



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 90-20 – Regulations Governing the Practice of Nursing
Department of Health Professions
February 12, 2009

Summary of the Proposed Amendments to Regulation

The Board of Nursing (Board) proposes to amend its standards for foreign-trained nurses to 1) eliminate the requirement that candidates applying for licensure as registered nurses pass the Commission on Graduates of Foreign Nursing Schools (CGFNS) qualifying examination and 2) require candidates for licensure as practical nurses to pass an English proficiency examination.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Under current regulations, foreign-trained candidates applying for licensure as registered nurses must meet several requirements, including the requirement that they pass the CGFNS qualifying examination. Pursuant to a petition for rulemaking, which requested elimination of any requirements that are serving as an unnecessary barrier to licensure, the Board proposes to eliminate the regulatory requirement that candidates pass the CGFNS examination. These candidates will still have their education and current licensure evaluated by CGFNS and will have to prove proficiency in written and spoken English. In current regulations, foreign-trained registered (and practical) nurses have a 90 day window after licensure in which they can work while waiting to take, and pass, the National Council Licensing Examination (NCLEX) if they have not already taken this exam in their country of origin. The Board believes that these remaining requirements for licensure are sufficient to ensure that foreign-trained registered nurses are competent to practice in Virginia.

Even though current Virginia regulations allow foreign-trained registered nurses several months (after the Board issues their licenses) to take the NXCEX, federal law requires that foreign nurses who want to work in the United States pass either the CGFNS exam or the NCLEX before they obtain a work visa. Because of federal work visa requirements, which requires passage of one of these exams before entrance into the U.S., this proposed regulatory change will likely only benefit foreign nurses who are able to take the NCLEX in their countries of origin. The Department of Health Professions (DHP) reports that the NCLEX is currently available in Australia, Canada, England, Germany, Hong Kong, India, Japan, Mexico, the Philippines, Puerto Rico and Taiwan.

Under these proposed regulations, registered nurses from these countries who wish to work in Virginia will be able take the NCLEX before they enter the United States and will be able to forego taking the CGFNS exam. DHP reports that the fee for sitting the CGFNS exam is \$15 (the CGFNS fee to complete other required verification and evaluation is \$403). Affected candidates for licensure will be able to save the \$15 fee plus any other costs (for study guide costs, time spent preparing for and taking the exam, etc.) that they may otherwise have incurred. This will decrease Virginia licensure costs slightly for these candidates. To the extent that decreasing these costs increases the number of foreign-trained nurses that seek Virginia licensure, citizens in Virginia will likely benefit from there being more licensed registered nurses working in the Commonwealth. Since DHP reports that there is currently a shortage of licensed registered nurses, any increase in emigration of these professionals to the state will likely improve health outcomes for patients.

Currently, Virginia regulations are silent on whether foreign-trained practical nurses have to be proficient in English before they are eligible for Virginia licensure. The Board proposes to require that these individuals pass an English proficiency exam or meet CGFNS criteria for an exemption. DHP reports that these candidates already have to prove proficiency in written and spoken English before they can obtain an occupational visa so the practical additional costs that candidates will accrue will likely only include copying costs for an additional copy of proof of English proficiency for the Board and, possibly, some additional postage costs. This proposed change will likely benefit English speaking patients of foreign-trained practical nurses as these patients will be able to better communicate their needs in their native tongue.

Businesses and Entities Affected

These proposed regulations will affect foreign-trained registered and practical nurses who wish to obtain Virginia licensure. DHP reports that the Board currently processes fewer than 100 applications from foreign trained nurses per year.

Localities Particularly Affected

No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment

To the extent that removing the requirement for CGFNS testing lowers the costs of obtaining Virginia licensure, a greater number of foreign-trained registered nurses may choose to obtain employment in the Commonwealth.

Effects on the Use and Value of Private Property

This regulatory action will likely have no effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects

Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact

Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities

to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.