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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(s)</b>	18VAC90-27-10 et seq.
<b>Regulation title(s)</b>	Regulations Governing Nursing Education Programs
<b>Action title</b>	Accreditation of pre-licensure educational programs for registered nursing
<b>Date this document prepared</b>	11/16/17

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.*

The Board of Nursing has amended its regulations to require all pre-licensure registered nursing education programs in Virginia to have accreditation or candidacy status with a national accrediting agency recognized by the U. S. Department of Education by three years after the effective date of the regulation.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

N/A

### 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.*

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On November 15, 2017, the Board of Nursing adopted final amendments for nursing accreditation for 18VAC90-27-10 et seq., Regulations Governing Nursing Education Programs.

### Legal basis

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

The purpose of the proposed regulatory action is to use national accreditation as a standard for demonstrated quality in nursing education, create more opportunities for financial aid for students, enhance employment opportunities, and facilitate academic progression for graduates to baccalaureate or master degrees.

Quality may be demonstrated by a higher percentage of graduates passing the national examination (NCLEX) from accredited nursing education programs. In 2014, 86% of graduates from accredited programs passed NCLEX, and 76% of graduates from non-accredited programs passed. The Board requires a passage rate of 80% over a three-year period to maintain approval of a nursing education program.

Ninety-four percent (94%) of employers in Virginia (predominantly hospitals) reported that accredited nursing programs have a large to moderate impact on clinical outcomes for registered nurses. Accreditation standards result in a quality education demonstrated in a number of ways, but most importantly, in the clinical care nurses provide to patients. Therefore, it is essential to protect the health and safety of citizens for the Board of Nursing to move toward accreditation of all registered nursing education programs.

The goal of this action is to align educational programs with recommendations of the National Council of State Boards of Nursing and the Institute of Medicines Future of Nursing report, which recommends increasing the proportion of nurses with a baccalaureate degree to 80 percent by 2020. Nurses from practical, associate, and diploma programs who graduate from non-accredited programs will find it difficult, if not impossible, to obtain a baccalaureate degree. Graduates of non-accredited programs will also find it increasingly difficult to find employment as employers, especially many hospitals, are hiring only baccalaureate degree nurses.

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.*

The Board of Nursing has amended its regulations to require all pre-licensure registered nursing education programs in Virginia to have accreditation or candidacy status with a national accrediting agency recognized by the U. S. Department of Education by the year 2020. The accrediting bodies currently recognized are the Commission on Collegiate Nursing Education (CCNE), the Accreditation Commission for Education in Nursing (ACEN) and the Commission for Nursing Education Accreditation. There will be no change for pre-licensure programs preparing students for licensed practice nursing.

### 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 primary advantage of the amendment is greater assurance of quality in the didactic and clinical education for registered nurses. For graduates of such programs, there are advantages in employment opportunities and availability of graduate level education to further their careers. There are no disadvantages for nurses or the public.
- 2) There is an advantage to the Board because accredited programs only have to be reevaluated every 10 years, whereas non-accredited programs have to be reevaluated every 5 years, a process which consumes resources and personnel. There are no disadvantages to the Commonwealth.
- 3) The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. The Board is authorized under 54.1-2400 to “promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary to administer effectively the regulatory system.” As stated in the “Purpose” section of this document, ninety-four percent (94%) of employers in Virginia (predominantly hospitals) reported that accredited nursing programs have a large to

moderate impact on clinical outcomes for registered nurses. Accreditation standards result in a quality education demonstrated in a number of ways, but most importantly, in the clinical care nurses provide to patients.

Therefore, the requirement for RN pre-licensure programs to have national accreditation is a foreseeable result of the statute requiring the Board to protect the health and safety of patients in the Commonwealth. Any restraint on competition that results from this regulation is in accord with the General Assembly’s policy as articulated in § 54.1-100 and is necessary for the preservation of the health, safety, and welfare of the public.

**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 applicable 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.*

There are no localities particularly affected.

**Family impact**

*Please assess the impact of this 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.*

There is no impact on the family.

**Changes made since the proposed stage**

*Please list all changes that made to the text since the proposed regulation was published in the Virginia Register of Regulations and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. \*Please put an asterisk next to any substantive changes.*

There were no changes to the proposed regulation.

**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. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.*

A public comment period was open from 7/23/17 to 9/22/17; a public hearing was conducted on 9/19/19 before the full board. There were no comments received.

**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. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation.*

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10		Sets out definitions for words and terms used in the regulation	The term “accreditation” is defined as “an agency recognized by the U. S. Department of Education” and one accrediting body for nursing education is added to those currently listed – the Commission for Nursing Education Accreditation.
220		Sets out the requirements for maintaining board approval as a nursing education program	Subsection B is amended to specify that the current requirements are in effect for 3 years from the effective date of the regulation. After 3 years (likely in 2021), every registered nursing education program must have gained accreditation or have candidacy status and will be evaluated according to the current requirements for a review every 10 years to ensure that the program meets regulatory requirements to maintain board approval in Virginia. Subsection C is amended to set out the current requirement for only practical nursing programs; those requirements will not change. <i>As stated above: The intent of the proposed regulatory action is to use national accreditation as a standard for demonstrated quality in</i>

		<p><i>nursing education, create more opportunities for financial aid for students, enhance employment opportunities, and facilitate academic progression for graduates to baccalaureate or master degrees.</i></p> <p><i>Quality may be demonstrated by a higher percentage of graduates passing the national examination (NCLEX) from accredited nursing education programs. In 2014, 86% of graduates from accredited programs passed NCLEX, and 76% of graduates from non-accredited programs passed. The Board requires a passage rate of 80% over a three-year period to maintain approval of a nursing education program.</i></p> <p><i>Ninety-four percent (94%) of employers in Virginia (predominantly hospitals) reported that accredited nursing programs have a large to moderate impact on clinical outcomes for registered nurses. Accreditation standards result in a quality education demonstrated in a number of ways, but most importantly, in the clinical care nurses provide to patients. Therefore, it is essential to protect the health and safety of citizens for the Board of Nursing to move toward accreditation of all registered nursing education programs.</i></p> <p><i>The goal of this action is to align educational programs with recommendations of the National Council of State Boards of Nursing and the Institute of Medicines Future of Nursing report, which recommends increasing the proportion of nurses with a baccalaureate degree to 80 percent by 2020. Nurses from associate programs who graduate from non-accredited programs will find it difficult, if not impossible, to obtain a baccalaureate degree. Graduates of non-accredited programs will also find it increasingly difficult to find employment as employers, especially many hospitals, are hiring only baccalaureate degree nurses.</i></p> <p><i>There may be a very small number of nursing education programs that will not be able to achieve candidacy status and will be required to close. Those are programs that currently struggle with meeting quality standards for continued</i></p>
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