

CHAPTER 2014-92

Committee Substitute for Committee Substitute for Senate Bill No. 1036

An act relating to nursing education programs; amending s. 464.003, F.S.; revising definitions; conforming a cross-reference; amending s. 464.008, F.S.; requiring graduates of approved prelicensure nursing education programs who do not take the licensure examination within a specified period after graduation to complete a specified course; authorizing the board to adopt rules; amending s. 464.013, F.S.; exempting nurses who are certified by an accredited program from continuing education requirements; amending s. 464.019, F.S.; specifying the location of clinical training; revising the limitation on the percentage of clinical training that may consist of clinical simulation; revising calculation of the required graduate passage rate for approved programs; requiring an approved program to require graduates who do not take the licensure examination within a specified period after graduation to complete a specified course; providing additional requirements for a remediation plan; authorizing the board to extend probationary status for a program that has demonstrated adequate progress toward its graduate passage rate goal; providing for the recalculation of passage rates when students are transferred from a terminated program; deleting obsolete requirements; authorizing the Board of Nursing to adopt certain rules relating to documenting the accreditation of nursing education programs; revising the terms of an implementation study; requiring nursing education programs that prepare students for the practice of professional nursing to be accredited; providing an exception; amending s. 456.014, F.S.; conforming a cross-reference; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (10), (19), and (23) of section 464.003, Florida Statutes, are amended to read:

464.003 Definitions.—As used in this part, the term:

(10) “Clinical training” means direct nursing care experiences with patients or clients, or clinical simulation of such experiences, which offer the student the opportunity to integrate, apply, and refine specific skills and abilities based on theoretical concepts and scientific principles.

(19) “Practice of practical nursing” means the performance of selected acts, including the administration of treatments and medications, in the care of the ill, injured, or infirm; ~~and the promotion of wellness, maintenance of health, and prevention of illness of others under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist; and the teaching of general principles of health and wellness to the public and to students other than~~

nursing students. A practical nurse is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.

(23) "Required passage rate" means the graduate passage rate required for an approved program pursuant to s. ~~464.019(5)(a)~~ 464.019(6)(a)1.

Section 2. Subsection (4) is added to section 464.008, Florida Statutes, to read:

464.008 Licensure by examination.—

(4) If an applicant who graduates from an approved program does not take the licensure examination within 6 months after graduation, he or she must enroll in and successfully complete a board-approved licensure examination preparatory course. The applicant is responsible for all costs associated with the course and may not use state or federal financial aid for such costs. The board shall by rule establish guidelines for licensure examination preparatory courses.

Section 3. Subsection (3) of section 464.013, Florida Statutes, is amended to read:

464.013 Renewal of license or certificate.—

(3) The board shall by rule prescribe up to 30 hours of continuing education ~~not to exceed 30 hours~~ biennially as a condition for renewal of a license or certificate. A nurse who is certified by a health care specialty program accredited by the National Commission for Certifying Agencies or the Accreditation Board for Specialty Nursing Certification is exempt from continuing education requirements. The criteria for programs shall be approved by the board.

Section 4. Section 464.019, Florida Statutes, is amended to read:

464.019 Approval of nursing education programs.—

(1) PROGRAM APPLICATION APPLICATIONS.—An educational institution that wishes to conduct a program in this state for the prelicensure education of professional or practical nurses must submit to the department a program application and review fee of \$1,000 for each prelicensure nursing education program to be offered at the institution's main campus, branch campus, or other instructional site. ~~The Each~~ program application must include the legal name of the educational institution, the legal name of the nursing education program, and, if such ~~institution program~~ is accredited by an accrediting agency other than an accrediting agency described in s. ~~464.003(1)~~, the name of the accrediting agency. The application must also document that:

(a)1. For a professional nursing education program, the program director and at least 50 percent of the program's faculty members are registered

nurses who have a master’s or higher degree in nursing or a bachelor’s degree in nursing and a master’s or higher degree in a field related to nursing.

2. For a practical nursing education program, the program director and at least 50 percent of the program’s faculty members are registered nurses who have a bachelor’s or higher degree in nursing.

The educational degree requirements of this paragraph may be documented by an official transcript or by a written statement from the educational institution verifying that the institution conferred the degree.

(b) The program’s nursing major curriculum consists of at least:

1. Fifty percent clinical training in the United States, the District of Columbia, or a possession or territory of the United States for a practical nursing education program, an associate degree professional nursing education program, or a professional diploma nursing education program.

2. Forty percent clinical training in the United States, the District of Columbia, or a possession or territory of the United States for a bachelor’s degree professional nursing education program.

(c) No more than ~~50~~ 25 percent of the program’s clinical training consists of clinical simulation.

(d) The program has signed agreements with each agency, facility, and organization included in the curriculum plan as clinical training sites and community-based clinical experience sites.

(e) The program has written policies for faculty which include provisions for direct or indirect supervision by program faculty or clinical preceptors for students in clinical training consistent with the following standards:

1. The number of program faculty members equals at least one faculty member directly supervising every 12 students unless the written agreement between the program and the agency, facility, or organization providing clinical training sites allows more students, not to exceed 18 students, to be directly supervised by one program faculty member.

2. For a hospital setting, indirect supervision may occur only if there is direct supervision by an assigned clinical preceptor, a supervising program faculty member is available by telephone, and such arrangement is approved by the clinical facility.

3. For community-based clinical experiences that involve student participation in invasive or complex nursing activities, students must be directly supervised by a program faculty member or clinical preceptor and such arrangement must be approved by the community-based clinical facility.

4. For community-based clinical experiences not subject to subparagraph 3., indirect supervision may occur only when a supervising program faculty member is available to the student by telephone.

A program's policies established under this paragraph must require that a clinical preceptor who is, if supervising students in a professional nursing education program, ~~to~~ be a registered nurse or, if supervising students in a practical nursing education program, ~~to~~ be a registered nurse or licensed practical nurse.

(f) The professional or practical nursing curriculum plan documents clinical experience and theoretical instruction in medical, surgical, obstetric, pediatric, and geriatric nursing. A professional nursing curriculum plan shall also document clinical experience and theoretical instruction in psychiatric nursing. Each curriculum plan must document clinical training experience in appropriate settings that include, but are not limited to, acute care, long-term care, and community settings.

(g) The professional or practical nursing education program provides theoretical instruction and clinical application in personal, family, and community health concepts; nutrition; human growth and development throughout the life span; body structure and function; interpersonal relationship skills; mental health concepts; pharmacology and administration of medications; and legal aspects of practice. A professional nursing education program ~~must~~ shall also provide theoretical instruction and clinical application in interpersonal relationships and leadership skills; professional role and function; and health teaching and counseling skills.

(2) PROGRAM APPROVAL.—

(a) Upon receipt of a program application and review fee, the department shall examine the application to determine ~~if whether~~ it is complete. ~~If the a program~~ the application is not complete, the department shall notify the educational institution in writing of any errors or omissions within 30 days after the department's receipt of the application. A program application is deemed complete upon the department's receipt of:

1. The initial application, if the department does not notify the educational institution of any errors or omissions within the 30-day period; or

2. A revised application that corrects each error and omission of which the department notifies the educational institution within the 30-day period.

(b) Within 90 days after the department's receipt of a complete program application, the board shall:

1. Approve the application if it documents compliance with subsection (1) paragraphs (1)(a)-(g); or

2. Provide the educational institution with a notice of intent to deny the application if it does not document compliance with subsection (1)

paragraphs (1)(a)-(g). The notice must specify set forth written reasons for the board's denial of the application. The board may not deny a program application because of an educational institution's failure to correct an any error or omission that of which the department failed to provide notice of to does not notify the institution within the 30-day notice period under paragraph (a). The educational institution may request a hearing on the notice of intent to deny the program application pursuant to chapter 120.

(c) A program application is deemed approved if the board does not act within the 90-day review period provided under paragraph (b).

(d) Upon the board's approval of a program application, the program becomes an approved program.

~~(3) STATUS OF CERTAIN PROGRAMS. A professional or practical nursing education program becomes an approved program if, as of June 30, 2009, the program:~~

~~(a) Has full or provisional approval from the board or, except as provided in paragraph (b), is on probationary status.~~

~~(b) Is on probationary status because the program did not meet the board's requirement for graduate passage rates. Such program shall remain on probationary status until it achieves a graduate passage rate for calendar year 2009 or 2010 that equals or exceeds the required passage rate for the respective calendar year and must disclose its probationary status in writing to the program's students and applicants. If the program does not achieve the required passage rate, the board shall terminate the program pursuant to chapter 120.~~

~~(3)(4) ANNUAL REPORT.—By November 1 of each year, each approved program shall submit to the board an annual report comprised of an affidavit certifying continued compliance with subsection (1) paragraphs (1)(a)-(g), a summary description of the program's compliance with subsection (1) paragraphs (1)(a)-(g), and documentation for the previous academic year that, to the extent applicable, describes sets forth:~~

~~(a) The number of student applications received, qualified applicants, applicants accepted, accepted applicants who enroll in the program, students enrolled in the program, and program graduates.~~

~~(b) The program's retention rates for students tracked from program entry to graduation.~~

~~(c) The program's accreditation status, including identification of the accrediting agency if such agency is not an accrediting agency described in s. 464.003(1).~~

~~(4)(5) INTERNET WEBSITE.—By October 1, 2010, The board shall publish the following information on its Internet website:~~

(a) A list of each accredited program conducted in the state and the program's graduate passage rates for the most recent 2 calendar years, which the department shall determine through the following sources:

1. For a program's accreditation status, the specialized accrediting agencies that are nationally recognized by the United States Secretary of Education to accredit nursing education programs.

2. For a program's graduate passage rates, the contract testing service of the National Council of State Boards of Nursing.

(b) The following data for each approved program, which includes shall ~~include~~, to the extent applicable:

1. All documentation provided by the program in its program application if submitted on or after July 1, 2009.

2. The summary description of the program's compliance submitted under subsection ~~(3)~~ (4).

3. The program's accreditation status, including identification of the accrediting agency ~~if such agency is not an accrediting agency described in s. 464.003(1).~~

4. The program's probationary status.

5. The program's graduate passage rates for the most recent 2 calendar years.

6. Each program's retention rates for students tracked from program entry to graduation.

(c) The average passage rates for United States educated first-time test takers on the National Council of State Boards of Nursing Licensing Examination for the most recent 2 calendar years, as calculated by the contract testing service of the National Council of State Boards of Nursing. The average passage rates shall be published separately for each type of comparable degree program listed in subparagraph (5)(a)1. ~~sub-subparagraphs (6)(a)1.a.-d.~~

The information required to be published under this subsection shall be made available in a manner that allows interactive searches and comparisons of individual programs selected by the website user. The board shall update the Internet website at least quarterly with the available information.

~~(5)(6)~~ ACCOUNTABILITY.—

(a)1. An approved program must achieve a graduate passage rate for first-time test takers who take the licensure examination within 6 months after graduation from the program that is not more lower than 10 percentage

points lower less than the average passage rate during the same calendar year for graduates of comparable degree programs who are United States educated, first-time test takers on the National Council of State Boards of Nursing Licensing Examination during a calendar year, as calculated by the contract testing service of the National Council of State Boards of Nursing. An approved program shall require a graduate from the program who does not take the licensure examination within 6 months after graduation to enroll in and successfully complete a licensure examination preparatory course pursuant to s. 464.008. For purposes of this subparagraph, an approved program is comparable to all degree programs of the same program type from among the following program types:

- a. Professional nursing education programs that terminate in a bachelor's degree.
- b. Professional nursing education programs that terminate in an associate degree.
- c. Professional nursing education programs that terminate in a diploma.
- d. Practical nursing education programs.

2. Beginning with graduate passage rates for calendar year 2010, if an approved program's graduate passage rates do not equal or exceed the required passage rates for 2 consecutive calendar years, the board shall place the program on probationary status pursuant to chapter 120 and the program director shall ~~must~~ appear before the board to present a plan for remediation, which shall include specific benchmarks to identify progress toward a graduate passage rate goal. The program ~~must~~ shall remain on probationary status until it achieves a graduate passage rate that equals or exceeds the required passage rate for any 1 calendar year. The board shall deny a program application for a new prelicensure nursing education program submitted by an educational institution if the institution has an existing program that is already on probationary status.

3. Upon the program's achievement of a graduate passage rate that equals or exceeds the required passage rate, the board, at its next regularly scheduled meeting following release of the program's graduate passage rate by the National Council of State Boards of Nursing, shall remove the program's probationary status. ~~However,~~ If the program, during the 2 calendar years following its placement on probationary status, does not achieve the required passage rate for any 1 calendar year, the board shall terminate the program pursuant to chapter 120. However, the board may extend the program's probationary status for 1 additional year if the program demonstrates adequate progress toward the graduate passage rate goal by meeting a majority of the benchmarks established in the remediation plan.

(b) If an approved program fails to submit the annual report required in subsection (3) (4), the board shall notify the program director and president or chief executive officer of the educational institution in writing within 15

days after the due date of the annual report. The program director ~~shall~~ must appear before the board at the board's next regularly scheduled meeting to explain the reason for the delay. The board shall terminate the program pursuant to chapter 120 if it does not submit the annual report within 6 months after the due date.

(c) An approved program on probationary status shall disclose its probationary status in writing to the program's students and applicants.

(d) If students from a program that is terminated pursuant to this subsection transfer to an approved or an accredited program under the direction of the Commission for Independent Education, the board shall recalculate the passage rates of the programs receiving the transferring students, excluding the test scores of those students transferring more than 12 credits.

~~(6)~~(7) DISCLOSURE OF GRADUATE PASSAGE RATE DATA.—

(a) For each graduate of the program ~~an approved program's or accredited program's graduates~~ included in the calculation of the program's graduate passage rate, the department shall disclose to the program director, upon his or her written request, the name, examination date, and determination of whether each graduate passed or failed the National Council of ~~for~~ State Boards of Nursing Licensing Examination, if to the extent that such information is provided to the department by the contract testing service of the National Council of ~~for~~ State Boards of Nursing. The written request must specify the calendar years for which the information is requested.

(b) A program director to whom confidential information exempt from public disclosure pursuant to s. 456.014 is disclosed under this subsection must maintain the confidentiality of the information and is subject to the same penalties provided in s. 456.082 for department employees who unlawfully disclose confidential information.

~~(7)~~(8) PROGRAM CLOSURE.—

(a) An educational institution conducting an approved program or accredited program in this state, at least 30 days before voluntarily closing the program, shall notify the board in writing of the institution's reason for closing the program, the intended closure date, the institution's plan to provide for or assist in the completion of training by the program's students, and the arrangements for storage of the program's permanent records.

(b) An educational institution conducting a nursing education program that is terminated under subsection (5) ~~(6)~~ or closed under subparagraph (9)(b)3. ~~(10)(b)3.:~~

1. May not accept or enroll new students.

2. ~~Shall~~ Must submit to the board within 30 days after the program is terminated or closed a written description of how the institution will assist in completing the completion of training of by the program’s students and the institution’s arrangements for storage of the program’s permanent records.

(c) If an educational institution does not comply with paragraph (a) or paragraph (b), the board shall provide a written notice explaining the institution’s noncompliance to the following persons and entities:

1. The president or chief executive officer of the educational institution.
2. The Board of Governors, if the program is conducted by a state university.
3. The district school board, if the program is conducted by an educational institution operated by a school district.
4. The Commission for Independent Education, if the program is conducted by an educational institution licensed under chapter 1005.
5. The State Board of Education, if the program is conducted by an educational institution in the Florida College System or by an educational institution that is not subject to subparagraphs 2.-4.

~~(8)(9)~~ RULEMAKING.—The board does not have any rulemaking authority to administer this section, except that the board shall adopt rules a rule that prescribe ~~prescribes~~ the format for submitting program applications under subsection (1) and annual reports under subsection ~~(3),~~ and to administer the documentation of the accreditation of nursing education programs under subsection (11) (4). The board may not impose any condition or requirement on an educational institution submitting a program application, an approved program, or an accredited program, except as expressly provided in this section. ~~The board shall repeal all rules, or portions thereof, in existence on July 1, 2009, that are inconsistent with this subsection.~~

~~(9)(10)~~ APPLICABILITY TO ACCREDITED PROGRAMS.—

(a) Subsections ~~(1)-(3)~~ (1)-(4), paragraph ~~(4)(b)~~ (5)(b), and subsection ~~(5)~~ (6) do not apply to an accredited program. ~~An accredited program on probationary status before July 1, 2010, ceases to be subject to the probationary status.~~

(b) If an accredited program ceases to be accredited, the educational institution conducting the program:

1. Within 10 business days after the program ceases to be accredited, must provide written notice of the date that the program ceased to be accredited to the board, the program’s students and applicants, and each entity providing clinical training sites or community-based clinical experience sites for the program. The educational institution must continue to

provide the written notice to new students, applicants, and entities providing clinical training sites or community-based clinical experience sites for the program until the program becomes an approved program or is closed under subparagraph 3.

2. Within 30 days after the program ceases to be accredited, must submit an affidavit to the board, signed by the educational institution's president or chief executive officer ~~which, that~~ certifies the institution's compliance with subparagraph 1. The board shall notify the persons and applicable entities listed in paragraph (7)(c) subparagraph (8)(c)1. ~~and the applicable entities listed in subparagraphs (8)(c)2.-5.~~ if an educational institution does not submit the affidavit required by this subparagraph.

3. May apply to become an approved program under this section. If the educational institution:

a. Within 30 days after the program ceases to be accredited, submits a program application and review fee to the department under subsection (1) and the affidavit required under subparagraph 2., the program shall be deemed an approved program from the date that the program ceased to be accredited until the date that the board approves or denies the program application. The program application must be denied by the board pursuant to chapter 120 if it does not contain the affidavit. If the board denies the program application under subsection (2) or if because the program application does not contain the affidavit, the program shall be closed and the educational institution conducting the program must comply with paragraph (7)(b) (8)(b).

b. Does not apply to become an approved program pursuant to subparagraph a., the program shall be deemed an approved program from the date ~~that~~ the program ceased to be accredited until the 31st day after that date. On the 31st day after the program ceased to be accredited, the program shall be closed and the educational institution conducting the program must comply with paragraph (7)(b) (8)(b).

~~(10)(11)~~ IMPLEMENTATION STUDY.—The Florida Center for Nursing and the education policy area of the Office of Program Policy Analysis and Government Accountability shall study the ~~5-year~~ administration of this section and submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives annually by January 30, ~~2011,~~ and annually thereafter through January 30, 2020 2015. The annual reports shall address the previous academic year; provide set forth data on the measures specified in paragraphs (a) and (b), as such data becomes available; and include an evaluation of such data for purposes of determining whether this section is increasing the availability of nursing education programs and the production of quality nurses. The department and each approved program or accredited program shall comply with requests for data from the Florida Center for Nursing and the education policy area of the Office of Program Policy Analysis and Government Accountability.

(a) The education policy area of the Office of Program Policy Analysis and Government Accountability shall evaluate program-specific data for each approved program and accredited program conducted in the state, including, but not limited to:

1. The number of programs and student slots available.
2. The number of student applications submitted, the number of qualified applicants, and the number of students accepted.
3. The number of program graduates.
4. Program retention rates of students tracked from program entry to graduation.
5. Graduate passage rates on the National Council of State Boards of Nursing Licensing Examination.
6. The number of graduates who become employed as practical or professional nurses in the state.

(b) The Florida Center for Nursing shall evaluate the board’s implementation of the:

1. Program application approval process, including, but not limited to, the number of program applications submitted under subsection (1); the number of program applications approved and denied by the board under subsection (2); the number of denials of program applications reviewed under chapter 120; and a description of the outcomes of those reviews.
2. Accountability processes, including, but not limited to, the number of programs on probationary status, the number of approved programs for which the program director is required to appear before the board under subsection (5) ~~(6)~~, the number of approved programs terminated by the board, the number of terminations reviewed under chapter 120, and a description of the outcomes of those reviews.

(c) For any state fiscal year in which the Florida Center for Nursing does not receive legislative appropriations, the education policy area of the Office of Program Policy Analysis and Government Accountability shall perform the duties assigned by this subsection to the Florida Center for Nursing.

(11) ACCREDITATION REQUIRED.—

(a) A nursing education program that prepares students for the practice of professional nursing, that was approved under this section before July 1, 2014, and that enrolled students before July 1, 2014, must become an accredited program by July 1, 2019.

(b) A nursing education program that prepares students for the practice of professional nursing and that was approved under this section before July

1, 2014, but did not enroll students before that date, must become an accredited program within 5 years after the date of enrolling the program's first students.

(c) A nursing education program that prepares students for the practice of professional nursing and that is approved under this section after June 30, 2014, must become an accredited program within 5 years after the date of enrolling the program's first students.

(d) This subsection does not apply to a nursing education program provided by an institution that is exempt from licensure by the Commission for Independent Education under s. 1005.06(1)(e).

Section 5. Subsection (1) of section 456.014, Florida Statutes, is amended to read:

456.014 Public inspection of information required from applicants; exceptions; examination hearing.—

(1) All information required by the department of any applicant shall be a public record and shall be open to public inspection pursuant to s. 119.07, except financial information, medical information, school transcripts, examination questions, answers, papers, grades, and grading keys, which are confidential and exempt from s. 119.07(1) and shall not be discussed with or made accessible to anyone except the program director of an approved program or accredited program as provided in s. ~~464.019(6)~~ 464.019(7), members of the board, the department, and staff thereof, who have a bona fide need to know such information. Any information supplied to the department by any other agency which is exempt from the provisions of chapter 119 or is confidential shall remain exempt or confidential pursuant to applicable law while in the custody of the department or the agency.

Section 6. This act shall take effect July 1, 2014.

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.