provides the Board of Nursing the authority to promulgate regulations to administer the regulatory system:

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

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

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. …

The powers and duties of the Board include oversight of nursing education and approval of programs:

§ 54.1-3005. Specific powers and duties of Board.
In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:
1. To prescribe minimum standards and approve curricula for educational programs preparing persons for licensure or certification under this chapter;
2. To approve programs that meet the requirements of this chapter and of the Board;
3. To provide consultation service for educational programs as requested;
4. To provide for periodic surveys of educational programs;
5. To deny or withdraw approval from educational or training programs for failure to meet prescribed standards;…

§ 54.1-3013. Approval of nursing education program.
An institution desiring to conduct a nursing education program to prepare professional or practical nurses shall apply to the Board and submit evidence that:
1. It is prepared to meet the minimum standards prescribed by the Board for either a professional nursing curriculum or a practical nursing curriculum; and
2. It is prepared to meet such other standards as may be established by law or by the Board.
A survey of the institution and its entire nursing education program shall be made by the administrative officer or other authorized employee of the Board, who shall submit a written report of the survey to the Board. If, in the opinion of the Board, the requirements necessary for approval are met, it shall be approved as a nursing education program for professional or practical nurses.
New nursing education programs shall not be established or conducted unless approved by the Board.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

As nursing education programs are allowed to use simulation for up to 50% of the required clinical hours, it is essential that those hours are led by faculty with expertise in both the subject matter covered and the use of simulation as a teaching tool. Likewise, simulation should not be the only methodology for clinical experience in a particular specialty or with a particular patient population. Therefore, the amendments are necessary to ensure nursing students are adequately trained to be minimally competent for the health, safety, and welfare of patients during clinical experiences and after licensure.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

The amendments will: 1) define "direct client care" and "simulation" – terms used in the amended regulations; 2) require faculty who supervise clinical practice by simulation demonstrate knowledge and skills in the methodology; 3) require simulation to account for no more than 50% of the total clinical hours in different clinical specialties and population groups across the life span; and 4) require knowledgeable faculty to be present during the simulation experience.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

1) The primary advantage to the public is greater assurance that nursing students are adequately trained to be minimally competent in providing clinical care; there are no disadvantages to the public;
2) There are no advantages and disadvantages to the agency or the Commonwealth; and
3) The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. The Board is authorized under § 54.1-2400 to "*promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary to administer effectively the regulatory system.*"
The proposed regulation on simulation of clinical training is a foreseeable result of the statute requiring the Board to protect the health and safety of patients in the Commonwealth.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected - none

Localities Particularly Affected - none

Other Entities Particularly Affected - none

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

The public comment period on proposed regulations opened on 3/1/2021 and ended on 4/30/2021; there was a public hearing conducted on 3/23/2021. One comment was received.

Commenter	Comment	Agency response
Louise Schwabenbauer	The need for all educators that teach simulation to be certified right now and for the lab to be certified as a simulation center will put further strain on budgets for small programs during the pandemic.	There is no requirement in the proposed regulations for the instructors or the simulation centers to be "certified," so the Board believes the commenter is misunderstanding the amendment. The amended regulation states: "*Faculty members who supervise clinical practice by simulation shall also demonstrate simulation knowledge and skills in that methodology and shall engage in ongoing professional development in the use of simulation."* Additionally, it is likely that the pandemic will be much less impactful by the effective date of this regulation.

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

There were no changes to the text since the proposed stage was published.

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
27-10	Provides definitions for words and terms used in the chapter	The terms "direct client care" and "simulation" are currently used in the chapter, so definitions are added for greater clarity in their usage.
27-60	Sets out the qualifications for faculty to teach in an approved nursing education program	In subsection A, the qualification for nursing faculty supervising the clinical practice of students is amended to clarify that faculty who are utilizing simulation in lieu of direct client care have to meet licensure requirements and provide education of education and experience. Faculty supervising clinical practice by simulation must demonstrate clinical knowledge and skill in that methodology and engage in ongoing professional development in the use of simulation. *The use of manikins to simulate patient care is an evolving field in health care. Nursing faculty supervising clinical training must demonstrate that they not only have knowledge and skill in the clinical experience (i.e., adult cardiac care; pediatrics; labor and delivery), but they must also have knowledge and skill in the technical use of simulation to ensure that the student experience is adequate for patient safety as a post-licensure nurse.*
27-100	Sets out the requirements for a curriculum in direct client care	Subsection D currently provides that no more than 50% of the total clinical hours for any course may be used as simulation. An amendment will clarify that if simulation is used for a course that integrates more than one subject or stage in the life span, the clinical experience through simulation cannot exceed 50% of the total clinical hours in different clinical specialties and population groups. *For example, a course in cardiac care for adults and children would need to have no more than 50% in simulation with manikins for adult care and 50% in simulation with manikins for pediatric care. Likewise, if more than one specialty is included in a single course, the simulated clinical experience would need to have no more than 50% in simulation in each of those specialties.* An amendment is subdivision 4 of subsection D specifies that faculty with education and expertise in simulation and in the applicable subject areas must be present during the simulation experience. *Without appropriate supervision by trained faculty, there is no assurance that the students are being adequately trained or that the clinical experience is providing any assurance of minimal competency.*

		An amendment to subdivision 5 of subsection D adds to the documentation required for all simulated experiences, to include pre-briefing, evaluation of the simulated experience, and the method used to communicate student performance to clinical faculty. *All such documentation should currently be part of the record in a nursing education program, so the additions are considered a clarification of expectation.*