



**Virginia
Regulatory
Town Hall**

**Periodic Review and
Notice of Intended Regulatory Action
Agency Background Document**

Agency Name:	Board of Nursing
VAC Chapter Number:	18 VAC 90-30-10 et seq.
Regulation Title:	Regulations Governing the Practice of Nurse Practitioners
Action Title:	Periodic review
Date:	12/7/01

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to amend or repeal an existing regulation and is required to be submitted to the Registrar of Regulations as a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B).

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

18 VAC 90-30-10 et seq. establish the qualifications for nurse practitioners to be licensed and set the requirements for practice in collaboration with a physician and under medical direction and supervision. Regulations also set forth application, renewal and other fees as necessary to support the regulatory and disciplinary functions of the Joint Boards of Nursing and Medicine and establish grounds and a process for disciplinary action.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

The statutory authority for this regulation is found in § 54.1-2400 and Chapter 29 of Title 54.1 of the Code of Virginia.

Section 54.1-2400 establishes the general powers and duties of health regulatory boards including the responsibility to establish qualifications for licensure, to set fees and schedules for renewal, to establish requirements for an inactive license and to promulgate regulations, in accordance with the Administrative Process Act, which are reasonable and necessary to effectively 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:

- 1. To establish the qualifications for registration, certification or licensure 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 or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure 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 (§ 9-6.14:1 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 and Chapter 25 of this title.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
- 8. To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
- 9. To take appropriate disciplinary action for violations of applicable law and regulations.*

10. *To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*
11. *To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*
12. *To issue inactive licenses and 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 such licenses or certificates.*

The statute governing the licensure of nurse practitioners is §§ 54.1-2957 of the Code of Virginia.

§ 54.1-2957. Licensure of nurse practitioners.

The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of nurse practitioners. It shall be unlawful for a person to practice as a nurse practitioner in this Commonwealth unless he holds such a joint license.

The Boards may issue a license by endorsement to an applicant to practice as a nurse practitioner if the applicant has been licensed as a nurse practitioner under the laws of another state and, in the opinion of the Boards, the applicant meets the qualifications for licensure required of nurse practitioners in this Commonwealth.

Pending the outcome of the next National Specialty Examination, the Boards may jointly grant temporary licensure to nurse practitioners.

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was or will be formed for purposes of assisting in the periodic review or development of a proposal.

An announcement of the boards' review of regulations governing the practice of nurse practitioners was posted on the Virginia Regulatory Townhall, sent to the Registrar of Regulations, and sent to persons on the Public Participation Guidelines mailing list for the board. Public comment was accepted from May 7, 2001 until July 1, 2000. No comment from the public or interested parties was received on these regulations.

The regulations were reviewed by an advisory group consisting of the Committee of the Joint Boards and the Advisory Committee on Nurse Practitioners. Included in the composition of the two groups are licensed nurse practitioners, nurse anesthetists, nurse midwives, and physicians who practice in a variety of settings in which they collaborate and supervise their practice.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The specific goals of the regulations were included with the Notice for Periodic Review and request for comment. The goals are:

1) Achieve high ratings on Customer Service Satisfaction Survey for application process and renewal of licenses.

The Board reviewed the responses of recent licensees and registered facilities on the Customer Service Satisfaction Surveys and determined that the application process and renewal of licensure was effective in that instructions for making application are clear and easy to understand and complete. Of those that responded, 92.5% of licensed nurse practitioners agreed or strongly agreed that the instructions were easy to understand. Asked if the application was processed promptly, 77.5% of licensed nurse practitioners agreed or strongly agreed. Asked if the forms were easy to complete, 90.2% agreed or strongly agreed. Therefore, no changes in regulations are being considered in the application process.

2) Review the scope and required preparation for practice as a licensed nurse practitioner and remove unnecessary barriers to practice.

The only unnecessary barriers to practice identified by the physicians and nurse practitioners who reviewed the regulation were related to requirements for site visits and chart reviews for nurse practitioners with prescriptive authority. Those concerns have been addressed in the review of regulations for prescriptive authority and are not relevant to this set of regulations. No additional barriers were identified.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

The Boards have considered whether there were any alternatives to achieving the purpose of the regulation and concluded that it is the least burdensome alternative allowable by statute. The Code required the Boards to prescribe qualifications for licensure by regulation and allows temporary practice pending the results of the national specialty examination. The only alternative considered in the review of these regulations was an additional requirement to ensure the certifying bodies, on which the Boards rely for licensure, are accredited or approved by a professional entity or credentialing agency. Without such a requirement, there is no independent review of the specialty examinations, to ensure that they are psychometrically sound and not subject to challenge.

Recommendation

Please state whether the agency is recommending the regulation be amended or terminated and the reasons such a recommendation is being made.

The Boards of Nursing and Medicine are recommending the regulation be amended to ensure that certifying agencies providing professional certification necessary for licensure as a nurse practitioner are deemed acceptable to the National Council of State Boards of Nursing.

Substance

Please detail any changes that would be implemented.

Amendments have been recommended in the following sections of regulations:

18 VAC 90-30-10. Definitions.

The definition of “national certifying body” would be amended to require such a body to be accredited by an accrediting agency or deemed acceptable by the National Council of State Boards of Nursing.

18 VAC 90-30-90. Certifying agencies.

This section would be amended to require accreditation by an accrediting agency or acceptability by the National Council of State Boards of Nursing

Family Impact Statement

Please provide a preliminary analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulatory action does not have any impact on the institution of the family or the rights of parents, does not encourage or discourage economic self-sufficiency or affect the marital commitment. Amendments should have no affect on family income.