



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](mailto:apa.h-hw@legis.la.gov))

web: [lsbn.state.la.us](http://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](mailto:apa.s-h&w@legis.la.gov))

**RE: Summary Report; Proposed amendments to LAC 46:XLVII.4303 Employment of Student Nurses and Unsuccessful Candidates on the State Board Licensing Examination (NCLEX-RN)**

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 Employment of Student Nurses and Unsuccessful Candidates on the State Board Licensing Examination (NCLEX-RN), LAC 46:XLVII.4303. The LSBN plans to proceed with the rule-making process by finalizing the September 20, 2024, Notice of Intent that was promulgated on pages 1333 – 1334 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 859-861 of the June 20, 2024, *Louisiana Register*.

The proposed changes to LAC 46:XLVII.4303 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..

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](mailto:APA.HouseSpeaker@legis.la.gov)  
Senate President  
Via-E-mail to: [APA.SenatePresident@legis.la.gov](mailto:APA.SenatePresident@legis.la.gov)

### 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 Licensure 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.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

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

**Subpart 2. Registered Nurses**

**Chapter 43. Employment of Unlicensed Persons**

**§4303. Employment of Student Nurses and**  
**Unsuccessful Candidates on the State Board**  
**Licensing Examination (NCLEX-RN)**

A. Students in nursing and unsuccessful candidates on the NCLEX-RN licensing examination employed in nursing settings may be employed as unlicensed persons and perform procedures and or tasks for which they have been educated and cleared by their educational institution and/or by graduation from an LSBN approved prelicensure nursing education program.

B. To assist these individuals to be employed in an acceptable position whereby they contribute to patient care and yet do not jeopardize the welfare of the patient nor legally implicate themselves or their employing institution, the board has adopted the following policies for delegation of nursing activities to currently enrolled nursing students and pre-licensure nursing graduates who have been unsuccessful on the NCLEX-RN examination but who have not passed the NCLEX-RN examination within 12 months of their first attempt taking the NCLEX.

1. The employer shall:

a. document the unlicensed status of these individuals as currently enrolled nursing students or pre-licensure nursing graduates who have not passed the NCLEX-RN examination within 12 months of their first attempt taking the NCLEX;

b. develop and review the written job description with the employee;

c. provide proper orientation to and training for the position; and

d. provide supervision of these unlicensed personnel by an RN or APRN;

e. inform all nursing personnel that the student of nursing and the unsuccessful candidate may perform procedures and or tasks enumerated in the job description.

2. Employers shall not jeopardize the potential for licensure of the student in nursing or the unsuccessful candidate for licensure in order to augment their staffing. It is understood that these unlicensed personnel may not perform the nursing tasks and procedures enumerated in their specific job description independently without the requisite supervision of the RN and/or APRN.

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 3:421 (October 1977), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), 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/CEO

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

**RULE TITLE: Employment of Student Nurses**  
**and Unsuccessful Candidates on the State Board**  
**Licensing Examination**

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

Other than the cost of rulemaking, which is approximately \$250 in FY 24 and 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. This cost will be paid from self-generated funds.

## Alicia Wheeler

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**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.

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### 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.*

## Alicia Wheeler

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## Alicia Wheeler

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**From:** APA - Senate President <APA.senatepresident@legis.la.gov>  
**Sent:** Friday, August 23, 2024 3:26 PM  
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### 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.)

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## Alicia Wheeler

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### 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.)

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<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.