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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Nursing, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC90-27
Regulation title(s)	Regulations Governing Nursing Education Programs
Action title	Use of simulation in nursing education
Date this document prepared	10/4/19

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

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

Acronyms and Definitions

Please define all acronyms or technical definitions used in the Agency Background Document. .

N/A

Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, board decision, etc.). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

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

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must 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 or promulgating entity's overall regulatory authority.

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

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

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

6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...

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

§ 54.1-3005. Specific powers and duties of Board.

In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:

1. To prescribe minimum standards and approve curricula for educational programs preparing persons for licensure or certification under this chapter;

- 2. To approve programs that meet the requirements of this chapter and of the Board;
- 3. To provide consultation service for educational programs as requested;
- 4. To provide for periodic surveys of educational programs;
- 5. To deny or withdraw approval from educational or training programs for failure to meet prescribed standards; ...

§ 54.1-3013. Approval of nursing education program.

An institution desiring to conduct a nursing education program to prepare professional or practical nurses shall apply to the Board and submit evidence that:

- 1. It is prepared to meet the minimum standards prescribed by the Board for either a professional nursing curriculum or a practical nursing curriculum; and
- 2. It is prepared to meet such other standards as may be established by law or by the Board.

A survey of the institution and its entire nursing education program shall be made by the administrative officer or other authorized employee of the Board, who shall submit a written report of the survey to the Board. If, in the opinion of the Board, the requirements necessary for approval are met, it shall be approved as a nursing education program for professional or practical nurses.

New nursing education programs shall not be established or conducted unless approved by the Board.

Purpose

Please describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.

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

Substance

Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

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

Alternatives

Please describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

Since up to 50% of the clinical hours in nursing education may be in a simulation experience, amendments to regulation are necessary to ensure that the experience has content and value. There is no alternative that meets the requirement of protecting the public.

Public Participation

The Board of Nursing is seeking comments on this regulation, including but not limited to: ideas to be considered in the development of this regulation, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation. Also, the agency/board is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the *Code of Virginia*. Information may include: 1) projected reporting, recordkeeping, and other administrative costs; 2) the probable effect of the regulation on affected small businesses; and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or by mail to Elaine Yeatts, 9960 Mayland Drive, Suite 300, Henrico, VA 23233; by email to elaine.yeatts@dhp.virginia.gov; by fax to (804) 527-4434. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.

A regulatory advisory panel will not be used.