News from the Virginia Board of Nursing: Current Information, Issues and Regulation

VA Health and Medical Sciences Educators Association Annual Conference

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Objectives: Participants will be able to:

- Describe the role and mission of the Virginia Board of Nursing and its functions in regulating nursing and nurse aide practice
- Understand application process for licensure by exam for PN licensure and NA certification
- Describe the licensing process and understand scope of practice for candidates & licensees
Objectives: Participants will also be able to:

- Understand delegation principles to unlicensed persons (including C.N.A.s)
- Describe the disciplinary process
- Describe the current issues, trends and regulations of the Board of Nursing
- Describe the new requirements for continued competency for active RNs and LPNs
Mission Statement – Public Protection

• **DHP**: Our mission is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public.

• **Board of Nursing**: To assure the safe and competent practice of nursing to protect the health, safety and welfare of the citizens of the Commonwealth.
Board of Nursing

Membership:

- 7 Registered Nurses (at least 1 Nurse Practitioner)
- 3 Licensed Practical Nurses
- 3 Citizen Members

Appointed by the Governor – 4 year term

Full Board meets every other month

Department of Health Professions – 1 of 13

Licensure fees sole source of funding
Board of Nursing Primary Duties and Functions

- Licensure, certification and registration
- Maintain Nurse Aide Registry
- Approval of Nursing, Nurse Aide and Medication Aide Education Programs
- Discipline
- Administration of the Nurse Licensure Compact
- Promulgation of Regulations Governing the Practice of Nursing and other regulated professions
- Collect nursing workforce data

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Key Components of Nurse Practice Act

- Definitions of Practice – § 54.1- 3000
- Board of Nursing – composition; powers & duties
- Qualifications for Licensure and Certification
- Approval of Nursing, Nurse Aide and Medication Aide Education Programs
- Disciplinary Provisions
- Nurse Licensure Compact Provisions
Licensure Count  =  210,028  
(as of June 30, 2013)

• Registered Nurses – 101,476
  • Licensed Nurse Practitioners – 7,333  
  • Prescriptive Authority – 4,588  
  • Clinical Nurse Specialists - 427  

• Licensed Practical Nurses – 31,211  

• Certified Massage Therapists – 6,579  
• Medication Aides – 5,200  
• Certified Nurse Aides – 53,214  
• Advanced Certified Nurse Aides – 96  

NOTE: As of June 2012 = 206,135 total  (+3,893 licensees = 2% increase in 2012-2013; following a 4% increase from 2011-2012)
Licensure and Certification

- Examination (Authorization to test)
- Endorsement (30 day letter)
- Renewal -
- Reinstatement
  - RN/LPN – license lapsed for more than 2 years
  - C.N.A. – certificate lapsed for more than 90 days
  - Suspended or revoked
Approval of Education Programs

• Registered Nurse Schools: 80
  – Associate Degree 46
  – Diploma 2
  – Baccalaureate 32

• Practical Nursing Programs – 71

• Nurse Aide Education Programs - 241
• Advanced Nurse Aide Education Programs - 4
• Medication Aide Education Programs – 204
Application for LPN Licensure by Exam

- Complete Application for Licensure (BON) online
- Complete NCLEX Exam Registration (Pearson-VUE) via internet, phone or mail
- Payments to 2 separate places:
  - $170 fee to BON for application for licensure
  - $200 fee to Pearson-VUE for NCLEX testing
- Request your school send official transcript with date of graduation to BON
- 24/7 online access to Checklist for applicants

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Non-routine Applications: CAUSES FOR DENIAL

- Same causes for disciplinary action - see Va. Code § 54.1-3007 (6.6% of applications received in CY 2012)
- Typically:
  - Criminal conviction history (86%)
  - Impairment (23%)
  - Action in another state (16%)
- Guidance Document 90-55 regarding impact on licensure & employment
- 83% still approved without proceeding or public order with terms
Completed Application

- Board of Nursing notifies Pearson VUE
- Board sends letter to applicant – eligibility to test and authorization to practice as “LPN Applicant”
- Pearson VUE issues the authorization to test (ATT) document (good for 6 months / 180 days)
- Applicant schedules exam (via internet 24/7)
- Results available within 48 hours on BON website
  
  Successful – licensed
  Unsuccessful – cease practice immediately
LPN Applicant Authorization to Practice: New Graduate

– Starts when?
  Completed application, fee and transcript submitted to Board

– How do you know?
  Eligibility letter received following complete application, which authorizes them to practice as an applicant

– How long?
  Potentially up to 90 days, from the date of graduation and until results of first NCLEX results; if fails NCLEX – notification sent to cease practice in the role of a nurse

18 VAC 90-20-190(F)
LPN Applicant Authorization to Practice: New Graduate (cont’d)

– Practice limitations?
  LPN Applicants have full authority to practice in the role of practical nurse, per facility policy:
  • Focused Assessments
  • Treatments and Medication administration
  • Documentation

– Identification:
  must clearly state “LPN Applicant” on name tag & in documentation (Per 18 VAC 90-20-35, consists of first and last name and title while providing direct patient care, unless ER, correctional or psychiatric settings)

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LPN Applicant Authorization to Practice: New Graduate (cont’d)

- Facility policies can be more restrictive than law or regulations
- New graduates need supervision consistent with experience, setting & acuity
- May practice in Virginia only – no multistate privileges
Application for Nurse Aide Certification by Exam

- Download application from Pearson VUE website or call NACES (practice exams)

- One application and fee ($94 written/skills) submitted to NACES (subcontractor for Pearson VUE to administer NNAAP); not a dual process

- Receive ATT (authorization to test) from NACES with test date/location within 10 business days
TESTING CHANGES for Skills Exam, as of 7/1/2013:
- Increased to 30 minutes for skills exam
- Removed 2 skills: nail care & make occupied bed
- Revisions to 19 other skills

- Candidate Handbooks – available
- Typically same day results with fax-back scoring
Application for Nurse Aide Certification by Exam (cont’d)

• Eligibility? PN and RN enrolled students are eligible to take NNAAP Exam – after one clinical course involving 40 hours direct client care

• Caveat: NNAAP success rates only approximate 50% (Skills!)

• C.N.A. Authorization to Practice? May be employed up to 120 days
Board Expectations

• The Board believes that each practitioner of nursing is accountable to the Commonwealth and to the public to maintain high professional standards of practice in keeping with the ethics of the profession of nursing.

• The nurse is responsible and accountable for making decisions that are based upon educational preparation and experience in nursing. The nurse shall be held accountable for the quality and quantity of nursing care given patients by himself or others who are under his supervision.
Scope of Practice for Practical Nursing

"Practical nursing" or "licensed practical nursing" means the performance for compensation of selected nursing acts in the care of individuals or groups who are ill, injured, or experiencing changes in normal health processes; in the maintenance of health; in the prevention of illness or disease; or, subject to such regulations as the Board may promulgate, in the teaching of those who are or will be nurse aides. Practical nursing or licensed practical nursing requires knowledge, judgment and skill in nursing procedures gained through prescribed education. Practical nursing or licensed practical nursing is performed under the direction or supervision of a licensed medical practitioner, a professional nurse, registered nurse or registered professional nurse or other licensed health professional authorized by regulations of the Board.

Code of Virginia §54.1-3000
Role of LPN

Role of the LPN is determined jointly by employer and Board of Nursing laws and regulations

- Job description/Title (Employer and Board of Nursing)
- Assignment – Employer
- Supervision – Employer and Law
- Scope of Practice – Code of Virginia (law)
- Guidance Document 90-23: Decision Making Model for Determining RN/LPN Scope of Practice (consistent with education skills, experience and current competence)
Scope of Practice for C.N.As

"Practice of a nurse aide” or “nurse aide practice” means the performance of services requiring the education, training, and skills specified in this chapter for certification as a nurse aide. Such services are performed under the supervision of a dentist, physician, podiatrist, professional nurse, licensed practical nurse, or other licensed health care professional acting within the scope of the requirements of his profession.”

*Code of Virginia §54.1-3000*

- Can be impacted by practice setting and “delegation”
Delegation

- Transfer of authority: by a RN to a competent ULP
  the authority to perform a selected nursing tasks and
  procedures in a specific situation, in accord with regs
- BON Regulations 18 VAC 90-20-420 to 90-20-460
- Task/procedure MUST NOT involve:
  - assessment, evaluation or independent nursing judgment
  - complex observations or critical decisions
- Task/procedure MUST:
  - frequently recur in routine care
  - have predictable results & consequences of improper performance
    minimal and not life-threatening
Delegation (cont’d)

- Involves assessment, supervision, accountability
- Appropriate delegation includes determining:
  - Right task
  - Right circumstance
  - Right person
  - Right direction/communication
  - Right supervision
- C.N.A.s are ULPs for purposes of delegation
- No list of what can be delegated, but only what may not be delegated: 18 VAC 90-20-460
Discipline Process (cont’d)

- **Cases Received: CY 2012**
  - 1,582 Nursing
  - 561 Nurse Aide

- **Cases Closed: CY 2012**
  - 1,601 Nursing
  - 497 Nurse Aide

- 600-700 Informal Conferences per year
  - (*68 days in CY 2012)

- 107 Formal Hearings in FY 2012

- 6.8 disciplinary actions per 1000 licensees in FY 2012
DHP exceeds its goal by closing 90% of disciplinary cases within 250 working days...
Causes for Denial & Disciplinary Action
(Va Code § 54.1-3007)

• (1) Fraud or deceit in procuring or attempting to procure a license - see regulations
• (2) Unprofessional conduct – see regulations
• (3) Willful or repeated violation of any of the provisions of this chapter
• (4) Conviction of any felony or any misdemeanor involving moral turpitude
Causes for Disciplinary Action (cont’d)

- (5) Practicing in a manner contrary to the standards of ethics or in such a manner as to make his practice a danger to the health and welfare of patients or the public
- (6) Use of alcohol or drugs to the extent that such renders him unsafe to practice; or any mental or physical illness rendering him unsafe to practice
- (7) The denial, revocation, suspension or restriction of a license or certificate to practice in another state, the District of Columbia or a United States possession or territory
- (8) Abuse, negligent practice or misappropriation of patient’s or resident’s property
Most Frequent Categories of Discipline Cases

• C.N.A.s:
  – Abuse/Neglect/Misappropriation of Patient Property
  – Convictions
  – Standard of Care

• NURSES:
  • Impairment; obtain drugs by fraud (HPMP eligibility applicants)
  • Fraud
  • Abuse
  • Neglect
  • Standard of Care
  • Unlicensed practice
  • Social media/confidentiality/boundary issues
Reason Cited for Practice Issues

- Staffing
- Lack of orientation and training
- Stress
- Culture – “that is how everybody does it”
- Excessive overtime or sleep deprivation
- Anticipating medication orders/adjusting them (“standing orders”)
- New graduate
- No prior experience with volume of patients or meds
- Lack of support or supervision
Helpful Guidance Documents

• Applicants:
  – Guidance Documents 90-10 (App processing), 90-55 & 59

• Education Programs:
  – Guidance Documents 90-21 (Clinical Learning Experience) 90-22 (Accommodations), 90-24 (Simulation), 90-28 (Clinical hours LPN to RN bridge programs)

• Practice:
  – Guidance Document 90-23, 90-41 (abandonment), 90-46 (OTC topical meds by CNAs), 90-48 (social media) 90-38 & 90-61 (practice on expired license/certificate)

• Discipline:
  – Guidance Document 90-12 (Delegation to professional BON staff) & 90-7 (Sanction Referencing)
Current Issues for Virginia Board of Nursing

- Board member vacancies & turnover in 2013 – intense volunteer professional commitment
- Disciplinary Caseload – approximately 2,000 cases per year
- Virginia Performs – performance measures on DHP website
- Workforce/Nursing Shortages
  - DHP Healthcare Workforce Data Center
  - By 2014, half of VA RNs reach 65; 20-25% likely to reduce work hours
- Workforce survey results RN, LPN posted on DHP website
- Implementing Fully Online Application Processing
- Possible Paperless Licensing?
Current Issues for Virginia Board of Nursing (cont’d)

• Nursing Education Program issues -
  – increased visits and proceedings on approval status;
  – NCLEX scores; clinical availability;
  – pending proposed regulations still in process

• Core Requirements Nurse Licensure Compact –
  – VA one of four 24 Compact states that does not obtain CBC pre-licensure

• Scope of Practice in Various Settings - Guidance
  Document review in process

• TERCAP Participation
Current Issues for Virginia Board of Nursing (cont’d)

• Impact of Increase in Technology (boundary/confidentiality/social media)
• Institute of Medicine/Initiative on Future of Nursing Report
• Advanced Practice  (HB 346 in 2012 & Consensus Model)
• 2013 Laws: mostly amended DCA for med administration by ULPs (via PEG tube in DBHDS facilities; epinephrine and insulin/glucagon in other settings)
Current Issues for Virginia Board of Nursing (cont’d)

• REGULATIONS:
  – Education Program Approval – pending > 3 years
  • streamline procedures/processes; requires need demonstration for new programs; includes provision for simulation in clinical experiences; enforcement provisions for fraudulent and quality issues
  • Public comment and hearings still to come
Current Issues for Virginia Board of Nursing (cont’d)

- **REGULATIONS, cont.:**
  - Regulatory Reform Regulations - pending
    (separate out education program approval process)
  - LNP/Prescriptive Authority Regulations – conform with law
  - Conform with NL Compact (effective August 2, 2012)
  - Provisional licensure (effective August 2, 2013)
  - Continued Competence (effective August 2, 2013)

- Follow on [www.townhall.virginia.gov](http://www.townhall.virginia.gov)
Continued Competency Requirements

• **WHY?**
  – In 2007, the NCSBN determined that continued competency for registered nurses, is necessary for the provision of safe and competent nursing practice and "an established and accepted premise for the provision of safe patient care.” Work experience and education influence critical thinking skills in nurses, but education alone will not ensure continued safe and competent care once the individual passes the NCLEX.
Continued Competency Requirements (cont’d)

• WHY ? (cont)
  – VA BON been studying how best to measure Continued Competency
  – AARP lobbied for continued competency requirements of all health care providers – assuring safe practice and care for the aging public they represent (= Public Protection)

• Board of Nursing – only one not doing it in Virginia
• 2011 initiated process to promulgate CC regs
Continued Competency Requirements (cont’d)

• WHAT IS IT?
  – NCSBN defines continued competency as "the ongoing ability of a nurse to integrate knowledge, skills, judgment and personal attributes to practice safely and ethically in a designated role and setting in accordance with the scope of nursing practice.”
Continued Competency Requirements (cont’d)

• How did VA BON Determine Requirements?
  – Utilized the NCSBN Guiding Principles and Regulatory Model for Continued Competence
  – Reviewed regulations established in other states
  – Involved professional nursing organizations and employers of nurses in the state of Virginia
  – Public hearings and Public Comment
Continued Competency Requirements

• Tied to MISSION:
  – The mission of the licensing board is to protect public health, welfare and safety by assuring that persons are **minimally competent to practice after initial licensure and that they remain competent and safe throughout their careers.**

• Effective August 2, 2013
Continued Competency : Key Requirements

• Applies to active RNs and LPNs only
• Attestation of continued competency required at renewal, beginning August 2015
• Continued Competency Requirements to renew active license captured in 18 VAC 90-20-221(A)
• 9 Options to meet these requirements – allowing for varied practice settings (education, research, clinical and non-clinical practice)
Continued Competency: Key Requirements (cont’d)

- If using one of two Contact Hour options, must be offered by provider recognized/approved by one of 12 listed – as captured in 18 VAC 90-20-221(B) – and relevant to nursing
- No mechanism for VA BON to review and approve CE courses
- Must fully meet one of the nine options during renewal cycle
Continued Competency: Key Requirements (cont’d)

• Not intended to be duplicative (employer requirements or dual licensure)
• Exempt for first cycle of renewal after initial licensure in VA
• Provision for exemptions - only for good cause or circumstances beyond control (ie, temporary disability, military service, declared disasters)
• Documentation of compliance for the 9 options is captured in 18 VAC 90-20-222(B)
Continued Competency: Key Requirements (cont’d)

- Must maintain documentation for 2 years after renewal (essentially 4 years)
- Documentation of compliance is not submitted with renewal, but may be requested by Board (ie, audit, part of standard of care investigation)
- FAQ’s (handout provided) and on website
- CC Regulations in full posted on website as of 7/31/2013: [www.dhp.virginia.gov/nursing](http://www.dhp.virginia.gov/nursing); Law and Regulations; Laws Governing Nursing
Guiding Principles of Nursing Regulation

- Protection of the public
- Competency of all practitioners regulated by the BON
- Due process and ethical decision-making
- Shared accountability
- Strategic collaboration
- Evidence-based regulation
- Response to the marketplace and health care environment
- Globalization of nursing
How Can You Participate in Regulatory Process?

- Monitor BON meetings – all meetings, hearings and minutes are public
- Track regulatory actions on Townhall (www.townhall.virginia.gov)
- Provide public comment when Board requests
- Disseminate Board information to staff/colleagues
- Dialogue with Board staff
- Consider Petition for Rule-Making
Helpful Information/Resources

• [www.dhp.virginia.gov/nursing](http://www.dhp.virginia.gov/nursing) - laws & regs, applications, guidance documents, license look-up
• [www.ncsbn.org](http://www.ncsbn.org) – resources, videos
• [www.learningext.com](http://www.learningext.com) – NCLEX reviews, courses
• [www.pearsonvue.com](http://www.pearsonvue.com) – applications, testing processes
• NACES (1-800-758-6028) – NNAAP apps & handbooks
• License verification (804-270-6836)
• To file a complaint (1-800-533-1560)
• HPMP – 1-866-206-4747

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