

Project 7116 - Fast-Track

Board of Nursing

Amendments to regulations governing nurse aide education programs

18VAC90-26-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Approval" means the process by which the board evaluates and grants official recognition to a nurse aide education program.

"Board" means the Virginia Board of Nursing.

"Client" means a person receiving the services of a certified nurse aide, to include a patient in a health care facility or at home or a resident of a long-term care facility.

"Clinical setting" means a location in which clinical practice occurs in a setting comparable to those in which the practice of a nurse aide may occur.

"Committee" means the Education Special Conference Committee, comprised of not less than two members of the board in accordance with § 2.2-4019 of the Code of Virginia.

"Conditional approval" means the time-limited status that results when a board-approved nurse aide education program has failed to maintain requirements as set forth in this chapter.

"Direct client care" means nurse aide care provided to patients or clients in a clinical setting supervised by a qualified instructor.

"Nurse aide education program" means a program designed to prepare nurse aides for certification.

"Nursing facility" means a licensed nursing home or an entity that is certified for Medicare or Medicaid long-term care reimbursement and licensed or certified by the Virginia Department of Health.

"NNAAP" means National Nurse Aide Assessment Program.

"Primary instructor" means a registered nurse who is responsible for teaching and evaluating the students enrolled in a nurse aide education program.

"Program coordinator" means a registered nurse who is administratively responsible and accountable for a nurse aide education program.

"Program provider" means an entity that conducts a board-approved nurse aide education program.

"Site visit" means a focused onsite review of the nurse aide education program by board staff for the purpose of evaluating program components, such as the physical location (skills lab, classrooms, learning resources) for obtaining program approval, change of location, or verification of noncompliance with this chapter or in response to a complaint.

"Survey visit" means a comprehensive onsite review of the nurse aide education program by board staff for the purpose of granting continued program approval. The survey visit includes the program's completion of a self-evaluation report prior to the visit as well as a board staff review of all program resources, including skills lab, classrooms, learning resources, and clinical facilities, and other components to ensure compliance with this chapter. Meetings with administration, instructional personnel, and students will occur on an as-needed basis.

18VAC90-26-20. Establishing and maintaining a nurse aide education program.

A. Establishing a nurse aide education program.

1. A program provider wishing to establish a nurse aide education program shall submit a complete application to the board at least 90 days in advance of the expected opening date.

2. The application shall provide evidence of the ability of the institution to comply with subsection B of this section.

3. Approval may be granted when all documentation of the program's compliance with requirements as set forth in subsection B of this section has been submitted and deemed satisfactory to the board and a site visit has been conducted. Advertisement of the program is authorized only after board approval has been granted.

4. If approval is denied, the program may request, within 30 days of the mailing of the decision, an informal conference to be convened in accordance with § 2.2-4019 of the Code of Virginia.

5. If denial is recommended following an informal conference, which is accepted by the board or a panel thereof, no further action will be required of the board unless the program requests a hearing before the board or a panel thereof in accordance with § 2.2-4020 and subdivision 11 of § 54.1-2400 of the Code of Virginia.

6. If the decision of the board or a panel thereof following a formal hearing is to deny initial approval, the program shall be advised of the right to appeal the decision to the appropriate circuit court in accordance with § 2.2-4026 of the Code of Virginia and Part 2A of the Rules of the Supreme Court of Virginia.

B. Maintaining an approved nurse aide education program. To maintain approval, the nurse aide education program shall:

1. Demonstrate evidence of compliance with the following essential elements:

- a. ~~Curriculum content as approved by the board and~~ Implementation of the board approved curriculum as set forth in subsection A of 18VAC90-26-40 and subsection C of 18VAC90-26-50.
- b. Maintenance of qualified instructional personnel as set forth in 18VAC90-26-30.
- c. Classroom facilities that meet requirements set forth in subsection D of 18VAC90-26-50.
- d. Maintenance of records as set forth in subsection A of 18VAC90-26-50.
- e. Skills training experience in a ~~nursing facility~~ clinical setting that has not been subject to penalty as provided in 42 CFR 483.151(b)(2) (Medicare and Medicaid Programs: Nurse Aide Training and Competency Evaluation and Paid Feeding Assistants, October 1, 2013 edition) in the past two years. The foregoing shall not apply to a nursing facility that has received a waiver from the state survey agency in accordance with federal law.
- f. ~~The use of a nursing facility~~ clinical setting in Virginia located 50 miles or more from the school shall require board approval.
- f. ~~g.~~ g. Agreement that board representatives may make unannounced site visits to the program.
- ~~g.~~ h. Financial support and resources sufficient to meet requirements of this chapter as evidenced by a copy of the current annual budget or a signed statement from the administration specifically detailing its financial support and resources.
- ~~h.~~ i. Completion and submission of biennial survey visit review reports and program evaluation reports as requested by the board within a timeframe specified by the board.

2. Impose no fee for any portion of the program, including any fees for textbooks or other required course materials, on any nurse aide student who, on the date on which the student begins the program, is either employed or has an offer of employment from a nursing facility.
3. Provide documentation that each student applying to or enrolled in such program has been given a copy of applicable Virginia law regarding criminal history records checks for employment in certain health care facilities, and a list of crimes that pose a barrier to such employment.
4. Report all substantive changes in subdivision 1 of this subsection within 10 days of the change to the board to include a change in the program coordinator, primary instructor, program ownership, physical location of the program, or licensure status of the clinical facility.
5. Provide each student with a copy of his the student's certificate of completion as specified in ~~18VAVC90-26-50~~ 18VAC90-26-50.

18VAC90-26-30. Requirements for instructional personnel.

A. The program coordinator or primary instructor shall:

1. Hold a current, unrestricted Virginia license or multistate licensure privilege as a registered nurse; and
2. Have two years of experience as a registered nurse and at least one year of direct client care or supervisory experience in the provision of long-term care services. Experiences may include employment in a nurse aide education program or employment in, or supervision of nursing students in, a nursing facility or unit, geriatrics department, chronic care hospital, home care, or other long-term care setting.

B. Program coordinator.

~~1. Each program shall have a program coordinator who must be a registered nurse who holds a current, unrestricted license in Virginia or a multistate licensure privilege.~~ ~~2. The program coordinator shall assume the administrative responsibility and accountability for the nurse aide education program and shall:~~

~~a. Ensure that the provisions of subsection F of this section are maintained;~~

~~b. Maintain records as required by subsection A of 18VAC90-26-50; and~~

~~c. Perform other activities necessary to comply with subsection B of 18VAC90-26-20.~~

~~3. 2. The primary instructor may be the program coordinator in any nurse aide education program, except in a nursing facility-based program.~~

~~4. 3. The director of nursing services in a nursing facility-based program may serve as the program coordinator but shall not simultaneously engage in the actual classroom, skills laboratory, or clinical teaching while serving as the director of nursing services.~~

~~B. C. Primary instructor.~~

~~1. Qualifications. Each program shall have a primary instructor who does the majority of the actual teaching of the students and who shall:~~

~~a. Hold a current, unrestricted Virginia license or a multistate licensure privilege as a registered nurse ; and~~

~~b. Have two years of experience as a registered nurse within the previous five years and at least one year of direct client care or supervisory experience in the provision of geriatric long term care services. Other experience may include employment in a nurse aide education program or employment in or supervision of nursing students in a nursing facility or unit, geriatrics department, chronic care hospital, home care, or other long term care setting.~~ ~~2. Responsibilities. The primary instructor is responsible~~

for the ~~teaching~~ majority of instruction and evaluation of students and shall not assume other duties while instructing or supervising students. A program may request an exception to the restriction on assumption of other duties. The executive director of the board shall be authorized to make the decision on requests for exception or may refer to an informal fact-finding committee for consideration as needed.

The primary instructor shall:

- a. Participate in the planning of each learning experience;
- b. Ensure that course objectives are met; and
- c. ~~Ensure that the provisions of subsection F of this section are maintained;~~
- d. ~~Maintain records as required by subsection A of 18VAC90-26-50;~~
- e. ~~Perform other activities necessary to comply with subsection B of 18VAC90-26-20;~~
and
- f. ~~Ensure that~~ students do not perform services for which they have not received instruction and been found proficient.

~~C.~~ D. Other instructional personnel.

1. ~~Instructional~~ Other instructional personnel from the health professions with at least one year of experience in their field may supplement the primary instructor in the classroom setting.

2. Other instructional personnel who assist the primary instructor in ~~providing classroom or clinical supervision~~ instruction shall be registered nurses or licensed practical nurses.

a. A registered nurse shall:

- (1) Hold a current, unrestricted Virginia license or multistate licensure privilege as a registered nurse; and

(2) Have had at least one year of direct client geriatric care experience as a registered nurse.

b. A licensed practical nurse shall:

(1) Hold a current, unrestricted Virginia license or multistate licensure privilege as a practical nurse; and

(2) Have had at least ~~two years~~ one year of direct client geriatric care experience as a licensed practical nurse.

~~2. Responsibilities.~~ 3. Other instructional personnel shall provide instruction under the supervision of the primary instructor.

~~D.~~ E. Prior to being assigned to teach in a nurse aide education program, all instructional personnel shall demonstrate competence to teach adults or high school students by one of the following:

1. Satisfactory completion of at least 12 hours of coursework that includes:

a. Basic principles of adult learning;

b. Teaching methods and tools for adult learners;

c. Evaluation strategies and measurement tools for assessing student learning outcomes;

d. Review of current regulations for nurse aide education programs;

e. Review of the board-approved nurse aide curriculum content; and

f. Review of the skills evaluated on the board-approved nurse aide certification examination; or

2. Have:

- a. Experience in teaching the curriculum content and skills evaluated on the board-approved nurse aide certification examination to adults or high school students; and
- b. Knowledge of current regulations for nurse aides and nurse aide education programs.

~~E.~~ F. In order to remain qualified to teach the nurse aide curriculum, instructional personnel shall complete a refresher course every three years that includes a review of regulations for nurse aides and nurse aide education programs and the skills evaluated on the board-approved nurse aide certification examination.

~~F.~~ ~~To meet planned program objectives, the program may, under the direct, onsite supervision of the primary instructor, use other persons who have expertise in specific topics and have had at least one year of experience in their field.~~

G. When students are giving direct care to clients in clinical areas, instructional personnel must be on site solely to supervise the students. The ratio of students to each instructor shall not exceed 10 students to one instructor in all clinical areas, including the skills laboratory.

18VAC90-26-50. Other program requirements.

A. Records. Original documentation shall be maintained for a period of two years following each site or survey visit, to include:

1. Each nurse aide education program shall develop and maintain an individual record of major skills taught and the date of performance by the student. At the completion of the nurse aide education program, the program shall provide each nurse aide with a copy of this record and a certificate of completion from the program, which includes the name of the program, the board approval number, date of program completion, and the signature of the primary instructor or program coordinator.

2. A record of the graduates' performance on the state-approved nurse aide certification examination (~~the National Nurse Aide Assessment Program or NNAAP~~) shall be maintained.

3. A record that documents the disposition of complaints against the program shall be maintained.

B. Student identification. The nurse aide students shall wear identification that clearly distinguishes them as a "nurse aide student." Name identification on a badge shall follow the policy of the facility in which the nurse aide student is practicing clinical skills.

C. Length of program.

1. By May 12, 2023, the program shall be at least 140 clock hours in length, at least 20 hours of which shall be specifically designated for skills acquisition in the laboratory setting.

2. The program shall provide for at least 24 hours of instruction prior to direct contact of a student with a client.

3. Clinical training in clinical settings shall be at least 40 hours of providing direct client care. ~~Five of the clinical hours may be in a setting other than a geriatric long-term care facility.~~ Hours of observation shall not be included in the required 40 hours of ~~skills~~ clinical training.

4. Time spent in employment orientation to facilities used in the education program must not be included in the 140 hours allotted for the program.

D. Classroom facilities. The nurse aide education program shall provide facilities that meet federal and state requirements including:

1. Comfortable temperatures.

2. Clean and safe conditions.
3. Adequate lighting.
4. Adequate space to accommodate all students.
5. Current instructional technology and equipment needed for simulating client care.
6. Equipment and supplies sufficient for the size of the student cohort.

18VAC90-26-70. Interruption or closing of a program.

A. Interruption of program.

1. When a program provider does not hold classes for a period of one year, the program shall notify the board immediately, shall be placed on inactive status, and shall not be subject to compliance with subsection B of 18VAC90-26-20.
2. At any time during the year after the program is placed on inactive status, the program provider may request that the board return the program to active status by providing a list of the admitted student cohort and start date.
3. If the program provider does not hold classes for two consecutive years, the program shall be considered closed and shall be subject to the requirements of subsection B of this section. In the event that a program desires to reopen after closure, submission of a new program ~~approval~~ application shall be required.

B. Closing of a nurse aide education program. When a nurse aide education program closes, the program provider shall:

1. Notify the board of the date of closing.
2. Submit to the board a list of all graduates with the date of graduation of each.