

NOTICE OF INTENT

Department of Health
Louisiana State Board of Nursing

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

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

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 2. Registered Nurses

Chapter 43 Employment of Unlicensed Persons

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

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

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

1. The employer shall:
 - a. document the unlicensed status of these individuals **as currently enrolled nursing students or pre-licensure nursing graduates who have not** passed the NCLEX-RN examination within 12 months of their first attempt taking the NCLEX;
 - b. **develop and** review the written job description with the employee;
 - c. provide proper orientation to and training for the position; and
 - d. **provide supervision of these unlicensed personnel by an RN or APRN;**
 - e. inform all nursing personnel that the student of nursing and the unsuccessful candidate may perform procedures and or tasks enumerated in the job description.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918. HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:421 (October 1977), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998).

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

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

Poverty Impact Statement

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

Provider Impact Statement

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

Public Comments

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

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

Executive Director/CEO

SUMMARY

(Use complete sentences)

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

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

The proposed rule revision will result in a one-time expenditure of \$250 in FY 24 for the Louisiana State Board of Nursing (LSBN) to publish the notice of intent and proposed rule revision in the Louisiana Register. The proposed rule revision will not affect the expenditures of other state or local governmental units.

Current regulations make no distinction between the nursing student In a professional pre-licensure nursing education program, the unsuccessful nursing school graduate candidate for registered nurse licensure, and any other unlicensed nursing personnel In regard to delegated responsibilities and functions The proposed revision will allow an undergraduate nursing student currently enrolled in a professional pre-licensure education degree program or a graduate nurse who has been unsuccessful on the NCLEX-RN examination to be employed in a nursing setting and to perform procedures and tasks for which they have been educated and certified as competent by their educational institution and/or by graduation from an LSBN-approved prelicensure nursing education program.

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

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

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

The proposed rule change will allow LSBN rules to differentiate professional nursing students and nursing graduates with the requisite knowledge, skills, and abilities (K,S,As) demonstrated through successful matriculation In a professional nursing education program from unlicensed persons without those demonstrated K,S,As. Professional nursing students and nursing graduates who have not yet passed the NCLEX-RN examination may be allowed by their employing organizations to perform nursing procedures and tasks for which they have been certified by their educational Institutions as competent.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It Is expected that this rule change will allow employment of nursing students and graduate nurses who have not yet passed the NCLEX-RN examination to the full extent of their knowledge and training and will provide adjunct support to RNs and APRNs In providing care to patients during the ongoing state and national nursing shortage.