



Fast Track Proposed Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation	<u>12 VAC 5 - 545</u>
Regulation title	Guidelines for the Virginia Nurse Educator Scholarship Program
Action title	Promulgating new regulations for the Virginia Nurse Educator Scholarship
Date this document prepared	December 8, 2010

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The proposed regulation is for implementation of a scholarship program, known as the "Virginia Nurse Educator Scholarship Program," established by the 2009 Appropriations Act. The proposed regulation will provide for the administration of the Virginia Nurse Educator Scholarship program. The intent of this program is to increase the number of nurse educators by providing masters and doctoral level nursing students with financial support for advanced degree programs. Up to ten nurse educator scholarships are planned to be awarded annually.

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.

The State Health Commissioner approved the regulatory text in April 2010 as a fast-track action on behalf of the State Board of Health. The fast-track stage was withdrawn in June 2010 due to a request for additional edits by the Office of the Attorney General. After a number of revisions by OAG and minor edits by the Virginia Department of Health (VDH) Office of Minority Health and Health Equity (OMHHE) is submitting these regulations again as a fast-track action.

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 General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Sections 23-35.9 and 32.1-122.6:01 of the *Code of Virginia* authorize the board to award annual scholarships for students enrolled in undergraduate and graduate nursing programs in the Commonwealth of Virginia.

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 the regulation 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.

Beginning in 2009, the General Assembly included funds in the Appropriation Act for scholarships and loan repayments for nursing students pursuing an advanced degree towards becoming nursing faculty at the college level. Priority shall be given to master's degree candidates who commit to teaching in the community colleges." Pursuant to this legislative mandate, regulations have been developed for the "Virginia Nurse Educator Scholarship Program."

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The Administrative Process Act (APA) provides for expedited rulemaking for non-controversial regulatory actions. The regulation as proposed is non-controversial because the scholarship was provided for in the 2009 Appropriations Act and implementing the resulting program is expected to be straightforward. The Virginia General Assembly recognized a need for

increasing the number of nurse educators. The regulations are patterned after other existing scholarship programs, which have not been controversial.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

The proposed regulation will establish provisions for the administration of the "Virginia Nurse Educator Scholarship Program." Those provisions will include: definitions, purpose, administration, eligible applicants, scholarship amount, distribution of scholarships, contract provisions, repayment of scholarships, repayment by practice, cash repayment, cash repayment amount, cash repayment schedule and reporting requirements.

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.

The purpose of the regulation is to comply with the Code. There are no known disadvantages to the public, the regulated entities, business entities or the Commonwealth. The advantage will be an increase in nursing educators and a subsequent increase in access to quality nursing services within medical practices throughout the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no federal requirements related to this proposal, nor are there any requirements in this proposal that exceed federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No locality will be particularly affected by the proposed regulation.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The alternative regulatory methods are not applicable.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	Projected cost to the state is negligible.
Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.	None
Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.	The scholarship program consists of scholarships awarded annually to master’s and doctoral level nursing candidates who will complete the program within two years or less. Eligible candidates can be enrolled in full or part-time programs.
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	Estimated: Ten Nurse Educator candidates per year will receive scholarships.
All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities.	Awardees will receive scholarships. There will be no costs to them.

<p>Please be specific and do include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	
<p>Beneficial impact the regulation is designed to produce.</p>	<p>Overall this regulation will have a positive impact on the institution of the family and family stability. Helping nursing students with their educational expenses will save disposable family income and increase their potential earnings for the future. This program will increase the number of nurse educators in Virginia nursing programs.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

VDH is required by the Code to develop and implement regulations for the new Virginia Nurse Educator Scholarship program. There are no viable alternatives that would carry out the intent of the law.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent 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 Virginia Nurse Educator Scholarship program will have a positive impact on the family and family stability by increasing access to quality nursing services within medical practices throughout the Commonwealth. Assisting nursing students with their educational expenses also increases their family earning potential and allows low and moderate income families to pursue nursing careers.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact in each section. Please detail the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale

For new chapters, use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
10	This section provides general information about the Nurse Educator Scholarship.		The intent of this regulation is to provide a structure by which the Nurse Educator Scholarship can be implemented.
20	This section provides definitions for key terms used throughout the regulatory language.		The intent of this regulation is to provide a structure by which the Nurse Educator Scholarship can be implemented.
30	This section provides that the Commissioner will act as the fiscal agent for the Board in administration of the scholarship program and will make scholarship award decisions after hearing recommendations from the Committee. Additionally, this section establishes the makeup of the Committee including how members are appointed.		The intent of this regulation is to provide a structure by which the Nurse Educator Scholarship can be implemented.
40	This section provides the eligibility requirements of the scholarship recipients and the process by which the finalists are chosen.		The intent of this regulation is to provide a structure by which the Nurse Educator Scholarship can be implemented.
50	This section provides the scholarship amount. Specifically, the amount available each year for Virginia nurse educator scholarships shall be as provided by the		The intent of this regulation is to provide a structure by which the Nurse Educator Scholarship can be implemented.

	Virginia General Assembly in the Appropriation Act.		
60	This section provides detailed and specific information about the Nursing Scholarship Advisory Committee in terms of notifying nursing programs, annual committee meeting, and committee scholarship recommendations to the commissioner.		The intent of this regulation is to provide a structure by which the Nurse Educator Scholarship can be implemented.
70	This section provides the contract and default provisions of the scholarship recipients. The recipient shall notify the commissioner in writing of his/her proposed teaching location not more than 30 days after beginning his employment. The recipient may request a change in teaching location. The commissioner in his discretion may approve such a request. This section establishes that the recipient will be found to be in default if the recipient notifies the commissioner in writing that he does not plan to fulfill the contractual obligation; if the recipient has not accepted a placement and commenced the period of obligated practice as provided for; or if the recipient leaves without the consent of the commissioner the place of full-time teaching service which the commissioner has approved for fulfillment of the contractual obligation.		The intent of this regulation is to provide a structure by which the Nurse Educator Scholarship can be implemented.
80	This section establishes that scholarships are to be repaid by either the recipients' teaching service or through repayments.		The intent of this regulation is to provide a structure by which the Nurse Educator Scholarship can be implemented.
90	This section establishes the reporting requirements of the nursing schools and scholarship recipients. The nursing schools are responsible for providing an annual report listing the academic status of each recipient to the committee. Additionally, each scholarship recipient is responsible for		The intent of this regulation is to provide a structure by which the Nurse Educator Scholarship can be implemented.

	providing information as requested by the committee to verify that they are in compliance with the requirements of the scholarship as well as any change of address, academic standing or any other issue that could hinder their ability to comply with the teaching requirement. The committee is required provide an annual report to the board.		
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The proposed regulation is new and serves to formalize the scholarship, known as the “Virginia Nurse Educator Scholarship Program,” established in the Virginia General Assembly’s 2009 Appropriation Act.