

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 1036

INTRODUCER: Senator Grimsley

SUBJECT: Nursing Education Programs

DATE: March 4, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Peterson</u>	<u>Stovall</u>	<u>HP</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ED</u>	_____

I. Summary:

SB 1036 establishes a schedule for all RN prelicensure programs approved by the Board of Nursing (BON) to become accredited by a specialized nursing accrediting agency that is recognized by the U.S. Secretary of Education. It also revises the definitions of “clinical training” and “practice of professional nursing” as used in chapter 464, Florida Statutes. Finally, the bill exempts a nurse who is certified by an accredited program from the 30-hour biennial continuing education requirement.

II. Present Situation:

Chapter 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health (DOH) and are regulated by the BON.¹

Applicants for an RN² or LPN³ license must submit an application form to the DOH, pay a fee, submit information for a criminal background check, and pass a licensure exam.⁴ The exam used by the DOH is the National Council Licensure Examination (NCLEX), developed by the National Council of State Boards of Nursing.

¹ The BON is comprised of 13 members appointed by the Governor and confirmed by the Senate who serve 4 year terms. Seven of the 13 members must be nurses who reside in Florida and have been engaged in the practice of professional nursing for at least 4 years. Of those seven members, one must be an advanced registered nurse practitioner, one a nurse educator at an approved nursing program, and one a nurse executive. Three members of the BON must be licensed practical nurses (LPN) who reside in the state and have engaged in the practice of practical nursing for at least 4 years. The remaining three members must be Florida residents who have never been licensed as nurses and are in no way connected to the practice of nursing, any health care facility, agency, or insurer. Additionally, one member must be 60 years of age or older. (*see* s. 464.004(2), F.S.)

² Practice of professional nursing.

³ Practice of practical nursing.

⁴ Section 464.008, F.S.

In addition, an applicant must complete the requirements for graduation from an approved program or its equivalent, as determined by the BON.⁵

Nursing Education Programs

Florida law requires any institution desiring to offer a nursing education program to submit an application to the DOH and pay a program review fee. The application must document compliance with the following program standards: faculty qualifications; clinical training and clinical simulation requirements, including a requirement that no more than 25 percent of the program's clinical training consist of clinical simulation; faculty-to-student supervision ratios; and curriculum and instruction requirements.⁶

Once the DOH determines an application is complete, it forwards the application to the BON, which has 90 days to approve the application or to provide the applicant with notice of its intent to deny and the reasons for the denial. An applicant may request a hearing under chapter 120, Florida Statutes, on a notice of intent to deny.⁷

BON-approved nursing programs are currently offered in Florida by: public school districts, community colleges, and state universities; private institutions licensed by the Commission for Independent Education (CIE); private institutions that are accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (SACS), but are not licensed by the CIE; and Pensacola Christian College, which is statutorily authorized by s. 1005.06(1)(e), F.S.⁸

Some of the nursing programs offered by these institutions have *programmatic* accreditation. An "accredited program" is defined as:

A program for the prelicensure education of professional or practical nurses that is conducted in the United States at an educational institution, whether in this state, another state, or the District of Columbia, and that is "*accredited by a specialized nursing accrediting agency that is nationally recognized by the United States Secretary of Education to accredit nursing education programs.*" (emphasis supplied).⁹

The specialized nursing accrediting agencies currently recognized by the United States Department of Education include: the Commission on Collegiate Nursing Education and the Accreditation Commission for Education in Nursing, Inc. (ACEN).¹⁰

⁵ Section 464.008(1)(c), F.S.

⁶ Section 464.019(1), F.S.

⁷ Section 464.019(2), F.S.

⁸ This section of law exempts schools from the CIE's licensure requirements if the institution: had been so exempted prior to 2001; is incorporated in this state; the institution's credits or degrees are accepted for credit by at least three colleges that are fully accredited by an agency recognized by the U.S. Department of Education; and the institution does not enroll any students who receive state or federal financial aid. Section 1005.06(1)(e), F.S. Only two institutions in Florida, Pensacola Christian College and Landmark Baptist College, are subject to this exemption. Landmark Baptist College does not offer a nursing program.

⁹ Section 464.003(1), F.S.

¹⁰ United States Department of Education, *Specialized Accrediting Agencies*, https://www2.ed.gov/admins/finaid/accred/accreditation_pg7.html (last visited March 3, 2014).

Chapter 464, F.S., recognizes and distinguishes between nursing education programs that are approved by the BON and programs that are both approved by the BON and accredited. An approved program¹¹ is required to submit an annual report to the BON which includes an affidavit certifying compliance with the program standards, and documentation for the previous academic year that sets forth data related to the number of students who apply, are accepted, enroll, and graduate; retention rates; and [institutional] accreditation status.¹² The BON, in turn, must post information on its website listing: all accredited programs and their most recent 2-year graduation rates; for approved programs that are not accredited, all documentation submitted in the application (for applications submitted after July 1, 2009), a summary description of the program's compliance with program standards, probationary status, graduate passage rates for the most recent 2 years, and retention rates; and for both approved and accredited programs, the average passage rates for the NCLEX.¹³ Approved programs must have a graduate passage rate on the NCLEX that is not more than 10 percent below the national average for 2 consecutive years and failure to comply will result in the BON placing the program on probation or terminating the program entirely if not corrected within 2 years of being placed on probationary status.¹⁴

The 2009 Legislature substantially revised and streamlined the nursing education program approval process by significantly restricting the BON's rulemaking authority and codifying the program approval process in statute.¹⁵ At the time, it was thought that streamlining the process would create the potential for a significant increase in the number of approved programs that could produce graduates to address the state's shortage of nurses.¹⁶

As part of the revisions, the 2009 Legislature directed the Florida Center for Nursing and the Office of Program Policy Analysis and Government Accountability to study the 5-year administration of the revised process. Reports have been submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives annually beginning January 2010.¹⁷ In its 2014 report, the OPPAGA reported that since July 2009:¹⁸

- The BON has approved 231 new programs, which has increased the total number of programs by 139 percent;
- The number of available seats in nursing programs has increased by 180 percent;
- Overall enrollment has increased by 58 percent;
- The number of students graduating has increased by 30 percent; and,

¹¹ Section 464.003(4), F.S., defines "approved program" as, in relevant part, "a program for the prelicensure education of professional or practical nurses that is conducted in the state at an educational institution and that is approved under s. 464.019."

¹² Section 464.019(4), F.S.

¹³ Section 464.019(5), F.S.

¹⁴ Section. 464.019(6), F.S.

¹⁵ Ch. 2009-168, Laws of Fla.

¹⁶ Senate Committee on Health and Human Services Appropriations, *CS/CS/SB 2284* (April 22, 2009), available at <http://archive.flsenate.gov/data/session/2009/Senate/bills/analysis/pdf/2009s2284.ha.pdf> (last visited March 3, 2014).

¹⁷ Section 464.019(11), F.S.

¹⁸ Office of Program Policy and Government Accountability, Florida Legislature, *Florida's Nursing Education Programs Continued to Expand in 2013, While Licensure Exams Passage Rates of New Programs Declined*, Report No. 14-03, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1403rpt.pdf> (last visited March 3, 2014).

- The licensure exam passage rates of the approved programs created since 2009 that had graduates who took the NCLEX has declined—approximately 73 percent (82 of 112 programs) had exam passage rates that were more than 10 percent below the national average for 2013. Twenty-four¹⁹ of these were on probation and the remainder are at risk of probation if rates do not increase.

Currently, 73 nursing programs are accredited.²⁰

Specialized Nursing Accreditation

Accreditation is a voluntary process by which a non-governmental entity reviews and recognizes educational institutions or programs that meet or exceed standards for educational quality.²¹ Standards and criteria for accreditation, materials that document compliance, policies and procedures are based on principles widely accepted and tested in general and professional education. The accreditation process—the standards, criteria, policies, and procedures—are subject to continuous and systematic review to ensure they stay current with developments in education and nursing.²² Once a program is determined eligible—generally, having current State Board of Nursing and approval and evidencing capacity to meet accreditation standards—a program is asked to submit documentation addressing faculty qualifications and experience, curriculum, available resources, and program self-evaluation/improvement processes. In general, the accreditation process may include a self-evaluation report, peer review site visit, detailed analysis of materials and reviewer findings, and ultimate action by the accrediting body. Accreditation is subject to ongoing reporting and assessment to ensure continued compliance with accreditation standards.²³ While programs may vary in the detail, among the criteria that may be used for evaluating program effectiveness are: completion rates, licensure pass rates, graduate employment, and procedures for ensuring ongoing program improvement.²⁴

Nurse Certification

A nurse may seek specialty certification beyond the education required for licensure. Typically, this is done for professional development—whether as a requirement of employment or a voluntary decision. Sometimes, however, specialty certification is a requirement of state licensure.²⁵ Currently, there are a wide range of specialty certification programs that are accredited by the National Commission on Certifying Agencies or the Accreditation Board for Specialty Nursing Certification, Inc., that provide certification as, among many others, an Advanced Practice Nurse, Clinical Care Nurse Specialist, Clinical Research Associate, and

¹⁹ According to information published by the DOH, the number has now increased to 43. (Florida Department of Health, *Compare Florida Prelicensure Education Programs* (as of March 3, 2014), <http://ww2.doh.state.fl.us/MQANEPC/SearchResults.aspx>.

²⁰ *Id.*

²¹ Accreditation Commission for Education in Nursing, *Accreditation Manual*, 1, (July 31, 2013), available at <http://www.acenursing.net/manuals/GeneralInformation.pdf> (last visited March 4, 2014).

²² *Id.* at 3.

²³ *Id.* at 13.

²⁴ Commission on Collegiate Nursing Education, *Standards for Accreditation* 17-19 (2013), available at <http://www.aacn.nche.edu/ccne-accreditation/Standards-Amended-2013.pdf> (last visited March 4, 2014).

²⁵ See, e.g., s. 464.012(1)(a), F.S., requiring certification by an appropriate specialty board as a requirement of state certification as an Advanced Registered Nurse Practitioner.

Certified Hospice and Palliative Nursing Assistant. Recertification is required at periodic intervals and typically will require proof of a designated number of clinic hours in the specialty practice, testing, professional competency (continuing education), or some combination of the three.

III. Effect of Proposed Changes:

Section 1 expands the definition of “clinical training” to include clinical simulation and expands the definition of “practice of practical nursing” to include teaching of general principles of health and wellness to the public and students other than nursing students.

Section 2 exempts any nurse who is certified by an accredited program from continuing education requirements under ch 464, F.S.

Section 3 establishes a schedule for nursing education programs that prepare students for the practice of professional nursing (RN) to become accredited by an accrediting agency described in s. 464.003(1), F.S. This requires accreditation by a specialized nursing accrediting agency that is nationally recognized by the United States Secretary of Education to accredit nursing education programs.

Specifically, the bill requires that:

- A program that was approved by the BON and had enrolled students prior to July 1, 2014 must be an accredited program by July 1, 2019.
- A program that was approved by the BON before July 1, 2014, but did not enroll students before that date, must become an accredited program within 5 years of enrolling the program’s first students.
- A program that is approved after June 30, 2014 must become an accredited program within 5 years of enrolling the program’s first students.

The bill exempts Pensacola Christian College from the requirement to become accredited.

The bill repeals the 25 percent cap on clinical simulation as a component of clinical training,

The BON is authorized to adopt rules to administer the documentation of the accreditation of nursing education programs.

The bill also repeals obsolete language related to the status of certain programs during the transition to the new approval process effective July 1, 2009.

The bill repeals the requirement for the OPPAGA, in addition to the Florida Center for Nursing, to submit an annual report on the administration of the nursing education approval process.

The effective date of the act is July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

RN prelicensure education programs at private colleges and universities that are not currently accredited program will incur the cost to become accredited. The Commission on Collegiate Nursing Education imposes a new applicant fee of \$3,500/program; an evaluation fee of \$1,750/evaluation team member (typically, 3 - 5 members); and an annual fee of \$2,468 to maintain accreditation. The Accreditation Commission for Education in Nursing, Inc. charges a candidacy fee of \$2,500; an accreditation review fee of \$1,000 for initial or continuing accreditation (per program); a site visit fee of \$835 per evaluator per day; and various service fees for additional services, as required. Currently, there are 20 Bachelor of Science in Nursing (BSN), which are 4-year degree programs, and 12 Associate Degree in Nursing (AND), which are 2-year programs, that will need to become accredited.²⁶

C. Government Sector Impact:

RN prelicensure education programs at public colleges and universities that are not currently accredited program will incur the cost to become accredited. Currently, all of the nursing education programs (BSN) offered through the State University System are accredited. There are 29 public ADN programs, of which nine will need to become accredited.²⁷

²⁶ *Id.*

²⁷ *Id.*

VI. Technical Deficiencies:

Revisions to lines 129–130 appear intended as technical revisions to clean up the language of the statute related to the curriculum plans required of the various nursing programs. In fact, the revision imposes a substantive change not intended by the sponsor.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 464.003, 464.013, and 464.019.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.