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## Final Regulation Agency Background Document

<b>Agency name</b>	Board of Nursing, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18VAC90-20-10 et seq.
<b>Regulation title</b>	Regulations Governing the Practice of Nursing
<b>Action title</b>	Requirements for approval of nursing education programs
<b>Date this document prepared</b>	3/18/14

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

The provisions for approval of nursing education programs have been reorganized to clarify in Article 1 all criteria that must be met to obtain initial approval. To attain full approval, a program is required meet the criteria of Article 1 and to comply with provisions set out in Article 2. To continue to have full approval, a program is required to continue compliance with Articles 1 and 2 and to meet the criteria of Article 3. To address deficiencies and problems that the Board has encountered with educational programs in recent years, it has made more explicit rules and has incorporated current guidance on observational experiences and simulation.

Additionally, the process and procedures for granting initial or full approval, for placing a program on conditional approval, and for denial or withdrawal of approval are set out in specific sections, so it is not necessary to piece together the requirements throughout the regulation.

### 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 or board taking the action, and (3) the title of the regulation.*

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On March 18, 2014, the Board of Nursing adopted amendments to 18VAC90-20-10 et seq., Regulations Governing the Practice of Nursing.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.*

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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:*

- 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 (§ 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 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...

In addition, there is statutory authority for the board to approve nursing education 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 programs for failure to meet prescribed standards; ...*
  
9. *To approve programs that entitle professional nurses to be registered as clinical nurse specialists and to prescribe minimum standards for such programs; ...*

**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.*

The Board of Nursing has identified several problems with the quality and effectiveness of some nursing education programs and applications for approval of such programs. The intent of the regulatory action is to address problems and inadequacies that exist in some programs by requiring more accountability in reporting on clinical sites for training, in the enrollment and progression of students through the program, in oversight of programs through required site visits and surveys, and in the quality of the curriculum. By specifying certain outcome measures, the board will be better assured that programs will graduate a minimally competent entry-level nurse who practices with skill and integrity.

There is a problem in Virginia with the quality of some nursing education programs. Virginia ranks below the national average in nursing students passing the National Council Licensure Examination (NCLEX), especially graduates of the practical nursing programs. The national passage rate for practical nursing programs in 2010 was 87.06%; in Virginia the average is **77.55%**. Neighboring states far exceed Virginia in the passage of NCLEX for practical nurses: North Carolina was 95.50%; Maryland was 91.58%; Kentucky was 93.03%; Tennessee was 94.14% and West Virginia was 88.82%. **In 2013**, Virginia’s NCLEX passage rate for practical

nursing programs had improved to 78.89% but still fell below the national average of 84.63%. The low NCLEX pass rates negatively impacts any attempts to increase the nursing workforce and leaves students with loans to pay back and no ability to practice.

In the 2013 report of NCLEX passage, 15 of the practical nursing programs in Virginia fell below the 80% benchmark set by the board in current regulations. Of the 15 programs that fell below 80% passage, five are proprietary (for-profit) schools. Applications for new programs are primarily from for-profit entities from areas of Virginia near bordering states. As a result, a majority of these students reside outside of Virginia. Maryland does not approve proprietary nursing education programs; North Carolina has approved one proprietary program.

These indicators and the increase in the number of proceedings for non-compliance with Board of Nursing regulations by nursing education programs are evidence that the Board of Nursing needs to revise its regulations to add specificity and rigor to its requirements and approval process. By assuring more accountability in the academic and clinical programs, the board intends to address the issues of inadequacy in clinical sites and experiences, problems with the majority of clinical sites located outside Virginia, lack of integrity in the information provided on an application, transfer of unsuccessful students from one program to another, high failure rates in examinations, and exploitation of students for profit. By addressing these issues and strengthening regulations for program approval, the board intends to assist nursing education programs in graduating nurses who will be successful on the NCLEX and able to practice with clinical skills and nursing knowledge adequate to protect the health and safety of patients in Virginia.

## 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.*

In order to set more specific standards to address some of the issues and problems the board has encountered in recent years, the following amendments are proposed:

- Prohibit acceptance of transfer students until a program has attained full approval to prevent a program from building a new class by accepting failing or problem students from other programs.
- Require more specificity about the clinical training sites in the application to ensure oversight and adequacy, including a percentage of the clinical experience that must be completed in a facility licensed in Virginia and more specificity about the number of students and amount of time the facility will allow for training.
- Require disclosure of actions or adverse decisions against a program in another jurisdiction. Add adverse action in another jurisdiction as grounds for denial of approval.
- Add a 12-month limitation of the length of the application process to ensure currency in the information initially provided with an expectation that the program admit students within that time frame.

- Require an analysis which describes the geographic area and population the program intends to serve, the number of nursing programs currently in the area, the number of clinical sites available for training, and the potential impact on existing schools of nursing in order to demonstrate a need for a new nursing program.
- Clarify that advertisement of a program or enrollment of students is not acceptable until full approval is given; such advertisement could be grounds for denial.
- Clarify that the Board has the authority to monitor and take action at any stage in the approval process for a program that is not showing progress toward meeting the requirements for approval.
- Specify that the approval by an “appropriate state agency” is approval from the Virginia Department of Education or from the State Council of Higher Education in Virginia.
- Rather than submission of the philosophy and objectives, add specific requirements and detail about the development of a written, systematic plan of evaluation that will be used by the program for program review and be available to the board to review program progress.
- Add provisions (definition and ratio) on simulation for clinical training currently contained in a guidance document.
- Specify that the information about the nursing education program must be published and provided to applicants and students and must include a grievance policy, accreditation status, and a record of complaints and their resolution.
- Specify that the curriculum content is applicable to all programs, regardless of the method of delivery (on-line or in person). Include definition and language about “direct client care” from the guidance document.
- Add prevention and response to disaster planning and intimate partner violence to the curriculum.
- Clarify that the board must be notified about a change in location for an educational program or about the addition of another location, and make arrangements for a site visit to be conducted by Board staff and approval granted by the Board before classes can be conducted at the new location. The Board must also be notified if there are other changes that may significantly impact the program’s approval status.
- Examine frequency of survey visits for approved programs to ensure that certain requirements of Virginia regulations are examined consistently for all programs.
- Specify that the requirements for closing of a nursing education program are applicable at any stage of the process and that failure to comply with such requirements may be grounds for withdrawal of approval.

## 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) The most significant benefit is to the patients/clients in Virginia who are dependent on quality nursing care. Better oversight and quality control in nursing education programs, especially in the clinical experiences, may result in better trained graduates who have sufficient knowledge and skills to pass the national licensing exam and then to be employed in the provision of safe, effective nursing care. There are definitely advantages to students and potential students, who will not experience poor quality, inadequate education that does not prepare them for licensure or practice. Many of these students are saddled with significant debt and no means by which to be employed and practice in the profession.

There will also be advantages to entities or persons who want to initiate a program or to improve the quality of an existing program. Clearer standards and processes will be a better road map to board approval. Programs will be required to engage in a systematic evaluation that will guide them to address their weaknesses, and they will have clearer standards by which to measure their progress.

There are no disadvantages to the public or to programs that intend to adequately prepare nurses. The Board works diligently with such programs on addressing any deficiencies and on plans of correction.

2. The primary advantage to the Board (the agency) and the Commonwealth is that clearer, more explicit requirements may result in fewer problematic programs that necessitate the expenditure of a great amount of time and resources to address. Persons or entities who are considering opening a nursing education program will have a clearer set of regulations to follow and will be more knowledgeable about Board expectations before they engage in the process of seeking approval. There are no disadvantages.

3. There are no other pertinent issues.

**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.*

<b>Section number</b>	<b>Requirement at proposed stage</b>	<b>What has changed</b>	<b>Rationale for change</b>
10	Sets out definitions for words and terms used in the regulations	Amended “accreditation” to include a national nursing accrediting organization recognized by the board and deleted the acronym for the Accreditation Commission for education in Nursing (ACEN is no longer used).	The change was the Board’s response to comment from the Va. League for Nursing. The National League for Nursing is in the process of developing an accreditation program. The amendment will give the Board the authority to recognize NLN accreditation if it becomes viable.
70	Sets out the requirements for the organization and	Amended subsection C #5 to delete the phrase “for the	The change was the Board’s response to comment raising

	administration of a program	program.”	a question about whether a person could serve as program director for two types of education programs (such as a ADN and PN program) located on the same campus. To clarify that the director could serve two programs at the same location or campus, the provision was amended.
90	Sets out the requirements for the faculty of a nursing education program	Amended subsection A #2 to replace the word “unit” with the word “site”.	The change was the Board’s response to comment. The change will clarify that the requirement is for a “clinical orientation” for the <u>site</u> in which supervision is being provided. The word “unit” is too narrow.
100	Sets out the requirements for admission of students	Amended Subsection D to make an exception for high school students to the requirement for a criminal background check.	The Board concurred with the comment that criminal background checks for high school students who are seeking admission to a nursing program are problematic because 1) it would have an adverse effect on enrollment; 2) they do not have clinical experience until post-secondary level; and 3) public school districts do not have budgets to support background checks. Additionally criminal actions committed as a juvenile may not be public record.
110	Sets out the requirement for resources, facilities, publications and services	Amended subsection C #1 To include in the description of a program whether it is accredited by a nursing education accrediting body	While the Board did not amend regulations in response to request to require all RN programs to have national accreditation, it did acknowledge that students are sometimes dismayed to learn that a program is not accredited when they cannot get employment or admission to an RN-BSN program. To assist with full disclosure to applicants, students and the Board, the additional information about accreditation was added to the description of the program.
120	Sets out the requirements for the curriculum	Amended subsection B to include “community-based” in	The change was made in response to a request from a

		the variety of clinical settings in which students may acquire clinical experience.	commenter. Community-based settings may include home health care or community agencies.
121	Sets out the requirements for the curriculum for direct client care	Amended subsection D to increase the simulation hours from 20% to 25% of the direct client contact hours.	The change was the Board's response to comment from the Va. Hospital and Healthcare Association. Since the initial development of regulatory language in 2010, improved technology make simulation a more effective clinical training experience, so an increase in the percentage of hours was reasonable.
136	Sets out the requirements for records and the provision of information	Amended subsection C to delete the requirement to maintain the results of passage of an examination of English proficiency as determined by the board	The change is in response to a question from a commenter. Since the Board does not determine an examination for English proficiency, it has deleted that provision and left it up to the educational program to determine its own policy.
140	Sets out the requirement for program changes	Amended subsection A #7 to insert the word "total" before "hours of "didactic and clinical" instruction.	The change is the Board's response to comment and question about what changes had to be reported. The regulation was amended to clarify that only changes that affected 25% of the "total hours of <i>didactic and clinical</i> " instruction had to be reported to the Board.

**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 December 16, 2013 with public comment requested until February 14, 2014. A Public Hearing before the Board was held on January 28, 2014. On March 18, 2014, the Board responded to comments as summarized below.

<b>Commenter</b>	<b>Comment</b>	<b>Board Response</b>
Barbara Brown Va. Hospital & Healthcare Assn.	Generally believe the proposed changes significantly improve the regulations. Suggests increasing the proposed limit on direct client contact hours for which simulation may be used from 20% to 25% if it includes	Board agreed with the suggested increase in simulation for direct client contact hours and amended section 121 accordingly.



	computerized patient simulation and advance technologies such as patient actors.	
Nina Beaman Lucy Smith Va. League for Nursing	Suggests amending definition of accreditation to mean “accredited by a national accrediting organization recognized by the board,” since proposed language does not provide for possible future emergence of alternative accrediting bodies.	Board agreed with the suggestion to add to the definition of “accreditation” in section 10 to allow for alternative organization that may be acceptable.
Janet Wall Loressa Cole Virginia Nurses Assn	Supports the proposed regulations on nursing education programs; they add clarity and streamline the process the Board undertakes when programs are not meeting standards. Requests Board require schools with RN programs maintain accreditation in order to maintain approval. Students entering RN-BSN or graduate programs are required to be graduates of accredited schools, and a number of hospitals will not hire RN’s who have not graduated from accredited schools.	Board agreed with the observation that students would benefit from a requirement that all RN programs be accredited. However, 28 out of the 79 RN programs that offer associate degrees are currently not accredited (6 reported that they are considering accreditation or are in the process of being accredited). Therefore, the immediate impact of adopting such a standard would be significant. The Board did agree to form a special committee for further study of the issue. The Board has received complaints from students who were not aware that the program they attended did not hold nursing accreditation. So, the Board also amended section 110 C to require a program to include in its description whether the program is accredited by a nursing education accrediting organization. Such information must be made available to applicants, students and the Board.
Lauren Goodloe Shirley Gibson Virginia Action Coalition	Same comment as above	Same as above
Nancy New Va. Organization of Nurse Executives and Leaders	Same comment as above	Same as above
Lucy Smith Fortis College	<p>1) Include in the definition of preceptor the level of preparation necessary.</p> <p>2) Clarify impact of the board’s approval process of any clinical site that is more than 50 miles from the school.</p> <p>3) Clarify the requirement that a program director only serve one location or campus for a program – can someone be director for PN and ADN programs on same campus?</p> <p>4) Include requirement for “agency orientation” as well as unit orientation for faculty providing</p>	<p>1) Board did not recommend a change; regulations are sufficiently specific.</p> <p>2) No change to regulation was recommend; programs can communicate with board staff on case-by-case basis</p> <p>3) To clarify that it is acceptable to serve as director for a PN and ADN program on the same campus, the Board amended section 70, C.</p> <p>4) The Board deleted the word “unit” and substituted the word “site” to</p>

	<p>supervision of students</p> <p>5) Specify in section of admission of students that “official” transcripts or sealed official GED documents are required to avoid acceptance of unofficial or inadequate educational documents with subsequent decrease in retention and potential for decreased passage rate on NCLEX</p> <p>6) Further clarify requirement for “current” resources and technology to support maintenance of academic rigor and NCLEX passage</p> <p>7) Include language referencing community-based clinical setting in section 120 B.</p> <p>8) Include “civility” in addition to conflict resolution in the curriculum</p> <p>9) Clarify whether a cause for denial or withdrawal of approval would include actions taken at other nursing programs/schools within the same corporate structure in other states.</p> <p>10) Same question about requirement for reporting program changes – would convictions in another state’s program apply?</p> <p>11) Clarify the intent of a requirement to notify the Board of changes in the availability of clinical sites – does that include a change in the number of days or shifts in assigned units each semester</p> <p>12) Clarify whether the program must notify the Board if faculty are reassigned to teach different courses one semester that affects 25% of more of the total hours delivered that semester.</p>	<p>clarify that the requirement is for a “clinical orientation” for the site in which supervision is being provided.</p> <p>5) No regulatory change was recommended because the Board would not be able to validate what documentation was received for admission. Should be a school policy rather than a rule of the Board</p> <p>6) The Board did not amend for further specificity.</p> <p>7) The Board amended section 120 accordingly by adding “community-based” to the types of clinical settings.</p> <p>8) The Board did not amend to add the topic.</p> <p>9) The Board believes #9 in section 132 clearly does provide that actions taken by other boards, states or accrediting entities on the same programs operating in other states is cause for denial or withdrawal.</p> <p>10) The Board response is that those actions would need to be reported.</p> <p>11) To clarify what changes need to be reported, the Board amended section 140 to provide changes that affect 25% or more of the “total” hours of “didactic and clinical” instruction.</p> <p>12) Same response as above.</p>
<p>Anne-Marie Glynn Fairfax County School of Practical Nursing</p>	<p>Should not require criminal background checks for high school students who are seeking admission to a nursing program because 1) it would have an adverse effect on enrollment; 2) they do not have clinical experience until post-secondary level; and 3) public school districts do not have budgets to support background checks. Background checks could be required prior to clinical experience. Additionally criminal actions committed as a juvenile may not be public record.</p>	<p>The Board has amended section 100 to provide an exception for high school students to the requirement for a criminal background check.</p>
<p>Tammy Dean Prince William County School of</p>	<p>1) Same as above 2) Allow an exception to the 50% simulation limitation for OB specifically</p>	<p>1) Same response as above 2) The Board has increased the overall percentage of simulation for</p>

<p>Practical Nursing</p>	<p>3) Clarify what is required for English proficiency</p> <p>4) Clarify the timing of site visits as required in section 160 on maintenance of approval</p>	<p>direct client care hours but did not specify increased hours for OB.</p> <p>3) The Board does not specify an examination for English proficiency so section 136 has been amended to delete that provision; the school can set its own policy or requirement.</p> <p>4) The Board does not agree that clarification is needed in regulation; program can communicate any questions to Board staff.</p>
<p>Dionne Gibbs</p>	<p>1) Should require an official transcript or official GED certificate</p> <p>2) Should require a criminal background check <i>and a drug screen.</i></p>	<p>1) Same response as above; should be a school policy rather than a regulation</p> <p>2) The Board did not choose to add a requirement for a drug screen but educational programs can set their own policies for admission.</p>

**All changes made in this regulatory action**

*Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.*

One of the main purposes of this regulatory action was reorganization of the Chapter to delineate the essential elements of a program that must be in place in order to attain board approval and then those criteria that must be met to maintain an approved status. Additionally, regulations are reorganized to clarify the process that is followed to place a program on probation or to deny or withdraw approval. Therefore, much of the underlined language is not new or amended regulation but placement of current regulation in a new format and order.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
10	n/a	Establishes definitions for words and terms used in regulation	Current definitions are amended for more consistency with the use of the word or term or for clarity to avoid misunderstanding of board requirements. For example, the definition of a cooperating agency is amended to mean an entity that enters into a written agreement to provide “clinical or observational” experiences, rather than the less descriptive term “learning” experiences. New terms used in amended regulations are included. For example, the terms “site visit” and “survey visit” are currently used (and a fee charged for each), but are not clearly defined.
35	n/a	Establishes requirements for identification of a person providing direct client care.	Throughout the Chapter, the terms “client” and “patient” have been used. For consistency, the Board chose to use “client” in the amended regulations. The requirement for identification to be worn is

			<p>extended to students providing direct client care to ensure that clients know that the person providing care is not a licensed nurse.</p>
<p>40</p>	<p>n/a</p>	<p>Establishes the requirements for submission of an application for initial approval of a nursing education program.</p>	<p>Changes in the requirements for an application for initial approval include:</p> <ol style="list-style-type: none"> <li>1. Provision of documentation of attendance by the program director at a board orientation on establishment of a nursing education program prior to submission of an application and fee.                     <p><i>Attendance at an orientation is now <u>strongly encouraged</u> because it is beneficial to all parties to be fully informed about requirements for an approved program and the process for obtaining approval. Such a session conserves board resources by setting clear expectations and answering questions at the outset that might be troublesome through the process. It also saves the applicants time and money to have an orientation session before submission of an application and approval fee.</i></p> </li> <li>2. Clarifies that the application is effective for 12 months (currently states that the application must be submitted 12 months in advance of expected opening date). If the program does not attain program approval within 12 months, a new application must be submitted.                     <p><i>If an applicant has not met the requirements for approval within a 12-month period, much of the information provided has become out-dated and a new application is necessary for board review. By having clear expectations and requirements set at the orientation session, an applicant should have information ready prior to the initial submission.</i></p> </li> <li>3. Sets out the required information on the <u>organization and operation</u> of a nursing education program, including:                     <ol style="list-style-type: none"> <li>a. A copy of a business license and zoning permit to operate a school in a Virginia location, a certificate of operation from the State Corporation Commission, evidence of approval from the Virginia Department of Education, and documentation of accreditation, if applicable;                             <p><i>Evidence of approval to operate in a physical location and evidence of approval by DOE is necessary to verify the legitimacy of the program.</i></p> </li> <li>b. The organizational structure of the institution and its relationship to the nursing education program therein;                             <p><i>Currently required in section 40, but reorganized under “organization and operation of a nursing education program”</i></p> </li> <li>c. The type of nursing program, as defined in 18VAC90-20-10;</li> </ol> </li> </ol>

		<p><i>Currently required in Section 40.</i></p> <p>d. An enrollment plan specifying the beginning dates and number of students for each class for a two-year period from the date of initial approval including: (1) the planned number of students in the first class and in all subsequent classes; and (2) the planned frequency of admissions. Any increase in admissions which are not stated in the enrollment plan must be approved by the board. Also, transfer students are not authorized until full approval has been granted to the nursing education program;</p> <p><i>An enrollment plan is currently required in Section 40, but the amended requirement is more specific about the information to be included in the plan. A prohibition on transfer students prior to full approval is current regulation.</i></p> <p>e. A tentative time schedule for planning and initiating the program through graduation of the first class and the program's receipt of results of the NCLEX examination.</p> <p><i>Currently required in Section 40 but modified for more specificity about the period of time covered.</i></p> <p>4. Sets out evidence required to document <u>adequate resources</u> for the projected number of students and the ability to provide a program that can meet the requirements of Part II of this chapter (for full approval) to include the following information:</p> <p>a. The results of a community assessment or market analysis which demonstrates the need for the nursing education program in the geographic area for the proposed school. The assessment or analysis shall include employment opportunities of nurses in the community, the number of clinical facilities/employers available for the size of the community to support the number of graduates, and the number and types of other nursing education programs in the area;</p> <p><i>Adequacy of resources and the community need for a nursing education program are key elements of predicting the success and compliance of such a program. Establishment of a program for which students cannot expect to have adequate clinical facilities or employment would be a disservice and wasteful of their time and money.</i></p> <p><u>b. A projection of the availability</u> of qualified faculty sufficient to provide classroom instruction and clinical supervision for the number of students specified by the program;</p> <p><i>Since faculty have not yet been hired, it is unrealistic to report on availability, but a projection of availability is possible and important in the planning of a new program.</i></p> <p>c. Budgeted faculty positions sufficient in number to</p>
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		<p>provide classroom instruction and clinical supervision; <i>Current language.</i></p> <p>d. Availability of clinical training facilities for the program as evidenced by copies of contracts or letters of agreement specifying the responsibilities of the respective parties and indicating sufficient availability of clinical experiences for the number of students in the program, <u>the number of students and clinical hours permitted at each clinical site and on each nursing unit</u>;</p> <p><i>The Board currently requires information about the availability of clinical training facilities but it is important to know how many students and how many hours are the facilities willing to accommodate as a predictor of how many students a program can appropriately educate.</i></p> <p>e. Documentation that at least 80% of all clinical experiences are to be conducted in Virginia, unless an exception is granted by the board. There shall be documentation of written approval for any clinical experience conducted outside of Virginia by the agency that has authority to approve clinical placement of students in that state. The use of any clinical site in Virginia located 50 miles or more from the school shall require board approval;</p> <p><i>Use of clinical sites outside of Virginia may be necessary in border communities, but it is generally discouraged because the Virginia Board has not authorization over the licensees at that site. Likewise, it is very burdensome to students to plan for the use of clinical sites located 50 or more miles from the school, so such an arrangement would have to be approved as an exception.</i></p> <p>f. <del>Availability</del> <u>A diagram or blueprint showing the availability of academic facilities for the program, including classrooms, skills laboratory, and library learning resource center.</u></p> <p><i>“Availability” of academic facilities is not specific enough for applicants to know what information is necessary, so the requirement is modified. The word “library” is deleted and “learning resource center” is used to update terminology in some educational institutions.</i></p> <p>This information shall include the number of restrooms for the student/faculty population, classroom and skills laboratory space large enough to accommodate the number of the student body, and sufficient faculty office space that meets FERPA requirements;</p> <p><i>Additional information on facilities is included because the Board has encountered programs in which the facilities were woefully inadequate to meet the legal, physical and educational space needs for</i></p>
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			<p><i>the student population.</i></p> <p>g. Evidence of financial resources for the planning, implementation and continuation of the program with <u>line-item</u> budget projections for <u>the first three years of operations beginning with the admission of students.</u></p> <p><i>More specificity added to evidence of financial resources to address problems staff has seen with applications.</i></p> <p>5. Respond to the board's request for additional information <u>within a time frame established by the board.</u></p> <p><i>Response to request must be received within a specified time frame in order to keep the process moving along and completed within the 12 months.</i></p>
50	n/a	Sets out the conditions and process for provisional approval.	Repealed; the process for initial approval is reorganized towards the end of Article 1 in Section 130.
60	n/a	Sets out the conditions and process for full approval.	Repealed; the process for initial approval is reorganized and placed in Article 2 in Section 133.
70	n/a	Sets out the requirements organization and administration of a program	<p>Changes to Section 70 include:</p> <p>Specification that the governing or parent institution offering <u>Virginia</u> nursing education programs must either be approved by <u>the Virginia Department of Education</u> or accredited by an accrediting agency recognized by the United States Department of Education.</p> <p>Clarification that the director must hold a current license or multistate licensure privilege <u>without any disciplinary action that currently restricts practice (more specific than "unencumbered" which is the current term);</u></p> <p><i>Further responsibilities</i> for the program director of the nursing education program to include:</p> <p>Assurance that faculty are qualified by education and experience to teach in the program and/or to supervise the clinical practice of students in the program; and</p> <p>Maintenance of a current faculty roster, a current clinical agency form, and current clinical contracts, available for board review and subject to an audit; and</p> <p>A person is only allowed to be the program director at one location or campus for the program.</p> <p><i>Amendments are necessary to ensure that the director has actual, programmatic authority rather than serving in a token position for an owner or entity.</i></p> <p>An amendment to the use of an advisory committee (newly defined in Section 10) to eliminate the optional language - "if one exists."</p> <p>An amendment to the evidence of financial support and resources to specify what "evidence" is necessary, i.e., a copy of the current annual budget or a signed statement from administration specifically detailing its</p>

			financial support and resources.
80	n/a	Sets requirements for written statements of philosophy and objectives	Amendments add that the program director should be involved in formulation and specify how those written statements become the basis for planning, implementing and evaluating the total program <u>through the implementation of a systematic plan of evaluation that is documented in faculty and/or committee meeting minutes.</u> <i>Without a systematic plan of evaluation that is documented in minutes, it is difficult to determine whether the objectives are being used to plan, implement and evaluate. The amendment provides programs with a specific standard to follow.</i>
90	n/a	Sets qualifications for all faculty in different types of nursing education programs	<p>Subsection A is amended to clarify that “unencumbered” means “without any disciplinary action that currently restricts practice.” There is a new requirement for faculty to have had at least two years of direct client care experience as a registered nurse prior to employment by the program. <i>Everyone in the profession acknowledges that there is so much to be learned in post-licensure clinical practice that cannot be taught in an educational program. Therefore, it is essential that those who teach in such programs have some “real-life” direct client care experience in practice as an RN.</i></p> <p>Members of the faculty who supervise the clinical experiences of students will be required to provide evidence of education and/or experience in the specialty area and, prior to supervision, will be required to complete a clinical orientation to the unit in which supervision is being provided.</p> <p><i>The availability of clinical sites has been problematic in recent years; health care facilities must be assured that students are going to be properly supervised by a faculty member who has sufficient knowledge of the practice on a unit to ensure safety and quality in student practice. This additional requirement for supervising faculty offers some measure of assurance.</i></p> <p>Professional development of faculty is currently required; amendments will specify that documentation of such continuing development/learning be maintained in employee files and available to the board for review.</p> <p><i>Without documentation, a surveyor to a program would have no ability to check for compliance with the current rule.</i></p> <p>For the various types of degree programs in nursing, the following changes are proposed:</p> <ul style="list-style-type: none"> <li>• BS (or a pre-licensure graduate degree program) – the program director must have a doctorate <u>with a graduate degree (Masters or PhD) in nursing;</u> and the majority of the faculty must have a graduate degree in nursing.</li> <li>• Associate or diploma (RN) programs – all</li> </ul>



			<p>members of the faculty must have a BS or a graduate degree with a major in nursing (current regulations state “preferably” with a major in nursing)</p> <ul style="list-style-type: none"> <li>• Practical nursing programs – the program director must have a BS with a major in nursing (current regulations state “preferably” with a major in nursing)</li> </ul> <p><i>The Board has determined that better prepared faculty will result in better preparation of students and better results in the clinical experiences and on the licensure examination. The majority of faculty and program directors will meet these requirements, which will apply to new hires after the effective date of the regulations. The Board will continue to allow programs to request exceptions if there are extenuating circumstances or unavailability of qualified faculty in a particular area of the state. The provision in Section 90 for exceptions to faculty requirements has been moved to Article 2 because exceptions are only granted after full approval of a program.</i></p> <p>In subsection C, the functions of the faculty are not substantially amended but are modified to provide further specificity. For example, faculty are required to participate in academic advising and counseling; an amendment will specify in accordance with FERPA requirements. <i>Such specificity is necessary because Board staff has found situations in which students are not afforded the privacy required by federal law. Additionally, unless compliance with evaluation of curriculum and teaching effectiveness are not documented, there is no evidence that such evaluations of program review have actually occurred.</i></p>
95	n/a	Sets requirements for preceptorships	Section 95 is repealed because its provisions fit more logically after the provisions for the curriculum and are not found in Section 121 and 122.
96	n/a	Sets requirements for the clinical practice of students	Section 96 is repealed because its provisions fit more logically after the provisions for the curriculum and are not found in Section 121 and 122.
100	n/a	Establishes requirements for admission, promotion and graduation of students	<p>The title of Section 100 is amended to more actually describe its content. Subsection A now references the educational prerequisites for admission to an RN program, and subsection B references the educational requirements for an LPN program.</p> <p>Subsection D will require a criminal background check for admission to a program. <i>There are no barrier crimes for admission to a program but there are for employment in certain health care facilities, particularly long-term care. Some facilities will not allow a preceptorship for clinical practice for someone with a criminal background. Most facilities in which clinical experiences are conducted require a criminal background check prior to allowing students</i></p>

			<p><i>to practice. Programs may find that a student who has been admitted and has finished much of his coursework is unable to complete the program because he is barred from clinical practice. There may also be barriers to licensure and to certain types of employment. Therefore, it is important for a potential student to be informed by a program of the barriers he or she will face before admission.</i></p> <p>Subsection E reiterates the provision that transfer students may not be accepted before a program has received full approval by the Board.</p>
110	n/a	Sets out requirements for school records and publications	<p>Provisions on maintenance of records in Section 110 belong in Article 2 which contains the requirements for full approval of a nursing education program and may now be found in Section 136.</p> <p>Section 110 in proposed regulations now states the requirements for resources, facilities, publications and services.</p> <p>Subsection A includes requirements for resources and facilities currently found in Section 130. Added to current provisions is the inclusion of requirements for private areas for conferences and specific requirements for the physical facilities. <i>Specificity about the facilities is necessary because a few programs have been set up in buildings and places that do not meet federal and state requirements and are not conducive to learning in an educational environment.</i></p> <p>Subsection B is restated from Section 130.</p> <p>Subsection C is restated from Section 110 C with two additions and one deletion. The student grievance policy and information about implication of criminal convictions would be required information in a publication about the program for potential students. The annual passage rate on NCLEX for the past five years is deleted, because Article 1 contains the requirements for initial approval of a program, and those figures would not yet be available. The passage rate in publications would be found in Article 2 in Section 136.</p>
120	n/a	Establishes the requirements for the curriculum of an approved program	<p>Subsection A clarifies that both classroom and on-line curricula are included.</p> <p>Subsection B is applicable to both RN and LPN programs; an amendment makes that more explicit. Amendments relating to the content of the curriculum include:</p> <ul style="list-style-type: none"> <li>• Adding “evidence-based” before didactic to describe the content of a curriculum</li> <li>• Specifying the variety of clinical settings and life cycle that must be covered by the content and supervised clinical experiences in a program</li> <li>• Adding reporting and documentation of collected data and care to the subject area of</li> </ul>

			<ul style="list-style-type: none"> <li>• nursing assessment</li> <li>• Adding client privacy and confidentiality to the subject area of ethics</li> <li>• Adding to the subject of prevention of abuse, neglect &amp; abandonment – through the life cycle – and including instruction on recognition, intervention and reporting</li> <li>• Clarifying professional responsibility to include the role of the professional and practical nurse</li> <li>• Adding content on professional boundaries including use of social media and electronic technology</li> <li>• Adding content in pharmacology on dosage calculation &amp; medication administration</li> <li>• Under concepts of client-centered care, adding 1) response to disasters and partner/family violence; 2) use of critical thinking and judgment; and 3) care of clients with multiple, chronic conditions</li> <li>• Under development of management and supervisory skills, adding a) use of technology in medication administration and documentation of client care; b) participation in quality improvement processes and systems to measure client outcomes and identify hazards and errors; and c) supervision of certified nurse aides, registered medication aides and unlicensed assistive personnel.</li> </ul> <p>Subsection C enumerates curriculum that must be included in an RN program; amendments add content and supervised experiences in unit management, delegation of nursing tasks, and supervision of LPN’s. Subsection D is deleted because content is included in subsection B. Subsection E is deleted because requirement is included in Section 121.</p>
n/a	121	Sets out the requirements for a program’s curriculum in direct client care	<p>Subsection A sets the hours in direct client care for the two types of licensure, consistent with current regulation (subsection E of section 120). Subsection B allows for LPN’s transitioning into an RN program to receive 150 hours credit towards the 500-hour requirement for RN clinical experience. (Currently found in Guidance Document 90-28) Subsection C clarifies the use of observational experiences. Subsection D incorporates current guidance (Guidance Document 90-24) on simulation hours.</p> <p><i>In proposed regulations, the Board has set out all requirements/guidance for direct client care or clinical experiences in nursing education programs in one section for ease of compliance. There is no new policy or interpretation of regulation in the proposed language.</i></p>

n/a	122	Sets out the requirements for clinical practice of students	<p>Subsection A is identical to current regulation found in subsection A of Section 96.</p> <p>Subsection B provides that faculty must ensure students only perform skills or services for which they have received instruction and found to be proficient; a skills checklist for each student is required. <i>Since students are providing direct client care, instruction and proficiency in services are essential to protect clients in health care facilities. Without some documentation of skills, preceptors in a clinical setting would not be assured that a student has some basic knowledge in how to perform a task assigned.</i></p> <p>Subsection C is identical to current regulation found in subsection B of Section 96.</p> <p>Subsection D is identical to current regulation found in Section 95.</p> <p>Subsection E provides that the preceptors (as well as faculty) have evidence of competence to supervise clinical experiences in a specialty area and that the preceptor be licensed at or above the level for which the student is preparing. <i>As with faculty teaching and supervising students, it is necessary for client safety and quality of care that the preceptor (who may be in charge of the student on the unit) has the competency to supervise students in services being provided. To that end, it is not appropriate for an LPN to supervise the clinical experience of an RN student.</i></p> <p>Subsection F is a restatement of subsection B in Section 90. <i>While the ratios and requirements are already in the section on faculty, the Board has included similar language in the section on clinical practice so the reader can find the information in either section.</i></p> <p>Subsection G is a restatement of current regulation found in Section 95 with the addition of “the dates of each experience” in the requirement for evaluation, and the addition of “a skills check list detailing” in the requirement for performance of skills.</p>
130	n/a	Sets out the resources, facilities and services an approved program must provide	<p>The title and content of the section is revised to set out the process for initial approval of a nursing education program.</p> <p>The process for approval of nursing education programs has not been clearly set out in regulation, so board counsel and legal staff of the board worked to develop language that would delineate the requirements and procedures in chronological order. In Section 130, the conditions that must be met are enumerated so it is not required that an applicant search through the regulations to determine what is required. In subsection B, the program is given authority to advertise the program and admit students once initial approval is granted. Quarterly reports are required for progress towards full program approval. <i>Language currently found in Section 50 is moved into</i></p>

			<i>Section 130.</i>
n/a	131	Establishes the process for denying or withdrawing initial program approval	In proposed regulations, the conditions for approval, the steps to be taken by the program and/or the board, and the process of an informal conference or formal hearing are set out in an orderly fashion in regulation. Subsection A delineates what steps are taken if initial approval is denied, including following the process set out in the Administrative Process Act (APA). Subsection B delineates causes for withdrawal of initial program approval and again, sets out the steps to be taken in accordance with the APA.
n/a	132	Establishes the causes for denial or withdrawal of approval	The Board has set out causes for denial or withdrawal affirmatively based on requirements for approved programs found in Articles 1 and 2. Currently, causes for denial or withdrawal are not stated specifically in regulation. In the process of creating and adopting a board order, the explicit causes for denial or withdrawal can be more fairly and clearly cited. While most of the causes are currently applicable, there are a few that are added based on integrity issues the board has experienced with a few programs - for example, having the program director or owner/operator of a program convicted of a felony or misdemeanor involving moral turpitude or having his professional license disciplined by a regulatory body or submitting fraudulent documents to statements to the board would now be explicit causes for denial or withdrawal.
n/a	133	Establishes conditions for full approval of a program	The provisions of Section 133 are a restatement of current provisions found in Section 60, but now placed more accurately and chronologically in the chapter
n/a	134	Establishes the process for denial of full approval	Again, the actions of the board, the steps to be taken by the program, and the process of an informal conference or formal hearing and an appeal of the board's decision are set out in an orderly fashion in regulation.
n/a	135	Sets out conditions for making requests for exceptions to the qualifications for faculty	Currently, the conditions and process for exceptions are found in subsection A of Section 90, but the provisions more correctly belong in Article 2 since exceptions are not granted until a program has been fully approved.
n/a	136	Sets out the requirements for records and provision of information	While there are requirements for records and provision of information at the applicant stage, there are also continuing requirements that could not be met until a program is fully approved and operational with students enrolled. Those recordkeeping requirements include accreditation data, course outlines, faculty and committee meetings and disposition of complaints – all information needed by the Board to determine continued compliance for approval. Subsection C relates to records that need to be maintained on each student. Students have had significant issues with the failure of programs to maintain and secure their records; these regulations

			are intended to ensure that records are complete, protected and available to the Board. In subsection D, information about the program about annual passage rates and accreditation status is added to the basic requirements stated in Section 110
n/a	137	Sets out requirements for evaluation of resources and written agreements with cooperating agencies	The requirements of Section 130 are an extension of the requirements of proposed Section 40, which establishes the criteria for initial approval. Periodic evaluations are currently required in Section 130, but subsection A of this new section includes employer evaluation of graduates and assurances that at least 80% of the clinical experiences are conducted in Virginia. Subsection B is a restatement of the current subsection E of Section 130. Subsection C requires a summary of the clinical agency utilized by the program. Subsection D requires documentation of board approval for use of clinical sites located 50 or more miles from the school or of sites outside of Virginia. <i>All requirements for continued evaluation and reporting are necessary to ensure continued compliance with criteria for program approval.</i>
140	n/a	Establishes rules for notification to the Board of changes in the educational program	The section is amended to list in order of priority and to add notification of adverse action taken by a licensing authority and of conviction of a felony or misdemeanor involving moral turpitude. Changes that must be reported within 10 days of occurrence are those that could affect the program's approval status or might be grounds for denial or withdrawal.
151	n/a	Sets the rule for a passage rate of 80% for	Changes to subsection A are intended to clarify the requirement consistent with the Board's current interpretation. Changes to subsection B more clearly specifies the Board action for failure to achieve an 80% passage rate, ranging from a plan of correction after one year, conditional approval with terms and conditions after two years, and possible withdrawal of approval after 3 years.
160	n/a	Sets out the requirements for maintenance of an approved program	Currently an unaccredited program is reevaluated at least every 8 years; an amendment will change that to every 5 years because an unaccredited program is not receiving oversight by the accrediting agency in addition to the Virginia board and may be more likely to develop problems. The reevaluation of an accredited program remains at 10 years and the Board is given the option of conducting a survey visit. The procedural provisions set out in subsection C are deleted and restated in new sections on continuance or withdrawal of approval.
n/a	161	Establishes criteria and procedures for continuing and withdrawing full approval	Subsection A sets the criteria for continuing full approval provided a program has remained in compliance with regulations. Subsection B states the options of the Board if a program is not maintaining compliance, to include

			<p>conditional approval with conditions to be met in a specified time frame, or withdrawal of program approval.</p> <p>Subsection C sets out the process for due process in accordance with the provisions of the APA.</p> <p>Subsection D requires that no additional students can be admitted if approval has been withdrawn and that the program must submit quarterly reports until the program is closed.</p>
170	n/a	Establishes the process and requirements for closing an approved program	Amendments require that the program continue to provide quarterly reports regarding progress toward closure.