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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Board of Nursing, Department of Health Professions
Virginia Administrative Code (VAC) Chapter citation(s)	18VAC90-19
VAC Chapter title(s)	Regulations Governing the Practice of Nursing
Date this document prepared	September 13, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

RN = registered nurse
LPN = licensed practical nurse

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Regulations of the Board of Nursing are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Virginia Code § 54.1-2400(6) specifically states that the general powers and

duties of health regulatory boards shall be “[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system.”

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

The Board is required to regulate the practice of nursing via regulation by statute. There is no alternative to regulation.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

The Board received no comments on the periodic review of Chapter 19.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

This chapter of the regulations of the Board of Nursing is necessary for the protection of public health, safety and welfare because it sets for the requirements for licensure and standards of practice for nursing. These regulations are necessary to continue to renew licenses for RNs and LPNs, and to issue new licenses for RNs and LPNs, which the General Assembly determined is a necessary component of the provision of healthcare in the Commonwealth. These regulations are additionally necessary to protect public health, safety, and welfare by providing a basis for disciplinary actions against practitioners. The Board of Nursing has reviewed this chapter and determined that it is clearly written and understandable.

Decision

Explain the basis for the promulgating agency’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

The Board decided to retain Chapter 19 with amendments. Amendments will include, but are not limited to, elimination of outdated provisions and language, and updates to procedures and requirements.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

(1) The agency realizes the continued need to license and regulate RNs and LPNs for both public access to basic healthcare and protection of the public. (2) As stated above, the agency received no comments regarding the periodic review of this chapter. (3) The regulations are not unnecessarily complex, but do involve, for example, the standard of care for RNs and LPNs, including delegation of nursing tasks. The majority of the chapter, however, solely involves licensing and is not complex at all. (4) There may be some overlap with state statutes or federal law. The agency will review those overlaps and likely eliminate them as it finalizes intended changes. (5) This chapter was created during a reorganization in 2017, and has been amended 12 times since then. The Board of Nursing and the agency do not wait four years for periodic reviews to make regulatory changes as a whole; instead, the health regulatory boards promulgate changes, including those related to technology, economic conditions, and other factors, as needed. These regulations impact healthcare practitioners that the General Assembly requires the Board to regulate. They do not impact small businesses. Therefore, there is no economic impact to minimize.
