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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)	18VAC90-20-10 et seq.
Regulation title(s)	Regulations Governing the Practice of Nursing
Action title	Accreditation of pre-licensure educational programs for registered nursing
Date this document prepared	6/6/16

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*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

The Board of Nursing intends to amend 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 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.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should 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’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 describe the specific reasons why the agency has determined that the proposed regulatory action 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.

The purpose of the proposed regulatory action is 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 program 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.

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 Board of Nursing intends to amend 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.

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).

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and 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, email, or fax to Elaine Yeatts, Agency Regulatory Coordinator, 9960 Mayland Drive, Henrico, VA 23233 or at elaine.yeatts@dhp.virginia.gov. 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 (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time.

Public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.