



October 25, 2024

17373
Perkins Road
Baton Rouge,
LA 70810

The Honorable Patrick McMath, Chairman
Senate Health & Welfare Committee
P.O. Box 94183
Baton Rouge, Louisiana 70804
(Via E-mail to: apa.h-hw@legis.la.gov)

web: lsbn.state.la.us
phone: 225.755.7500
fax: 225.755.7584

The Honorable Dustin Miller, Chairman
House Health & Welfare Committee
P.O. Box 94062
Baton Rouge, Louisiana 70804
(Via E-mail to: apa.s-h&w@legis.la.gov)

RE: Summary Report; Proposed amendments to LAC 46:XLVII.3535, Continuing Full Approval for Nursing Education Degree Programs

Chairman McMath and Chairman Miller,

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana State Board of Nursing submits its second report regarding the proposed amendments to Continuing Full Approval for Nursing Education Degree Programs, LAC 46:XLVII.3535. The LSBN plans to proceed with the rule-making process by finalizing the September 20, 2024, Notice of Intent that was promulgated on pages 1332 - 1333 of the Louisiana Register. The Notice of Intent was reprinted because of errors on submission. The original Notice of Intent can be viewed in its entirety on pages 858-859 of the June 20, 2024, *Louisiana Register*.

The proposed changes to LAC 46:XLVII.3535 will remove the requirement to place undergraduate nursing degree programs on probation if they do not maintain an 80 percent or greater pass rate achieved by all candidates taking the licensure examination for the first time in any one January to December calendar year.

The LSBN received no comments regarding the proposed changes and there were no requests for public hearing during the original or subsequent notice period. As such, the LSBN is not required to conduct a hearing pursuant to the Louisiana Revised Statute 49:961(B)(2). The LSBN is also not required to submit the proposed rule to the Occupational Licensing Review Commission as the proposed rule has no reasonably foreseeable anti-competitive effects; it does not displace competition or create any barriers to market entry for individuals desiring to engage in the nursing profession. Additionally, there have been no changes made to the proposed amendments since the report provided for in La. R.S. 49:966(B)-(C) was submitted.

Subject to legislative oversight by either the House or Senate Health and Welfare Committee, the board intends to submit a Rule to the Office of the State Register for publication. Should you have any questions or need additional information, please contact me at (225) 755-7576.

Sincerely,



Karen C. Lyon, PhD, MBA, APRN, NEA
CEO/ Executive Director
Louisiana State Board of Nursing
17373 Perkins Road
Baton Rouge, La 70810
225-775-7576

KCL: aew

cc: Speaker, House of Representatives
Via-E-mail to: APA.HouseSpeaker@legis.la.gov
Senate President
Via-E-mail to: APA.SenatePresident@legis.la.gov

within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on October 28, 2024, 9 a.m., at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Vincent A. Culotta, Jr., M.D.,
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Polysomnographic Technologists and Technicians

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the cost of rulemaking, which is approximately \$1,500 in FY 25 related to publishing the proposed rule and final rule in the Louisiana Register, the proposed rule changes are not anticipated to result in implementation costs or savings to state or local governmental units. The cost of rulemaking will be paid from self-generated funds.

The proposed amendments revise the definition of “direct supervision,” require licensed physicians providing and/or billing for interpretation of home sleep testing to ensure proper follow up, add collaborative practice physicians to the section outlining mutual obligations and responsibilities, and correct typographical errors.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes may benefit patients and healthcare professionals by expanding the types of healthcare professionals who are allowed to supervise polysomnographic technicians, increasing access to polysomnography.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The revised definition of “direct supervision” expands the types of physicians who can engage in direct supervision of a polysomnographic technician, which may lead to increased competition among providers of polysomnography.

Vincent A. Culotta, Jr. M.D.
Executive Director
2409#033

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Nursing**

**Continuing Full Approval for Nursing Education
Degree Programs (LAC 46:XLVII.3535)**

Editor's Note: This Notice of Intent is being reprinted because of errors upon submission. The original Notice of Intent can be viewed in its entirety on pages 858-859 of the June 20, 2024 Louisiana Register.

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, that the Board of Nursing (LSBN) is proposing rule changes to Chapter 35, §3535, Subsection B, under Title 46, Professional and Occupational Standards, Part XLVII. The proposed change will remove the requirement to place undergraduate nursing degree programs on probation if they do not maintain an 80 percent or greater pass rate achieved by all candidates taking the licensure examination for the first time in any one January to December calendar year.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLVII. Nurses: Practical Nurses
and Registered Nurses**

Subpart 2. Registered Nurses

**Chapter 35. Undergraduate and Graduate Nursing
Education Degree Programs**

**§3535. Continuing Full Approval for Nursing
Education Degree Programs**

A. ...

B. The undergraduate nursing education degree program shall have a pass rate of 80 percent or greater achieved by the candidates taking the licensure examination for the first time in any one January to December calendar year.

1. An undergraduate nursing education degree program that does not meet the 80 percent first-time pass rate in any January to December calendar year will receive a letter of warning from the LSBN board.

2. After two consecutive years of not meeting the 80 percent NCLEX-RN first-time pass rate standard or two years out of the last 3 years of not meeting the 80 percent NCLEX-RN first time pass rate standard, the undergraduate nursing education degree program will be placed on probation (See §3509.C.1 and 2 of this Chapter).

C. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1027 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1149 (September 1993), LR 24:1293 (July 1998), LR 42:887 (June 2016), LR 50:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49.972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

Small Business Analysis

The impact of the proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have any significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed Rule to Dr. Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before October 10, 2024.

Karen C. Lyon, PhD, MBA, APRN-CNS, NEA
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Continuing Full Approval for Nursing Education Degree Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Other than the cost of rulemaking, which is approximately \$250 in FY 24 related to publishing the proposed rule and final rule in the Louisiana Register, the proposed rule changes are not anticipated to result in implementation costs or savings to state or local governmental units. This cost will be paid from self-generated funds.

Current regulations require undergraduate nursing education degree programs to have an 80% or greater pass rate achieved by all candidates taking the licensure examination for the first time in any one January-to-December calendar year, or the program shall be placed on probation.

The proposed rule change will allow an undergraduate nursing education degree program that does not meet the 80% first-time pass rate in any January to December calendar year to receive a letter of warning from the LSBN Board. After two consecutive years, or two out of any three calendar years, of not meeting the 80% NCLEX-RN first time pass rate, the school would be placed on probation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Since probation may eventually lead to termination of the program, the proposed rule change may help public universities avoid revenue losses resulting from the termination of their nursing programs. However, no nursing program has been involuntarily terminated since 2015; therefore, this impact will likely be minimal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

Since probation may eventually lead to termination of the program, the proposed rule change may result in an increased number of programs available to prospective nursing students. However, no nursing program has been involuntarily terminated since 2015; therefore, this impact will likely be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to have any effect on competition or employment.

Karen C. Lyon
Executive Director
2409#011

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Nursing

Employment of Student Nurses and Unsuccessful Candidates on the State Board Licensing Examination (NCLEX-RN) (LAC 46:XLVII.4303)

Editor's Note: This Notice of Intent is being reprinted because of errors upon submission. The original Notice of Intent can be viewed in its entirety on pages 859-861 of the June 20, 2024 *Louisiana Register*.

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, that the Board of Nursing (LSBN) is proposing rule changes to Chapter 43, §4303, Subsections A and B, under Title 46, Professional and Occupational Standards, Part XLVII. The proposed revision will allow an undergraduate nursing student currently enrolled in a professional pre-licensure education degree program or a graduate nurse who has been unsuccessful on the NCLEX-RN examination to be employed in a nursing setting and to perform procedures and tasks for which they have been educated and certified as competent by their educational institution and/or by graduation from an LSBN-approved prelicensure nursing education program.

Alicia Wheeler

From: APA - Senate Health and Welfare <apa.s-h&w@legis.la.gov>
Sent: Friday, August 23, 2024 3:27 PM
To: Alicia Wheeler
Cc: APA - Senate Health and Welfare
Subject: [EXTERNAL] Request received

CAUTION: This email originated from outside of the LSBN.
DO NOT click links or open attachments unless you know the content is safe.
NEVER enter your username or password.

ELECTRONIC RECEIPT BY COMMITTEE

Your Administrative Procedure Act (APA) submission has been received by the Committee on Health and Welfare, Louisiana Senate.

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here <https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11> to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees <https://www.legis.la.gov/legis/Committees.aspx?c=H> and here for Senate Committees <https://www.legis.la.gov/legis/Committees.aspx?c=S>. The name and contact information of all committee members is available at these sites.

Alicia Wheeler

From: APA - House Speaker <apa.housespeaker@legis.la.gov>
Sent: Friday, August 23, 2024 3:27 PM
To: Alicia Wheeler
Subject: [EXTERNAL] Request received

CAUTION: This email originated from outside of the LSBN.
DO NOT click links or open attachments unless you know the content is safe.
NEVER enter your username or password.

ELECTRONIC RECEIPT FROM THE OFFICE OF THE SPEAKER

Your Administrative Procedure Act (APA) submission has been received by the Office of the Speaker, Louisiana House of Representatives.

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here <https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11> to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees

<https://www.legis.la.gov/legis/Committees.aspx?c=H> and here for Senate Committees

<https://www.legis.la.gov/legis/Committees.aspx?c=S>. The name and contact information of all committee members is available at these sites.

Alicia Wheeler

From: APA - Senate President <APA.senatepresident@legis.la.gov>
Sent: Friday, August 23, 2024 3:27 PM
To: Alicia Wheeler
Subject: [EXTERNAL] Request received

CAUTION: This email originated from outside of the LSBN.
DO NOT click links or open attachments unless you know the content is safe.
NEVER enter your username or password.

ELECTRONIC RECEIPT FROM THE OFFICE OF THE PRESIDENT

Your Administrative Procedure Act (APA) submission has been received by the Office of the President, Louisiana Senate.

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here <https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11> to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees <https://www.legis.la.gov/legis/Committees.aspx?c=H> and here for Senate Committees <https://www.legis.la.gov/legis/Committees.aspx?c=S>. The name and contact information of all committee members is available at these sites.

Alicia Wheeler

From: APA - House Health and Welfare <apa.h-hw@legis.la.gov>
Sent: Friday, August 23, 2024 3:27 PM
To: Alicia Wheeler
Subject: [EXTERNAL] Request received

CAUTION: This email originated from outside of the LSBN.
DO NOT click links or open attachments unless you know the content is safe.
NEVER enter your username or password.

ELECTRONIC RECEIPT BY COMMITTEE

Your Administrative Procedure Act (APA) submission has been received by the Committee on Health & Welfare, Louisiana House.

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here <https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11> to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees <https://www.legis.la.gov/legis/Committees.aspx?c=H> and here for Senate Committees <https://www.legis.la.gov/legis/Committees.aspx?c=S>. The name and contact information of all committee members is available at these sites.