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Fast-Track Regulation Agency Background Document

Agency name	Board of Nursing, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC90-20-10 et seq.
Regulation title(s)	Regulations Governing the Practice of Nursing
Action title	Acceptance of documentation from educational program
Date this document prepared	9/29/16

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

In examining its process for approval of application and in an effort to expedite that process, the Board is proposing to accept an attestation of graduation from an approved educational program in lieu of a transcript for each individual graduate.

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.

On September 20, 2016, the Board of Nursing adopted an 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.

Chapter 24 of Title 54.1 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations.

§ 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...

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...

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.

Given the volume of applications for licensure, the Board has looked at its processes to determine whether there are ways to expedite the approval process. As an alternative to requiring an official transcript for each applicant, the Board proposes to accept an attestation from the approved nursing education program that the class that has just graduated or is about to graduate has completed all requirements, including the requisite number of clinical hours. The attestation would be accompanied by a listing of those individuals who have met the requirements.

An attestation, as opposed to individual transcripts, would be less burdensome for all parties – the applicant, the educational program, and the Board. The goal of the proposal is to expedite the licensure process, so persons who are eligible for RN or LPN licensure could begin more quickly to provide nursing services to the public. Since assurance of completion of all educational and clinical requirements can be obtained through the attestation, there is no risk of less competent

nurses being granted a license. Public health and safety continues to be protected with assurance that a licensee has minimal competency to practice.

Rationale for using fast-track process

Please explain the rationale for using the fast-track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

The proposed amendment is less burdensome for all parties, and therefore, the Board is confident that the rulemaking is noncontroversial and should be promulgated as a fast-track action.

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.

In examining its process for approval of application and in an effort to expedite that process, the Board is proposing to accept an attestation of graduation from an approved educational program in lieu of a transcript for each individual graduate.

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 an expedited process for licensure of RNs and LPNs and less work for educational programs. There are no disadvantages.
- 2) There is an advantage to the Board because one attestation document from an educational program could replace dozens of individual transcripts. 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 (§2.2-4000 et seq.) which are reasonable and necessary to administer effectively the regulatory system." There is no restraint on competition as a result of promulgating this regulation. The language is less burdensome and has no effect on competition.

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.

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 are no alternative methods consistent with health and safety of the public.

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.

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	There are no cost for implementation and enforcement, since the proposed regulation clarifies the Board's current policy.
Projected cost of the new regulations or changes to existing regulations on localities.	There are no costs to localities
Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.	Nursing education programs and applicants for RN and LPN license
Agency's best estimate of the number of such	There are 139 approved educational programs in

<p>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:</p> <p>a) is independently owned and operated and;</p> <p>b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Virginia; all could be affected if they choose to submit an attestation of graduation rather than produce individual transcripts.</p> <p>The Board licenses approximately 1,800 RN applicants each quarter and 400 LPN applicants. Nursing education programs may be small businesses or housed within a large hospital system or educational institution/school system.</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>The projected cost would be less for educational programs that could choose to produce a listing of graduates with an attestation of completion, rather than a transcript for each individual graduate.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>More efficacy for all parties involved in the application and licensure process.</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.

There are no viable alternatives to the proposed regulatory action that would achieve the intent of expediting the application process. To achieve the intended efficiency, the rule must be amended.

Public participation notice

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

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.

For changes to existing regulation(s), please use the following chart:

Current section number	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
190	Sets out the requirements for licensure by examination	<p>Subsections B and C are amended to accept, in lieu of an official transcript, an attestation of graduation from an approved educational program.</p> <p><i>To expedite licensing, each nursing education could submit a listing of its current graduating class with an attestation that they have met the requirements for graduation including the clinical experience hours required for licensure. This would alleviate the program’s job of producing and sending individual transcripts and ensure that each applicant has that information in the Board office as evidence of meeting the requisite education. When an applicant submits his application, he would identify his educational program, and the Board could readily ascertain whether the applicant is on the list as a graduate. There would be no need to obtain an official transcript from the program.</i></p>