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Proposed Regulation Agency Background Document

Agency name	Board of Nursing, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC90-27-10 et seq.
Regulation title(s)	Regulations Governing Nursing Education Programs
Action title	Accreditation of pre-licensure educational programs for registered nursing
Date this document prepared	3/1/17

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 (preferably no more than 2 or 3 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

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.

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.

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.

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. A more detailed discussion is provided in the “Detail of changes” section below.

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.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the Board of Nursing is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is 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) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail, email or fax to Elaine Yeatts at elaine.yeatts@dhp.virginia.gov or at 9960 Mayland Drive, Henrico, VA 23233 or by fax at (804) 527-4434.. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage 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.

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.

<p>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</p>	<p>) As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to educational programs for necessary functions of regulation; b) The agency will incur no additional costs for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending notice of final regulations to regulated entities. Since mailings to the PPG list and educational programs are handled electronically, there is very little cost involved. There are no on-going expenditures.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>There are no costs for localities.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>Nursing education programs that prepare students for RN licensure.</p>
<p>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: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There are 78 pre-licensure RN programs. All 33 of the BSN programs are already accredited. There are 45 Board of Nursing approved Associate degree nursing (ADN) education programs; 26 of those programs are accredited.</p> <p>Of the 19 remaining, 9 of the proprietary programs were represented on the accreditation committee and are in full support of requiring nursing accreditation for all RN education programs and have made a commitment to seek nursing accreditation by 2020 (possibly by 2018).</p> <p>Of the remaining ten programs, 3 are proprietary programs that did not respond to the request for information about their intent to seek accreditation; two of those programs have low NCLEX (licensure exam) pass-rates and are in danger of losing Board of Nursing approval (per regulations).</p> <p>Of the seven remaining programs, one is a proprietary program that is seeking accreditation. The remaining six are community college programs with the following status: three have had their accreditation visit and are waiting for their accreditation approval when the commission meets in July 2017. Three are waiting until 2018 to seek accreditation. The Virginia Community College System standard curriculum is being implementing across all community colleges in 2017, so the associate degree programs not currently accredited should be in a position to be</p>

	<p>candidates for accreditation in 2018.</p> <p>The associate programs are located in community colleges or proprietary businesses. The Board does not have statistics on which of the proprietary businesses would be considered “small” businesses but most are operated by national chains – such as ECPI.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including:</p> <p>a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and</p> <p>b) 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>See attached information from accrediting bodies</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The primary advantage will be a higher quality experience in nursing education through oversight from a national accrediting body. There will be some cost savings to offset costs for accreditation in that an accredited program only has to be reevaluated by the board every 10 years by submission of a report, and an accredited program may use its reports from the accredited body as evidence of compliance with board regulations.</p> <p>A non-accredited program has to be reevaluated every 5 years and requires submission of a full report <u>and</u> a survey visit from a board representative. Both the Board and the accredited programs will realize some savings by a longer period between reevaluation for continued approval by the Board. The cost for a survey visit by the Board is \$2,200; an accredited program would realize that savings every 5 years.</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.

In 2012, the National Council of State Boards of Nursing recommended requiring national accreditation by 2020 in a collaborative model of co-regulation in which state boards will continue to conduct initial approval of programs, will use accreditation self-studies to decrease redundancy, and may require additional data for continued approval.

In May of 2014, the Organization for Associate Degree Nursing (OADN) endorsed national accreditation for associate degree nursing programs as it applies “nationally developed and recognized evidence-based standards of quality and value to assess and evaluate the education process and outcomes.” OADN stated “accreditation not only serves the public as a measure of quality for health care employers and academic partners of associate degree programs, but is also an assurance of quality educational standards applied to faculty, staff, and students.”

During promulgation of regulations for nursing education programs (which began in 2010) with adoption of final regulations in March of 2014, the need for accreditation was discussed. In reviewing public comment from organizations and individuals on proposed regulations, the Board noted recommendations for accreditation. In response, the Board convened a workgroup consisting of Board members, a representative of the Virginia Nursing Association, the Virginia Organization of Nurse Executives and Leaders, the Virginia League for Nursing, the Virginia Action Coalition, the Virginia Community College System, and associate degree proprietary nursing programs (Fortis College and ECPI University). Stakeholders who were invited to participate included representatives of the Virginia Health Care Association, the Virginia Hospital and Health Care Association, Golden Living, Leading Age of Virginia, and American Health Care. The Accreditation Committee met on May 20, 2014, September 16, 2014, July 14, 2015, and March 22, 2016. It concluded with a unanimous recommendation to the board meeting in May of 2016 that it move forward with the intent to establish regulation that would require national accreditation or candidacy status for all pre-licensure registered nursing programs by 2020.

The Board has concluded the goal of 2020 for accreditation or candidacy is reasonable and achievable. The Virginia Community College System standard curriculum is expected to be implemented across all community colleges by 2017, so the four associate degree programs not currently accredited should be in a position to be candidates for accreditation by 2020. Four non-accredited programs are already scheduled to be closed in 2016 or 2017. There are 12 other proprietary programs that currently are not accredited, so they will have to meet standards for candidacy status by 2020 to continue full approval by the Virginia Board (seven of the 12 are programs that had representation on the Board’s Accreditation Committee).

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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.

There is no alternative method consistent with health and safety that will accomplish the objective.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

The Notice of Intended Regulatory Action was published on 10/17/16 with comment requested until 11/16/16; there was no comment received.

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.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.

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 2020), every registered nursing education

		<p>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.</p> <p>Subsection C is amended to set out the current requirement for only practical nursing programs; those requirements will not change.</p> <p><i>As stated above:</i></p> <p><i>The intent 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.</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.</i></p> <p><i>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</i></p>
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			<p><i>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 Board approval, particularly the 80% passage rate on NCLEX, and would find it necessary to close with or without the proposed accreditation requirement.</i></p>
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