

# Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY  
REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency

Department of State, Bureau of Professional and Occupational  
Affairs, State Board of Nursing

(2) Agency Number: 16A

Identification Number: 5125

IRRC Number:

3080

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(3) PA Code Cite: 49 Pa. Code §§ 21.2, 21.3, 21.7, 21.21—21.25, 21.27—21.30a, 21.142, 21.144, 21.149, 21.151—21.156c, 21.701, 21.722, 21.723b, and 21.724.

(4) Short Title: General Revisions

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Judith Pachter Schulder, Board Counsel, State Board of Nursing, 2601 N. Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649; Phone: (717) 783-7200; Fax: (717) 787-0251; Email: [jschulder@pa.gov](mailto:jschulder@pa.gov)

Secondary Contact: Cynthia K. Montgomery, Regulatory Counsel, Department of State: 2601 N. Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649; Phone: (717) 783-7200; Fax: (717) 787-0251 Email: [cymontgome@pa.gov](mailto:cymontgome@pa.gov)

(6) Type of Rulemaking (check applicable box):

☒ Proposed Regulation

☐ Final Regulation

☐ Final Omitted Regulation

☐ Emergency Certification Regulation;

☐ Certification by the Governor

☐ Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

This proposed rulemaking: (1) establishes timeframes within which candidates for licensure as registered nurses (RNs), practical nurses (PNs) and dietitian-nutritionists (LDNs) must first take and ultimately pass the applicable licensure examinations, (2) updates and makes uniform application and examination provisions for registered and practical nurses and dietitian-nutritionists where applicable, and (3) removes references to the National Council Licensure Examination and the Commission on Graduates of International Nursing Schools and replaces them with generic references.

(8) State the statutory authority for the regulation. Include specific statutory citation.

The amendments relating to RNs and LDNs are proposed under the authority of sections 2.1(k) and 12.1(a) of the Professional Nursing Law (RN Law) (63 P.S. §§ 212.1(k) and 222 (a)) which provide the general authority to the Board to establish rules and regulations for the practice of professional nursing, the practice of dietetics-nutrition and the administration of the RN Law. The amendments relating to practical nurses are proposed under the authority of section 17.6 of the Practical Nurse Law (PN Law) (63 P.S. § 667.6) which authorizes the Board to establish rules and regulations for the practice of practical nursing and the administration of the PN Law.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Sections 21.33b and 21.162b (relating to minimum rate for graduates of nursing education programs to pass the National licensure examination) tie a nursing education program's approval status to the pass rate of its first time test-taker graduates. In 2007, the National Council of State Boards of Nursing (NCSBN) examined the relationship between passing the National Council Licensing Examination (NCLEX® examination) and the elapsed time between becoming eligible and taking the NCLEX for 421,739 RN candidates and 183,546 PN candidates who took the NCLEX from the calendar years 2003-2005 (Eich, Michelle, and O'Neill, Thomas. "NCLEX® Delay Pass Rate Study." January 2007). The study concluded that for the overall testing population, passing rates decreased as the time between the date of becoming eligible to sit for the examination and the actual test date increased. Additionally, the study concluded that repeat testers waiting longer to test produced some of the lowest passing rates. These results were confirmed in a subsequent 2009 NCSBN study using logistic regression that further investigated the effect of exam delays and retake attempts for 176,539 registered nurse and 67,849 practical nurse candidates (Woo, Ada, Wendt, Anne and Liu, Weiwei. "NCLEX Pass Rates: An Investigation Into the Effect of Lag Time and Retake Attempts." JONA'S Healthcare Law, Ethics, and Regulation / Volume 11, Number 1 / January-March 2009). The 2009 study revealed again that pass rate results inversely relate to the amount of time candidates wait to take the NCLEX as candidates were less likely to pass the NCLEX as lag time increased.

Administrators of RN and PN nursing education programs provided similar antidotal information to the Board as part of their pre-draft input. They requested that the Board insert a provision into the regulations requiring candidates for the licensure examinations to take the examinations for the first time within 1 year of completing their education programs. Additionally, with few exceptions, the administrators either desired that the examinations be passed within 2 years or within a shorter timeframe. Almost all stakeholders supported the requirement that candidates who fail to pass the examinations within 2 years be required to complete remediation in order to retest due to their concern that there may be a deficiency in candidates' education resulting in repeated failures of the licensure examinations.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

**No. There are no federal licensure standards for RNs, PNs, or LDNs.**

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

**The proposed regulations do not adversely affect Pennsylvania's ability to compete with other states. Twenty-three states, including Delaware, Illinois, Maryland, Michigan, Texas, Virginia, and West Virginia require that the examination be passed within months to 5 years of graduation from a nursing education program.**

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

**No.**

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

**In addition to discussing the proposal during regularly scheduled Board meetings in 2012 and 2013, in preparing this proposed rulemaking, the Board shared drafts of the proposed amendments with stakeholders and interested parties. See Attachment 1 for the list of specific persons and/or groups who were involved. Additionally, the Board discussed the proposals with program directors who were present at the Board's October 18, 2013 meeting in Scranton, PA.**

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

**From October 1, 2012 through September 30, 2013, 7371 RN candidates, 2410 PN candidates took the licensure examinations in the Commonwealth. (In that the Board does not qualify candidates to take the LDN examinations, the Board does not have examinee statistics specific to Pennsylvania.) According to the Small Business Administration, there are approximately 982,692 businesses in Pennsylvania; of which 978,831 are small businesses; and 3,861 are large businesses. Of the 978,831 small businesses, 236,775 are small employers (those with fewer than 500 employees) and the remaining 772,056 are non-employers. Thus, the vast majority of businesses in Pennsylvania are considered small businesses. In that this regulation solely involves graduates of nursing education programs who have yet to take or pass the licensure examinations, there are no businesses or small businesses impacted by this regulation.**

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Applicants for licensure as RNs, PNs and LDNs will be required to comply with this regulation. From October 1, 2012 through September 30, 2013, 7371 RN candidates, 2410 PN candidates and in the Commonwealth. 86.22% of the RN candidates and 88.17% of the PN candidates passed. One year earlier, 7629 RN candidates and 2679 PN candidates took the licensure examinations; 90.77% of the RN candidates and 90.03% of the PN candidates passed.

Nationally, from October 1, 2012 through September 30, 2013, the pass rate for RN candidates was 84.29% and the pass rate for PN candidates was 84.68%. The previous year, the pass rate for RN candidates was 90.22% and the pass rate for PN candidates was 83.99%.

In that the Board does not qualify candidates to take the LDN examinations, the Board does not have examinee statistics specific to Pennsylvania. Nationally, from January 1, 2012 through June 30, 2013, 6514 LDN candidates took the examinations. 69.3% of total test takers passed, however excluding repeat test takers, 83% first time test takers passed. The previous year, 3617 LDN candidates took the examinations. 71% of total test takers passed, however excluding repeat test takers, 85% first time test takers passed.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

Except for candidates who do not pass the examinations within the 2 year timeframe, the proposal does not have any fiscal, economic, social or paperwork impact on the candidates for RN, PN and LDN licenses. Because different schools will charge different fees, and because the amount of remedial education will vary based on each candidate's needs, the Board is unable to estimate with any accuracy the costs associated with the remediation requirement for those candidates who fail to pass the examination within 2 years.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

Requiring candidates to take the examinations within 1 year of graduation and pass them within 2 years enables the candidates to pass the examination at a higher rate and provides needed remedial education to candidates who had to potential to fail the examinations up to 16 times within the 2-year period.

The Board's examination statistics from January, 2011 to December, 2012, reflect that the more times a candidate takes either the registered nurse, practical nurse licensure or LDN examinations, the less likely the candidate is to pass either examination. 2,947 RN candidates and 1,124 PN candidates retook the licensure examinations in the 24 month period. The numbers of repeats range from 1 to 34 for RN candidates and from 1 to 40 for PN candidates. First time repeaters (those taking the examination a second time) formed the largest group of the repeaters

and passed at the highest rate with 66.34% of the RN candidates and 51.75% of the PN candidates passing. Thereafter, the pass rate dropped precipitously. For RN candidates, with one exception, the percentage of pass rates for second through eight time repeaters (those having taken the test three through nine times) decreased as follows: 51.28%, 38.35%, 30.95%, 29.03%, 36.54%, 20.69%, 10.53%. Beginning with the 15<sup>th</sup> retake and extending through 34 retakes, 100% of registered nurse candidates examined failed. The distinction between the number of retakes and pass rates is even more dramatic for PN candidates. The percentage of pass rates for second through seventh time repeaters (those having taken the test three through eight times) decreased as follows: 34.91%, 22.96%, 14.86%, 13.64%, 16.00% and 9.09%. Beginning with the 9<sup>th</sup> and continuing through the 40<sup>th</sup> retake, except for one passing candidate on the 11<sup>th</sup> retake, 100% of the PN candidates examined failed.

The statistics regarding pass rates for repeat test takers is similar for LDN examinees. Although there are no statistical breakdowns by the number of times the examination was taken by a particular candidate, 65.5% of repeat test takers failed the LDN examination in calendar year 2013, 64.5% failed in calendar year 2012 and 65% failed in calendar year 2011.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Except for candidates who fail the examinations after 2 years, this regulation does not impose any costs or result in any savings on the candidates for RN, PN and LDN licenses. The remedial education costs for those candidates who fail after the 2 years cannot be predicted as different programs charge different fees and the amount of remedial education required will be candidate-specific.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no costs or savings to local governments associated with this rulemaking.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulation does not impose any additional costs or savings to state government.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The regulation does not impose any additional legal, accounting or consulting procedures or additional reporting, recordkeeping or other paperwork.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Regulated Community						
Local Government						
State Government						
Total Savings						
<b>COSTS:</b>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Regulated Community						
Local Government						
State Government						
Total Costs						
<b>REVENUE LOSSES:</b>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
State Board of Nursing	\$9,208,993.47	\$9,508,423.62	\$9,255,417.97	\$9,810,000.00

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

**There is no small business impact. The regulation revises application and examination procedures. In that regulations impacts candidates for licensure, there are no direct costs associated with the rulemaking that would be passed on to employers. Employers, be they small or large businesses, have no obligations under these regulations.**

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

**No groups with particular needs have been identified.**

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

**Based upon the current application procedures and the statistical evidence regarding pass rates on the licensure examinations, no alternatives have been considered as the requirements of this regulation are not burdensome on candidates for licensure.**

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.



**There is no small business impact as the requirements fall on candidates for licensure as nurses and dietitian-nutritionists and not on their employers. Less stringent reporting requirements or schedules or deadlines or exemptions for licensees employed by small businesses would be contrary to the public interest.**

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

**The following document Pennsylvania and national examination results:**

**[https://www.ncsbn.org/pdfs/RecentNCLEXResearch Web Testing017B02.pdf](https://www.ncsbn.org/pdfs/RecentNCLEXResearch%20Web%20Testing017B02.pdf)**

**[https://www.ncsbn.org/NCLEX Pass Rates Lagtime and Retake.pdf](https://www.ncsbn.org/NCLEX%20Pass%20Rates%20Lagtime%20and%20Retake.pdf)**

**[https://www.ncsbn.org/Table of Pass Rates 2012.pdf](https://www.ncsbn.org/Table%20of%20Pass%20Rates%202012.pdf)**

**[https://www.ncsbn.org/Table of Pass Rates 2013.pdf](https://www.ncsbn.org/Table%20of%20Pass%20Rates%202013.pdf)**

**[https://www.ncsbn.org/Table of Pass Rates 2011.pdf](https://www.ncsbn.org/Table%20of%20Pass%20Rates%202011.pdf)**

(29) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: 30 days from publication in the PA Bulletin
- B. The date or dates on which public meetings or hearings will be held: No specific date has been scheduled. The Board holds monthly meetings and considers public comment at those meetings.
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: Within 2 years of publication as proposed rulemaking.
- D. The expected effective date of the final-form regulation: Date of publication in the PA Bulletin as final
- E. The date by which compliance with the final-form regulation will be required: Date of publication in the PA Bulletin as final
- F. The date by which required permits, licenses or other approvals must be obtained: N/A



(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Board regularly evaluates the effectiveness of its regulations. Additionally, the Board regularly reviews requests by licensees and members of the public to amend its regulations causing the Board to evaluate the regulations' impact and necessity. The Board reviews all regulatory proposals at regularly scheduled meetings. The remaining 2014 Board meeting dates are: June 3, 2014, July 17, 2014, September 8, 2014, October 23-24, 2014 and December 4.

RAF (14) Attachment 1

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ORGANIZATION	FIRST NAME	LAST NAME
Abington Memorial Hospital	Deborah	Hines
Allegany College of Maryland	Deborah	Costello
Alvernia University	Karen	Thacker
American Association of Neuroscience Nurses	Janette	Yanko
Aria Health School of Nursing	Jacquelyn	Corcoran
Armstrong Hospital	Susan	McDougal RN MSN
BKP HealthCare Resources	Barbara	Piskor
Bloomsburg University	Michelle	Ficca
Bucks County Community College	Michelle	Laskey
Bucks County Community College	Michelle	Rue
Bucks County Community College -RN	Claire	Keane
Butler County Community College	Patricia	Mihalcin
Career Technology Center of Lackawanna County	Laura	Kanavy
Carlow University	Clare	Hopkins
Cedar Crest College	Wendy	Robb
Central Pennsylvania Institute of Science & Technology	Jane	Irwin
Central Susquehanna LPN Career Center	Beverly	Krieger
Chester County Intermediate Unit	Patricia	Knecht
Citizens School of Nursing	Mary Lynne	Rugh
Clarion County Career Center	Ann	Stanonis
Clarion University of Pennsylvania - Venango Campus - RN	Shelly	Moore
Clearfield County Career & Technology Center	Elsie	Maurer
Community College Beaver County	Linda	Gallagher
Community College Beaver County	Christine	OLeary MSN RN
Community College of Allegheny County	Kathy	Mayle
Community College of Allegheny County - Allegheny	Rosalena	Thorpe
Community College of Allegheny County - Boyce	Janet	Colville
Community College of Allegheny County - California	Phyllis	Dolan
Community College of Allegheny County - North	Kathy	Mayle
Community College of Philadelphia	Barbara	McLaughlin
Conemaugh Valley Memorial Hospital	Louise	Pugliese
Crawford County Career & Technology Center	Rebecca	Parker
Delaware County Community College	Lana	deRuyter
Delaware County Technical School	Kathleen	McNamara
DeSales University	Mary Elizabeth	Doyle-Tadduni
District 1199C Training & Upgrading Fund	Nancy	York
Drexel University College of Nursing & Health Professions	Faye	Meloy
Duquesne University School of Nursing	Mary	Glasgow
East Stroudsburg University	Laura	Waters
Eastern Center for Arts & Technology	Carol	Duell
Eastern University	Mary Ann	Peters
Edinboro University Department of Nursing	Thomas	White
Emergency Nurses Association	Merlann	Malloy

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ORGANIZATION	FIRST NAME	LAST NAME
Erie Business Center	Dawn	Johnson
Fayette County Career & Technology Institute	LouAnn	Patterson
Fortis Institute, Erie	Michelle	Lingle
Fortis Institute, Scranton	Julie	Nardella
Frankford Health Care System Jefferson Health System School of	Jacquelyn	Corcoran
Frankford Health Care System Jefferson Health System School of	Mary	Parsons-Snyder
Franklin County Career & Technology Center	Janyce	Collier
Gannon University	Kathleen	Patterson
Geisinger	Cynthia K	Matzko RN MSN
Geisinger	Alison	Mowery MSN CRNP
Geisinger Health System	Renee	Smith MS RN
Greater Altoona Career and Technology Center	Rebecca	Kelly
Greater Johnstown Career & Technology Center	Ann	Hofecker
Greater Johnstown Career & Technology Center	Ann	Hofecker
Greater Johnstown Career & Technology Center	Judy	Stemple
Greene County Career & Technology Center	Wendy	Bouchard
Grove City Medical Center	Karen A	Bray
Gwynedd-Mercy College	Velia	McCabe
HACC Lancaster Campus	Betsy	Musser
Hanover Public School District	Mary L	Brown
Harcum College	Marian	Slater PhD RN
Harcum College	Joyce	Welliver
Harrisburg Area Community College	Susan	Leib
Harrisburg Area Community College - RN	Ronald	Rebuck
Harrisburg Area Community College - RN Gettysburg	Marilyn	Teeter
Harrisburg Area Community College - RN Lancaster	Betsy	Musser
Harrisburg Area Community College - RN York	Cynthia	Donell
Hazleton Area Career Center	Sharon	Schneider
Health Dialog, Inc.	Sue	Reskiewicz RN
Heritage Valley Sewickley School of Nursing	Marilu	Piotrowski
Holy Family University	Ana Maria	Catanzano
Huntingdon County Career & Technology Center	Kimberly	Huff
IMA Consulting	Mary	Kinneman
Immaculata University	Stephanie	Trinkl
Indiana County Community College Center of WCCC	Ruth	Irwin
Indiana County Technology Center	Diana L	Rupert
Indiana University of Pennsylvania Department of Nursing & Allied	Elizabeth	Palmer
Institute for Caregiver Education	Myrna B	Eshleman
Intravenous Nurse Society	Vicki	Quaid
Jameson Memorial Hospital	Jayne	Sheehan
Jefferson County-Dubois Area Vocational Technical School	Brenda	Hodge
Jefferson School of Nursing	Beth Ann	Swan
Joseph F McCloskey SON at Schuylkill Health	Angela	Pasco

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ORGANIZATION	FIRST NAME	LAST NAME
Keystone Job Corps Center	Beverly	Vespico
Lancaster County Career and Technology Center	Carolyn	Voorhees
Lancaster General College of Nursing & Health Sciences	Cheryl	Grab
LaRoche College	Terri	Liberto
LaSalle University	Zane	Wolf
LaSalle University Newtown	Kristin	Resch
Lawrence County Area Vocational Technical School	Betty	Tillia
Lebanon County Career & Technology Center	Lynda	Maurer
Lehigh Carbon Community College	Sharon	Gordon
Lehigh Carbon Community College	Barbara	Lupole
Lehigh Carbon Community College - Morgan Center	Nancy	Kruzik
Lehigh Valley Hospital Med Evac	Barry M	Mitchneck RN MSN CEN
Lenape Area Vocational Technical School	Kimberly	Doms
Lewistown Hospital	Mary Ann	Brown
Licensed Practical Nurses Association of Pennsylvania	Genovia	Williams
Lincoln Technical Institute	Debra	Aikens
Lincoln Technical Institute	Gary	Guldin
Lincoln Technical Institute	Gary	Guldin
Lincoln Technical Institute	Timothy	Inverso
Lincoln University	Shelley	Johnson
Local 112 of OPEIU	Angeline	Bogart
Lock Haven University – Clearfield Campus	Kim	Owens
Luzerne County Community College	JoAnne	Chipego
Luzerne County Community College - Wayne Memorial Hospital	Annette	Calderone
Luzerne County Community College -Elk Lake	Peggy	Sheffler
Mansfield University Nursing Program at Robert Packer Hospital	Jamie	Klesh
Marywood University	Theresa	Tulaney
Mercer County Career Center	Victoria	Schwabenbauer
Mercy Hospital School of Nursing	Alexis	Weber
Mercyhurst University	Marion	Monahan
Mercyhurst University - RN	Brenda	Snyder
Messiah College Department of Nursing	Carolyn	Kreamer
Mifflin-Juniata Career & Technology Center	Alicia	Lentz
Misericordia University	Cynthia	Mallioux
Monroe County Career & Technical Institute	Judy	Williams
Montgomery County Community College	Maria	Toth
Moravian College	Kerry	Cheever
Mount Aloysius College	Rebecca	Zukowski
Neumann University	Kathleen	Hoover
NewCourtland Education Center	Anna	Marshall
Northampton Community College	Mary Jean	Osborne
Northeastern Hospital	Bernice	Brennan
Northern Tier Career Center	Margaret	Johnson

ORGANIZATION	FIRST NAME	LAST NAME
Ohio Valley General Hospital	Robin	Weaver
PA Assoc Medical Staff Services	Sherry	Shaddock
PA Associate Degree Nursing Programs	Maria	Toth
PA Association of Practical Nursing Program Administrators	Ronald	Rebuck
PA Association of Private School Administrators	Sue	Cameron
PA Association of Private School Administrators	Richard	Dumaresq
PA Association of School Nurses and Practitioners	Sue	Drake
PA College of Associate Degree Nursing	Linda	Gallagher
PA Council of Operating Room Nurses	Donna	Klinger
PA Health Care Association	Gail	Weidman
PA Hershey Medical Center	Mary Lou	Kanaskie
PA Higher Education Nursing Schools Association	Laurie	Murray
PA League for Nursing, Inc.	Joan	Panchal
PA Medical Society	Catherine	Wilson
PA Organization of Nurse Leaders	Rebecca	Ambrosini
PA PN Program Nurse Administrators	Dawn	Johnson
PA Society for Physican Assistants	Kitty	Martin
PA Society for Physican Assistants		
PA State Education Association - School Nurse Section	Maggie	Beall
PA State Nurses Association	Margaret	Campbell
PA State Nurses Association	Chad	Cope
PA State Nurses Association	Kevin	Gayle
PA State Nurses Association	Patti Gates	Smith
Penn Commercial Business/Technical School	Sherry	Yancosek
Pennsylvania Association of Home Health Agencies	Terry	Stark
Pennsylvania College of Technology (Credit)	Sharon	Auker
Pennsylvania College of Technology (Non-Credit)	Natalie	DeLeonardis
Pennsylvania Institute of Health & Technology	Pam	Hughes
Pennsylvania Institute of Technology	Margie	Hamilton
Pennsylvania Medical Society	Catherine	Wilson
Pennsylvania State University Harrisburg	Melissa	Snyder
Pennsylvania State University Hershey	Mary Beth	Clark
Pennsylvania State University - Lehigh Valley Campus	Sharon	Gordon
Pennsylvania State University -School of Nursing	Paula	Milone-Nuzzo
Pennsylvania State University -School of Nursing Altoona	Suzanne	Kuhn
Pennsylvania State University -School of Nursing Behrend	Jo Anne	Carrick
Pennsylvania State University -School of Nursing Mont Alto	Carranda	Barkdoll
Pennsylvania State University -School of Nursing Worthington	Verna	Saleski
PHENSA	Mary Anne	Peters
Pittsburgh Technical Institute	Lynette	Jack
Princeton Information Technology Center	Temitope	Oladotun
Prism Career Institute	Margaret	Cybularz
Professional Nursing Resources Inc.	Christine	Filipovich

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ORGANIZATION	FIRST NAME	LAST NAME
PSU – Berks Campus	Louise	Frantz
Reading Area Community College	Amelia	Capotosta
Reading Hospital School of Health Sciences	Deborah	Williamson
Robert Morris University	Lisa	Locasto
Roxborough Memorial Hospital	Paulina	Marra Powers
Sally Kauffman	Sally	Kauffman
Schuylkill Technology Center - North Campus	Cindy	Schucker
SEIU Healthcare.	Deborah	Bonn RN
Sharon Regional Health System	Sherry	Greenburg
Somerset County Technology Center	Kathy	Nuccetelli
Southwestern PA Organization for Nurse Leaders	Gwen	Miller
St. Francis University of Pennsylvania Department of Nursing	Rita	Trofino
St. Luke's School of Nursing	Sandra	Mesics CNM MSN RN
St. Margaret Memorial Hospital	Ann	Ciak
Stateside Associates	Amy	Goldlust
Stevens & Lee	Robert	Archibald
Stevens & Lee	Dana Pirone	Garrity
Susquehanna County Career and Technology Center	Sherrie J	Bazin
Temple University	Jane	Kurz
The Hospital & Healthsystem Association of Pennsylvania	Lynn	Leighton
The Hospital & Healthsystem Association of Pennsylvania	Mary	Marshall
University of Pennsylvania School of Nursing	Kathleen	McCauley
University of Pittsburgh at Bradford	Lisa	Fiorentino
University of Pittsburgh at Titusville	Louise	Schwabenbauer
University of Pittsburgh Medical Center	Debra A	Santarelli RN BSN MS
University of Pittsburgh School of Nursing	Jacqueline	Dunbar
University of Pittsburgh School of Nursing Johnstown	Janet	Grady
University of Scranton	Patricia	Harrington
UPMC Shadyside Hospital	Linda	Kmetz
UPMC St. Margaret	Dawn	Vocke RN CNOR
Venango County Area Vocational Technical School	Cynthia	Cornelius
Villanova University	Angelina	Arcamone
Washington Health System School of Nursing	Susan Gaye	Falletta
Waynesburg University	Nancy	Mosser
Wellspan Health	Amy	Nelson
West Chester University Department of Nursing	Charlotte	Mackey
Western Area Career and Technology Center	Kristen	Rogers
Western Pennsylvania Hospital School of Nursing	Carol	Haus
Westmoreland County Community College	Kathy	Malloy
Widener University	Rose	Schwartz
Wilkes University	Mary Ann	Merrigan
Wilkes-Barre Area Career and Technology Center	Mary Elizabeth	Pacuska
York College of Pennsylvania	Karen	March

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	Robin L	Adams
	Arnold	Albert
	Christine	Alichnie
	K Stephen	Anderson
	Barbara	Boneaberger RN MNEd CNE
	Cindy	Campbell
	Mary Ann	Cegielsky
	Karen	Cesarano MS
	Stacy	Chiles
	Monica	Choi
	Nancy E	Cobb RN MSN CNE
	Belinda	Curry
	Mary	Dalpiaz
	Melanie	Duffy
	Kay	Duncan
	Kathleen	Dwyer
	Margie	Eckroth-Bucher
	Judy	Egly
	Pat	Falkowski
	Susan B	Fetterman
	Michelle	Ficca
	Lynn S	Freeze
	Cynthia	Gallagher
	Dale	Gustitus
	Judy	Hale
	Sharon	Haymaker
	Gretchen Hope Miller	Heery FNP BC
	Rick	Henker
	Eileen	Hill
	Dawn	Hobbs
	Rose	Hoffmann
	Karen	Kaskie
	Martin	Kilmer
	Kelly	Kuhns
	Vivian	Lowenstein
	Gwynne	Maloney-Saxon
	Brad	March
	Karen	March
	Joan	Miller
	Theresa	Myers
	Ann	OSullivan
	Kathleen	Pagana



RAF (14) Attachment 1  
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ORGANIZATION	FIRST NAME	LAST NAME
	Donna R	Pauling
	Pat	Porter
	Sally	Regel
	Wayne E	Reich Jr
	Erik	Resoh
	Arthur F	Richer
	Joanne	Rogers
	Meg	Rowe
	Deb	Sanders
	Therese M	Sayers
	Gale	Shalongo
	Margaret	Sheaffer
	Roxann	Shiber
	Janet	Shields
	Judy	Shipe
	Kelly	Shultz
	Trent	Shultz
	Patti	Smith
	Renee	Smith
	Becky	Sneidman
	Joanne	Sorensen
	Laura	Spear
	Adele	Spegman
	Debra	Wantz-Bucher
	Marilyn E	Zrust, MSN, RN

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(DEPUTY ATTORNEY GENERAL)

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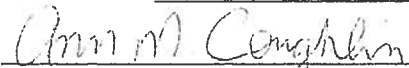
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BY:   
Ann M. Coughlin, MBA, MSN, RN

TITLE: Chairperson  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF NURSING  
49 PA. CODE, CHAPTER 21

§§ 21.2, 21.3, 21.7, 21.21, 21.22, 21.23, 21.24, 21.25, 21.27, 21.28, 21.29, 21.29b, 21.30, 21.30a, 21.142,  
21.144, 21.149, 21.151, 21.152, 21.153, 21.154, 21.155, 21.156, 21.156c, 21.701, 21.722, 21.723b,  
and 21.724

GENERAL REVISIONS

The State Board of Nursing (Board) proposes to amend §§ 21.2, 21.7, 21.21, 21.23—21.25, 21.28—21.30a, 21.142, 21.143, 21.149, 21.151—21.153, 21.155—21.156, 21.701, 21.722 and 21.724; to add §§ 21.29b, 21.156c and 21.723b (relating to reporting of address changes); and to delete §§ 21.3, 21.22, 21.27, 21.144 and 21.154 to read as set forth in Annex A.

#### *Effective Date*

The amendments will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

#### *Statutory Authority*

The amendments relating to registered nurses and licensed dietitian-nutritionists are proposed under the authority of sections 2.1(k) and 12.1(a) of the Professional Nursing Law (RN Law) (63 P.S. §§ 212.1(k) and 222 (a)) which provide the Board with general authority to establish rules and regulations for the practice of professional nursing, the practice of dietetics-nutrition and the administration of the RN Law. The amendments relating to practical nurses are proposed under the authority of section 17.6 of the Practical Nurse Law (PN Law) (63 P.S. § 667.6) which authorizes the Board to establish rules and regulations for the practice of practical nursing and the administration of the PN Law.

#### *Background and Purpose*

This proposed rulemaking is intended to: (1) establish timeframes within which candidates for licensure as registered nurses, practical nurses and dietitian-nutritionists must first take and ultimately pass the applicable licensure examinations; (2) update and make uniform application and examination provisions for registered nurses, practical nurses and dietitian-nutritionists, where applicable; and (3) removes references to the National Council Licensure Examination and the Commission on Graduates of Foreign Nursing Schools and replaces them with generic references.

From October 1, 2012, through September 30, 2013, 7,371 graduates of registered nurse education programs and 2,410 graduates of practical nurse education programs took the licensure examinations in Pennsylvania. Of those taking the exams, 86.22% of the registered nurse candidates and 88.17% of the practical nurse candidates passed. One year earlier, 7,629 registered nurse candidates and 2,679 practical nurse candidates took the licensure examinations. At that time, 90.77% of the registered nurse candidates and 90.03% of the practical nurse candidates passed. Nationally, from October 1, 2012, through September 30, 2013, the pass rate for registered nurses was 84.29% and the pass rate for practical nurses was 84.68%. The previous year, the pass rate for registered nurses was 90.22% and the pass rate for practical nurses was 83.99%.

From January 1, 2012 through June 30, 2013, nationally, because there is no Pennsylvania-specific examination, 6514 dietitian-nutritionist candidates took the dietitian-nutritionist examination. 69.3% of total test takers passed, however excluding repeat test takers, 83% first time test takers passed. The previous year, 3617 dietitian-nutritionist candidates took the examinations. 71% of total test takers passed, however excluding repeat test takers, 85% first time test takers passed.

Sections 21.33b and 21.162b (relating to minimum rate for graduates of nursing education programs to pass the National licensure examination) tie a nursing education program's approval status to the pass rate of its first time test-taker graduates. Under these regulations, since October 1, 2010, a nursing education program must achieve a minimum pass rate of 80%. Currently 22 of the approximately 142 approved nursing education programs are on provisional approval due to their pass rates which did not reach the 80% threshold.

In 2007, the National Council of State Boards of Nursing (NCSBN) examined the relationship between passing the National Council Licensing Examination (NCLEX® examination) and the elapsed time between becoming eligible and taking the NCLEX for 421,739 registered nurse candidates and 183,546 practical nurse candidates who took the NCLEX from the calendar years 2003-2005 (Eich, Michelle, and O'Neill, Thomas. "NCLEX® Delay Pass Rate Study." January 2007). The study concluded that for the overall testing population, pass rates decreased as the time between the date of becoming eligible to sit for the examination and the actual test date increased. Additionally, the study concluded that repeat testers waiting longer to test produced some of the lowest passing rates. These results were confirmed in a subsequent 2009 NCSBN study using logistic regression that further investigated the effect of exam delays and retake attempts for 176,539 registered nurse and 67,849 practical nurse candidates (Woo, Ada, Wendt, Anne and Liu, Weiwei. "NCLEX Pass Rates: An Investigation Into the Effect of Lag Time and Retake Attempts." JONA'S Healthcare Law, Ethics, and Regulation / Volume 11, Number 1 / January-March 2009). The 2009 study revealed again that pass rate results inversely relate to the amount of time candidates wait to take the NCLEX as candidates were less likely to pass the NCLEX as lag time increased.

The Board's examination statistics from January, 2011 to December, 2012, support these studies' conclusion that the more times a candidate takes either the registered nurse or practical nurse licensure examinations, the less likely the candidate is to pass either examination. During this 24-month period, 2,947 registered nurse candidates and 1,124 practical nurse candidates retook the licensure examinations. The numbers of repeats range from 1 to 34 for registered nurse candidates and from 1 to 40 for practical nurse candidates. First time repeaters (those taking the examination a second time) formed the largest group of the repeaters and passed at the highest rate with 66.34% of the registered nurse candidates and 51.75% of the practical nurse candidates passing. Thereafter, the pass rate dropped precipitously. For registered nurse candidates, with one exception, the percentage of pass rates for second through eight time repeaters (those having taken the test three through nine times) decreased as follows: 51.28%, 38.35%, 30.95%, 29.03%, 36.54%, 20.69%, 10.53%.

Beginning with the 15<sup>th</sup> retake and extending through 34 retakes, 100% of registered nurse candidates examined failed. The distinction between the number of retakes and pass rates is even more dramatic for practical nurse candidates. The percentage of pass rates for second through seventh time repeaters (those having taken the test three through eight times) decreased as follows: 34.91%, 22.96%, 14.86%, 13.64%, 16.00% and 9.09%. Beginning with the 9<sup>th</sup> and continuing through the 40<sup>th</sup> retake, except for one candidate who passed on the 11<sup>th</sup> retake, 100% of the practical nurse candidates examined failed.

Although there are no statistical breakdowns by the number of times the dietitian-nutritionist examination was taken by a particular candidate, 65.5% of repeat test takers failed that examination in calendar year 2013, 64.5% failed in calendar year 2012 and 65% failed in calendar year 2011.

Administrators of professional and practical nursing education programs provided similar anecdotal information to the Board as part of their input regarding this proposal. They requested that the Board insert a provision into the regulations requiring candidates for the licensure examinations to take the examinations for the first time within 1 year of completing their education programs. Additionally, with few exceptions, the administrators either desired that the examinations be passed within 2 years or within a shorter timeframe. Almost all stakeholders supported the requirement that candidates who fail to pass the examinations within 2 years be required to complete remediation in order to retest due to their concern that there may be a deficiency resulting in repeated failures of the licensure examinations.

#### *Description of Proposed Amendments*

##### *§ 21.2—Scope.*

Current § 21.2 (relating to scope) delineates the Board's scope relating to registered nurses and the practice of professional nursing. In this proposal, the Board would modify subsection (d) to include the range of statutorily permitted sanctions and delete subsection (f), because the Board does not approve applications for inactive status; registered nurses merely advise the Board of their desire to revert to inactive status. The Board would also modify current subsections (e) and (g) to clarify that these sections apply only to professional nursing education and the practice of professional nursing.

##### *§ 21.3—Purposes of the Board.*

The Board proposes deleting current § 21.3 (relating to purposes of the Board) as this provision is unnecessary.

*§ 21.7—Temporary practice permits.*

Current § 21.7(b)(2) (relating to temporary practice permits) requires applicants for temporary practice permits who are licensed in another state or jurisdiction to demonstrate proficiency in English. Subsection (b)(3)(iii) requires applicants to submit an application for education credentials review to the Commission of Graduates of Foreign Nursing Schools (CGFNS) and retain a copy of that application to provide to the Board if requested. In this proposal, the Board would replace the specific reference to CGFNS in subsection (b)(3)(iii) with a reference to “a Board-approved foreign credentials evaluator” so as to expand the list of acceptable evaluators. Also instead of providing a copy of the list of Board-approved English proficiency examinations upon request, subsection (b)(2) would be amended to permit the Board to post the list on its website.

*§ 21.21—Application for examination.*

Current § 21.21(a) (relating to application for examination) permits candidates for licensure by examination to apply to take the registered nurse examination during the last term of their nursing education program with scheduling, according to the latter portion of the provision, to occur at the subsequent examination. Because the examination is administered daily, the latter clause is obsolete and would be deleted. Additionally, the proposal would clarify that applicants may apply 90 days prior to completion of their education programs, however, under subsection (b) they would not be authorized to take the examinations prior to confirmation of actual completion.

Proposed subsection (b) would track current practice regarding authorizations to test. Upon application and confirmation of nursing education program completion, the Board notifies the examiner who issues an “Authorization to Test” enabling a candidate to schedule an examination date. Current subsection (c) requires a candidate to provide a copy of the transcript validating program completion within 2 weeks of taking the examination. The Board proposes to remove this requirement for graduates of nursing education programs within the Commonwealth as the Board approves these programs and receives this information directly from the programs electronically. The Board would maintain the requirement only for graduates who attend programs outside of the Commonwealth as it does not approve these programs. Current subsection (d) would be removed as examinations are no longer proctored by state boards under section 6(b)(4) of the RN Law (63 P.S. § 216(b)(4)). Instead the Board proposes to add a provision to require an applicant seeking a waiver of the requirement to take the examination within 1 year of completion of the nursing education to submit documentation to demonstrate that an emergency, illness or military service prevented compliance with proposed § 21.23(c) (relating to qualifications of applicant for examination).

*§ 21.22—Dates and location of examination.*

The Board proposes deleting current § 21.22 (relating to dates and location of examination) which requires that the examination be conducted at least twice a year and that the examination schedule be published annually. Currently, the licensing examinations are administered from Monday through Saturday Nationally and internationally. Specific examination locations are selected and posted by the examination administrator.

*§ 21.23—Qualifications of applicant for examination.*

The Board proposes deleting current § 21.23(a) (relating to qualifications of applicant for examination) because the examination is not administered in written form and the requirement that the examinations be passed is contained in § 21.24 (relating to examination score requirements). The Board also proposes deleting current subsection (b) as it simply recites statutory references without amplification. Current subsection (c) requires applicants who were educated outside of the United States or Canada to prove that either their nursing education programs were conducted in English or they passed the English proficiency examination of CGFNS. In proposed form, tracking current practice, the Board would require that all applicants demonstrate this proficiency unless it was already met as part of an application for temporary practice permit. The Board believes that the same standard regarding English proficiency should be applied to all applicants because the Board is aware, for example, that not all nursing education programs in North America are conducted in English.

Also, similar to proposed §§ 21.7(b)(3)(iii) and 21.149(b)(3)(iii) (relating to temporary practice permits), the Board would replace the specific reference to the CGFNS examination with “Board-approved English proficiency examination” in proposed subsection (a) so as to include other proficiency examinations, such as the International English Language Test System, Test of English for International Communication, and Test of English as a Foreign Language in addition to CGFNS. Also, as in proposed §§ 21.7(b)(2) and 21.149(b)(2), the Board proposes amending this subsection to indicate that the list of Board-approved English proficiency examinations will be posted on its website.

New proposed § 21.23(b) would institute current Board procedure of requiring graduates of nursing education programs outside of the United States and Canada to have their education evaluated by Board-approved foreign credentials evaluators. The Board believes that these evaluations assure that professional nursing education programs outside of the United States and Canada are equivalent to programs of study in this Commonwealth at the time the programs were completed as required by section 5(b) of the RN Law (63 P.S. § 215(b)). This proposed subsection is identical for endorsement candidates in §§ 21.28(c) and 21.155(d) (relating to licensure by endorsement).



New subsection (c) would require registered nurse candidates to take the licensing examinations for the first time within 1 year of completing their professional nursing education programs unless prevented by emergency, illness or military service. This provision was inserted at the behest of nursing education program administrators who highlighted decreasing pass rates as the time between completing the education program and taking the examination increases.

*§ 21.24—Examination score requirements.*

Current § 21.24 (relating to examination score requirements) includes outdated references to passing the licensure examination by achieving a minimum passing score mandated by the Board. This proposal would incorporate current requirements by amending this provision to require candidates for licensure to pass the examination approved by the Board.

*§ 21.25—Reexamination.*

Current § 21.25 (relating to reexamination) addresses reexamination requirements including the authority in subsection (c) to take the examination as many times as necessary to complete the examination process. Subsection (a) would be amended to track current practice which requires a candidate who fails the examination to file a reexamination application with the Board allowing the candidate to obtain new “authorization to test.” Subsection (c) would be amended to require a candidate to pass the licensure examination within 2 years of completing the professional nursing education program. To preserve the integrity of the examination, it may be administered to a single applicant every 45 days. Under proposed subsection (c), this proposal would still allow candidates to take the licensure examination up to 16 times without any additional requirements.

In the event that a candidate does not pass within the 2-year timeframe in proposed subsection (c), subsection (d) would require the candidate to complete a remedial plan developed by a Board-approved nursing education program. During the drafting of this proposal, stakeholders endorsed the proposition that candidates be required to complete additional education after repeated failures. They recommended a full panoply of education alternatives ranging from remedial and review courses to completing anew another nursing education program. The Board appreciates the time and financial commitment to complete additional education, however, it balances those commitments against the Board’s obligation to assure that those practicing professional nursing are competent to do so. In the view of the Board and the nursing community, passing the examination is a measurement of the competencies needed to perform safely and effectively as a newly licensed, entry level nurse. The Board believes that a candidate who is unable to pass the licensure examination within 2 years has deficiencies in education such that, at the very least, remediation is warranted. The Board rejected the recommendation that the candidates complete post-examination review courses based upon its understanding that these courses, routinely taken by candidates following failure, do not include the breadth of coursework or clinical components necessary to assure competence. At the same time, while the Board would have liked candidates who have failed

the examination within a 2-year period to complete another full nursing education program, it is cognizant that such a requirement could lead to an inability to obtain financial aid. Additionally, as stakeholders advised the Board during its October 18, 2013, meeting, nursing education programs may be reluctant to accept students who have repeatedly failed the examination even though these re-examinees would not constitute “first-time test takers” for purposes of § 21.33b(3) (relating to minimum rate for graduates of nursing education programs to pass the National licensure examination).

New subsection (e) would be added to clarify that at the expiration of the 2-year period, candidates must again meet the licensure requirements in order to be qualified to retest.

*§ 21.27—Unlicensed candidate.*

The Board proposes to delete § 21.27 (relating to unlicensed candidate) as it explicitly conflicts with the requirement in section 4.1 of the RN Law (63 P.S. § 214.1) that a temporary practice permit expire immediately following an examination failure. Further the provision is unnecessary as it is properly addressed in § 21.7 (relating to temporary practice permits).

*§ 21.28—Licensure by endorsement.*

The Board proposes to insert examination, education and English-proficiency requirements for endorsement applicants identical to those proposed for examination applicants. Current § 21.28(a) (relating to licensure by endorsement) delineates the endorsement requirements for applicants who completed a nursing education program within the United States or Canada. The Board would amend subsection (a) to require these endorsement applicants to pass an equivalent examination to that required for examination applicants in § 21.24 (relating to passage of the licensure examination) under section 7(a) of the RN Law (63 P.S. § 217(a)). Current § 21.28(c) delineates the endorsement requirements for applicants who completed nursing education programs and passed licensure examinations outside of the United States or Canada. The Board would amend subsection (c) to clarify that the nursing education programs and the licensure examinations must be equivalent to those required for examination applicants in §§ 21.23(c) and 21.24. The Board would also amend subsection (c) to remove the reference to CGFNS.

New subsection (e) would track the proposed requirement in § 21.23(b) that applicants for examination demonstrate proficiency in English. Like the examination applicants, new subsection (e) would require all endorsement applicants to prove that either their nursing education program was conducted in English or they passed an English proficiency examination. If proficiency was demonstrated during an application for a temporary practice permit it need not be proven again.

*§ 21.29—Expiration and renewal of license.*

The Board proposes making technical changes to § 21.29 (relating to expiration and renewal of license) by correcting the reference from “professional nurse” to “registered nurse.” Under the RN Law, registered nurses engage in the practice of professional nursing, however, the Board does not issue a professional nurse license.

*§ 21.29b—Reporting of address changes.*

Proposed § 21.29b (relating to reporting of address changes) would require registered nurses to notify the Board of address changes within 14 days of the change. Enabling the Board to have current addresses saves money and resources in returned postage and re-mailing when the Board sends notices, renewal information and legal documents to its licensees.

*§ 21.30—Registered nurses licensed outside of the United States, its territories or Canada.*

The Board proposes to amend subsection (a) to clarify existing Board practice that requires registered nurses educated and licensed outside of the United States or Canada to practice to hold either a Commonwealth-issued license or temporary practice permit in order to practice professional nursing in this Commonwealth. In that there are no longer visitor-exchange programs in nursing, the Board proposes to remove the reference to such programs in subsection (b). Subsection (c) would be deleted in this proposal as it does not relate to the prior subsections which address the ability to provide licensed services as a licensee or as part of a nursing education program. Current subsection (c) relates to educational requirements. The Board intends to reinsert this provision in a subsequent education rulemaking.

*§ 21.30a—Continued competency.*

Current § 21.30a (relating to continued competency) delineates reactivation requirements when licenses have lapsed or been placed on inactive status for 5 years or longer. The Board proposes amending this provision to add reactivation requirement for licenses that have been suspended for 5 years or longer. The Board believes that just as lapsed or inactive licensees require retraining on current practices in order to update their competences as a result of having not practiced for 5 years or longer, so too do licensees whose licenses have been suspended for 5 years or longer once they have complied with the Order suspending their licenses.

*§ 21.142—Scope.*

Current § 21.142 (relating to scope) delineates the Board’s scope relating to practical nurses and the practice of practical nursing. Like proposed § 21.2(d) (relating to scope), in this proposal the Board would modify subsection (c) to include the range of statutorily permitted sanctions. It would

also delete subsection (d) as regulations are generally developed by committees of the Board composed of registered and practical nurses, public members and, where applicable, a dietician-nutritionist. Their proposals are then forwarded, pursuant to Executive Order 1996-1, to stakeholders for input before adoption by the full board and promulgation through the regulatory review process. Subsection (d) adds nothing to the Board's statutory authority to promulgate regulations at section 17.6 of the act (63 P.S. § 667.6). Current subsection (e) would be amended to remove the requirement that a list of approved practical nursing education programs be promulgated, and in its place, require that the list be made available on the Board's website.

*§ 21.144—Purpose.*

Like § 21.3, the Board proposes deleting current § 21.144 (relating to purpose of the Board) as this provision is unnecessary.

*§ 21.149—Temporary practice permits.*

Current subsection (b)(2), like § 21.7(b)(2), requires applicants for practical nurse temporary practice permits who are licensed in another state or jurisdiction to demonstrate proficiency in English. Subsection (b)(3)(iii) requires applicants to submit an application for education credentials review to CGFNS and retain a copy of that application to provide to the Board if requested. As in § 21.7, in this proposal the Board would replace the specific reference to the CGFNS with a reference to "a Board-approved foreign credentials evaluator" in subsection (b)(3)(iii) and amend subsection (b)(2) to indicate that the Board will post the list on its website.

*§ 21.151—Application for examination.*

The Board proposes similar revisions to current § 21.151 (relating to application for examination) pertaining to examination application procedures for practical nurses, as are being proposed for registered nurses in § 21.21 (relating to application for examination). Because the examination is administered daily, the Board proposes to delete subsection (a). With the exception of referencing practical nurses instead of professional nurses, identical revisions to § 21.21 are proposed to current § 21.151(b), (c), (d) and (e).

New proposed § 21.151(e) would require that all applicants for practical nurse licenses prove that either their nursing education programs were conducted in English or they passed a Board-approved English proficiency examination unless the applicants have met this requirement as part of applying for temporary practice permits. New proposed subsection (f) would institute current Board procedure of requiring graduates of nursing education programs outside of the United States and Canada to have their education evaluated by Board-approved foreign credentials evaluators. The Board believes that these evaluations assure that programs outside of the United States and Canada are equivalent to programs of study in this Commonwealth at the time the programs were completed

as required by section 6 of the PN Law (63 P.S. § 666).

New subsection (g) would require candidates to take the licensing examinations for the first time within 1 year of completing their practical nursing education programs unless prevented by emergency, illness or military service. This provision, like that for professional nurse candidates, was inserted at the behest of nursing education program administrators who highlighted decreasing pass rates as the time between completing the education program and taking the examination increases.

*§ 21.152—Date and location of examinations.*

Current § 21.152 (relating to date and location of examinations) would be renamed and amended because it includes outdated references to passing the licensure examination by achieving a minimum passing score. This proposal would simply state that candidates for licensure shall pass the licensure examination approved by the Board.

*§ 21.153—Reexamination.*

Current § 21.153 (relating to reexamination) addresses reexamination requirements including the authority in subsection (b) to take the examination as many time as necessary to complete the examination process. Subsection (a) would be amended to track current practice which requires a candidate who fails the examination to file a reexamination application with the Board allowing the candidate to obtain a new “Authorization to Test.” Subsection (b) would be amended to require candidates to pass the licensure examination within 2 years of completing the practical nursing education program. As with the examination for registered nurse licenses, the examination for practical nurse licenses may be administered to a single applicant every 45 days, enabling an applicant to take the licensure examination up to 16 times without additional requirements.

In the event that a candidate does not pass within the 2-year timeframe in proposed subsection (b), proposed subsection (c) would require the candidate to complete a remedial plan developed by a nursing education program for the candidate prior to reexamination. As with the examination for registered nurse licenses, during pre-draft input, stakeholders also endorsed the proposition that candidates for practical nurse licensure complete additional education after repeated failures. Additionally, as with the examination for registered nurse licenses, the Board believes that a candidate who is unable to pass the licensure examination within 2 years has deficiencies in education such that, at the very least, remediation is warranted.

New subsection (d) would be added to clarify that in the addition to completion of the remediation plan, candidates must meet current licensure requirements in order to be reexamined.

*§ 21.154—Unlicensed candidate.*

Like § 21.27 (relating to unlicensed candidate), the Board proposes to delete § 21.154 as it explicitly conflicts with the requirement in section 3.1 of the PN Law (63 P.S. § 653.1) that a temporary practice permit expires immediately upon an examination failure. Further the provision is unnecessary as it is properly addressed in § 21.149 (relating to temporary practice permits).

*§ 21.155—Licensure by endorsement.*

The Board proposes to insert examination, education and English-proficiency requirements for endorsement applicants identical to those proposed for examination applicants. Current § 21.155(a) delineates the endorsement requirements for applicants who completed a nursing education program within the United States or Canada. The Board would amend subsection (a) to require these endorsement applicants to pass an equivalent examination to that required for examination applicants in § 21.152 (relating to passage of the examination). Current § 21.155(c) delineates the endorsement requirements for applicants who completed a nursing education program outside of the United States or Canada. The Board would amend subsection (c) to require these endorsement applicants to pass an equivalent examination and possess equivalent education to that required for examination applicants.

Subsection (d) would track the amendments in § 21.28 for registered nurses, requiring practical nurse applicants for endorsement to complete a nursing education program and a licensure examination equivalent to that required of practical nurse applicants in this Commonwealth. The Board would also amend subsection (d) to remove the reference to CGFNS.

Similarly, the Board proposes to add subsection (e) requiring all endorsement applicants to prove that either their nursing education programs were conducted in English or they passed a Board-approved English proficiency examination, unless the applicants have already met this requirement as part of applying for temporary practice permits in § 21.149.

*§ 21.156—Renewal of license.*

The Board proposes to amend § 21.156 (relating to renewal of license) by updating the Board's renewal procedures for practical nurses so that the procedures match current practice for all licensees, except for the requirement of continuing education, which is currently imposed only upon registered nurses. The Board proposes deleting subsection (b) since it places a responsibility on the Board to forward renewal applications. Although, the Board sends a mailing to its licensees notifying them that it is time to renew and providing the procedures to renew electronically or by paper, this is a courtesy and not a statutory obligation. Additionally, the Board proposes to amend current subsection (c) to reflect under current procedure wherein licensees are asked to disclose on

their renewal applications any prior disciplinary actions and criminal charges as well as other licenses held.

*§ 21.156a—Continued competency.*

Current § 21.156a (relating to continued competency) delineates reactivation requirements when licenses have lapsed or been placed on inactive status for 5 years or longer. The Board proposes amending this provision to add reactivation requirement for licenses that have been suspended for 5 years or longer. The Board believes that just as lapsed or inactive licensees require retraining on current practices in order to update their competences as a result of having not practiced for 5 years or longer, so too do licensees whose licenses have been suspended for 5 years or longer once they have complied with the Order suspending their licenses.

*§ 21.156c—Reporting of address changes.*

Proposed § 21.156c would require practical nurses to notify the Board of address changes within 14 days of the change.

*§ 21.701—Definitions.*

The Board proposes amending the titles of two dietetic organizations to conform with their current names and acronyms. The American Dietetic Association (ADA) is now known as the Academy of Nutrition and Dietetics (AND). The Commission on Accreditation for Dietetics Education (CADE) is now known as the Accreditation Council for Education in Nutrition and Dietetics (ACEND). Outdated references to these organizations in the definitions of “approved program” and “CDR” would also be amended.

*§ 21.722—Education, examination and reexamination of applicants.*

The Board proposes adding subsection (b)(2), identical to the proposal for registered and practical nurses in §§ 21.23(d) and 21.151(g) (relating to qualifications of applicant for examination; and application for examination) that would require candidates to take the licensing examinations for the first time within 1 year of completing their dietitian-nutritionists education programs unless prevented by emergency, illness or military service.

The Board also proposes adding subsection (c) relating to reexamination. Identical to the proposal for registered nurses and practical nurses in §§ 21.25(c) and (d) and 21.153 (b) and (c) (relating to reexamination), the Board proposes adding the requirements that dietitian-nutritionists pass the licensure examinations within 2 years and complete additional remedial education thereafter in order to again be authorized to take the licensure examinations. Although stakeholders did not seek this addition as they did for registered and practical nurses, the Board believes that all of its



licensees should be subject to the same reexamination requirements.

*§ 21.723b—Reporting of address changes.*

Proposed § 21.173b would require licensed dietician-nutritionists to notify the Board of address changes within 14 days of the change.

*§ 21.274—Continuing education.*

The Board proposes amending § 21.724 to eliminate outdated references.

*Fiscal Impact and Paperwork Requirements*

The Board believes that this proposal should have a minimal fiscal and paperwork impact on the Board and the regulated community. The application procedures included in this proposal are, for the most part, currently in place and therefore will not incur additional Board time. Board staff will have to spend some additional time confirming that examination candidates first take the licensure examination within 1 year of completion of their nursing education program and complete a remediation plan in order to be authorized to take the examination following failure after 2 years. Similarly, applicants who fail to take the licensure examination within 1 year of their program completion will have the burden of proving to the Board that they were prevented from taking the examination due to an emergency, hardship or military service. Similarly, for those who fail to pass the examination within 2 years, they will have to provide the Board with documentation evidencing their compliance with a remediation plan developed by a Board-approved nursing education program. The remedial education costs for those candidates who fail after the 2-year period cannot be predicted as different programs will charge different fees and the amount of remedial education needed will be candidate-specific.

*Sunset Date*

The Board reviews the effectiveness of its regulations on an ongoing basis. Therefore, no sunset date has been assigned.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 17, 2014, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board/Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

*Public Comment*

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed amendments to Judith Pachter Schulder, Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649, or RA-STRegulatoryCounsel@pa.gov within 30 days of publication of this proposed rulemaking. Please reference No. 16A-5125 (General Revisions), when submitting comments.

Ann M. Coughlin, MSN, RN, Chair

ANNEX A

PENNSYLVANIA CODE  
TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 21. STATE BOARD OF NURSING

GENERAL PROVISIONS

\* \* \* \* \*

§ 21.2. Scope.

\* \* \* \* \*

(d) The Board may [suspend or revoke licenses] impose disciplinary sanctions and assess civil penalties for cause.

(e) The Board [will] may approve [basic] professional nursing education programs conducted in hospitals, colleges[,] and universities[; approve foreign exchange visitor programs;] and [promulgate] will make available a list of approved programs.

(f) [The Board will approve applications for inactive status.

(g)] The Board will regulate the practice of professional nursing.

§ 21.3. [Purposes of the Board] (Reserved).

[The Board will insure safe nursing services for the citizens of this Commonwealth. Embodied in this purpose are the following responsibilities:

- (1) To establish safe standards for the preparation of registered [and practical] nurses in approved educational programs.

(2) To assure safe standards of nursing practice through examination and licensure of graduates of approved educational programs, through endorsement of registered and practical nurses from other jurisdictions, and through the regulation of the practice of nursing in this Commonwealth.]

\* \* \* \* \*

**§ 21.7. Temporary practice permits.**

(a) A graduate registered nurse may only practice professional nursing under supervision and if the graduate registered nurse holds a current temporary permit. “Supervision” means that a licensed registered nurse is physically present in the area or unit where the graduate registered nurse is practicing. The Board may grant a temporary practice permit to a graduate registered nurse as follows:

(1) [An individual who wishes to practice as a] A graduate registered nurse who wishes to practice professional nursing [during the period from the date of completion of the educational program to notification of the results of the licensing examination] shall submit an application for a temporary practice permit for a graduate registered nurse on a form provided by the Board and remit the fee specified in § 21.5 (related to fees). A temporary practice permit granted under this section is valid for up to 1 year from the date of issuance, unless extended under paragraphs (3) and (4), and immediately expires if the applicant fails the licensing examination.

\* \* \* \* \*

(b) The Board may grant a temporary practice permit to an individual who holds a current registered nurse license issued by another state, territory or possession of the United States or

Canada (a currently-licensed registered nurse). The temporary practice permit will expire in 1 year, unless the individual fails the licensure examination, in which case the temporary practice permit will immediately expire. The Board may extend the temporary practice permit period in cases of illness or extreme hardship as set forth in paragraph (5).

\* \* \*

(2) An individual applying for a temporary practice permit for a currently-licensed registered nurse shall demonstrate proficiency in English by submitting proof that the individual's nursing education program was conducted in English or that the individual has received a passing score on a Board-approved English proficiency examination. [A] The Board will make available a list of Board-approved English proficiency examinations [is available upon request to the Board] on its website.

(3) Within 45 days of the date the temporary practice permit is issued, an individual who has been granted a temporary practice permit for a currently-licensed registered nurse shall submit the Verification of Licensure Form of the application for licensure and shall:

\* \* \* \* \*

(iii) Submit [the Commission on Graduates of Foreign Nursing Schools (CGFNS)] an application for an education evaluation to a Board-approved foreign credentials evaluator if [the applicant is required to meet CGFNS requirements in] required by §§ 21.23(c) and 21.28(c) (relating to qualifications of applicant for examination; and licensure by endorsement) and retain

documentation of the [submission of the CGFNS] application submitted to the evaluator to provide to the Board upon request.

\* \* \* \* \*

## LICENSES

### § 21.21. Application for examination.

(a) [An application] A candidate for the licensing examination [without transcript] may [be submitted] submit an application together with the required fee [during the last term of the nursing program. The applicant will be scheduled for the subsequent examination] no sooner than 90 days prior to completing a professional nursing education program.

(b) A candidate will not be [admitted] authorized to take the examination unless the candidate has satisfied the requirements of the act necessary for eligibility, including confirmation of [the] completion of an approved professional nursing educational program.

(c) [A copy of the transcript validating program completion shall be filed at least 2 weeks prior to the testing dates] Graduates of professional nursing education programs outside of the Commonwealth shall file an official transcript validating program completion with the application.

(d) [The Board will not proctor an applicant for another state board. The Board will not permit an applicant for Commonwealth licensure to be proctored by another state board] An applicant seeking a waiver of the 1-year requirement in § 21.23(d) (relating to qualifications of applicant for examination) shall submit documentation to demonstrate that an emergency, illness or military service prevented compliance.

**§ 21.22. [Date and location of examinations] (Reserved).**

- [(a) The Board conducts licensing examinations at least twice a year.
- (b) A list of examination dates and locations are published annually.]

**§ 21.23. Qualifications of applicant for examination.**

- (a) [An applicant shall pass a written examination as provided by the Board.
- (b) Additional applicant qualifications are contained in sections 5 and 6 of the act (63 P. S. §§ 215 and 216).
- (c) Nurses educated in schools of nursing outside of the United States or Canada shall have successfully completed the English language and nursing practice proficiency examination of the Commission on Graduates of Foreign Nursing Schools. A school of nursing located outside of the United States or Canada will be considered a foreign nursing school.] An applicant shall demonstrate proficiency in English by submitting proof that the applicant's nursing education program was conducted in English or that the applicant has, prior to be approved to take the licensure examination, received a passing score on a Board-approved English proficiency examination, unless the applicant has already met this requirement in satisfaction of § 21.7(a) (relating to temporary practice permits). The Board will make available a list of Board-approved English proficiency examinations on its website.
- (b) An applicant who graduated from a professional nursing education program outside of the United States or Canada shall have the applicant's education evaluated by a Board-approved foreign credentials evaluator to determine whether the education obtained is equivalent to the program of study required in this Commonwealth at the time the program was completed.



(c) A candidate for licensure shall take the examination for the first time within 1 year of completing the professional nursing education program unless prevented by emergency, illness or military service.

**§ 21.24. [Examination score requirements] Passage of the licensure examination.**

The candidate for licensure shall [achieve a minimum score] pass the licensure examination approved [as mandated] by the Board.

**§ 21.25. Reexamination.**

(a) A candidate shall submit a reexamination application, including the required fee [in the form of a check] for reexamination.

\* \* \* \* \*

(c) The candidate may take the licensing examination as many times as necessary to [complete] pass the licensure [process] examination within 2 years of completion of the candidate's nursing education program.

(d) [A request to retake an examination for the purpose of elevating a passing score will not be granted] If a candidate does not pass the examination within 2 years of completion of the candidate's nursing education program, the candidate shall complete a plan of remediation developed by a nursing education program for the candidate prior to applying for reexamination.

(e) Candidates who apply for reexamination after the 2-year period set forth in subsection (c) shall satisfy the administrative and education requirements prevailing at the time of reapplication.

\* \* \* \* \*

**§ 21.27. [Unlicensed candidate] (Reserved).**

[The candidate may practice as a graduate nurse until the licensing examination is passed subject to the following:

(1) Unless licensed, the candidate may be employed as a graduate nurse for 1 year only from the date of completion of a nursing program except in the case where special permission is granted by the Board due to extenuating circumstances. In such a case the candidate shall present validating documentation.

(2) The candidate shall practice under the supervision of an experienced registered nurse. "Supervision," as used in this paragraph, means that the registered nurse is physically present in the area or unit where the unlicensed candidate is practicing.]

**§ 21.28. Licensure by endorsement.**

(a) A registered nurse who has graduated from an approved professional nursing education program in [another state or territory of] the United States or Canada and who [is licensed] obtained licensure in another jurisdiction [by writing the National Council Licensure Examination in another jurisdiction of the United States or Canada] having passed an examination considered by the Board to be equivalent to the examination required for licensure in this Commonwealth may be granted licensure by endorsement in this Commonwealth [by endorsement of the original licensing board].

\* \* \* \* \*

(c) A registered nurse who has graduated from a professional nursing education program in a country or territory outside of the United States or Canada deemed equivalent to the program of study required in this Commonwealth at the time the program was completed and who [is licensed by completing the National Council Licensure Examination in another jurisdiction of the United States or Canada] obtained licensure upon having passed an examination considered by the Board to be equivalent to the examination required for licensure in this Commonwealth may be granted licensure by endorsement in this Commonwealth without examination [if the applicant's program of study is deemed equivalent to the program of study required in this Commonwealth at the time the program was completed]. The Board will base educational equivalency upon an evaluation [performed by the Commission on Graduates of Foreign Nursing Schools (CGFNS) as to the foreign nursing program] administered by a Board-approved foreign credentials evaluator.

\* \* \* \* \*

(e) An applicant for licensure by endorsement shall demonstrate proficiency in English by submitting proof that the applicant's nursing education program was conducted in English or that the applicant has received a passing score on a Board-approved English proficiency examination unless the applicant has met this requirement in satisfaction of § 21.7(b) (relating to temporary practice permits). The Board will make available a list of Board-approved English proficiency examinations on its website.

**§ 21.29. Expiration and renewal of license.**

\* \* \* \* \*

(c) The applicant for license renewal may complete and submit an application online or may mail a completed application form to the Board's administrative office. When applying for licensure renewal, a [professional] registered nurse shall:

(1) Complete and submit the renewal application [form], including disclosing any license to practice nursing or any allied health profession in any other state, territory, possession or country.

\* \* \* \* \*

(3) [Beginning with the license period commencing on July 12, 2010, verify] Verify that the [professional] registered nurse has complied with the continuing education requirements mandated by section [12] 12.1 of the act (63 P. S. § [222] 222.1) during the biennial period immediately preceding the application for renewal in accordance with §§ 21.131--21.134 (relating to continuing education). School nurses, who as certified education specialists are required to obtain continuing professional education under the Public School Code of 1949 (24 P. S. §§ 1-100--27-2702), shall verify by signed statement that the school nurse has complied with the continuing education requirements for certification by the Department of Education.

\* \* \* \* \*

**§ 21.29b. Reporting of address changes.**

A registered nurse shall notify the Board within 14 days of any change of address.

**§ 21.30. Registered nurses licensed outside of the United States[, its territories] or Canada.**

(a) A registered nurse educated and licensed [in another country other than] outside of the United States or Canada may not [be employed as a nurse] practice professional nursing in this Commonwealth until the [requirements for Commonwealth licensure have been met] registered nurse is issued a license or temporary practice permit by the Board.

(b) A graduate nurse licensed in another country may participate in an [approved exchange-visitor program or in an accreditation] accredited graduate program in nursing for a period of 2 years without licensure and compensation in this Commonwealth.

[(c) An applicant coming from a country outside of the United States or Canada who is from a nondegree granting institution shall obtain a Certificate of Preliminary Education through the Department of Education.]

**§ 21.30a. Continued competency.**

(a) A registered nurse whose license has lapsed for 5 years or longer or [whose license] has been placed on inactive status for 5 years or longer, as permitted in section 11(b) of the act (63 P.S. § 221(b)), may reactivate the license by doing one of the following:

\* \* \* \* \*

(2) Successfully completing a Board-approved reactivation program, which [includes as a prerequisite to completion the passing] requires passage of a [Board- approved] nursing achievement examination.

(3) Providing evidence to the Board that the applicant has a current license and has practiced [nursing] as a registered nurse in another jurisdiction at some period of time within the last 5 years [under a current license during that time].

(b) A registered nurse whose license has been suspended for 5 years or longer may reactivate the license after complying with the terms of the suspension Order by doing one of the following:

(1) Successfully completing the initial licensing examination approved by the Board and submitting the examination fee as set forth in § 21.5 (relating to fees).

(2) Successfully completing a Board-approved reactivation program which requires passage of a nursing achievement examination.

\* \* \* \* \*

## **Subchapter B. PRACTICAL NURSES**

### **GENERAL PROVISIONS**

#### **§ 21.142. Scope.**

\* \* \* \* \*

(c) The Board may [suspend or revoke licenses] impose disciplinary sanctions and assess civil penalties for cause.

(d) [The Board, with the approval of the Commissioner of Professional and Occupational Affairs, will appoint a committee of two licensed practical nurses and one licensed professional nurse experienced in practical nurse education and, in consultation with this committee, will have the power and duty to establish reasonable rules and regulations for the administration of the act.

(e)] The Board may approve [basic] practical nursing education programs conducted in hospitals, community colleges, universities and public school districts and vocational educational programs under the Department of Education and [promulgate] make available a list of approved [programs of] practical nursing education programs on its website.

\* \* \* \* \*

**§ 21.144. [Purpose of the Board] (Reserved).**

[The Board will insure safe nursing services for the citizens of this Commonwealth. Embodied in this purpose are the following responsibilities:

(1) To establish safe standards for the preparation of registered and practical nurses in approved educational programs.

(2) To assure safe standards of nursing practice through examination and licensure of graduates of approved educational programs, through endorsement of [registered and] practical nurses from other jurisdictions and through the regulation of the practice of nursing in this Commonwealth.]

\* \* \* \* \*

**§ 21.149. Temporary practice permits.**

\* \* \* \* \*

(b) The Board may grant a temporary practice permit to an individual who holds a current practical nurse license issued by another state, territory or possession of the United States or Canada (a currently-licensed practical nurse). The temporary practice permit will expire in 1 year, unless the individual fails the licensure examination, in which case the temporary practice

permit will immediately expire. The Board may extend the temporary practice permit in cases of illness or extreme hardship, as set forth in paragraph (5).

\* \* \* \* \*

(2) An individual applying for a temporary practice permit for a currently-licensed practical nurse shall demonstrate proficiency in English by submitting proof that the individual's nursing education program was conducted in English or that the individual has received a passing score on a Board-approved English proficiency examination. [A] The Board will make available a list of Board-approved English proficiency examinations [is available upon request to the Board] on its website. This information shall be submitted with the Applicant Data Sheet for the application for licensure.

(3) Within 45 days of the date the temporary practice permit is issued, an individual who has been granted a temporary practice permit for a currently-licensed practical nurse shall submit the Verification of Licensure Form of the application for licensure and shall:

\* \* \* \* \*

(iii) Submit [the Commission on Graduates of Foreign Nursing Schools (CGFNS)] an application for an education evaluation to a Board-approved foreign credentials evaluator if [the applicant is required to meet CGFNS requirements set forth in] required by § 21.155(d) (relating to licensure by endorsement) and retain documentation of the [submission of the CGFNS] application submitted to the evaluator to provide to the Board upon request.

\* \* \* \* \*

**§ 21.151. Application for examination.**



(a) [The Board will conduct licensing examinations at least twice a year, and more often when necessary. A list of examination dates will be published annually.

(b) An application] A candidate for the licensing examination[, without a transcript,] may [be submitted] submit an application together with the required fee [during the last term of the nursing program. The applicant will be scheduled for the subsequent examination] no sooner than 90 days prior to completing a practical nursing education program.

[(c)] (b) A candidate will not be [admitted] authorized to take the examination unless the candidate has satisfied the requirements of the act necessary for eligibility, including confirmation of [the] completion of an approved practical nursing educational program.

[(d)] (c) [A copy of the transcript validating program completion shall be filed at least 2 weeks prior to the testing dates] Graduates of practical nursing education programs outside of the Commonwealth shall file an official transcript validating program completion with the application.

(e) [The Board will not proctor an applicant for another state board. The Board will not permit an applicant for Commonwealth licensure to be proctored by another state Board.] An applicant shall demonstrate proficiency in English by submitting proof that the applicant's nursing education program was conducted in English or that the applicant has, prior to being approved to take the licensure examination, received a passing score on a Board-approved English proficiency examination unless the applicant has already met this requirement in satisfaction of § 21.149(b)(2) (relating to temporary practice permits). The Board will make available a list of Board-approved English proficiency examinations on its website.

(f) An applicant who graduated from a practical nursing education program outside of the United States or Canada shall have the applicant's education evaluated by a Board-approved foreign credentials evaluator to determine whether the education obtained is equivalent to the program of study required in this Commonwealth at the time the program was completed.

(g) A candidate shall take the examination for the first time within 1 year of completing the professional nursing education program unless prevented by emergency, illness or military service.

**§ 21.152. [Data and location of the examinations] Passage of the examination.**

Candidates for practical nurse licensure shall [achieve a minimum standard score] pass the licensure examination approved [as mandated] by the Board.

**§ 21.153. Reexamination.**

(a) A candidate shall submit a reexamination application, including the required fee [in the form of a check] for reexamination.

(b) The candidate may take the licensing examination as many times as necessary to [complete] pass the licensure [process] examination within 2 years of completion of the candidate's nursing education program.

(c) If a candidate does not pass the examination within 2 years of completion of the nursing education program, the candidate shall complete a plan of remediation developed by a nursing education program for the candidate prior to applying for reexamination.

(d) Reexamination applications submitted after the 2-year period shall satisfy the administrative and education requirements prevailing at the time of reapplication.

**§ 21.154. [Unlicensed candidate] (Reserved).**

[The candidate may practice as a graduate practical nurse until the examination is passed subject to the following:

(1) Unless licensed, the candidate may be employed as a graduate practical nurse for 1 year only from completion of the program except in the case where special permission is granted by the Board due to extenuating circumstances. In such a case the candidate shall present validating documentation.

(2) The candidate shall practice under the supervision of an experienced registered nurse. Supervision is defined to mean that the registered nurse is physically present in the area or unit where the unlicensed graduate is practicing.]

**§ 21.155. Licensure by endorsement.**

(a) [Licensure as a] A practical nurse [in this Commonwealth by endorsement of the original licensing board is granted to a graduate of] who has graduated from an approved practical nursing program in the United States or Canada and who [is license] obtained licensure in another jurisdiction of the United States or Canada [by] upon having passed an examination considered by the Board to be equivalent to the examination required for licensure in this Commonwealth may be granted licensure by endorsement in this Commonwealth.

(b) [Applicants] An applicant for licensure [in this Commonwealth] by endorsement in this Commonwealth shall meet the requirements regarding age, good moral character, preliminary education and practical nursing education as outlined in the act.

\* \* \* \* \*

(d) A practical nurse who has graduated from a practical nursing education program in a country or territory outside of the United States or Canada deemed equivalent to the program of study required in this Commonwealth at the time the program was completed and who [is licensed] obtained licensure [in another jurisdiction] in that country or territory [by completing the National Council Licensure Examination in another jurisdiction of the United States or Canada] upon having passed an examination considered by the Board to be equivalent to the examination required for licensure in this Commonwealth may be granted licensure by endorsement in this Commonwealth without examination [if the applicant's program of study is deemed equivalent to the program of study required in this Commonwealth at the time the program was completed]. The Board will base educational equivalency upon an evaluation [performed by the Commission on Graduates of Foreign Nursing Schools (CGFNS) as to the foreign nursing program] administered by a Board-approved foreign credentials evaluator.

(e) An applicant for licensure by endorsement shall demonstrate proficiency in English by submitting proof that the applicant's nursing education program was conducted in English or that the applicant has received a passing score on a Board-approved English proficiency examination unless the applicant has previously met this requirement in satisfaction of § 21.7(b) (relating to temporary practice permits). The Board will make available a list of Board-approved English proficiency examinations on its website.

**§ 21.156. Renewal of license.**

\* \* \* \* \*

(b) [Application for renewal of a license will be forwarded biennially to each active registrant prior to the expiration date of the current renewal biennium.

(c) Application forms shall be completed and returned, accompanied by the required renewal fee. Upon approval of an application, the applicant will receive a license for the current renewal period. The display portion of the renewal license shall be retained by the current employer of the registrant. The pocket card portion shall be retained by the registrant.] When applying for licensure renewal, a licensed practical nurse shall:

(1) Complete and submit the renewal application, including disclosing any license to practice nursing or any allied health profession in any other state, territory, possession or country.

(2) Pay the biennial renewal of license fee in § 21.147(b) (relating to fees).

(3) Disclose any discipline imposed by a state licensing board in the previous biennial period and any criminal charges pending or criminal conviction, plea of guilty or nolo contendere, or admission into a probation without verdict or accelerated rehabilitative disposition during the previous biennial period, unless prior notification has been made under § 21.156b (relating to reporting of crimes and disciplinary action).

[(d)] (c) When communicating with the Board, [registrants] licensed practical nurses shall identify themselves by their full name, including maiden name, current address and [their Commonwealth certification number, which shall be typed or printed] license number.

**§ 21.156a. Continued competency.**

(a) A licensed practical nurse whose license has lapsed for 5 years or longer or [whose license] has been placed on inactive status for 5 years or longer, as permitted in section 13.1(b) of the act (63 P. S. § 663.1(b)), may reactivate the license by doing one of the following:

\* \* \* \* \*

(2) Successfully completing a Board-approved reactivation program[, ] which [includes as a prerequisite to completion the passing] requires passage of a [Board- approved] nursing achievement examination.

(3) Providing evidence to the Board that the applicant has a current license and has practiced [nursing] as a practical nurse in another jurisdiction at some period of time within the last 5 years [under a current license during that time].

(b) A licensed practical nurse whose license has been suspended for 5 years or longer may reactivate the license after complying with the terms of the suspension Order by doing one of the following:

(1) Successfully completing the initial licensing examination approved by the Board and submitting the examination fee as set forth in § 21.147 (relating to fees).

(2) Successfully completing a Board-approved reactivation program which requires passage of a nursing achievement examination.

\* \* \* \* \*

**§ 21.156c. Reporting of address changes.**

A licensed practical nurse shall notify the Board within 14 days of a change of address.

\* \* \* \* \*

## **Subchapter G. DIETITIAN-NUTRITIONISTS**

### **GENERAL PROVISIONS**

#### **§ 21.701. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the content clearly indicates otherwise:

ACEND—Accreditation Counsel for Education in Nutrition and Dietetics—The organization recognized by the Council on Higher Education Accreditation and the United States Department of Education as the accrediting agency for education programs that prepare individuals for the practice of dietetics-nutrition.

\* \* \* \* \*

[*ADA*—American Dietetic Association.]

\* \* \* \* \*

AND—Academy of Nutrition and Dietetics.

*Approved program*—Those educational programs accredited by the [Commission on] Accreditation Council for [Dietetics] Education in Nutrition and Dietetics or the American Council on Education for dietetics-nutrition education.

\* \* \* \* \*

[*CADE—Commission on Accreditation for Dietetics Education*—The organization recognized by

the Council on Higher Education Accreditation and the United States Department of Education as the accrediting agency for education programs that prepare individuals for the practice of dietetics-nutrition.]

\* \* \* \* \*

*CDR—Commission on Dietetic Registration*—The credentialing agency for the [ADA] AND.

\* \* \* \* \*

### LICENSURE REQUIREMENTS

\* \* \* \* \*

§ 21.722.      **Education [and], examination and reexamination of applicants.**

(a) Education. The Board approves educational programs that meet the requirements of section 6(b)(2) of the act (63 P.S. § 216(b)(2)) that are approved by [CADE] ACEND or the ACN.

(b) Examination.

(1) The Board approves the Registration Examination for Registered Dietitians and Examination of the Certification Board for Nutrition Specialists as the examinations which an applicant may complete to satisfy section 6(b)(4) of the act.

(2) A candidate shall take the examination for the first time within 1 year of completing the dietetics-nutrition education program unless prevented by emergency, illness or military service.

(c) Reexamination.

(1) A candidate may take the licensing examination as many times as necessary to complete the licensure process within a 2-year period of completion of the candidate's



dietetics-nutrition education program.

(2) If a candidate does not successfully compete the examination within 2 years of completion of the dietetics-nutrition education program, the candidate shall complete a plan of remediation developed by a dietetics-nutrition education program for the candidate prior to applying for reexamination.

(3) Reexamination applications submitted after the 2-year period shall satisfy the administrative and education requirements prevailing at the time of reapplication.

\* \* \* \* \*

**§ 21.723b. Reporting of address changes.**

An LDN shall notify the Board within 14 days of a change of address.

**§ 21.724. Continuing education.**

\* \* \* \* \*

(b) *Board-approved continuing professional education.* The Board will accept for completion of the CPE requirement substantive learning experiences, subject to the limitations in paragraph (2) relating to the field of nutrition and dietetics which are not designed for the public and which are sponsored by the [ADA] AND, the CAN, by individual state dietetic associations, if the association is a member of the [ADA] AND or CAN, by approved college or dietetic programs under § 21.722 (relating to education and examination of applicants) when a certificate of attendance is issued, and courses related to practice of dietetics-nutrition offered by the Accreditation Council for Continuing Medical Education, the Accreditation Council of Pharmaceutical Education, the American Osteopathic Association and the American Medical

Association.

\* \* \* \* \*

8/5/2014



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
**STATE BOARD OF NURSING**  
Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-7142

October 17, 2014

The Honorable John F. Mizner, Esq., Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation  
State Board of Nursing  
16A-5125: GENERAL REVISIONS

Dear Chairman Mizner:

Enclosed is a copy of a proposed rulemaking package of the State Board of Nursing pertaining to General Revisions.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in black ink that reads "Ann M. Coughlin".

Ann M. Coughlin, MBA, MSN, RN, Chairperson  
State Board of Nursing

AMC/JPS:rs

Enclosure

cc: Travis N. Gery, Esq., Commissioner of  
Professional and Occupational Affairs  
Patricia Allan, Director of Policy, Department of State  
Kevin Schmidt, Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Judith Pachter Schulder, Counsel  
State Board of Nursing  
State Board of Nursing

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

**I.D. NUMBER:** 16A-5125  
**SUBJECT:** General Revisions  
**AGENCY:** DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF NURSING

**TYPE OF REGULATION**

X Proposed Regulation  
Final Regulation  
Final Regulation with Notice of Proposed Rulemaking Omitted  
120-day Emergency Certification of the Attorney General  
120-day Emergency Certification of the Governor  
Delivery of Disapproved Regulation  
a. With Revisions b. Without Revisions

2014 OCT 17 AM 10:25

RECEIVED  
IRRC

**FILING OF REGULATION**

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
10/17/14	Sara C. Peak	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
		MAJORITY CHAIR Julie Harhart
		MINORITY CHAIR
		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
10-17-14	[Signature]	MAJORITY CHAIR Robt. M. Tomlinson
		MINORITY CHAIR
10/17/14	K Cooper	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
10-17-14	[Signature]	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

October 9, 2014