



## Virginia Department of Planning and Budget **Economic Impact Analysis**

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**18 VAC 90-27 Regulations Governing Nursing Education Programs**  
**Department of Health Professions**  
**Town Hall Action/Stage: 5402/9024**  
September 15, 2020

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### **Summary of the Proposed Amendments to Regulation**

The Board of Nursing (Board) proposes to amend the regulation to incorporate specific definitions and detailed requirements regarding the use of simulation in nursing education programs. These details had been contained in a guidance document, but are closely tied to the requirements of nursing education programs. Thus, the Board has deemed the text more suitable for inclusion in the regulation itself.

### **Background**

Simulations are used in nursing education to immerse students in realistic clinical environments and provide them with the opportunity to be involved in patient care experiences they may otherwise not experience in actual clinical settings. Although the regulation currently addresses the use of simulation as part of the direct client care curriculum, these terms have not been defined. Hence, the Board proposes to add definitions of these two terms: “direct client care” would mean “nursing care provided to patients/clients in a clinical setting supervised by qualified faculty or a designated preceptor,” and “simulation” would mean “an evidence-based teaching methodology utilizing an activity in which students are immersed into a realistic clinical environment or situation and in which students are required to learn and use critical thinking and decision-making skills.”

18 VAC 90-27-60 *Faculty* lays out the requirements for all faculty members in a nursing education program. The Board seeks to specify that all requirements pertaining to nursing faculty members who supervise the clinical practice of students would also apply to faculty members

utilizing simulation in lieu of direct client care. These requirements include providing “evidence of education or experience in the specialty area in which they supervise student clinical experience for quality and safety.” The regulation currently requires all faculty members providing supervision for direct client contact to have completed a clinical orientation to the site in which supervision is being provided. The Board proposes to add that “Faculty members who supervise clinical practice by simulation shall also demonstrate simulation knowledge and skills in that methodology and shall engage in ongoing professional development in the use of simulation.”

18 VAC 90-27-100 *Curriculum for Direct Client Care* currently states that simulation cannot account for more than 25 percent of the total direct client contact hours in a program or more than 50 percent of the contact hours in any particular course. The Board proposes to modify this through three amendments to subsection D:

- (i) The Board seeks to add, “If courses are integrated, simulation shall not be used for more than 50% of the total clinical hours in different clinical specialties and population groups across the life span.” This stipulation would ensure that in courses pertaining to different clinical specialties and age groups, at least 50% of all clinical hours devoted to each patient sub-group would involve direct care conducted without simulation.
- (ii) Where the language currently states, “Clinical simulation must be led by faculty who meet the qualifications specified in 18 VAC 90-27-60,” the Board seeks to add, “Faculty with education and expertise in simulation and in the applicable subject area must be present during the simulation experience.”
- (iii) To the list of five types of documentation that shall be available for all simulated experiences, the Board seeks to add methods of pre-briefing, evaluation of simulated experience, and method to communicate student performance to clinical faculty.

### **Estimated Benefits and Costs**

The proposed amendments would benefit nursing education programs, and the Board, by increasing clarity regarding the legal requirements that must be met if a program uses simulation to meet the direct client care requirements. Since the proposed changes to the requirements had been contained in a guidance document, the specific requirements now being added to the

regulation would not have been enforceable because a guidance document does not have the force and effect of law. However, some nursing education programs may have already adopted these requirements voluntarily and would not now face any additional burden. Conversely, to the extent that some nursing education programs had not previously adopted the practices in the guidance document, the proposed amendments could increase the burden on faculty who use simulation methods by (a) requiring that they engage in ongoing professional development in the use of simulation in addition to the professional development requirements they may already face as nursing faculty members, (b) restricting how simulation contact hours can be allocated across patient groups in an integrated course, and (c) increasing the documentation required for simulated experiences. Even if a particular program had not formally adopted these requirements previously, individual faculty members may have incorporated these practices in their pedagogy and would be unaffected by the Board's decision to add them to the regulation. However, inclusion in regulation gives the requirements the force of law.

### **Businesses and Other Entities Affected**

The proposed amendments would affect practical (LPN) and professional (RN) nursing education programs. The Board has approved 57 LPN programs and 77 RN programs in Virginia. Nursing education programs are either part of community colleges, universities, large hospital systems, or proprietary businesses.

### **Small Businesses<sup>1</sup> Affected**

#### Types and Estimated Number of Small Businesses Affected

Some nursing education programs may be operated by for-profit education companies, which may be small businesses. However, the Board does not have an estimate of the number of nursing education programs that would qualify as a small business.

#### Costs and Other Effects

To the extent that nursing education programs operated by small businesses had not previously adopted the policies and practices that the Board seeks to add to the

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<sup>1</sup> Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

regulation, they may now face higher costs. However, the magnitude of the costs are unknown.

#### Alternative Method that Minimizes Adverse Impact

Any increased costs would only apply to programs that have been using simulation methods but had not previously adopted these requirements. Programs could avoid these costs by limiting their use of simulation methods to meet the direct client care requirement. Thus, the proposed amendments do not create an adverse impact for any nursing education programs, including any that are small businesses.

### **Localities<sup>2</sup> Affected<sup>3</sup>**

The proposed amendments do not disproportionately affect any specific localities, nor do they introduce new costs for local governments.

### **Projected Impact on Employment**

The proposed amendments would not increase cost of hiring faculty or the overall cost of pursuing nursing education. Thus, they would not affect employment by nursing education programs or affect the number of qualified nurses who graduate from such programs.

### **Effects on the Use and Value of Private Property**

To proposed amendments would not affect the value of nursing education facilities. Hence, they would not affect the value of private property. Real estate development costs would not be affected.

### **Legal Mandates**

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant

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<sup>2</sup> “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>3</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.