

## Final Proposed Filing - Coversheet

### Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

### **Administrative Rules of the Board of Nursing**

/S/ Sarah Copeland Hanzas

, on 2/17/2023

(signature)

(date)

Printed Name and Title:

Sarah Copeland Hanzas, Secretary of State

RECEIVED BY: \_\_\_\_\_

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

**Administrative Rules of the Board of Nursing**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

22P025

3. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

4. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: Lauren Layman

Agency: Secretary of State, Office of Professional Regulation

Mailing Address: 89 Main Street, 3<sup>rd</sup> Floor, Montpelier Vermont, 05620-3402

Telephone: (802) 828-2883 Fax:

E-Mail: lauren.layman@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://sos.vermont.gov/nursing/statutes-rules-resources/>

5. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: Kelsi Alger

Agency: Secretary of State, Office of Professional Regulation

Mailing Address: 89 Main St, 3rd Floor, Montpelier, VT 05620-3402

Telephone: (802) 828-2191 Fax:

E-Mail: kelsi.alger@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?)* No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

26 V.S.A. § 1574 (granting rulemaking authority to the Board of Nursing); 3 V.S.A. § 123(11) (making the Secretary of State the adopting authority for Board rules)

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

The agency is specifically authorized by 26 V.S.A. § 1574 to "[a]dopt rules necessary to perform its duties under [Chapter 28 of Title 26]." Each element of the rule corresponds to an administrative responsibility assigned to the Board within Chapter 28, including responsibilities to set standards for nurse licensure, nurse education programs, nursing practice, and nurse education and reentry programs.

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

This strike-and-rewrite update to the Administrative Rules of the Board of Nursing reflects substantial changes in the legal and practice landscape since the last rule update in January, 2015. The rule minimizes administrative burdens, conforms to license uniformity and streamlining legislation in Title 3, and provides for the administration of the Nurse Licensure Compact (NLC), to which Vermont became a party state in February, 2022. The rule articulates clear nursing

practice standards, completing a multi-year effort by the Board and its Practice Committee to refine a body of non-rule position statements, retire those that were dated or unnecessary, and incorporate into rule those that were seen to warrant retention. Finally, the rule adds more flexible avenues by which to demonstrate ongoing nursing competency, ending exclusive reliance on practice hours.

**15. EXPLANATION OF WHY THE RULE IS NECESSARY:**

Since the rule was last amended in January of 2015, the General Assembly has made significant changes to the general laws of professional regulation, aimed at streamlining the licensing process, promoting uniformity and consistency among licensing programs, responding to changes in federal antitrust jurisprudence. In addition, Act 64 of 2021 made Vermont a party state to the Nurse Licensure Compact, effective February 1, 2022. The updated rule is necessary to fully operationalize these policy initiatives and to maintain clarity and consistency for users of the rule.

**16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:**

The rule has been developed carefully in multiple duly-warned public meetings of the Vermont Board of Nursing. Board members appointed by the Governor on the strength of their professional qualifications have worked collaboratively with agency legal staff, the Executive Director for the Board, and stakeholders from the public and private sectors to ensure that the rule responds rationally and appropriately to substantial legal and practical developments bearing on nursing licensing, regulation, and practice. The Board and Office of Professional Regulation have been guided by clear State licensing policy, set out at 26 V.S.A., Ch. 57, which ordains that the purpose of occupational and professional regulation is to protect the public health, safety, and welfare, by the least restrictive means necessary to achieve those ends.

**17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:**

APRNs, RNs, LPNs, LNAs, MNAs; hospitals, clinics, private provider offices, nursing homes, rehabilitation

facilities, and other nursing employers; nursing schools and education programs; acute, long-term, and residential care organizations; the Vermont Department of Health.

**18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):**

The significant economic impacts of this rule are derived from Vermont's participation in the Nurse Licensure Compact. Each Board licensee will pay a one-time fee of \$13.25 to cover the cost of the federal criminal background check required by 3 V.S.A. § 123(j)(1)(A). RNs and LPNs whose primary states of residence are other Compact states may now practice in Vermont without need of a Vermont license, resulting in a biennial savings of \$150 – \$190.

Compact participation is expected to yield substantial net savings to nurses and nursing employers, but net revenue loss to the agency from forgone licensing fees; however, the magnitude of these effects is contingent upon discretionary use of Compact privileges by nurses in and outside of Vermont. Act 64 (2021), Sec. 1a directs OPR to report to the Legislature, by January 15, 2024, on specific fiscal impacts.

**19. A HEARING WAS HELD.**

**20. HEARING INFORMATION**

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 12/8/2022

Time: 05:30 PM

Street Address: 89 Main St., 3<sup>rd</sup> Floor, Montpelier

Zip Code: 05620

Date: 12/12/2022

Time: 01:00 PM

Street Address: 89 Main St., 3<sup>rd</sup> Floor, Montpelier

Zip Code: 05620

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

12/22/2022

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Nursing Administrative Rules

Nursing Practice

APRN, RN, LPN, LNA

Nurse



State of Vermont  
Office of the Secretary of State

Sarah Copeland Hanzas, Secretary of State  
S. Lauren Hibbert, Deputy Secretary

Office of Professional Regulation  
89 Main Street, 3rd Floor  
Montpelier, VT 05620-3402  
sos.vermont.gov

February 17, 2023

Rep. Trevor Squirrell, Chair  
Legislative Committee on Administrative Rules  
c/o Charlene Dindo, Committee Assistant  
Vermont State House  
Montpelier, Vermont 05602

Re: Final Proposed Rule: Administrative Rules of the Board of Nursing

Dear Chair Squirrell and Committee Members:

Please find enclosed the final proposed rule titled *Administrative Rules of the Board of Nursing*. These materials are also being filed with the Secretary of State today.

Accompanying this letter are the following documents:

- A. APA filing forms;
- B. The final proposed rule;
- C. The final proposed rule showing amendments to the text since proposed;
- D. Written comments received;
- E. A summary of substantial arguments, agency responses, and changes to the proposed rule; and
- F. The ICAR minutes from June 13, 2022 showing approval.

I would be happy to answer any questions the Committee may have about the final proposed rule in advance of your next meeting. Please feel free to contact me at (802) 828-2883 or via email at [lauren.layman@vermont.gov](mailto:lauren.layman@vermont.gov).

Sincerely,

Lauren K. Layman, General Counsel  
Vermont Office of Professional Regulation

## Adopting Page

### Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

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1. TITLE OF RULE FILING:

**Administrative Rules of the Board of Nursing**

2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

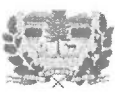
- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

Log #14-054; Administrative Rules of the Board of Nursing; January 15, 2015





## INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

**Meeting Date/Location:** June 13, 2022, virtually via Microsoft Teams

**Members Present:** Chair Douglas Farnham, Brendan Atwood, Jared Adler, Jennifer Mojo, Diane Sherman, Mike Obuchowski and Donna Russo-Savage

**Members Absent:** John Kessler and Diane Bothfeld

**Minutes By:** Melissa Mazza-Paquette

- 2:01 p.m. meeting called to order, welcome and introductions.
- Committee discussion on process improvements is scheduled for the August meeting to allow for participation from all members.
- Review and approval of minutes from the May 9, 2022 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- Note: An emergency rule titled 'Vital Records Emergency Rule', provided by the Agency of Human Services, Department of Health, was supported by ICAR Chair Farnham on May 16, 2022. This rulemaking implements a process for individuals to amend the marker on their birth certificate to reflect the individual's gender identity. Specifically, it does the following: 1) Defines the term "non-binary" to describe the additional gender identities that may be reflected on a birth certificate. 2) Creates a process for registrants to file their Affidavit of Gender Identity with the Department.
- One public comment made by Venn [Saint Wilder].
- Presentation of Proposed Rules on pages 2-10 to follow.
  1. 2021 Vermont Plumbing Rules, Department of Public Safety & Plumbers Examining Board, page 2
  2. Vital Records Rule, Agency of Human Services, Department of Health, page 3
  3. Rule 4.600 Definition of Electric Transmission Facility in 30 V.S.A. § 248, Public Utility Commission, page 4
  4. Health Benefits Eligibility and Enrollment Rule, General Provisions and Definitions (Part 1), Agency of Human Services, page 5
  5. Health Benefits Eligibility and Enrollment Rule, Eligibility Standards (Part 2), Agency of Human Services, page 6
  6. Health Benefits Eligibility and Enrollment Rule, Nonfinancial Eligibility Requirements (Part 3), Agency of Human Services, page 7
  7. Health Benefits Eligibility and Enrollment Rule, Financial Methodologies (Part 5), Agency of Human Services, page 8
  8. Health Benefits Eligibility and Enrollment Rule, Eligibility-and-Enrollment Procedures (Part 7), Agency of Human Services, page 9
  9. Administrative Rules of the Board of Nursing, Secretary of State, Office of Professional Regulation, page 10
- Next scheduled meeting is Monday, July 11, 2022 at 2:00 p.m.
- 3:25 p.m. meeting was paused for a 15-minute break
- Add discussion of strike-all rules for transparency at a future meeting as time allows.
- 3:50 p.m. meeting adjourned.

**Proposed Rule: Administrative Rules of the Board of Nursing, Secretary of State, Office of Professional Regulation**

**Presented By:** Gabe Gilman and Shiela Boni

Motion made to accept the rule by Brendan Atwood, seconded by Mike Obuchowski, and passed unanimously with the following recommendations:

1. Economic Impact Analysis, #3: Check language for clarity in the first sentence – perhaps add ‘of’ after ‘costs’ if appropriate. Include relevant information from the Brief Summary of Economic Impact (#12 of the Proposed Filing – Coversheet) for consistency.
2. The adopting page, economic and environmental impact analyst filed in the chat and reviewed by members during the meeting must be approved by the Secretary of State. If any edits are made to those three forms, it must be refiled with ICAR.

## Economic Impact Analysis

### **Instructions:**

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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#### 1. TITLE OF RULE FILING:

**Administrative Rules of the Board of Nursing**

#### 2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

#### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

The significant economic impacts of this rule are derived from Vermont's participation in the Nurse Licensure Compact. Each Board licensee will pay a one-time fee of \$13.25 to cover the cost of the federal criminal background check required by 3 V.S.A. § 123(j)(1)(A).

RNs and LPNs whose primary states of residence are other Compact states may now practice in Vermont without need of a Vermont license, resulting in a biennial savings of \$150 - \$190 to each.

Vermont resident RNs and LPNs will enjoy the ability to practice in 38 other states without paying licensing fees to those states. The magnitude of economic savings to each individual will depend upon the number of Compact states in which the individual practices and the fees that otherwise would have been collected by each of those states.

Compact participation is expected to yield substantial net savings to nurses and nursing employers, but net revenue loss to the agency from forgone licensing fees; however, the magnitude of these effects is contingent upon discretionary use of Compact privileges by nurses in and outside of Vermont. Act 64 (2021), Sec. 1a directs OPR to report to the Legislature, by January 15, 2024, on specific fiscal impacts.

4. **IMPACT ON SCHOOLS:**

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

None

5. **ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.**

N/A

6. **IMPACT ON SMALL BUSINESSES:**

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

Small clinics, like other nursing employers, will be able to hire from a broader pool of license-eligible RNs and LPNs, reducing costs of recruitment and on-boarding of those licensed employees.

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

To the extent the rule impacts compliance costs to small clinics, the impact is apt to be favorable.

8. **COMPARISON:**

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

The rule does not directly regulate small businesses, but only the persons some small clinics may employ.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The rule does not directly regulate small businesses, but only the persons some small clinics may employ.

## Environmental Impact Analysis

### Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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#### 1. TITLE OF RULE FILING:

**Administrative Rules of the Board of Nursing**

#### 2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

#### 3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

No impact anticipated

#### 4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

No impact anticipated

#### 5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

No impact anticipated

#### 6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

No impact anticipated

7. *CLIMATE: EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

No impact anticipated

8. *OTHER: EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

No impact anticipated

9. *SUFFICIENCY: DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The nature of the rule is such that there is no rational nexus to environmental or resource outcomes.

## Public Input Maximization Plan

### Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

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1. TITLE OF RULE FILING:

**Administrative Rules of the Board of Nursing**

2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

In addition to online posting and publication in newspapers of record, it is the agency's practice to email notice and invitation to comment to each person actively licensed in the field--in this case, all APRNs, RNs, LPNs, LNAs, and MNAs. We also make direct contact with known stakeholder groups and key contacts whose officers may not be licensees. Additionally, well-attended open meetings of the Vermont Board of Nursing feature ongoing discussion of rule development and progress through the APA rulemaking process.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

ANA-VT, the National Council of State Boards of Nursing, the Vermont Association of Hospitals and Health Systems, the Visiting Nurse Association, the Vermont Medical Society, the Vermont Department of Health.



Comments on 2022 Nursing Draft Rules

Sent via email to [Gabriel.Gilman@vermont.gov](mailto:Gabriel.Gilman@vermont.gov) on 12/12/2022 by Deborah J Belcher ([deb.belcher@gmail.com](mailto:deb.belcher@gmail.com))

Gabe,

I have reviewed the Draft for the Nursing Rules and have the following comments. Most of these are from checking the references to the statutes. A few for clarifications.

**Part 1 Definitions, Pages 3 and 4**

1. **Board Website - Correct the embedded hyperlink to the nursing website.** Text shows correct link name, but the hyperlink goes to a Sharepoint site and requires a login.

**“Board website”** means the primary Office website assigned to the Vermont Board of Nursing, found at [sos.vermont.gov/nursing/](http://sos.vermont.gov/nursing/) or a designated successor location.

2. **Convert and Compact** - Consider adding the term “party state” as used in definition of Convert to the definition of Compact. Or add separate definition of Party State.

**“Convert”**; means to change a multistate license to a single-state license if a nurse changes primary state of residence by moving from a party state to a non-party state; or to change a single-state license to a multistate license once any disqualifying events are eliminated.]

**“Compact”** means the Nurse Licensure Compact adopted pursuant to 26 V.S.A. § 1647 *et seq.* The Compact facilitates interstate practice among RNs and LPNs from member states; it is not applicable to APRN or LNA practice.

3. **Practice of Nursing** - Remove the (2) in the 1572 (2) statute reference. The (2) is only for RN practice. 1572 (3) covers LPNs and 1572 (4) covers APRNs

**“Practice of nursing”** is defined at 26 V.S.A. § 1572(2) and includes using in connection with one’s name, words, letters, signs or figures which imply that a person is an RN, LPN, or APRN. See 26 V.S.A. § 1584(a).

**§ 1572. Definitions**

As used in this chapter:

- (1) “Board” means the Vermont State Board of Nursing.
- (2) “Registered nursing” means the practice of nursing, which includes:
  - (A) Assessing the health status of individuals and groups.
  - (B) Establishing a nursing diagnosis.
  - (C) Establishing goals to meet identified health care needs.
  - (D) Planning a strategy of medical or health care.

## Part 2-4 Executive Director, Page 5

**2-4(c) Executive Director** – Add a comma after “licensure”. That covers initial licensure, and separates it from renewal. There is a comma in the current rules.

- (c) interpreting policies, making administrative decisions, and providing consultation regarding Board affairs such as nursing education, examination, registration, licensure renewal, and practice questions;

## Part 10-9 Licensed Nursing Assistants, Page 9

The reference to Title 26 V.S.A § 2426 is not in the Nursing Chapter 28. Title 26 V.S.A § 2426 is in Veterinary Medicine in Title 26 Chapter 44 for renewal.

**4-10 Requirements of Reinstatement; Extended License Lapse.** A license expired for more than two years requires reinstatement, including a federal criminal background check.

- (a) **Two to five years.** A license expired for two to five years may be reinstated upon proof of continuous practice elsewhere, or if practice ceased, upon satisfaction of the requirements of renewal set out in Rule 4-8.
- (b) **More than five years.** A license expired for five or more years may be reinstated upon proof of continuous practice elsewhere, or if practice ceased, a licensee’s preparation to return to practice will be assessed on a case-by-case basis. After consultation with the Board, the Director may require re-training, testing, or re-application. See 3 V.S.A. § 135; 26 V.S.A. § 2426. In most circumstances, completion of an approved nursing re-entry program is a minimum prerequisite to reinstatement.

## Title 26 : Professions And Occupations

### Chapter 044 : Veterinary Medicine

#### Subchapter 003 : Examinations And Licenses

(Cite as: 26 V.S.A. § 2426)

#### § 2426. Renewal of license

(a) On a schedule established by the Office of Professional Regulation, a licensed veterinarian shall pay to the Secretary of State a renewal fee in the amount prescribed by section 2414 of this title, and shall receive a license card bearing his or her name, address, registration number, and the date of expiration of the license.

(b) A person shall not be required to pay renewal fees for years during which the license was lapsed.

(c) As a condition of renewal, a licensee shall complete continuing veterinary medical education, approved by the Board by rule, during the preceding two-year period. For purposes of this subsection, the Board may require, by rule, not more than 24 hours of approved continuing veterinary medical education as a condition of renewal. (Added 1981, No. 67, § 1; amended 1997, No. 145 (Adj. Sess.), § 12; 1999, No. 133 (Adj. Sess.), § 18; 2007, No. 163 (Adj. Sess.), § 26.)

**10-3 Licensure by Endorsement.** To qualify for licensure by endorsement, based on licensure and experience outside Vermont, an applicant who is not eligible for expedited endorsement under Rule 4-1 shall:

- (a) be licensed or certified as nursing assistant by another state;
- (b) complete a federal criminal background check; and
- (c) demonstrate, via certified job description or other appropriate employer verification, at least 50 days (400 hours), in the two years preceding application, of employment as a nurse assistant or in a role, regardless of title or obligation to hold a license, that would reasonably tend to reinforce the training and skills of a licensed nurse assistant. *See 26 V.S.A. § 1645.*

#### **§ 1645. Renewal**

(a) To renew a license, a nursing assistant shall meet active practice requirements set by the Board by rule.

(b) The Board shall credit as active practice those activities, regardless of title or obligation to hold a license, that reasonably tend to reinforce the training and skills of a licensee. (Added 2015, No. 38, § 14, eff. May 28, 2015; amended 2017, No. 144 (Adj. Sess.), § 18.)

**From:** [June Hendrick](#)  
**To:** [SOS - OPR Comments](#)  
**Subject:** nursing license  
**Date:** Tuesday, November 22, 2022 2:57:07 PM

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**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**

Hello, I am wondering if you have considered any changes in licensure requirements considering the staffing shortages, covid and the large number of nurses aging out of the profession.

I have been an RN since 1983. I was forced to leave work in 2019 due to a surgery for a large brain tumor. Within a year we were in the midst of Covid and I moved to a new area in Vermont. Time has flown by and my license will be expiring in April of 2023. I have not found suitable work in my new area. At 68, I no longer feel capable of working full time or 12 hour shifts yet I feel I still could provide valuable knowledge and skills in the right position. However, without working for the past two years I will not be eligible to renew my license.

Perhaps my situation is one that is shared by other "elderly" RNs, and an inservice option to maintain licensure might be a good idea to help hold onto your workforce.

Sincerely, June Hendrick, Vergennes

**From:** [Marie McDuff](#)  
**To:** [SOS - OPR Comments](#)  
**Subject:** Proposed Administrative Rules of the Board of Nursing  
**Date:** Sunday, December 11, 2022 12:59:21 PM

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**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**

Proposed Administrative Rules of the Board of Nursing

To whom it may concern,

I am concerned regarding the proposed decrease from 25% to 20% in the clinical simulated experiences that may be obtained in a medium or high-fidelity simulation laboratory as proposed in the section 5-17 Registered Nurse Program Curriculum:

(c) No more than 20% of clinical experience may be obtained in a medium or high-fidelity simulation laboratory without prior Board approval or the approval of the program's accrediting agency.

The literature supports the use of medium or high-fidelity simulated experiences in the simulation laboratory as an effective learning modality. Vermont has maintained 25% and other states have adopted 50%. It is very difficult to obtain the needed clinical experiences due to the lack of space and resources in healthcare facilities. The use of healthcare facility clinical experiences along with simulated clinical experiences would potentially allow for increasing the number of admitted students to nursing programs.

Sincerely,

Marie McDuff, MSN, RN

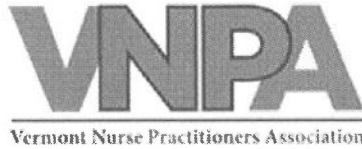
Associate Professor, School of Nursing/Simulation Coordinator

Castleton University

[Marie.mcduff@castleton.edu](mailto:Marie.mcduff@castleton.edu)

Office # 802-468-6309

Sent from [Mail](#) for Windows



Vermont Nurse Practitioners Association  
P.O. Box 64773  
Burlington, VT 05406

December 8, 2022

To: Vermont Board of Nursing  
From: VNPA Legislative Committee

Thank you for the opportunity to comment on the proposed state rules updates. We are seeking clarification on the following areas:

**4-2 Applicants Educated Outside the United States**

**(5) proof of oral and written English proficiency, if the nursing education program was not conducted in English; - do you have a defined proficiency exam?**

**4-8 Requirements of Renewal**

**(2) Have practiced in an APRN role for a minimum of 50 days (400 hours) in the two years preceding application or 120 days (960 hours) in the five years preceding application; - What is the reference you are using to come up with this decision point?**

**5-19 APRN Refresher Course**

**(c) Individuals who have been out of practice for more than ten years must complete a new post-masters APRN program that includes a minimum of 500 clinical practice hours. - I would defer to my education colleagues however I am concerned that if you already have a post masters in a program that you would not be accepted to the same program again. Example: masters prepared FNP returning to Norwich to obtain another FNP post masters certification.**

**5-22 APRN Refresher Course Approval Criteria – entire section**

What reference was used for the benchmark to develop these criteria – concern being that we want to be aligning with industry standards.

**9-2 Roles**

To be consistent with the APRN consensus model it should read:

- 1) Certified Nurse Practitioners
- 2) Certified Nurse Midwife
- 3) Certified Nurse Specialist
- 4) Certified Registered Nurse Anesthetist

**9-4 Population Focus**

VNPA Board 2022 - Melissa Beaudry APRN ■ Maureen Boardman APRN ■ Manya Gordon RN ■ Trish Brown APRN ■ Christina Harlow APRN ■ Callan Janoweic APRN ■ Mary Val Palumbo APRN ■ Stephanie McGowan APRN ■ Eileen Murphy APRN ■ Brigid Meehan-Brese APRN ■ Kristen Sheehan APRN ■ Katie Cutting RN

To be consistent with the APRN consensus model there are six population foci

- 1) Family/individual across the lifespan
- 2) Adult-gerontology,
- 3) Pediatrics
- 4) Neonatal
- 5) Women's health/gender-related
- 6) Psych/mental health

**9-7 Education and Practice Requirement.**

What evidence was used to support these time frames

**9-17 Scope of Practice**

Experience - can you define this and how you would quantify this?

Respectfully Submitted,

Michelle

Michelle Wade MSN/Ed, APRN, AGNP-C, ACNPC-AG, FAANP  
Immediate Past President Vermont Nurse Practitioners Association  
Chair Legislative Committee  
Co-Chair Conference committee  
Adult-Gerontology Primary Care NP  
Adult-Gerontology Acute Care NP

December 20, 2021

Gabriel Gilman  
Office of Professional Regulation  
Office of the Secretary of State  
89 Main Street, 3<sup>rd</sup> Floor  
Montpelier, VT 05620

Re: Proposed Administrative Rules of the Board of Nursing (22P025)

Mr. Gilman,

On behalf of the University of Vermont Medical Center (UVMCMC) Senior Nursing Leadership Team, we are grateful for the opportunity to comment on the Proposed Administrative Rules of the Vermont Board of Nursing. Overall, UVMCMC is supportive of the proposed positive changes as they reflect sincere thought and consideration to streamline the Administrative Rules for Vermont's nurses and health care delivery system. The proposed Rule's independent scope of practice will promote flexibility, and improve the practice of nursing to ensure that nurses can practice at the top of their license. These changes will aid in our State's efforts to provide efficient and high quality health care for all Vermonters.

*Positive Proposed Changes*

An essential component to address workforce development is the **removal of the nursing faculty degree requirements**.<sup>1</sup> This change removes barriers to addressing the need for qualified nursing faculty, while relying the academic program's accrediting body's expertise in determining faculty requirements.

The proposed changes **remove the rigidity of inflexible clinical hours**,<sup>2</sup> which currently do not afford academic experts flexibility to determine student competence for each specialty. The proposed rules permit flexibility and practice innovation for schools of nursing and their partner clinical sites to collaborate on student experiences that may vary from the traditional prescriptive hours.

The recognition **LPN and RN Individual Scope of Practice**<sup>3</sup> and the **Determination of Scope of Practice**<sup>4</sup> affirms that nursing is its own profession guided by nursing standards. This provision in conjunction with the individual scope of practice provision represents the most significant proposed and welcomed change. The provision largely incorporates the current scope of practice decision tree while recognizing an expansive, evidence-based, individualized scope of practice. It is worth noting that the scope of practice provision emphasizes the importance of *professional nursing standards*, and omits any reference to the Nursing Practice Act's language in the definition of "registered nursing" that defines

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<sup>1</sup> Section 5-3 Nursing Faculty

<sup>2</sup> Section 5-15 Practical Nurse Program – Curriculum (b); Section 5-17 Registered Nurse Program Curriculum (b)

<sup>3</sup> Section 6-4 LPN Individual Scope of Practice; Section 7-4 RN Individual Scope of Practice

<sup>4</sup> Section 11-1 Determination of Scope of Practice



nursing to include “such additional acts...that are recognized **jointly by the medical and nursing professions** as proper to be performed by registered nurses.” 26 VSA § 1572(2)(N).

These positive changes promote flexibility, recognize the individual scope of nurses, and establish Vermont’s nurses as guided by professional nursing standards.

### *Further Recommendations*

In the wake of the Covid-19 pandemic, the exacerbated nursing workforce shortage, and the complexity of the patient care environment, the Vermont Board of Nursing should provide nurses and the health care delivery system the greatest available flexibility to innovate in care delivery models. The proposed Administrative Rules will govern nursing practice through one of its most crucial eras: recovery, change, and innovation to care for our Vermont communities post-pandemic.

To expand the development of Vermont’s nursing workforce, it is essential that the Administrative Rules permit the greatest flexibility in developing programs and care delivery models to meet Vermont’s nursing demand. The following recommendations are guided by flexibility, practicing at the top of one’s license, and innovation:

#### **1. Simulation hours**

The proposed rules reduce the percentage time of clinical simulation time from 25% to 20% in both LPN and RN educational programs. Clinical experiences continue to be a bottleneck for the expansion of nursing programs and literature demonstrates that simulated clinical experiences, such as high and low fidelity mannequins or technology, partial task simulators, standardized patients, e-learning, hybrid simulation, and virtual reality, can be as good as or better than direct care experiences.<sup>5</sup>

To promote flexibility and innovation, it would be prudent to at least return the percentage clinical of hours to 25%. The preferred and recommended change would permit the academic programs and accrediting bodies to determine the percentage or number of simulation hours in the educational programming. Academic institutions and simulation centers should have the flexibility to improve the quality of simulation, and determine how simulation is incorporated into educational programs.

#### **2. Delegation**

A significant lesson learned from the Covid-19 pandemic is the need to be flexible in staff skill mix. Throughout the pandemic, in Vermont and nationwide, we learned the value of placing appropriate skills, regardless of licensure or care setting, where they would best serve patients. As the health care delivery continues to be remodeled and innovated upon, it is prudent and axiomatic that retaining this ability is imperative. This has been supported in disaster management<sup>6</sup> pre-pandemic, and came to

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<sup>5</sup> [Simulation in Clinical Nursing Education - PMC \(nih.gov\)](#)

<sup>6</sup> Reilly, M.J. & Markenson, D. (2010). “Utilizing Paramedics for in-patient critical care surge capacity,” *American Journal of Disaster Management*, 5(3), pp. 163-168.

fruition during the pandemic.<sup>7</sup> <sup>8</sup> Nursing should create the necessary framework to provide health care organizations the ability to do this utilizing evidence based guidelines to support safe patient care.

It appears the new section **11.2 Delegation** would permit a nurse to delegate tasks to an appropriately qualified person regardless of their licensing credentials such as a paramedic. However, if this is not the Board's intent, we would recommend that the rule include an affirmative statement that authorizes a nurse to delegate appropriate tasks as supported by evidenced based standards which establish that such person is appropriately qualified to perform the delegated task regardless of licensure and care setting.

### **3. Medication Nursing Assistant<sup>9</sup>**

To increase workforce flexibility, it may be prudent to expand the use of Medication Nursing Assistants (MNA) (*Part 10 Subsection A*) so that the role is not limited to being used only in long-term care facilities. If proposed changes to the MNA are undertaken the definition of MNA in 26 VSA § 1641 will need to be revised.

Increasing the ability of Licensed Nursing Assistants to obtain their Medication Nursing Assistant license could alleviate staffing problems, and improve patient care in all settings. Among other things, this could increase the efficiency in caring for long-stay/custodial patients in the acute care setting and allow health care organizations to allocate scarce clinical resources in the most efficient and effective way. The use of Medication Nursing Assistants may have a particular benefit for Home Health and Hospice agencies' care delivery, as they continue to be faced with difficulty in meeting needs due to staffing shortages.

### **4. Student Nurse Apprenticeship Permit<sup>6</sup>**

States such as Alabama and Michigan have expanded and innovated the way they develop the nursing workforce through a student nursing apprenticeship program, which requires a student nursing apprenticeship permit. Through collaboration between the academic programs, the Board of Nursing, and the employer, the student is able to contribute to the clinical workload as they demonstrate competency. This program has the potential to significantly decrease nursing orientation and onboarding time post-licensure. Student nursing apprenticeships provide flexibility for how nursing students are developed into the workforce and is another track into the profession. Apprenticeships have the potential to be extremely valuable in the long term care setting, and can be incorporated into most other care settings.

This suggested student apprenticeship permit is modeled after the program implemented in Alabama that changes the traditional model of clinical nursing education and allows for more on-the-job learning, while contributing to the workforce in a permitted role. This model would allow flexibility for academic programs and employers in partnering on new and innovative approaches to nursing education and

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<sup>7</sup> Morrissey, J. (July 10, 2020). "Proactively expanding the EMT and paramedic scope of practice," available at [How COVID-19 has expanded paramedic, EMT scope of practice \(ems1.com\)](https://www.EMS1.com/news/2020/07/10/proactively-expanding-the-EMT-and-paramedic-scope-of-practice/)

<sup>8</sup> Boehringer, B., O'Meara, P., Wingrove, G., & Nudell, N.K., (2021). "An Emergency Amendment to the National Scope of Practice for Paramedics in the Setting of a Global Pandemic." *Journal of Rural Health*, 37(1), pp. 191-193.

<sup>9</sup> The expansion of Medication Nurse Assistants and the student nurse apprenticeship permit may require statutory changes to the Nursing Practice Act.

training. It would be prudent to establish this in the VBON Administrative Rules now as work is underway to establish programs like this through State working groups (Appendix A).

In conclusion, we appreciate the substantive work and changes that have been done to improve the Vermont Nursing Administrative Rules. However, we do urge the Vermont Board of Nursing to consider the further flexibility for Vermont's nursing workforce and health care delivery system in meeting our community's needs.

Sincerely,

/s/ Betsy Hassan

Betsy Hassan, DNP, RN, NEA-BC, CPPS  
Director, Nursing Education & Professional Development  
The University of Vermont Medical Center

## Appendix A

### Student Nurse Apprenticeship Permit - Proposed

#### Alabama - Student nurse apprenticeship program

In 2021, the Alabama Legislature enacted Act 275, which authorized the Board of Nursing, by rule, establish standards for student nurse apprenticeships and to issue student nurse apprentice permits, and to authorize the Board to establish standards for certified medication assistants.

<https://www.abn.alabama.gov/wp-content/uploads/2021/09/Alabama-Act-No.-2021-275.pdf>

#### Alabama Code – Board of Nursing

Pursuant to section 34-21-2(j)(7) of the Board of Nursing statute, the Board of Nursing may adopt rules providing standards including, but not limited to, scope of practice for student nurse apprenticeships and the issuance of student nurse apprentice permits by the board to eligible students.

The Alabama Administrative Rule, Ch. 610-x-3-.13 (revised 7/15/2022)

In 2022, the Alabama Board of Nursing promulgated rules for the Board to approve a prelicensure nursing education program that establishes a student nurse apprenticeship program and awards clinical credit hours toward a student nurse apprentice's nursing degree. The nursing program is responsible for validating the nursing apprentice's competency to perform and/or knowledge of the selected nursing tasks, skills or activities prior to initiating the apprenticeship and assignment of skills.

#### Vermont

To authorize the development of a student nurse apprenticeship program in Vermont, the Legislature would need to amend the Nurse Practice Act at section 1574 of Title 26 as follows:

- (a) In addition to the powers granted by 3 V.S.A. §1574, the Board [of Nursing] shall:
- (11) adopt rules providing standards including, but not limited to, scope of practice for student nurse apprenticeships and the issuance of student nurse apprentice permits by the board to eligible students.

#### Vermont Board of Nursing

To implement a student nurse apprenticeship program, the Board of Nursing would need to amend the currently proposed Administrative Rules to outline the process for academic programs to obtain approval for student nurse apprenticeship programs.

December 21, 2022

Gabriel Gilman  
Office of Professional Regulation  
Office of the Secretary of State  
89 Main Street, 3rd Floor  
Montpelier, VT 05620

Sent via e-mail to [gabriel.gilman@vermont.gov](mailto:gabriel.gilman@vermont.gov)

Re: Proposed Administrative Rules of the Board of Nursing (22P025)

Dear Mr. Gilman:

The Vermont Association of Hospitals and Health Systems represents all of Vermont's hospitals. Thank you for the opportunity to comment on the Proposed Administrative Rules of the Board of Nursing. Overall, we appreciate the flexibility provided by these proposed rules. Below are more specific comments.

**VAHHS supports the new scope of practice language**

We appreciate the Board of Nursing incorporating more expansive, flexible, and individualized scope of practice language in the proposed rules. This language is clear and will help health care providers in a safe and responsible way as they manage the current workforce crisis.

**VAHHS appreciates the clarification that the simulation hours at Section 5-7 remain at 25%**

Thank you for clarifying in the public meetings that the simulation hours will not be reduced and will remain at 25%. We urge the board to continue exploring the value of simulation hours and adjust accordingly.

**Request for clarification of Section 11-2 Delegation language**

Please provide confirmation that by including the language "or licensing credentials" in Section 11-2, the board is permitting a nurse to delegate tasks to a qualified person regardless of licensing credentials, such as a paramedic.

**Future Opportunities: Medication Nursing Assistant and Student Nurse Apprentice Permit**

Although not addressed in these rules, we urge the board to explore expanding the use of Medication Nursing Assistants beyond long-term care facilities. Hospitals currently have sub-acute patients waiting for long term care in 20-35% their beds. Medication Nursing Assistants would help provide quality care for such patients while creating staffing flexibility.

We would also like to highlight the concept of a student nurse apprenticeship permit that has been adopted by Alabama.<sup>1</sup> This program allows a student nurse to start practicing skills once the nurse is proficient. Such a program would allow for student nurses to start practicing as they go and would create more safe and flexible staffing opportunities in Vermont.

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<sup>1</sup> <https://www.abn.alabama.gov/apprentice/>

Thank you, again, for the opportunity to provide comment. We look forward to your responses. Feel free to contact me with any questions.

Sincerely,



Devon Green  
Vice President, Government Relations  
Vermont Association of Hospitals and Health Systems

DATE: 12.15.22

Requesting NPO: Vermont Nurse Practitioner Association

**REQUEST/QUESTION:**

*What Full Practice Authority states have additional practice requirements for clinicians who serve as collaborating providers?*

**Background:**

There are 26 states, the District of Columbia and two U.S. territories that are classified as Full Practice Authority. Of these, states 5 require that individuals who serve as collaborating providers have additional clinical experience beyond being licensed for full practice and holding a license within good standing (i.e., no disciplinary action).

These states are: ME, MD, NE, SD and VT.  
Specific statutes below. VT requirements are in regulation, not statute.

There is no evidence to support this requirement. The statutory requirements were the result of political pressure from stakeholders outside of the Nursing profession when Full Practice Authority was being legislated. States have shared that that these requirements are making it more difficult for NPs to secure NP collaborators and for NP business owners who have not met the time threshold to hire new NP licensees—as these NP businesses would need to pay to contract with an outside provider to meet the state’s collaborative provider requirements.

| State                  | Requirements  |
|------------------------|---|
| <p><b>Maine</b></p>    | <p>10. Supervising nurse practitioner. “Supervising nurse practitioner” qualifies as an advanced practice registered nurse who has:</p> <ul style="list-style-type: none"> <li>A. Completed 24 months of supervised practice in accordance with subsection 2-A;</li> <li>B. Practiced as an advanced practice registered nurse for a minimum of 5 years in the same specialty;</li> <li>C. Worked in a clinical health care field for a minimum of 10 years; and</li> <li>D. Been approved by the board.</li> </ul> <p>Me. Rev. Stat. tit. 32, § 2102</p> |
| <p><b>Maryland</b></p> | <p>(7) “Mentor” means a certified nurse practitioner or physician, licensed in Maryland, who:</p> <ul style="list-style-type: none"> <li>(a) Has 3 or more years of clinical practice experience; and</li> <li>(b) Will be available for advice, consultation, and collaboration, as needed, for 18 months beginning on the date an application is received by the Board from an applicant who has never been certified in this or any other State.</li> </ul> <p>Md. Code Regs. 10.27.07.01</p>  |

|                            |   |
|----------------------------|---|
| <p><b>Nebraska</b></p>     | <p>Neb.Rev.St. § 38-2322 - Nurse practitioner; licensed on or before August 30, 2015; requirements (NPPA) (1)<br/>...<br/>(d) In order for a nurse practitioner to be a supervising provider for purposes of a transition-to-practice agreement, the nurse practitioner shall submit to the department evidence of completion of ten thousand hours of practice as a nurse practitioner which have been completed under a transition-to-practice agreement, under a collaborative agreement, under an integrated practice agreement, through independent practice, or under any combination of such agreements or practice, as allowed in this state or another state.</p>  |
| <p><b>South Dakota</b></p> | <p>ARSD 20:62:02:02. Application for licensure.<br/>(7) Verification of having completed one thousand forty practice hours as a licensed nurse practitioner or nurse midwife in the preceding five years; or submission of a collaborative agreement with a nurse practitioner, nurse midwife, or physician licensed in South Dakota for the applicant's first one thousand forty hours of practice. The collaborator shall hold an unencumbered license to practice and have a minimum of two years of licensed practice in a comparable area of practice as the applicant's role and educational preparation. Upon meeting the required one thousand forty hours of licensed practice, a licensee may submit evidence to the Board of Nursing to request inactivation of the agreement.</p> |
| <p><b>Vermont</b></p>      | <p>Vt. Admin. Code 20-4-1100:8 - Advanced Practice Registered Nurses Licensing and Practice<br/>Section 8.1 Definitions<br/>... (b) "Collaborating Provider" as used in this Part means a Vermont APRN or Vermont licensed physician in a formal relationship with an APRN to advise, mentor, and consult. An APRN may have more than one collaborating provider.<br/>...<br/>Section 8.15 Collaborating Providers.<br/>(a) The collaborating provider's license must be active and unencumbered.<br/>(b) The collaborating provider shall practice in the same role and population focus or specialty as the APRN.<br/>(c) An APRN collaborating provider shall have practiced in the same role and population focus for a minimum of four years.</p>  |



**Responsiveness Summary**  
**Proposed Administrative Rules of the Board of Nursing**

The following substantial arguments were heard for and against the proposed rule and addressed by the Board in the manner explained.

Original comment text follows this summary. Video of spoken comments is available upon request.

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Section: 1, miscellaneous definitions

Comment:

Commenters suggested that certain definitions might be amended for improved clarity. The proposed text also used “Current Practice Competence” as a shorthand for the three, alternative means of demonstrating ongoing competence. Sections 3-5, 4-8, 6-2, and 7-2 used the term only, requiring that readers cross-refer to the detailed definition. Readers found this confusing and asked that the list be recited in each section.

Agency Response:

The four relevant sections have been amended to recite the list within the definition of “Current Practice Competence.” In addition, the definition of “Current Practice Competence” has been modified to clarify that the definition is applicable to registered nurses and licensed practical nurses, but not other license types.

---

Section: 4-2(a)

Comment:

A former Board member and current nurse educator observed the National Council Licensure Examination is not used in Quebec. She recommended the agency clarify that the Quebec exam is not accepted.

Agency Response:

We have amended Rule 4-2(a) to clarify that Canadian nurses who have not completed one of the accepted English-language examinations must apply by examination as set out in Rules 6-1 or 7-1.

---

Section: 4-5

Comment:

It was observed that the rule did not match the corresponding statute, 3 V.S.A. § 130, because the rule failed to address provisional licensure for those awaiting acceptable verification of licensure from a home state.

Agency Response:

The rule has been re-written to match the statute by addressing not only those awaiting background checks, but also those awaiting verification from home state license authorities.

---

Section: 4-8

Comment:

A retired nurse recommended loosening practice hour requirements in order that part-time or semi-retired nurses may maintain licensure. Several commenters praised the proposed rule for ending exclusive reliance on practice hours.

Agency Response:

We agree. A major purpose of the instant rule revision is to offer alternative means of demonstrating continuing competence, ending exclusive reliance on practice hours. This effort is embodied in Rule 4-8, which allows that 20 hours of qualifying continuing education, or current national certification, may stand in for practice hours.

---

Section: 4-8

Comment:

Commenters found the preamble sentence, "Eligibility to renew a license prior to its expiration prior to its expiration, or late during the first biennial period following expiration . . . ," almost impossible to understand.

Agency Response:

We agree, and the text is unnecessary besides. The introductory text has been stricken. The rule now proceeds directly into the matter indicated by the caption, "Requirements for Renewal."

---

Section: 4-8

Comment:

Commenters observed that the current rule does not carry over guidance for LNAs who do not meet active practice requirements.

Agency Response:

A sentence has been added at 4-8(b)(1): "A licensee who does not meet the active practice requirement shall repeat the nursing assistant education program and competency examination." The sentence recites the current rule, and it matches federal regulations on the subject.

---

Section: 4-8(b) & 10-3(c)

Comment:

A commenter observed that calling for a "certified job description" may lead applicants to believe documents must be notarized or otherwise formally authenticated in ways the agency did not intend.

Agency Response:

The point has merit. We have stricken the adjective *certified*.

---

Section: 5-15 & 5-17

Comment:

Several commenters observed that rules limiting simulation laboratory to “[n]o more than 20% of clinical experience” reflected a reduction from the extant 25% rule. Commenters felt this was unnecessary and undesirable, particularly as simulation technology has improved with time.

Agency Response:

It was not the Board’s intention to reduce the simulation cap. The change from 25% to 20% reflects a typographical error copy-pasted into parallel rule sections. The error has been corrected.

---

Section: 5-22

Comment:

A commenter observed that the rule omitted requirements for on-site supervision.

Agency Response:

The section has been amended to specify that “the Board will approve a refresher program that provides on-site supervision by an APRN collaborating provider qualified under Part 9 of these rules who holds an unencumbered Vermont license, or a physician collaborating provider who holds an unencumbered Vermont license. A supervising provider must practice in the same role and population focus.”

---

Section: 9-1(a)

Comment:

Commenters observed that section 9-1a should account for the possibility that a Compact RN could seek a Vermont APRN credential, but should enjoy the benefits of Compact recognition with respect to the underlying RN credential.

Agency Response:

Section 9-1(a) has been amended to allow that one may “hold an unencumbered Vermont registered nursing license or an unencumbered multistate registered nursing license from another Compact state.”

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Sections: 9-2 & 9-4

Comment:

APRN organizations asked that the Board’s recognized roles and population foci be amended to reflect the current “consensus model” that identifies four APRN roles—Certified Nurse Practitioner, Certified Nurse Midwife, Certified Registered Nurse Anesthetist, and Clinical Nurse Specialist—thereby disentangling populations from the role definitions. The organizations also asked that current population foci be listed in Section 9-4 in lieu of those now issued by the Board.

Agency Response:

Rule 9-2 has been amended to match the four role titles prevailing today. We thought better of locking current population foci into rule 9-4, as these are apt to age poorly. Instead, we have taken an approach to specialty regulation tested successfully for years by the Board of Professional Engineering: Rule 9-4 is amended to defer to a rolling, online list of recognized population foci. As prevailing foci change, the list can be kept current by vote of the Board, without necessitating frequent administrative rule amendments.

---

Section: 9-9

Comment:

Associations of nurse practitioners asked that the agency strike a requirement that a collaborating provider “possess at least four years of practice experience in the same role and population focus or specialty as the APRN.”

Agency Response:

No change has been made. The requested change would undermine the intent of the General Assembly that collaboration operate as a meaningful bridge from classroom to clinical practice.

---

Section: 9-10

Comment:

Associations of nurse practitioners requested that the agency strike a requirement that “[a] collaborating provider shall participate in quality assurance activities.”

Agency Response:

No change has been made. Quality assurance is the purpose of collaboration.

---

Section: 10, Subpart A

Comment:

University of Vermont Medical Center nurse leaders suggested expanding the use of Medication Nursing Assistants beyond long-term care settings.

Agency Response:

Statute requires that medication nursing assistants function “in a nursing home.” 26 V.S.A. § 1641. The Board’s rules cannot contravene the statute. However, the agency takes from the comment that interested parties may lobby the General Assembly to amend § 1641 to accomplish their desired goal. The board has significant reservations about that goal, but nonetheless agrees that it is wise to future-proof the rule by striking reference to “residents in long-term care facilities,” and substituting “in limited settings set out by 26 V.S.A. § 1641.” In this way, should the section be amended, the Rule will not require conforming amendment.

---

Section: 11-1, 11-4(a)(1)(3), 12-6

Comment:

A commenter observed inconsistency in the use of conjunctions and disjunctions (*and* and *or*) in enumerated lists. There was disagreement as to whether it is helpful or unhelpful to use the conjunction or disjunction repeatedly after each item.

Agency Response:

The established drafting convention is that a conjunction or disjunction is used before the terminal item in a list. Doing so renders all preceding items conjunctive (every listed item must be present) or disjunctive (any one listed item will suffice). Offending lists have been modified accordingly for consistency.

---

Section: none

Comment:

Nurse leaders at the University of Vermont Medical Center asked that the Board consider creating a “student nurse apprentice permit,” based on a program in Alabama. Such a permit would allow nursing students to obtain “on-the-job learning, while contributing to the workforce in a permitted role.”

Agency Response:

No change has been made. The Board is without authority to create new license types and fees. Existing law provides a licensure exemption for “The practice of nursing that is incidental to their program of study by persons enrolled in approved nursing education programs approved by the Board.” 26 V.S.A. § 1583. To the extent the proposal is to ensure students may perform nursing functions incident to their studies, the desired outcome already prevails. To the extent the proposal is to allow students to practice nursing *unrelated* to their studies, the proposal would contravene statute. Finally, if the goal is to use permits to speed graduate nurses into the workforce, recent measures have addressed the problem: 3 V.S.A. § 130 (eff. May 9, 2022) authorizes the Director to issue provisional licenses to applicants awaiting background checks, and 3 V.S.A. § 129(a)(10) authorizes the Board to issue temporary licenses during a declared emergency “when licensing examinations are not reasonably available.”

**[Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING**Vermont Board of Nursing  
Administrative Rules**Table of Contents**

|               |   |
|---------------|---|
| <b>Part 1</b> | <b>Definitions</b>  |
| <b>Part 2</b> | <b>Administration</b>                                       |
| --1           | Applicable Law  |
| --2           | Resources for Applicants and Licensees                      |
| --3           | U.S. Armed Forces   |
| --4           | Executive Director  |
| --5           | Committees  |
| <b>Part 3</b> | <b>Procedures</b>   |
| --1           | Applications  |
| --2           | Complaints  |
| --3           | Contested Cases   |
| --4           | Declaratory Rulings   |
| --5           | Reasonable Accommodation                                    |
| --6           | Conflict of Standards                                       |
| --7           | Determination of Equivalency                                |
| --8           | Waiver or Variance  |
| <b>Part 4</b> | <b>Licensure</b>  |
| --1           | Applicants from Other States: Fast Track Endorsement        |
| --2           | Applicants Educated Outside the United States               |
| --3           | Biennial Licensing Period                                   |
| --4           | Initial License Issuance                                    |
| --5           | Provisional Licensure                                       |
| --6           | Telehealth Registration and Licensure                       |
| --7           | License Renewal   |
| --8           | Requirements of Renewal                                     |
|               | a. RNs & LPNs   |
|               | b. LNAs   |
|               | c. MNAs   |
|               | d. APRNs  |
| --9           | Late Renewal Penalties                                      |
| --10          | Requirements of Reinstatement                               |
| <b>Part 5</b> | <b>Vermont Nursing Education Programs</b>                   |
| --1           | Approval Required   |
| --2           | Accreditation Required                                      |
| --3           | Nursing Faculty   |
| --4           | Operational Oversight; Site Visits                          |
| --5           | Duty to Report Site, Administrative, and Curricular Changes |
| --6           | Program Approval  |
| --7           | Preliminary Program Approval                                |
| --8           | Full Program Approval and Reapproval                        |
| --9           | Application Denial  |
| --10          | Annual Reports  |
| --11          | Forms of Approval   |
| --12          | Intervention for Cause                                      |
| --13          | Voluntary Program Closure                                   |
| --14          | Practical Nurse Program: Duration                           |
| --15          | Practical Nurse Program: Curriculum                         |
| --16          | Practical Nurse Re-entry Programs                           |
| --17          | Registered Nurse Program Curriculum                         |
| --18          | Registered Nurse Re-entry Programs                          |
| --19          | APRN Refresher Course                                       |
| --20          | Refresher Course Clinical Practice Permit                   |
| --21          | APRN Refresher Course Design                                |
| --22          | APRN Refresher Course Approval Criteria                     |
| --23          | APRN Refresher Program Curricula                            |
| <b>Part 6</b> | <b>Licensed Practical Nurses</b>                            |
| --1           | Licensure by Examination                                    |
| --2           | Licensure by Endorsement                                    |
| --3           | Scope of Practice   |

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- 4 Individual Scope
- Part 7 Registered Nurses**
  - 1 Licensure by Examination
  - 2 Licensure by Endorsement
  - 3 Scope of Practice
  - 4 Individual Scope
- Part 8 Interstate Practice Privileges for RNs and LPNs: The Nurse Licensure Compact**
  - 1 Applicant Responsibilities
  - 2 Change in Primary State of Residence
  - 3 Temporary Permits and Licenses
  - 4 Identification of Licenses
  - 5 Credentialing and English Proficiency for Foreign Nurse Graduates
  - 6 Deactivation, Discipline, and Revocation
  - 7 Federal Criminal Records
  - 8 Active-duty Military Personnel and Spouses
- Part 9 Advanced Practice Registered Nurses**
  - 1 APRN License Requirements
  - 2 Roles
  - 3 Identification
  - 4 Population Focus
  - 5 Education
  - 6 APRN Certification Organizations
  - 7 Education and Practice Requirement
  - 8 Transition to Practice: Collaborative Provider Agreement
  - 9 Collaborating Providers
  - 10 Collaborating Provider Responsibilities
  - 11 APRN Group Practice
  - 12 Scope of Practice
  - 13 Eligible Colleges or Universities
  - 14 Approval Process
- Part 10 Licensed Nurse Assistants**
  - 1 Licensure by Examination
  - 2 Examination Attempts
  - 3 Licensure by Endorsement
  - 4 Scope of Practice
  - Subpart A Medication Nurse Assistants**
    - 5 Definition
    - 6 Eligibility for MNA Specialty Designation
    - 7 Nursing Student Eligibility
    - 8 Training from Other Jurisdictions
    - 9 Scope of Practice
    - 10 Limitations
    - 11 Exclusions
  - Subpart B MNA Training Programs**
    - 12 Board Approval Required
    - 13 MNA Training Program Requirements
    - 14 MNA Program Review
- Part 11 Standards of Nursing Practice**
  - 1 Determination of Scope of Practice
  - 2 Delegation
  - 3 Evidence-based Practice; Competent & Credible Evidence
  - 4 Fitness
  - 5 Patient Abandonment
  - 6 Informed Consent
  - 7 Duty to Update and Self-report
- Part 12 Alternative to Discipline Program**
  - 1 Alternative Program
  - 2 Eligibility
  - 3 Disqualification
  - 4 Confidentiality
  - 5 Administration & Selection
  - 6 Agreement
  - 7 Effect on Multistate Licensure Privilege
- Part 13 Discipline**
  - 1 Unprofessional Conduct
  - 2 Remedies

[Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

**Part 1 Definitions**

As used in these Rules:

**“Advanced Practice Registered Nurse”** or **“APRN”** is defined at 26 V.S.A. § 1572(4).

**“Board”** or **“the Board”** means the Vermont Board of Nursing.

**“Board website”** means the primary Office website assigned to the Vermont Board of Nursing, found at [sos.vermont.gov/nursing/](http://sos.vermont.gov/nursing/) or a designated successor location.

**“Compact”** means the Nurse Licensure Compact adopted pursuant to 26 V.S.A. § 1647 *et seq.* The Compact facilitates interstate practice among RNs and LPNs from party states; it is not applicable to APRN or LNA practice.

**“Compact State”** means a jurisdiction that is a member of the Compact.

**“Convert”** means to change a multistate license to a single-state license ~~secondary either to a disqualifying event or to relocation from a~~ if a nurse changes ~~primary state of residence by moving from a party state~~ Compact State to a non-Compact State ~~party state; or to change a~~ single-state license to a multistate license ~~once any disqualifying events when a disqualifying event is~~ are eliminated ~~eliminated.~~

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**“Current Practice Competence”** means ongoing competence to practice ~~registered nursing or licensed practical nursing, which may be demonstrated~~ established by documenting by any one of the following; ~~demonstrated by:~~

- (1) active practice of the licensed profession totaling at least 50 days (400 hours) in the previous 2 years or 120 days (960 hours) in the previous 5 years, verified by appropriately certified employment records; ~~or~~
- (2) satisfactory completion of 20 hours of qualifying continuing education in the two years immediately preceding application; or
- (3) current, nationally recognized certification.

**“Deactivate”** means to change the status of a multistate license or privilege to practice ~~from~~ active to inactive.

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**“Director”** means the Director of Professional Regulation.

**“Direct Supervision”** means supervision of a licensee’s practice by a nurse physically present on the unit.

**“Disqualifying Event”** means an incident, which results in a person becoming disqualified or ineligible to retain or renew a multistate license. These include but are not limited to the following: any adverse action resulting in an encumbrance, current participation in an alternative program, a misdemeanor offense related to the practice of nursing (which includes, but is not limited to, an agreed disposition), or a felony offense (which includes, but is not limited to, an agreed disposition).

**“Executive Director”** means the Executive Director of the Board, employed by the Office pursuant to 26 V.S.A. § 1574(b) to carry out the work of the Board.



## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

**“Governing Organization”** means the agency or institution that has the authority and responsibility for financing a nursing education program, employing the administrator and faculty, graduating students, and granting the nursing diploma, certificate, or degree.

**“High-fidelity”** refers to simulation experiences that are extremely realistic and provide a high level of interactivity and realism for the learner (International Nursing Association for Clinical Simulation and Learning, 2013). It can apply to any mode or method of simulation; for example: human, manikin, task trainer, or virtual reality

**“Licensed Practical Nurse”** or **“LPN”** means licensed practical nurse.

**“Licensed Practical Nursing”** is defined at 26 V.S.A. § 1572(3).

**“Medium-Fidelity Simulation Learning”** means the use of low-technology mannequins or actors to demonstrate a condition within a simulated learning environment without automatic or programmed clues.

**“Nationally Recognized Certification”** means a specialty certification by a national nursing certification board or agency issued based upon a nurse’s successful passing of an exam designed to validate a mastery of knowledge and skill within a specific area of nursing practice and/or patient population focus.

**“Nursing Assistant”** or **“LNA”** means licensed nursing assistant.

**“NCLEX”** means National Council Licensure Examination.

**“Office”** means the Office of Professional Regulation

**“Office website”** means the primary website of the Office of Professional Regulation, found at <https://sos.vermont.gov/opr/> or a designated successor location.

**“On-Site Supervision”** means active oversight and monitoring of a licensee’s practice by a specifically assigned nurse who is present on the premises of a facility at all times the supervised licensee is practicing.

**“Practice of nursing”** is defined at 26 V.S.A. § 1572 and includes using in connection with one’s name, words, letters, signs or figures which imply that a person is an RN, LPN, or APRN. See 26 V.S.A. § 1584(a).

**“Preceptor”** means an Advanced Practice Registered Nurse or Registered Nurse who serves as a facilitator and supervisor of student learning experiences in a practice setting.

**“Program”** or **“Nursing Education Program”** means a formal education program, based on a structured curriculum and clinical experience, designed to prepare students to qualify for licensure and to practice as APRNs, RNs, or LPNs.

**“Qualifying continuing education”** means continuing education that has been approved and assigned a credit value by an organization approved by the American Nurses

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

Credentialing Center's Commission on Accreditation, or by another verifying authority approved by the Board, or directly by the Board.

**"Registered Nurse" or "RN"** means licensed registered nurse.

**"Registered Nursing"** is defined at 26 V.S.A. § 1572(2).

**"Unencumbered license"** means a license that authorizes a nurse to engage in the full and unrestricted practice of nursing without special conditions, limitations, or supervision.

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| Part 2 | Administration |
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**2-1 Applicable Law.** The practice of nursing and "nursing related functions" is regulated pursuant to 26 V.S.A. § 1571 *et seq.* Copies of these and other statutes are available online at [www.legislature.vermont.gov/statutes/](http://www.legislature.vermont.gov/statutes/). The Office administers licensure in conformity with these and other Vermont laws, to include the Administrative Procedure Act, 3 V.S.A. § 800 *et seq.*; the Public Records Act, 1 V.S.A. § 315 *et seq.*; and the Laws of Professional Regulation, 3 V.S.A. § 121 *et seq.*

**2-2 Resources for Applicants and Licensees.** The Office website offers information of general application to Vermont licensed professionals, including policies of the Office, license lookup services, and disciplinary orders. The Board website, available at <http://sos.vermont.gov/nursing>, offers information specific to the practice of nursing, including policies and minutes of the Board, membership information, and practice guidance.

**2-3 U.S. Armed Forces.** The Director may accept toward the requirements of these rules relevant military education, training, or service completed by a member of the U.S. Armed Forces and may expedite licensure of a person who left licensed employment in another state secondary to a spouse's military transfer to Vermont. 3 V.S.A. § 123(g). Service members and the spouses of service members should visit the Office website for details.

**2-4 Executive Director.** The Office employs an Executive Director of the Board. 26 V.S.A. § 1574(b). The powers and duties of the Executive Director include those appropriate to carry out the work of the Board and to execute State policy respecting the regulation of nursing practice, including without limitation:

- (a) guiding Office staff in the conduct of the Board's affairs, the execution of Board directives, and the administration of applicable laws and policies;
- (b) appointing members of committees created by statute, these rules, or directive of the Board;
- (c) interpreting policies, making administrative decisions, and providing consultation regarding Board affairs such as nursing education, examination, registration, licensure, renewal, and practice questions;
- (d) surveying and monitoring nursing education programs;
- (e) preparing agendas, reports, and recommendations to the Board, and attending to official correspondence on the Board's behalf;
- (f) orienting new Board members and nursing staff;
- (g) monitoring evolving policy and practice issues that may call for Board action;
- (h) referring instances of misconduct and hazards to the public health, safety, and welfare to the Office's Enforcement Division and providing expert support to prosecutors as appropriate;
- (i) representing the Board at meetings, symposia, conferences, and the like; and

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (j) such other lawful duties as may be delegated by the Board or the Director in furtherance of the Board's mission and policies.

### 2-5 Committees

(a) The Board shall maintain the following committees:

- (1) a **Practice Committee**, to monitor evolving issues in nursing practice;
- (2) an **APRN Subcommittee**, to study and report to the Board on matters relating to advanced practice registered nurse practice in conformity with 26 V.S.A. § 1615a;
- (3) a **Disciplinary Alternative Program Committee**, to advise the Executive Director and Board on appropriate standards for admission to and administration of a program to serve as an alternative to the disciplinary process for nurses and nursing assistants with substance use disorder or other professional practice issues; and
- (4) an **Education Committee**, to assist the Board with oversight of Vermont nurse education programs.

(b) Committee authority is advisory. In the main, committees study issues, report to the Board, and recommend appropriate courses of action. A committee may exercise binding administrative discretion only if authorized in respect to a specific question or responsibility put to the committee by vote of the Board duly recorded in the Board's minutes.

(c) At least biennially, each committee shall propose a charter to be reviewed and approved by the Board.

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| Part 3 | Procedures |
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**3-1 Applications.** Online license applications must be completed through the Office website.

- (a) Incomplete applications will not be processed. Applications are complete only when all required questions have been answered fully, all attestations made, all required documentation and materials provided, and all fees paid.
- (b) When the Board, or the Office on the Board's behalf, intends to deny an application, notice stating the reasons for the action shall be given to the applicant by certified mail, whereupon the applicant shall have 30 days to petition for a hearing before the Board. 3 V.S.A. 129(e)(1).
- (c) The Board may refuse to accept any application found to be redundant with a denied or in-process application.
- (d) The Board may deem expired any application that is left incomplete for six months.
- (e) For good cause, the Board may require that any applicant for licensure or relicensure obtain, from an approved, qualified professional, an independent assessment of the applicant's current mental, physical, and professional fitness to practice.

**3-2 Complaints.** Complaints against licensees, applicants for licensure, or persons practicing without a license may be submitted through the Office website.

**3-3 Contested Cases.** Procedures in contested cases relating to licensure or discipline are governed by the Office of Professional Regulation Administrative Rules of Practice, CVR 04-030-005, as those rules may from time to time be modified.

**3-4 Declaratory Rulings.** Petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the Board or Office may be made pursuant to 3 V.S.A. § 808 and Office procedure.

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

**3-5 Reasonable Accommodation.** The Board complies with applicable provisions of the Americans with Disabilities Act. See the Office website for policies and procedures.

**3-6 Conflict of Standards.** Where a standard of unprofessional conduct set forth in statute conflicts with a standard set forth in rule, the standard that is most protective of the public shall govern. See 3 V.S.A. § 129a(e).

**3-7 Determination of Equivalency.** Where the Board or Director is permitted by law or rule to accept certain training or experience on the basis of equivalence to a fixed standard, it is the burden of the applicant or licensee to establish equivalence to the Board or Director's satisfaction, by producing credible, clear, and convincing evidence of the same. The Board and the Office have no obligation to research the bona fides of any institution, program, course, degree, certification, practicum, fellowship, or examination.

**3-8 Waiver or Variance.** The Board will not grant routine waivers or variances from any provisions of these rules without amending the rules. See 3 V.S.A. § 845. Where, in extraordinary circumstances, application of a rule would result in manifest unfairness, an absurd result, unjustifiable inefficiency, or an outcome otherwise inimical to the public health, safety, and welfare, the Board may, upon written request of an interested party, so find, grant a waiver with or without particular conditions and limitations, and record the action and justification in a written memorandum. This rule shall not be construed as creating any administrative hearing right or cause of action.

### Part 4 Licensure Generally

**4-1 Applicants from Other States: Fast Track Endorsement.** An applicant with three or more years of full-time licensed practice, as an LNA, LPN, RN, or APRN, in good standing, in a U.S. jurisdiction outside Vermont, may qualify for expedited licensure in Vermont. See 3 V.S.A. § 136a. An RN or LPN who holds an active multistate license from another Compact State is not required to obtain a Vermont license unless changing primary state of residence to Vermont.

#### 4-2 Applicants Educated Outside the United States

(a) **Canadian Nursing Education.** An applicant whose nursing education and initial license to practice was in Canada, who has been duly licensed by a provincial licensing authority, who has passed an acceptable examination and maintained provincial licensure in good standing, may apply for licensure by endorsement. Acceptable examinations include are the National Council Licensure Examination (NCLEX) and, for a person licensed prior to December 31, 2015, the Canadian Nurses' Association Testing Service Examination. Applicants who have not completed an acceptable examination must take the NCLEX and should apply by endorsement examination pursuant as set out in Rule 6-1 for LPNs, or Rule 76-12 for RNs. ~~to Rule 6-1~~ Endorsement applications must include:

- (1) if the nursing education program or licensing exam was not conducted in English, acceptable evidence of oral and written English-language proficiency;
- (2) documentation of:
  - (a) 50 days (400 hours) of practice as a nurse in the two years immediately preceding the application;
  - (b) 120 days (960 hours) practice as a nurse within five years of the application;
  - (c) 20 hours of qualifying continuing education in the two years immediately preceding license application; or

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (d) a current nationally recognized certification, and
- (3) A completed federal criminal background check.
- (b) **Other Non-U.S. Nursing Education.** An applicant whose nursing education and initial license to practice was in a country other than the United States or Canada shall be authorized to take a licensing examination once the Board has received English-language documentation including:
  - (1) a completed application for licensure;
  - (2) a completed federal criminal background check;
  - (3) a credentials review by an external agency that specializes in international academic credentials review which verifies that the applicant's nursing education meets the requirements of these rules;
  - (4) satisfactory evidence of eligibility to work lawfully in the United States, to include a social security number or taxpayer identification number;
  - (5) proof of oral and written English proficiency, if the nursing education program was not conducted in English; and
  - (6) documentation of a minimum of:
    - (a) 50 days (400 hours) of practice as a nurse in the two years immediately preceding the application;
    - (b) 120 days (960 hours) practice as a nurse within five years of the application;
    - (c) 20 hours of qualifying continuing education in the two years immediately preceding license application; or
    - (d) active, nationally recognized certification.

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**4-3 Biennial Licensing Period.** Licenses are valid for fixed, two-year periods. Expiration dates are printed on licenses. A license expires if not renewed by midnight on the date of expiry. Practice under an expired license is prohibited. A search tool on the Office website may be considered a primary source verification as to license status and expiration.

**4-4 Initial License Issuance.** An applicant issued an initial license within 90 days of the end of a licensing period will not be required to renew or pay the renewal fee. The license will be issued through the next full licensure period.

**4-5 Provisional Licensure.** ~~The Board is authorized by 3 V.S.A. § 130 to issue provisional licenses to certain Applicants who have met other licensure requirements but whose eligibility for licensure is contingent upon acceptable verification of licensure from another jurisdiction, or the results of a required criminal background check. See 3 V.S.A. § 130, by exam or endorsement with pending criminal background checks, certain applicants whose eligibility for licensure is contingent upon acceptable verification of licensure from another jurisdiction, and certain spouses of active duty military members, each of whom has met~~ who have met all other licensure requirements. Refer to 3 V.S.A. § 130 requirements may apply for a provisional license in accordance with 3 V.S.A. § 130.

**4-6 Telehealth Registration and Licensure.** Effective July 1, 2023, a licensee who is not otherwise licensed in Vermont but is licensed in another US jurisdiction and wishes to provide telehealth care services to a patient or client located in Vermont shall obtain a telehealth registration or license in accordance with 26 V.S.A. chapter 56. RNs and LPNs who hold an active multistate license from a Compact state are not required to obtain Vermont licensure to provide telehealth services.

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

**4-7 License Renewal.** Online license renewal applications must be completed through the Office website. The Office transmits email reminders to licensees at the end of each biennial licensing period; however, non-receipt of such reminders shall not excuse a licensee from the obligation to maintain continuous licensure or the consequences of failing to do so. Practicing while a license is lapsed is a violation of 3 V.S.A. § 127.

**4-8 Requirements of Renewal.** Eligibility to renew a license prior to its expiration, or late during the first biennial period following expiration, is determined as follows:

(a) RNs & LPNs shall:

- (1) Have practiced for a minimum of 50 days (400 hours) in the two years preceding application or 120 days (960 hours) in the five years preceding application; or
- (2) Have completed 20 hours of qualifying continuing education in the two years immediately preceding the application; or
- (3) Hold a current nationally recognized certification.

(b) LNAs shall demonstrate, via ~~certified~~ job description or other appropriate employer verification, at least 50 days (400 hours), in the two years preceding application, of employment as a nurse assistant or in a role, regardless of title or obligation to hold a license, that would reasonably tend to reinforce the training and skills of a licensed nurse assistant. See 26 V.S.A. § 1645.

~~(b)(1)~~ (1) A licensee who does not meet the active practice requirement shall repeat the nursing assistant education program and competency examination.

(c) MNAs shall:

- (1) Have satisfied LNA renewal requirements;
- (2) Have completed 4 hours qualifying continuing education specific to medication administration; and
- (3) Have dedicated at least 25% of the qualifying LNA experience (100 hours) to MNA functions.

(d) APRNs shall:

- (1) Have satisfied RN renewal requirements;
- (2) Have practiced in an APRN role for a minimum of 50 days (400 hours) in the two years preceding application or 120 days (960 hours) in the five years preceding application;
- (3) Present current certification by a national APRN certifying organization; and
- (4) If required, have a current collaborating provider agreement.

**4-9 Late Renewal Penalties.** Late renewal applications are subject to penalty fees, which may be waived in certain circumstances, for example, if the applicant did not practice in Vermont during the period of lapse. See 3 V.S.A. § 127(d). Reinstatement waivers may be requested through the online licensing system.

**4-10 Requirements of Reinstatement; Extended License Lapse.** A license expired for more than two years requires reinstatement, including a federal criminal background check.

(a) **Two to five years.** A license expired for two to five years may be reinstated upon proof of continuous practice elsewhere, or if practice ceased, upon satisfaction of the requirements of renewal set out in Rule 4-8.

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## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

(b) **More than five years.** A license expired for five or more years may be reinstated upon proof of continuous practice elsewhere, or if practice ceased, a licensee's preparation to return to practice will be assessed on a case-by-case basis. After consultation with the Board, the Director may require re-training, testing, or re-application. See 3 V.S.A. § 135. In most circumstances, completion of an approved nursing re-entry program is a minimum prerequisite to reinstatement.

(c) **Enhanced APRN requirements.** This rule, 4-10, will yield to enhanced requirements for APRN practice refreshment and license reinstatement set out in Part 9, *infra*.

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### Part 5 Vermont Nursing Education Programs

**5-1 Approval Required.** No person, including a corporation, association, or individual may conduct a nursing education program in Vermont, other than an online-only program approved by the Vermont Agency of Education, unless the program has been approved by the Board. See 26 V.S.A. § 1584.

**5-2 Accreditation Required.** Nursing education programs shall be accredited by the Commission on Collegiate Nursing Education (CCNE), the National League for Nursing's (NLN) Commission on Nursing Education Accreditation (CNEA), the Accreditation Commission for Education in Nursing (ACEN), or a national nursing accreditation organization otherwise specifically approved by the Board.

**5-3 Nursing Faculty.** Vermont nursing education programs shall be compliant with their accrediting agency's faculty standards regarding educational and experiential requirements for full-time and part-time nursing faculty.

**5-4 Operational Oversight; Site Visits.** The Board may at any time request information appropriate to confirm that a Vermont nursing education program is operating in conformity with applicable rules and accrediting standards. The Board may conduct a site visit to any proposed or existing nursing education program during the application review, during any review for extension of approval, or at any time deemed necessary to assess compliance with these rules. A nursing education program shall reimburse the Board for actual and necessary costs incurred for a site visit.

**5-5 Duty to Report Site, Administrative, and Curricular Changes.** A program shall copy to the Board any required report made to accrediting authorities concerning significant changes to program curriculum or structure.

**5-6 Program Application.** At least nine months before a program proposes to admit its first students, or within 30 days of a request from the Executive Director to an operating program, an authorized representative of the governing organization shall submit the following information or copies of submissions to or from an approved accreditor reflecting the same:

- (a) accreditation status of the governing organization;
- (b) a statement of mission and purpose;
- (c) an initiation plan for the program including curricula, policies, outcome measurements;
- (d) the identity and qualifications of the Program Administrator;
- (e) a description of faculty, including numbers and qualifications;
- (f) a chart illustrating the program's administrative and supervisory hierarchy;
- (g) evidence of the feasibility of the program and community readiness to accept and support the program;

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (h) the certificate(s) or degree(s) to be offered;
- (i) a statement of clinical and academic facilities and resources, including classroom, conference room, library, office space, and skills laboratory;
- (j) evidence of financial resources sufficient for the planning, implementation and operation of the program;
- (k) a description of the anticipated student population; and
- (l) any other information showing that the proposed program will meet the requirements of these rules.

**5-7 Preliminary Program Approval.** When the Board determines that an application to commence a new program is satisfactory, as indicated by substantial progress toward compliance with prevailing accrediting standards and demonstrated ability to attain full compliance, it will issue a preliminary approval authorizing the applicant may hire faculty, enroll students, develop and implement the program, commence the use of all assigned facilities and resources, and otherwise begin operation of the program.

**5-8 Full Program Approval and Reapproval.** A program granted preliminary approval shall notify the Board when it graduates its first class and shall apply for full program approval by submitting such information as the Executive Director or Board may request demonstrating progress toward full accreditation. The Board may condition full program approval upon accreditation.

**5-9 Application Denial.** If a program's preliminary application, full-program application, or application for re-approval is found to be deficient, the Board will offer a reasonable opportunity, not to exceed two years, for the program to cure the deficiency before acting on the application. The process for denial of an application is set out at 3 V.S.A. § 129(e).

**5-10 Annual Reports.** Approved programs shall submit annual reports on forms available from the Board. Each annual report shall be submitted no later than October 1 and cover the period between August 1 of the preceding year and July 31 of the year the report is submitted. Annual reports to include any new sites or site changes, administrative changes affecting the program, and significant curricular changes, to include changes in, duration, structure, graduation requirements, or core curricular content. Programs shall cooperate with reasonable requests for supplemental information.

**5-11 Forms of Approval.** An operating program shall apply for reapproval as determined by the duration of its prior approval, which may be set by the Board but will not in any event exceed the duration of the program's national accreditation. Approvals may be conditioned as appropriate to protect the public health, safety, and welfare, or to ensure ongoing ability to conform to prevailing accrediting standards.

**5-12 Intervention for Cause.** If the Board or Executive Director reasonably suspects a program is at risk of falling out of substantial compliance with prevailing accrediting standards, either may require that a program undergo a site visit, apply for reapproval early, or otherwise show cause why its approval should not be conditioned or withdrawn. The Board will give written notice to any program considered for withdrawal of approval and will afford program administrators a reasonable opportunity to be heard before acting upon a motion to terminate or condition a program's approval.



## **[Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING**

**5-13 Voluntary Program Closure.** The governing organization shall advise the Board of a decision to close its program. All Board approval requirements shall be maintained until the last student has transferred or graduated. The governing organization shall notify the Board where permanent program and student records are stored and how they may be retrieved. The program shall:

- (a) discontinue student admissions;
- (b) assist accepted applicants and current students to transfer to other approved programs; and
- (c) officially close when the last student has graduated.

**5-14 Practical Nurse Program: Duration.** An acceptable practical nurse curriculum shall require no less than one academic year to complete.

**5-15 Practical Nurse Program: Curriculum.** In accordance with the standards of a program's accrediting agency, practical nursing programs shall include clinical and theory hours sufficient to establish competency in Adult Nursing, Maternal/Infant Nursing, Pediatric Nursing, and Psychiatric/Mental Health Nursing.

- (a) Didactic content will include Anatomy and Physiology, Social/Behavioral Science, Pharmacology and Nutrition
- (b) Nursing education programs shall include clinical experience in state approved facilities. Clinical experiences must provide an opportunity for direct care in the promotion, prevention, restoration and maintenance of health in clients across the life span in a variety of settings. No more than 25% of clinical experience may be obtained in a medium- or high-fidelity simulation learning laboratory without prior Board approval or the approval of the program accrediting agency.

**5-16 Practical Nurse Re-Entry Programs.** The Board will approve, for a presumptive period of five years, a re-entry program that:

- (a) has a written purpose, program and unit objectives, and measurable outcomes;
- (b) includes at least 80 hours of theory and 80 hours of clinical experience;
- (c) provides direct RN supervision for re-entry program clinical experience; and
- (d) is located within, or if individually designed, is under the direction of, a program providing nursing education.

### **5-17 Registered Nurse Program Curriculum.**

In accordance with a program's accreditation agency standards, a registered nursing program will provide a sound foundation in biological, physical, social and behavioral sciences and include:

- (a) Didactic content including prevention of illness and the promotion, restoration and maintenance of health in patients across the lifespan and from diverse cultural, ethnic, social and economic backgrounds.
- (b) Didactic and clinical experiences shall include clinical and theory hours sufficient to establish competency in Medical/ Surgical, Obstetrics, Pediatrics, Psychiatric/ Mental Health and Community Health.
- (c) No more than 25% of clinical experience may be obtained in a medium- or high-fidelity simulation learning laboratory without prior Board approval or the approval of the program's accrediting agency.
- (d) Clinical experiences shall be supervised and occur directly with patients. Clinical experiences and simulation shall include a variety of clinical settings sufficient for meeting program outcomes.

### **5-18 RN Re-entry Program Design.**

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (a) Re-entry programs may be individually designed or established by a nursing education program or a nursing service facility. Re-entry programs must be approved by the Board. Program approval is valid for five years unless otherwise specified.
- (b) The Board will approve a re-entry program which meets the following requirements:
  - (1) The re-entry program has a written purpose, program and unit objectives, and measurable outcomes;
  - (2) consists of a minimum of 120 hours of theory and a minimum of 120 hours of clinical experience;
  - (3) provides direct RN supervision for re-entry program clinical experience; and
  - (4) is located within, or if individually designed, is under the direction of a program providing nursing education.

### 5-19 APRN Refresher Course.

- (a) Individuals who have been out of practice for less than five years and who do not meet the practice requirement for initial licensure, or renewal, or reinstatement of an APRN license must take a refresher course as set forth in parts 9-16 through 9-18 of these Rules. Once commenced, the course must be completed within 18 months.
- (b) Individuals who have been out of practice for more than five and fewer than ten years may be assigned a case-specific refresher assignment approved by the Board.
- (c) Individuals who have been out of practice for more than ten years must complete a new post-masters APRN program that includes a minimum of 500 clinical practice hours.

### 5-20 Refresher Course Clinical Practice Permit.

The Board may grant a refresher course clinical practice permit, valid in six month increments and renewable not more than twice, to an applicant who:

- (a) holds a Vermont RN license;
- (b) holds a national APRN certification.

A person practicing under a permit shall be conspicuously identified as an "APRN Applicant" on name badges, signature blocks, medical record entries, and other locations calling for a professional designation.

### 5-21 APRN Refresher Course Design.

- (a) Refresher programs may be individually designed or established by a nursing education program or a non-accredited nursing service facility. Each must be approved by the Board.
- (b) The Board may accept a Nationally Accredited Refresher Program in Vermont or elsewhere which meets the requirements of Parts 9-17 and 9-18 of these rules.
- (c) Refresher programs are available to APRN's who have been out of practice for ten years or less.

### 5-22 APRN Refresher Course Approval Criteria.

The Board ~~will~~ may approve a refresher program ~~which that provides on-site supervision by an APRN collaborating provider qualified under Part 9 of these rules holding who holds an unencumbered Vermont license- or a physician collaborating provider who holds an unencumbered Vermont license. = A supervising provider must practice and who practices in the same role and population focus. Minimum course hours are: —which:~~

- (a) for a licensee who has been out of practice for less than five years consists of a minimum of:
  - (1) 150 hours of theory; and
  - (2) 200 hours of clinical experience; or
- (b) for a licensee who has been out of practice for more than five years, but less than ten years consists of a minimum of:

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (1) 150 hours of theory and
- (2) 400 hours of clinical experience, and
- ~~(c) which provides on-site supervision:~~
  - ~~(1) by an APRN collaborating provider qualified under Part 9 of these rules holding a Vermont unencumbered APRN license, or a physician collaborating provider with a Vermont unencumbered license; and~~
  - ~~(2) who practices in the same role and population focus.~~

### 5-23 APRN Refresher Program Curricula. Curricula must include a review and update of:

- (a) advanced pharmacotherapeutics;
- (b) advanced assessment;
- (c) role and population specific theory and practice standards;
- (d) role and population specific clinical practicum; and
- (e) advanced practice nursing skills.

## Part 6 Licensed Practical Nurses

### 6-1 Licensure by Examination. To qualify for licensure by examination, an applicant shall:

- (a) be a graduate of an approved LPN education program, as verified by an official transcript;
- (b) complete a federal criminal background check;
- (c) receive Board approval to sit for the NCLEX-PN examination; and
- (d) pass the NCLEX-PN examination within five years of nursing program graduation.

### 6-2 Licensure by Endorsement. To qualify for licensure by endorsement, based on licensure and experience outside Vermont, an applicant who is not eligible for expedited endorsement under Rule 4-1 shall:

- (a) be licensed in a United States jurisdiction with licensing requirements substantially equivalent to those of Vermont, on the basis of a U.S. nursing education program;
- (b) complete a federal criminal background check; and
- (c) demonstrate ongoing competency to practice in the form of:
  - (1) active practice in the jurisdiction of origin totaling at least 50 days (400 hours) in the previous 2 years or 120 days (960 hours) in the previous 5 years, verified by appropriately certified employment records; or
  - (2) satisfactory completion of 20 hours of qualifying continuing education in the two years immediately preceding application; or
  - (3) current, nationally recognized certification.

### 6-3 Scope of Practice. Refer to Part 11-1-. Consistent with 26 V.S.A. § 1572, an LPN's scope of practice is directed by a licensed RN, APRN, MD, DO, physician assistant, or dentist acting within his or her own scope of practice. Direction may occur via direct supervision or through provider orders, forms, guidelines, policies or procedures, protocols, algorithms, or clearly established plans of care.

- (a) The LPN/VN, practicing to the extent of their education and training under the supervision of an RN, advanced practice registered nurse (APRN), physician or other authorized licensed health care provider:

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (1) Participates in nursing care, health maintenance, patient teaching, counseling, collaborative planning and rehabilitation.
- (2) Plans for patient care, including:
  - (i) Planning nursing care for a patient whose condition is stable or predictable.
  - (ii) Assisting the RN, APRN, or physician in identification of patient needs and goals.
  - (iii) Determining priorities of care together with the RN, APRN or physician.
- (3) Provides patient surveillance and monitoring, participating with other health care providers and contributing to the development, modification, and implementation of the patient centered healthcare plan.
- (4) Implements nursing interventions and prescribed medical regimens in a timely and safe manner.
- (5) Documents nursing care provided accurately and timely.
- (6) Collaborates and communicates relevant and timely patient information with patients and other health team members to ensure quality and continuity of care, including:
  - (i) Patient status and progress.
  - (ii) Patient response or lack of response to therapies.
  - (iii) Changes in patient condition.
  - (iv) Patient needs and special requests.
- (7) Takes preventive measures to promote an environment that is conducive to safety and health for patients, others and self.
- (8) Respects patient diversity and advocates for the patient's rights, concerns, decisions and dignity.
- (9) Maintains appropriate professional boundaries.
- (10) Participates in systems, clinical practice and patient care performance improvement efforts to improve patient outcomes.
- (11) Assigns and delegates nursing activities to assistive personnel. The LPN shall delegate only those nursing measures the delegate has the training, education, and experience to accomplish safely.

**6-4 Individual Scope.** The individual scope of practice for each LPN is determined by the individual's education, training, experience, and certification. Each LPN has a responsibility to practice in a manner that protects and promotes the health, safety and rights of the patient. Each nursing activity must be consistent with reasonable and prudent practice. Refer to Part 11-1 of these Rules.

### Part 7 Registered Nurses

**7-1 Licensure by Examination.** To qualify for licensure by examination, an applicant shall:

- (a) be a graduate of an approved RN education program, as verified by an official transcript;
- (b) complete a federal criminal background check;
- (c) receive Board approval to sit for the NCLEX-RN examination; and
- (d) pass the NCLEX-RN examination within five years of nursing program graduation.

**7-2 Licensure by Endorsement.** To qualify for licensure by endorsement, based on licensure and experience outside Vermont, an applicant who is not eligible for expedited endorsement under Rule 4-1 shall:

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (a) be licensed as an RN in a United States jurisdiction with licensing requirements substantially equivalent to those of Vermont, on the basis of a U.S. nursing education program;
- (b) complete a federal criminal background check; and
- (c) demonstrate ongoing competency to practice in the form of:
  - (1) active practice in the jurisdiction of origin totaling at least 50 days (400 hours) in the previous 2 years or 120 days (960 hours) in the previous 5 years, verified by appropriately certified employment records; or
  - (2) satisfactory completion of 20 hours of qualifying continuing education in the two years immediately preceding application; or
  - (3) current, nationally recognized practice-area certification.

**7-3 Scope of Practice.** "Registered nursing" means the practice of nursing as defined at 26 V.S.A. § 1572.

**7-4 Individual Scope.** The individual scope of practice for each RN is determined by the individual's education, training, experience, and certification. Each RN has a responsibility to practice in a manner that protects and promotes the health, safety and rights of the patient. Each nursing activity must be consistent with reasonable and prudent practice. Refer to part 11-1 of these Rules

### Part 8 Interstate Practice Privileges for RNs and LPNs: The Nurse Licensure Compact

#### 8-1 Applicant Responsibilities.

- (a) An applicant for a multistate license shall declare Vermont as primary state of residence.
- (b) A nurse who changes primary state of residence to another party state shall apply for a license in the new party state when the nurse declares to be a resident of the state and obtains multistate privileges not ordinarily extended to nonresidents of the state.
- (c) A nurse shall not apply for a Vermont single state license while the nurse holds a multistate license in another party state.
- (d) An applicant must provide evidence of residence in Vermont. This evidence may include, but is not limited to, a current:
  - (1) driver's license with a home address;
  - (2) voter registration card with a home address;
  - (3) federal income tax return with a primary state of residence declaration;
  - (4) military form no. 2058 (state of legal residence certificate); or
  - (5) W2 form from the United States government or any bureau, division, or agency thereof, indicating residence.
- ~~(e) An active-duty service member, or the member's spouse, shall designate a home state where the service member or spouse has a current license in good standing. The service member may retain the home state designation during the period the service member or spouse is on active duty. Subsequent to designating a home state, the service member or spouse shall only change home state through application for licensure in the new state.~~
- ~~(f)~~ (e) An applicant who is a citizen of a foreign country, and who is lawfully present in the United States and is applying for multistate licensure in Vermont may declare either the applicant's country of origin or Vermont as the primary state of residence.
- ~~(g)~~ (f) If the applicant declares the foreign country as the primary state of residence, they are not eligible for a multistate license, but may apply for a single state license if the applicant meets licensure requirements.

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

(h)(g) An applicant shall disclose current participation in an alternative program to any party state, whether upon initial application or within ten (10) calendar days of enrollment in the program.

### 8-2 Change in Primary State of Residence.

- (a) A nurse who changes his or her primary state of residence from one party state to another party state may continue to practice under the existing multistate license while the nurse's application is processed, and a multistate license is issued in the new primary state of residence.
- (b) Upon issuance of a new multistate license in another party state, the Vermont multistate license will be deactivated/expired.
- (c) If a party state verifies that a licensee who holds a multistate license changes primary state of residence to a non-party state, the party state shall convert the multistate license to a single state license within fifteen (15) calendar days and report this conversion to the Coordinated Licensure Information System.

**8-3 Temporary Permits and Licenses.** A temporary permit, license, or similar temporary authorization to practice issued by a party state to an applicant for licensure shall not grant multistate licensure privileges.

**8-4 Identification of Licenses.** A license issued by a party state shall be clearly identified as either a single state license or a multistate license.

### 8-5 Credentialing and English Proficiency for Foreign Nurse Graduates.

- (a) A party state shall verify that an independent credentials review agency evaluated the credentials of graduates.
- (b) The party state shall verify successful completion of an English proficiency examination for graduates.

### 8-6 Deactivation, Discipline, and Revocation.

- (a) The Board of Nursing shall determine whether a disqualifying event will result in adverse action or deactivation of a multistate license or privilege.
- (b) Upon deactivation due to a disqualifying event, the Board may issue a single state license.

**8-7 Federal Criminal Records.** Communication between Vermont and the Nurse Licensure Compact Commission and communication between party states regarding verification of the nurse's eligibility for licensure pursuant to the Compact shall not include any Criminal History Record Information (CHRI) received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member board under Public Law 92-544.

### 8-8 Active-duty Military Personnel and Spouses.

- (a) An active-duty service member, or the member's spouse, shall designate a home state where the service member or spouse has a current license in good standing.
- (b) The service member may retain the home state designation during the period the service member or spouse is on active duty.
- (c) After designating a home state, the service member or spouse shall only change home state through application for licensure in the new state.

**Part 9      Advanced Practice Registered Nurses**

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

### 9-1 APRN License Requirements

To be eligible for licensure as an APRN the applicant must:

- (a) hold an unencumbered Vermont registered nursing license or an unencumbered ~~Compact multistate registered nursing license from another Compact state license or;~~
- (b) meet the education requirements set forth below;
- (c) hold certification from a national board;
- (d) complete a federal criminal background check; and
- (e) meet the practice requirements.

**9-2 Roles.** The Board may license an individual to practice as an APRN in the following roles:

- (a) ~~Adult/Gerontologic~~ Certified Nurse Practitioner;
- (b) Adult APRN
- (c) ~~Acute Care~~ APRN
- (d)(b) Certified Nurse Midwife;
- (e)(c) Certified Registered Nurse Anesthetist; and
- (f)(d) Clinical Nurse Specialist.

**9-3 Identification.** APRNs shall use, at a minimum, the license designation "APRN" for purposes of identification and documentation.

**9-4 Population Focus.** Population Focus means that segment of the population, defined by age group or health status to which an APRN provides professional services. Each licensee is assigned a population focus area based on the licensee's certification. Refer to the Board Website for recognized population focus areas. policies. The Board recognizes the following population focus areas:

- (a) Family/Individual across the life span;
- (b) Adult
- (c) Adult-Gerontological;
- (d) Neonatal;
- (e) Pediatric;
- (f) Geriatrics;
- (g) Woman's Health/Gender Related; and
- (h) Psychiatric/Mental Health
- (i) Acute Care

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### 9-5 Education

To be eligible for an APRN license, an applicant shall:

- (a) have a degree or certificate as shown by the official transcripts from the applicant's graduate nursing program in one of the four recognized APRN roles from:
  - (1) a Vermont graduate nursing program approved by the Board; or
  - (2) a United States graduate nursing program approved by a state or a national accrediting agency approved by the Board; and
- (b) have successfully completed graduate level courses in:
  - (1) advanced pharmacotherapeutics;
  - (2) advanced patient assessment;
  - (3) advanced pathophysiology.

### 9-6 APRN Certification Organizations

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

The Board may accept certification by a certifying organization which:

- (a) follows established certification testing and psychometrically sound, legally defensible standards for APRN certification exams;
- (b) assesses APRN core and role competencies across a minimum of one population focus of practice;
- (c) assesses specialty competencies, when applicable, separately from the APRN core role and population-focused competencies; and
- (d) is accredited by a national U.S. or Canadian certification accreditation body.

**9-7 Education and Practice Requirement.** To be eligible for initial licensure or to renew or reinstate an APRN license, an applicant must have:

- (a) graduated from an APRN program within two years of making the application; or
- (b) practiced as a licensed APRN for a minimum of:
  - (1) 50 days (400 hours) in the previous two years; or
  - (2) 120 days (960 hours) in the previous five years; or
- (c) Maintained certification by a national certification accreditation body; or
- (d) completed a Board approved APRN Refresher Course as set forth in 9-14 through 9-17 of these Rules within two (2) years of making the application.

**9-8 Transition to Practice: Collaborative Provider Agreement.** An APRN with fewer than 24 months and 2,400 hours of licensed active advanced nursing practice in an initial role and population focus or fewer than 12 months and 1,600 hours for any additional role and population focus shall have a formal agreement with a collaborating provider as required by 26 VSA § 1613 and these Rules:

- (a) An APRN shall maintain signed and dated copies of all collaborative provider agreements, and when the transition to practice is complete, shall retain a copy of the Board form attesting to completion of the transition to practice.
- (b) An APRN required to practice under a collaborative provider agreement may not practice in a setting where there are no additional APRNs or licensed physicians to provide mentoring, consultation or advisement.

**9-9 Collaborating Providers.** A collaborating provider may be a Vermont APRN, a medical doctor licensed under 26 V.S.A. Ch. 23, or an osteopathic physician licensed under 26 V.S.A. § Ch. 33. An APRN may have more than one collaborating provider. A collaborating provider must be actively licensed in good standing and possess at least four years of practice experience in the same role and population focus or specialty as the APRN.

### **9-10 Collaborating Provider Responsibilities**

A collaborating provider shall establish a written agreement with an APRN to serve as an advisor, mentor, and consultant. A collaborating provider shall participate in quality assurance activities.

**9-11 APRN Group Practice.** An APRN group practice must include one or more APRNs who are not required to practice under a collaborative provider agreement.

### **9-12 APRN Refresher Course**

- (a) Individuals who have been out of practice for less than five years and who do not meet the practice requirement for initial licensure, or renewal, or reinstatement of an APRN license must take a refresher course as set forth in parts 9-16 through 9-18 of these Rules. Once commenced, the course must be completed within 18 months.



## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (b) Individuals who have been out of practice for more than five and fewer than ten years may be assigned a case-specific refresher assignment approved by the Board;
- (c) Individuals who have been out of practice for more than ten years must complete a new post-masters APRN program that includes a minimum of 500 clinical practice hours.

**9-13 Refresher Course Clinical Practice Permit.** The Board may grant a refresher course clinical practice permit, valid in six month increments and renewable not more than twice, to an applicant who:

- (a) holds a Vermont RN license;
- (b) holds a national APRN certification.

A person practicing under a permit shall be conspicuously identified as an "APRN Applicant" on name badges, signature blocks, medical record entries, and other locations calling for a professional designation.

### **9- 14 APRN Refresher Course Design**

- (a) Refresher programs may be individually designed or established by a nursing education program or a non-accredited nursing service facility. Each must be approved by the Board.
- (b) The Board may accept a Nationally Accredited Refresher Program in Vermont or elsewhere which meets the requirements of Parts 9-17 and 9-18 of these rules.
- (c) Refresher programs are available to APRN's who have been out of practice for ten years or less.

### **9-15 APRN Refresher Course Approval Criteria**

The Board will approve a refresher program which:

- (a) for a licensee who has been out of practice for less than five years consists of a minimum of:
  - (1) 150 hours of theory; and
  - (2) 200 hours of clinical experience; or
- (b) for a licensee who has been out of practice for more than five years, but less than ten years consists of a minimum of:
  - (1) 150 hours of theory and
  - (2) 400 hours of clinical experience; and
- (c) which provides on-site supervision:
  - (1) by an APRN collaborating provider qualified under Part 9 of these rules holding a Vermont unencumbered APRN license, or a physician collaborating provider with a Vermont unencumbered license; and
  - (2) who practices in the same role and population focus.

### **9- 16 APRN Refresher Program Curricula.** Curricula must include a review and update of:

- (a) advanced pharmacotherapeutics;
- (b) advanced assessment;
- (c) role and population specific theory and practice standards;
- (d) role and population specific clinical practicum; and
- (e) advanced practice nursing skills.

### **9-17 Scope of Practice**

- (a) The individual scope of practice for each APRN is determined by the APRN's education, training, experience, role, population focus, and national certification, consistent with Rule 11-1.
- (b) Nurse practitioners providing primary care may be primary care providers of record.

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (c) The scope of an APRN includes:
- (1) registered nurse scope of practice;
  - (2) acts of medical diagnosis including, ordering, and interpreting diagnostic tests and procedures;
  - (3) prescribing medications;
  - (4) prescribing medical, therapeutic, or corrective measures;
  - (5) initiating written or verbal orders to other health care providers; and
  - (6) managing and evaluating care.

### 9-18 Eligible Colleges or Universities

The Board will approve a Vermont APRN education program which:

- (a) is offered by a college or university;
- (b) confers a graduate degree with a major in nursing or a graduate degree that prepares nurses to practice advanced practice nursing; and
- (c) meets the educational standards set by a national accrediting body and national certifying board approved by the Board.

**9-19 Approval Process** To obtain and maintain Board approval, an APRN education program must follow the processes outlined in Part 5 of these Rules.

## Part 10 Licensed Nurse Assistants

**10-1 Licensure by Examination.** To qualify for licensure by examination, an applicant shall:

- (a) have completed, within two years of application, a nursing assistant education program approved by the Department of Disabilities, Aging, and Independent Living or its equivalent in another U.S. jurisdiction, or be a student in an RN or LPN education program who has completed studies equivalent thereto;
- (b) complete a federal criminal background check; and
- (c) pass a competency examination approved by the Department of Disabilities, Aging, and Independent Living or an equivalent exam acceptable to the Board.

**10-2 Examination Attempts.** A candidate who has not passed LNA exams after three attempts must repeat an approved nursing assistant education program.

**10-3 Licensure by Endorsement.** To qualify for licensure by endorsement, based on licensure and experience outside Vermont, an applicant who is not eligible for expedited endorsement under Rule 4-1 shall:

- (a) be licensed or certified as nursing assistant by another state;
- (b) complete a federal criminal background check; and
- (c) demonstrate, via ~~certified~~ job description or other appropriate employer verification, at least 50 days (400 hours), in the two years preceding application, of employment as a nurse assistant or in a role, regardless of title or obligation to hold a license, that would reasonably tend to reinforce the training and skills of a licensed nurse assistant. *See 26 V.S.A. § 1645(b).*

(c)

### 10- 4 Scope of Practice

- (a) An LNA's scope of practice includes:

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## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (1) Basic Nursing Care;
- (2) Personal Care;
- (3) Basic Restorative Care;
- (4) Psychosocial Support;
- (5) Care of the Cognitively Impaired;
- (6) Communication;
- (7) Patient Safety.

(b) Additional tasks and skills may be performed by LNAs through the delegation process by APRNs, RNs and LPNs as described in section 11.2

(c) An LNA may not perform activities which exceed the scope defined by the level of licensure. This means that LNAs may not perform, even if directed to do so, an activity not appropriate to their level of licensure or otherwise prohibited by law. Examples of activities not within the LNA scope of practice include: nursing assessments, nursing judgments, and development of the plan of care.

### Subpart A Medication Nursing Assistants

**10-5 Definition:** A medication nursing assistant (MNA) is a licensed nursing assistant authorized by a specialty designation to administer medications to residents in long-term care facilities. ~~See in limited settings set out by 26 V.S.A. § 1641.~~

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**10-6 Eligibility for MNA Specialty Designation.** To be eligible for the MNA specialty designation, an applicant must:

- (a) hold an unencumbered Vermont LNA license;
- (b) be at least 18 years of age;
- (c) have a high school diploma or G.E.D.;
- (d) have two years' experience consisting of no fewer than 4,000 hours of LNA experience, of which at least one year and 2,000 hours were acquired in a long-term care nursing facility;
- (e) complete, within the year preceding application, an MNA training program approved by the Board; and
- (f) successfully complete MNA competency and math proficiency examinations approved by the Board.

### **-10-7 Nursing Student Eligibility.**

The experience and training requirements set out in subparts 10-6(d) & (e) may be waived for a student enrolled in a Board-approved RN or LPN program that has covered MNA training content.

### **10-8 Training from Other Jurisdictions.**

The Board may issue an MNA specialty designation to a Vermont LNA who received MNA training found by the Board to be substantially equivalent to that of a Board-approved training program. The applicant must successfully complete MNA competency and math proficiency examinations approved by the Board.

### **10-9 Scope of Practice.**

- (a) An MNA is supervised on-site, on the unit, by an LPN, RN, or APRN.

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (b) A medication nursing assistant upon delegation by an LPN, RN, or APRN may:
  - a. administer medications to individual residents; and
  - b. administer medication via oral, sublingual, buccal, inhalation, spray (on oral mucosa), topical, nasal, ocular, optic, and suppository (vaginal or rectal) route;

### 10-10 Limitations. An MNA may:

- (a) administer medications to a newly admitted resident only after the delegating nurse determines that the resident is stable, and then only according to facility policy.
- (b) administer prn medication only after an RN assessment confirms the need for the medication.

### 10-11 Exclusions. An MNA may not:

- (a) administer injectable medications.
- (b) administer medications new to the patient;
- (c) make adjustments to dosage;
- (d) take or transcribe orders;
- (e) apply medicated dressings;
- (f) administer insulin;
- (g) administer bladder instillations;
- (h) calculate conversions;
- (i) dispose of medications; or
- (j) administer enteral feedings or medications.

### Subpart B MNA Training Programs

#### 10-12 Board Approval Required.

Before providing MNA training, an MNA program must receive Board approval. The process for receiving Board approval is set forth in Part 5 of these rules. The Board will approve a program which assures that participants are trained in:

- (a) communication and documentation;
- (b) ethical and legal responsibilities regarding medication administration;
- (c) medication use, side effects, abbreviations, look alike drugs, drug interactions, proper storage, and the need for reporting side effects;
- (d) apothecary and metric measurements;
- (e) patient safety principles regarding proper medication administration; and
- (f) facility policies regarding medication errors.

#### 10-13 MNA Training Program Requirements.

To receive Board approval each MNA training program must:

- (a) employ a standardized textbook approved by the Board;
- (b) require no fewer than 60 hours of class instruction including lab/simulation instruction; and 40 hours of supervised clinical instruction;
- (c) have instructors who:
  - (1) possess unencumbered Vermont RN licenses;
  - (2) have at least 2 years' full-time practice experience, of which one year was in clinical practice; and
  - (3) hold a baccalaureate or higher degree in nursing; and
- (d) have a program administrator who holds a baccalaureate or higher degree in nursing.

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

**10-14 MNA Program Review.** An annual report shall be submitted to the Board by each MNA program as per 5-9 of these rules and site visits to MNA programs may be conducted by the Board in accordance with section 5-3 of these rules.

### Part 11 Standards of Nursing Practice

#### 11-1 Determination of Scope of Practice.

An activity not prohibited by Vermont Administrative Rules or Statutes and that is consistent with current national professional nursing organizational standards, accreditation standards and or credible nursing research may be considered within an individual nurse's scope of practice if the following conditions are met:

- (a) the nurse has completed the necessary education and possesses adequate knowledge to perform the activity; and
- (b) there is evidence of the nurse's current competency and skill; and
- (c) a reasonable and prudent nurse with similar training and experience would perform the activity; and
- (d) there are institutional policies and /or procedures in place governing the activity, and the activity is consistent with those;
- (e) There are adequate resources, equipment and supports in the care setting to ensure patient safety; and
- (f) The nurse is prepared to accept and manage the consequences of performing the activity.

In the absence of any of the above, the activity would be considered out of scope for an individual nurse and should not be performed. A nurse may not perform, even if directed to do so, an activity not recognized by the profession as appropriate for that level of licensure or otherwise prohibited by law.

**11-2 Delegation.** A licensee shall not delegate tasks to a person the licensee knows, or has reason to know, is not qualified by training, experience, education, or licensing credentials to perform them. See 3 V.S.A. § 129a(a)(6). Decision-making regarding the delegation of nursing care must be focused on the protection of the health, safety, and well-being of the patient/client.

- (a) **Non-delegable functions.** An APRN or RN may never delegate the exercise of nursing judgment, including patient assessment, care planning, and evaluation of care, to a licensee whose scope of practice does not include those functions.
- (b) **Factors.** A nurse delegating tasks shall consider the Five Rights set out in the National Guidelines for Nursing Delegation:
  - (1) **Right task:** the activity must be within the delegate's job description and consistent with written policies and procedures;
  - (2) **Right circumstance:** the patient's condition must be appropriately stable, and the delegating nurse must be situated to be aware of changes;
  - (3) **Right person:** the delegate must have the skills and knowledge to perform the activity;
  - (4) **Right direction and communication:** the delegate must be appropriately educated, and understanding must be confirmed by two-way communication and clear understanding and acceptance of the delegated activity; and
  - (5) **Right supervision and evaluation:** the delegating nurse must monitor the delegated activity, remain ready and available to intervene, and follow up to evaluate performance, outcomes, and accurate documentation.

#### 11-3 Evidence-based Practice; Competent and Credible Evidence (Ref.)

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (a) **Duty of competence.** A licensee shall maintain awareness of evolving evidence-based practice guidelines and standards; shall implement these in nursing practice; and shall exercise the critical thinking required to meet the statutory obligation to refrain from “promoting or recommending a therapy or treatment in a manner tending to deceive the public or to suggest a degree of reliability or efficacy unsupported by competent evidence and professional judgment.” 3 V.S.A. § 129a(a)(17).
- (b) **Credibility of sources.** An APRN considering a therapeutic intervention shall consider whether the therapy is reasonably indicated for the relevant diagnosis, as indicated by FDA approval or support by credible literature, meaning literature upon which a reasonable clinician competent in the prevailing practice would rely.

**11-4 Fitness.** A licensee shall practice as a nurse or nurse assistant only when fit to work. Fitness includes the ability to collect data, notice detail, analyze information, solve problems, and respond rapidly to hazards to patient safety or wellbeing. Fitness may be impaired by fatigue, stress, alcohol, drugs, physical impairment, medical condition, or emotional state. Nurse peers, nurse supervisors, and nursing employers share a responsibility to ensure fitness and to intervene if a licensee appears unfit.

- (a) A nurse or nurse assistant shall:
  - (1) Assure his or her ongoing wellness and fitness for work, by such means as such as getting adequate rest, seeking treatment for medical conditions, seeking counseling for emotional problems, managing stress, and avoiding substances and activities that may impair fitness for work;
  - (2) Notify the manager, supervisor, or responsible person of any concerns regarding his or her fitness for work and request appropriate accommodations, as needed;
  - (3) Refuse an assignment, if not fit to competently and safely perform the assignment;
  - and
  - (4) Notify the individual and the manager, supervisor, or responsible person of any concerns regarding another person's fitness for work.
- (b) A nurse supervising others shall:
  - (1) Develop or enforce workplace policies and procedures regarding fitness for work;
  - (2) Schedule responsibly, allowing adequate time for rest breaks during and between shifts;
  - (3) Manage the work environment to promote safety and avoid fatigue and hazards;
  - (4) Educate employees regarding fitness for work concepts and available supports;
  - (5) Be available to observe and assess the fitness for work of employees on duty, and
  - (6) if a nurse or nurse assistant appears to be unfit for work, remove the employee from the work environment until the situation has been assessed, appropriate action taken, and the employee is determined to be fit to perform their assigned work.

**11-5 Patient Abandonment.** A licensee shall not abandon a patient. Abandonment occurs when a licensee who has accepted a patient assignment or accepted responsibility for care of a patient jeopardizes the safety of that or other patients by improperly disengaging from the assignment or responsibility.

- (a) Examples of abandonment include, without limitation:
  - (1) Leaving the patient care area without transferring responsibility appropriately;
  - (2) Remaining unavailable for patient care for a duration that compromises patient care;

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (3) Inattention or insufficient observation or contact with a patient;
- (4) Sleeping while on duty outside supervisor-approved rest consistent with written facility policy;
- (5) Failing to timely notify a supervisor or employer if unable to initiate or complete an assignment where the licensee is the sole care provider; or
- (6) For an APRN, terminating the nurse-patient relationship without providing reasonable notification to the patient and resources for continuity of care.

(b) The following employment acts generally do not constitute patient abandonment:

- (1) Failing to report to work when an assignment has not been assumed or accepted;
- (2) Refusing to accept an assignment to a unit when there has been no orientation and no educational preparation or an assignment outside the licensee's scope of practice;
- (3) Leaving an assignment after notifying the appropriate personnel and transferring responsibility for patient care;
- (4) Leaving an assignment due to circumstances reasonably perceived by the licensee as placing the licensee in imminent danger of serious harm;
- (5) Refusing to work beyond a scheduled shift; or
- (6) Resigning without giving specific notice.

**11-6 Informed Consent.** Each person has a right to determine what shall be done with his or her body and a right to accept or refuse medical treatment. For those determinations to be informed, the person, as patient, must be capable of making relevant decisions, based not only on personal capacity, but also upon the provision of accurate and adequate information by providers of care. If a patient lacks capacity, informed consent is to be obtained from a parent or legal guardian.

(a) An APRN or RN may obtain a patient's informed consent for a treatment or procedure if:

- (1) The APRN or RN will perform the treatment or procedure;
- (2) The treatment or procedure is within the APRN or RN's scope of practice;
- (3) The APRN or RN is able accurately to convey to the patient:
  - i. A description of the treatment or procedure;
  - ii. The indications for the treatment or procedure;
  - iii. Risks and benefits of the treatment or procedure;
  - iv. Alternatives and their risks and benefits;
  - v. The probable consequences of declining the recommended treatment or procedure; and
  - vi. Roles of others who may be involved in executing the treatment or procedure.

**11-7 Duty to Update and Self-report.** Applicants and licensees owe a duty of candor to the Board and shall disclose circumstances that may call for further investigation to protect the public. That a matter is reportable does not imply that the matter necessarily is a basis for discipline. A licensee, including an applicant for licensure, shall report to the Office, in writing, within 30 days:

- (a) any change of name, e-mail, or mailing address;
- (b) any material inaccuracy or change in circumstance relative to any application question, where the changed circumstance arises between submission of a license application and issuance of the license sought;
- (c) any arrest or charge for conduct occurring in the course of, or in direct relation to, the practice of nursing;

## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (d) any conviction for any criminal act;
- (e) any injunction or other order of a court or regulatory authority, including any order to cease & desist and any assurance of discontinuance, limiting the licensee's ability to practice;
- (f) any legal claim, settlement, or judgment arising from alleged professional negligence, misconduct, or malpractice; and
- (g) any adverse action against a professional license in another jurisdiction, where the adverse action relates to an allegation of misconduct, substandard practice, or unethical conduct.

### Part 12 Alternative to Discipline Program

**12-1 Alternative Program.** As authorized by 26 V.S.A. § 1574(a)(10), the Board administers an Alternative Program to serve as an alternative to the disciplinary process for nurses and nursing assistants with substance use disorders or other professional practice issues as designated by the Board. The purpose of the Program is to protect the public safety while encouraging licensees to seek help when necessary and without fear of adverse licensing consequences or undue publicity. The Program reflects the Board's belief that nurse wellness is foundational to safe practice.

**12-2 Eligibility.** A person eligible to participate in the Alternative Program shall:

- (a) hold a license issued by the Board or be an eligible applicant for one;
- (b) voluntarily request to participate;
- (c) not be the subject of any unresolved complaint, investigation, or charge, unless specifically approved for participation by the State Prosecuting Attorney authorized to bring disciplinary charges;
- (d) acknowledge that a deficiency in some aspect of nursing practice, or a substance use disorder, if not appropriately addressed, may impact the licensee's ability to practice safely and competently;
- (e) illustrate that the condition or circumstance is of a type susceptible to successful treatment or remedial training; and
- (f) if requested, agree to undergo a comprehensive assessment, at the applicant's expense, from a pre-approved qualified provider based on criteria determined by the Committee.

**12-3 Disqualification.** Notwithstanding Rule 12-2, *supra.*, no person shall be eligible to participate in the Program who:

- (a) has harmed or endangered a patient through willful, knowing, or reckless or inexcusably negligent conduct, or has exhibited abusive or cruel behavior toward a patient;
- (b) presents a danger to the public;
- (c) has a history of non-compliance with treatment or remediation programs;
- (d) has attempted to conceal a practice error or falsify records; or
- (e) in the judgment of the Committee, is not an appropriate candidate for any reason.

**12-4 Confidentiality.** Records pertaining to an individual's participation in the Program are not available to the public and shall not be publicized, except:

- (a) by order of a court of competent jurisdiction;
- (b) when necessary and appropriate to monitor compliance with Program requirements, such as by confirming conditions are followed at a place of employment or that a participant has remained in treatment;
- (c) when the Board is required by the terms of the Nurse Licensure Compact to report Program participation to the coordinated licensure information system, pursuant to 26 V.S.A. § 1647f; or



## [Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING

(d) when participation in the Program is considered in a future disciplinary matter.

**12-5 Administration and Selection.** The Alternative Program is administered by the Executive Director. The investigative team assigned to a matter may refer a potential participant if the team believes participation would be in the interest of the public health, safety, and welfare; consistent with these Rules and applicable policies of the Alternative Program Committee; and likely to benefit the eligible person's fitness to practice.

**12-6 Agreement.** When a participant is approved, the Executive Director or case manager shall propose an Alternative Program Agreement suited to address the underlying conduct or circumstance. The Agreement must be jointly approved by the participant and the Executive Director. The Agreement shall at a minimum specify:

- (a) the conduct, circumstance, or condition acknowledged to require treatment or remediation;
- (b) that such conduct, circumstance, or condition shall not be the subject of Board discipline if the participant successfully completes the Alternative Program as set out in the Agreement;
- (c) the conditions of participation, to include without limitation any supervision, restriction, testing, coursework, treatment or other requirements calculated to aid the participant while appropriately protecting the public;
- (d) that the Agreement is voluntary and that the participant agrees to forgo due process rights associated with a contested disciplinary case before the Board;
- (e) that the participant shall grant the Program releases as may be reasonably requested to confirm treatment compliance and progress and agrees not to assert patient-provider privilege to frustrate Program oversight; and
- (f) that violation of the Agreement shall constitute unprofessional conduct and may result in public disciplinary charges.

**12-7 Effect on Multistate Licensure Privilege.** The Board is obligated by the Nurse Licensure Compact to deactivate the multistate licensure privilege of any nurse licensed by the Board, for the duration of the nurse's participation in an alternative program. See 26 V.S.A. § 1647(e)(c).

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| Part 13 | Discipline |
|---------|------------|

**13-1 Unprofessional Conduct.** Unprofessional conduct includes those acts set out at 3 V.S.A. § 129a (applicable to all professional licensees) and 26 V.S.A. § 1582 (applicable to the nursing professions). Violation of these rules is cognizable as unprofessional conduct pursuant to 3 V.S.A. § 129a(a)(3).

**13-2 Remedies.** Upon a finding by the Board that a licensee, applicant, or person who later becomes an applicant has committed unprofessional conduct, within or without this State, or has had a license application denied or a license revoked, suspended, limited, conditioned, or otherwise disciplined by a licensing agency in another jurisdiction for conduct which would constitute unprofessional conduct in this State, or has surrendered a license while under investigation for unprofessional conduct, the Board may warn, reprimand, suspend, revoke, limit, condition, deny, or prevent the renewal of a license or privilege to practice. See 3 V.S.A. § 129(a). A license may be summarily suspended pending further proceedings, consistent with 3 V.S.A. § 814(c), upon a finding that public health, safety, or welfare imperatively requires emergency action.

**[Proposed] ADMINISTRATIVE RULES OF THE BOARD OF NURSING**

# ADMINISTRATIVE RULES OF THE BOARD OF NURSING

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## Vermont Board of Nursing Administrative Rules

### Table of Contents

|               |   |
|---------------|---|
| <b>Part 1</b> | <b>Definitions</b>  |
| <b>Part 2</b> | <b>Administration</b>                                       |
| --1           | Applicable Law  |
| --2           | Resources for Applicants and Licensees                      |
| --3           | U.S. Armed Forces   |
| --4           | Executive Director  |
| --5           | Committees  |
| <b>Part 3</b> | <b>Procedures</b>   |
| --1           | Applications  |
| --2           | Complaints  |
| --3           | Contested Cases   |
| --4           | Declaratory Rulings   |
| --5           | Reasonable Accommodation                                    |
| --6           | Conflict of Standards                                       |
| --7           | Determination of Equivalency                                |
| --8           | Waiver or Variance  |
| <b>Part 4</b> | <b>Licensure</b>  |
| --1           | Applicants from Other States: Fast Track Endorsement        |
| --2           | Applicants Educated Outside the United States               |
| --3           | Biennial Licensing Period                                   |
| --4           | Initial License Issuance                                    |
| --5           | Provisional Licensure                                       |
| --6           | Telehealth Registration and Licensure                       |
| --7           | License Renewal   |
| --8           | Requirements of Renewal                                     |
|               | a. RNs & LPNs   |
|               | b. LNAs   |
|               | c. MNAs   |
|               | d. APRNs  |
| --9           | Late Renewal Penalties                                      |
| --10          | Requirements of Reinstatement                               |
| <b>Part 5</b> | <b>Vermont Nursing Education Programs</b>                   |
| --1           | Approval Required   |
| --2           | Accreditation Required                                      |
| --3           | Nursing Faculty   |
| --4           | Operational Oversight; Site Visits                          |
| --5           | Duty to Report Site, Administrative, and Curricular Changes |
| --6           | Program Approval  |
| --7           | Preliminary Program Approval                                |
| --8           | Full Program Approval and Reapproval                        |
| --9           | Application Denial  |
| --10          | Annual Reports  |
| --11          | Forms of Approval   |
| --12          | Intervention for Cause                                      |
| --13          | Voluntary Program Closure                                   |
| --14          | Practical Nurse Program: Duration                           |
| --15          | Practical Nurse Program: Curriculum                         |
| --16          | Practical Nurse Re-entry Programs                           |
| --17          | Registered Nurse Program Curriculum                         |
| --18          | Registered Nurse Re-entry Programs                          |
| --19          | APRN Refresher Course                                       |
| --20          | Refresher Course Clinical Practice Permit                   |
| --21          | APRN Refresher Course Design                                |
| --22          | APRN Refresher Course Approval Criteria                     |
| --23          | APRN Refresher Program Curricula                            |
| <b>Part 6</b> | <b>Licensed Practical Nurses</b>                            |
| --1           | Licensure by Examination                                    |
| --2           | Licensure by Endorsement                                    |
| --3           | Scope of Practice   |

# ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- 4 Individual Scope
- Part 7 Registered Nurses**
  - 1 Licensure by Examination
  - 2 Licensure by Endorsement
  - 3 Scope of Practice
  - 4 Individual Scope
- Part 8 Interstate Practice Privileges for RNs and LPNs: The Nurse Licensure Compact**
  - 1 Applicant Responsibilities
  - 2 Change in Primary State of Residence
  - 3 Temporary Permits and Licenses
  - 4 Identification of Licenses
  - 5 Credentialing and English Proficiency for Foreign Nurse Graduates
  - 6 Deactivation, Discipline, and Revocation
  - 7 Federal Criminal Records
  - 8 Active-duty Military Personnel and Spouses
- Part 9 Advanced Practice Registered Nurses**
  - 1 APRN License Requirements
  - 2 Roles
  - 3 Identification
  - 4 Population Focus
  - 5 Education
  - 6 APRN Certification Organizations
  - 7 Education and Practice Requirement
  - 8 Transition to Practice: Collaborative Provider Agreement
  - 9 Collaborating Providers
  - 10 Collaborating Provider Responsibilities
  - 11 APRN Group Practice
  - 12 Scope of Practice
  - 13 Eligible Colleges or Universities
  - 14 Approval Process
- Part 10 Licensed Nurse Assistants**
  - 1 Licensure by Examination
  - 2 Examination Attempts
  - 3 Licensure by Endorsement
  - 4 Scope of Practice
  - Subpart A Medication Nurse Assistants**
    - 5 Definition
    - 6 Eligibility for MNA Specialty Designation
    - 7 Nursing Student Eligibility
    - 8 Training from Other Jurisdictions
    - 9 Scope of Practice
    - 10 Limitations
    - 11 Exclusions
  - Subpart B MNA Training Programs**
    - 12 Board Approval Required
    - 13 MNA Training Program Requirements
    - 14 MNA Program Review
- Part 11 Standards of Nursing Practice**
  - 1 Determination of Scope of Practice
  - 2 Delegation
  - 3 Evidence-based Practice; Competent & Credible Evidence
  - 4 Fitness
  - 5 Patient Abandonment
  - 6 Informed Consent
  - 7 Duty to Update and Self-report
- Part 12 Alternative to Discipline Program**
  - 1 Alternative Program
  - 2 Eligibility
  - 3 Disqualification
  - 4 Confidentiality
  - 5 Administration & Selection
  - 6 Agreement
  - 7 Effect on Multistate Licensure Privilege
- Part 13 Discipline**
  - 1 Unprofessional Conduct
  - 2 Remedies

# ADMINISTRATIVE RULES OF THE BOARD OF NURSING

## Part 1 Definitions

As used in these Rules:

**“Advanced Practice Registered Nurse”** or **“APRN”** is defined at 26 V.S.A. § 1572(4).

**“Board”** or **“the Board”** means the Vermont Board of Nursing.

**“Board website”** means the primary Office website assigned to the Vermont Board of Nursing, found at [sos.vermont.gov/nursing/](http://sos.vermont.gov/nursing/) or a designated successor location.

**“Compact”** means the Nurse Licensure Compact adopted pursuant to 26 V.S.A. § 1647 *et seq.* The Compact facilitates interstate practice among RNs and LPNs from party states; it is not applicable to APRN or LNA practice.

**“Compact State”** means a jurisdiction that is a member of the Compact.

**“Convert”** means to change a multistate license to a single-state license, secondary either to a disqualifying event or to relocation from a Compact State to a non-Compact State; or to change a single-state license to a multistate license when a disqualifying event is eliminated.

**“Current Practice Competence”** means ongoing competence to practice registered nursing or licensed practical nursing, which may be established by documenting any one of the following:

- (1) active practice of the licensed profession totaling at least 50 days (400 hours) in the previous 2 years or 120 days (960 hours) in the previous 5 years, verified by appropriately certified employment records;
- (2) satisfactory completion of 20 hours of qualifying continuing education in the two years immediately preceding application; or
- (3) current, nationally recognized certification.

**“Deactivate”** means to change the status of a multistate license or privilege to practice from active to inactive.

**“Director”** means the Director of Professional Regulation.

**“Direct Supervision”** means supervision of a licensee’s practice by a nurse physically present on the unit.

**“Disqualifying Event”** means an incident, which results in a person becoming disqualified or ineligible to retain or renew a multistate license. These include but are not limited to the following: any adverse action resulting in an encumbrance, current participation in an alternative program, a misdemeanor offense related to the practice of nursing (which includes, but is not limited to, an agreed disposition), or a felony offense (which includes, but is not limited to, an agreed disposition).

**“Executive Director”** means the Executive Director of the Board, employed by the Office pursuant to 26 V.S.A. § 1574(b) to carry out the work of the Board.

## ADMINISTRATIVE RULES OF THE BOARD OF NURSING

**“Governing Organization”** means the agency or institution that has the authority and responsibility for financing a nursing education program, employing the administrator and faculty, graduating students, and granting the nursing diploma, certificate, or degree.

**“High-fidelity”** refers to simulation experiences that are extremely realistic and provide a high level of interactivity and realism for the learner (International Nursing Association for Clinical Simulation and Learning, 2013). It can apply to any mode or method of simulation; for example: human, manikin, task trainer, or virtual reality

**“Licensed Practical Nurse” or “LPN”** means licensed practical nurse.

**“Licensed Practical Nursing”** is defined at 26 V.S.A. § 1572(3).

**“Medium-Fidelity Simulation Learning”** means the use of low-technology mannequins or actors to demonstrate a condition within a simulated learning environment without automatic or programmed clues.

**“Nationally Recognized Certification”** means a specialty certification by a national nursing certification board or agency issued based upon a nurse’s successful passing of an exam designed to validate a mastery of knowledge and skill within a specific area of nursing practice and/or patient population focus.

**“Nursing Assistant” or “LNA”** means licensed nursing assistant.

**“NCLEX”** means National Council Licensure Examination.

**“Office”** means the Office of Professional Regulation

**“Office website”** means the primary website of the Office of Professional Regulation, found at <https://sos.vermont.gov/opr/> or a designated successor location.

**“On-Site Supervision”** means active oversight and monitoring of a licensee’s practice by a specifically assigned nurse who is present on the premises of a facility at all times the supervised licensee is practicing.

**“Practice of nursing”** is defined at 26 V.S.A. § 1572 and includes using in connection with one’s name, words, letters, signs or figures which imply that a person is an RN, LPN, or APRN. See 26 V.S.A. § 1584(a).

**“Preceptor”** means an Advanced Practice Registered Nurse or Registered Nurse who serves as a facilitator and supervisor of student learning experiences in a practice setting.

**“Program” or “Nursing Education Program”** means a formal education program, based on a structured curriculum and clinical experience, designed to prepare students to qualify for licensure and to practice as APRNs, RNs, or LPNs.

**“Qualifying continuing education”** means continuing education that has been approved and assigned a credit value by an organization approved by the American Nurses Credentialing Center’s Commission on Accreditation, or by another verifying authority approved by the Board, or directly by the Board.

# ADMINISTRATIVE RULES OF THE BOARD OF NURSING

“Registered Nurse” or “RN” means licensed registered nurse.

“Registered Nursing” is defined at 26 V.S.A. § 1572(2).

“Unencumbered license” means a license that authorizes a nurse to engage in the full and unrestricted practice of nursing without special conditions, limitations, or supervision.

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| Part 2 | Administration |
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**2-1 Applicable Law.** The practice of nursing and “nursing related functions” is regulated pursuant to 26 V.S.A. § 1571 *et seq.* Copies of these and other statutes are available online at [www.legislature.vermont.gov/statutes/](http://www.legislature.vermont.gov/statutes/). The Office administers licensure in conformity with these and other Vermont laws, to include the Administrative Procedure Act, 3 V.S.A. § 800 *et seq.*; the Public Records Act, 1 V.S.A. § 315 *et seq.*; and the Laws of Professional Regulation, 3 V.S.A. § 121 *et seq.*

**2-2 Resources for Applicants and Licensees.** The Office website offers information of general application to Vermont licensed professionals, including policies of the Office, license lookup services, and disciplinary orders. The Board website, available at <http://sos.vermont.gov/nursing>, offers information specific to the practice of nursing, including policies and minutes of the Board, membership information, and practice guidance.

**2-3 U.S. Armed Forces.** The Director may accept toward the requirements of these rules relevant military education, training, or service completed by a member of the U.S. Armed Forces and may expedite licensure of a person who left licensed employment in another state secondary to a spouse’s military transfer to Vermont. 3 V.S.A. § 123(g). Service members and the spouses of service members should visit the Office website for details.

**2-4 Executive Director.** The Office employs an Executive Director of the Board. 26 V.S.A. § 1574(b). The powers and duties of the Executive Director include those appropriate to carry out the work of the Board and to execute State policy respecting the regulation of nursing practice, including without limitation:

- (a) guiding Office staff in the conduct of the Board’s affairs, the execution of Board directives, and the administration of applicable laws and policies;
- (b) appointing members of committees created by statute, these rules, or directive of the Board;
- (c) interpreting policies, making administrative decisions, and providing consultation regarding Board affairs such as nursing education, examination, registration, licensure, renewal, and practice questions;
- (d) surveying and monitoring nursing education programs;
- (e) preparing agendas, reports, and recommendations to the Board, and attending to official correspondence on the Board’s behalf;
- (f) orienting new Board members and nursing staff;
- (g) monitoring evolving policy and practice issues that may call for Board action;
- (h) referring instances of misconduct and hazards to the public health, safety, and welfare to the Office’s Enforcement Division and providing expert support to prosecutors as appropriate;
- (i) representing the Board at meetings, symposia, conferences, and the like; and
- (j) such other lawful duties as may be delegated by the Board or the Director in furtherance of the Board’s mission and policies.

# ADMINISTRATIVE RULES OF THE BOARD OF NURSING

## 2-5 Committees

- (a) The Board shall maintain the following committees:
- (1) a **Practice Committee**, to monitor evolving issues in nursing practice;
  - (2) an **APRN Subcommittee**, to study and report to the Board on matters relating to advanced practice registered nurse practice in conformity with 26 V.S.A. § 1615a;
  - (3) a **Disciplinary Alternative Program Committee**, to advise the Executive Director and Board on appropriate standards for admission to and administration of a program to serve as an alternative to the disciplinary process for nurses and nursing assistants with substance use disorder or other professional practice issues; and
  - (4) an **Education Committee**, to assist the Board with oversight of Vermont nurse education programs.
- (b) Committee authority is advisory. In the main, committees study issues, report to the Board, and recommend appropriate courses of action. A committee may exercise binding administrative discretion only if authorized in respect to a specific question or responsibility put to the committee by vote of the Board duly recorded in the Board's minutes.
- (c) At least biennially, each committee shall propose a charter to be reviewed and approved by the Board.

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| Part 3 | Procedures |
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**3-1 Applications.** Online license applications must be completed through the Office website.

- (a) Incomplete applications will not be processed. Applications are complete only when all required questions have been answered fully, all attestations made, all required documentation and materials provided, and all fees paid.
- (b) When the Board, or the Office on the Board's behalf, intends to deny an application, notice stating the reasons for the action shall be given to the applicant by certified mail, whereupon the applicant shall have 30 days to petition for a hearing before the Board. 3 V.S.A. 129(e)(1).
- (c) The Board may refuse to accept any application found to be redundant with a denied or in-process application.
- (d) The Board may deem expired any application that is left incomplete for six months.
- (e) For good cause, the Board may require that any applicant for licensure or relicensure obtain, from an approved, qualified professional, an independent assessment of the applicant's current mental, physical, and professional fitness to practice.

**3-2 Complaints.** Complaints against licensees, applicants for licensure, or persons practicing without a license may be submitted through the Office website.

**3-3 Contested Cases.** Procedures in contested cases relating to licensure or discipline are governed by the Office of Professional Regulation Administrative Rules of Practice, CVR 04-030-005, as those rules may from time to time be modified.

**3-4 Declaratory Rulings.** Petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the Board or Office may be made pursuant to 3 V.S.A. § 808 and Office procedure.

**3-5 Reasonable Accommodation.** The Board complies with applicable provisions of the Americans with Disabilities Act. See the Office website for policies and procedures.



# ADMINISTRATIVE RULES OF THE BOARD OF NURSING

**3-6 Conflict of Standards.** Where a standard of unprofessional conduct set forth in statute conflicts with a standard set forth in rule, the standard that is most protective of the public shall govern. *See* 3 V.S.A. § 129a(e).

**3-7 Determination of Equivalency.** Where the Board or Director is permitted by law or rule to accept certain training or experience on the basis of equivalence to a fixed standard, it is the burden of the applicant or licensee to establish equivalence to the Board or Director's satisfaction, by producing credible, clear, and convincing evidence of the same. The Board and the Office have no obligation to research the bona fides of any institution, program, course, degree, certification, practicum, fellowship, or examination.

**3-8 Waiver or Variance.** The Board will not grant routine waivers or variances from any provisions of these rules without amending the rules. *See* 3 V.S.A. § 845. Where, in extraordinary circumstances, application of a rule would result in manifest unfairness, an absurd result, unjustifiable inefficiency, or an outcome otherwise inimical to the public health, safety, and welfare, the Board may, upon written request of an interested party, so find, grant a waiver with or without particular conditions and limitations, and record the action and justification in a written memorandum. This rule shall not be construed as creating any administrative hearing right or cause of action.

## Part 4 Licensure Generally

**4-1 Applicants from Other States: Fast Track Endorsement.** An applicant with three or more years of full-time licensed practice, as an LNA, LPN, RN, or APRN, in good standing, in a U.S. jurisdiction outside Vermont, may qualify for expedited licensure in Vermont. *See* 3 V.S.A. § 136a. An RN or LPN who holds an active multistate license from another Compact State is not required to obtain a Vermont license unless changing primary state of residence to Vermont.

### 4-2 Applicants Educated Outside the United States

(a) **Canadian Nursing Education.** An applicant whose nursing education and initial license to practice was in Canada, who has been duly licensed by a provincial licensing authority, who has passed an acceptable examination and maintained provincial licensure in good standing, may apply for licensure by endorsement. Acceptable examinations are the NCLEX and, for a person licensed prior to December 31, 2015, the Canadian Nurses' Association Testing Service Examination. Applicants who have not completed an acceptable examination must take the NCLEX and should apply by examination as set out in Rule 6-1, for LPNs, or Rule 7-1, for RNs. Endorsement applications must include:

(1) if the nursing education program or licensing exam was not conducted in English, acceptable evidence of oral and written English-language proficiency;

(2) documentation of:

(a) 50 days (400 hours) of practice as a nurse in the two years immediately preceding the application;

(b) 120 days (960 hours) practice as a nurse within five years of the application;

(c) 20 hours of qualifying continuing education in the two years immediately preceding license application; or

(d) a current nationally recognized certification, and

(3) A completed federal criminal background check.

(b) **Other Non-U.S. Nursing Education.** An applicant whose nursing education and initial license to practice was in a country other than the United States or Canada shall be

## ADMINISTRATIVE RULES OF THE BOARD OF NURSING

authorized to take a licensing examination once the Board has received English-language documentation including:

- (1) a completed application for licensure;
- (2) a completed federal criminal background check;
- (3) a credentials review by an external agency that specializes in international academic credentials review which verifies that the applicant's nursing education meets the requirements of these rules;
- (4) satisfactory evidence of eligibility to work lawfully in the United States, to include a social security number or taxpayer identification number;
- (5) proof of oral and written English proficiency, if the nursing education program was not conducted in English; and
- (6) documentation of a minimum of:
  - (a) 50 days (400 hours) of practice as a nurse in the two years immediately preceding the application;
  - (b) 120 days (960 hours) practice as a nurse within five years of the application;
  - (c) 20 hours of qualifying continuing education in the two years immediately preceding license application; or
  - (d) active, nationally recognized certification.

**4-3 Biennial Licensing Period.** Licenses are valid for fixed, two-year periods. Expiration dates are printed on licenses. A license expires if not renewed by midnight on the date of expiry. Practice under an expired license is prohibited. A search tool on the Office website may be considered a primary source verification as to license status and expiration.

**4-4 Initial License Issuance.** An applicant issued an initial license within 90 days of the end of a licensing period will not be required to renew or pay the renewal fee. The license will be issued through the next full licensure period.

**4-5 Provisional Licensure.** The Board is authorized to issue provisional licenses to certain applicants who have met other licensure requirements but whose eligibility for licensure is contingent upon acceptable verification of licensure from another jurisdiction or the results of a required criminal background check. *See* 3 V.S.A. § 130.

**4-6 Telehealth Registration and Licensure.** Effective July 1, 2023, a licensee who is not otherwise licensed in Vermont but is licensed in another US jurisdiction and wishes to provide telehealth care services to a patient or client located in Vermont shall obtain a telehealth registration or license in accordance with 26 V.S.A. chapter 56. RNs and LPNs who hold an active multistate license from a Compact state are not required to obtain Vermont licensure to provide telehealth services.

**4-7 License Renewal.** Online license renewal applications must be completed through the Office website. The Office transmits email reminders to licensees at the end of each biennial licensing period; however, non-receipt of such reminders shall not excuse a licensee from the obligation to maintain continuous licensure or the consequences of failing to do so. Practicing while a license is lapsed is a violation of 3 V.S.A. § 127.

**4-8 Requirements of Renewal.**

- (a) RNs & LPNs shall:

## ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (1) Have practiced for a minimum of 50 days (400 hours) in the two years preceding application or 120 days (960 hours) in the five years preceding application; or
  - (2) Have completed 20 hours of qualifying continuing education in the two years immediately preceding the application; or
  - (3) Hold a current nationally recognized certification.
- (b) **LNAs** shall demonstrate, via job description or other appropriate employer verification, at least 50 days (400 hours), in the two years preceding application, of employment as a nurse assistant or in a role, regardless of title or obligation to hold a license, that would reasonably tend to reinforce the training and skills of a licensed nurse assistant. *See* 26 V.S.A. § 1645.
- (1) A licensee who does not meet the active practice requirement shall repeat the nursing assistant education program and competency examination.
- (c) **MNAs** shall:
- (1) Have satisfied LNA renewal requirements;
  - (2) Have completed 4 hours qualifying continuing education specific to medication administration; and
  - (3) Have dedicated at least 25% of the qualifying LNA experience (100 hours) to MNA functions.
- (d) **APRNs** shall:
- (1) Have satisfied RN renewal requirements;
  - (2) Have practiced in an APRN role for a minimum of 50 days (400 hours) in the two years preceding application or 120 days (960 hours) in the five years preceding application;
  - (3) Present current certification by a national APRN certifying organization; and
  - (4) If required, have a current collaborating provider agreement.

**4-9 Late Renewal Penalties.** Late renewal applications are subject to penalty fees, which may be waived in certain circumstances, for example, if the applicant did not practice in Vermont during the period of lapse. *See* 3 V.S.A. § 127(d). Reinstatement waivers may be requested through the online licensing system.

**4-10 Requirements of Reinstatement; Extended License Lapse.** A license expired for more than two years requires reinstatement, including a federal criminal background check.

- (a) **Two to five years.** A license expired for two to five years may be reinstated upon proof of continuous practice elsewhere, or if practice ceased, upon satisfaction of the requirements of renewal set out in Rule 4-8.
- (b) **More than five years.** A license expired for five or more years may be reinstated upon proof of continuous practice elsewhere, or if practice ceased, a licensee's preparation to return to practice will be assessed on a case-by-case basis. After consultation with the Board, the Director may require re-training, testing, or re-application. *See* 3 V.S.A. § 135. In most circumstances, completion of an approved nursing re-entry program is a minimum prerequisite to reinstatement.
- (c) **Enhanced APRN requirements.** This rule, 4-10, will yield to enhanced requirements for APRN practice refreshment and license reinstatement set out in Part 9, *infra*.

# ADMINISTRATIVE RULES OF THE BOARD OF NURSING

## Part 5 Vermont Nursing Education Programs

**5-1 Approval Required.** No person, including a corporation, association, or individual may conduct a nursing education program in Vermont, other than an online-only program approved by the Vermont Agency of Education, unless the program has been approved by the Board. *See 26 V.S.A. § 1584.*

**5-2 Accreditation Required.** Nursing education programs shall be accredited by the Commission on Collegiate Nursing Education (CCNE), the National League for Nursing's (NLN) Commission on Nursing Education Accreditation (CNEA), the Accreditation Commission for Education in Nursing (ACEN), or a national nursing accreditation organization otherwise specifically approved by the Board.

**5-3 Nursing Faculty.** Vermont nursing education programs shall be compliant with their accrediting agency's faculty standards regarding educational and experiential requirements for full-time and part-time nursing faculty.

**5-4 Operational Oversight; Site Visits.** The Board may at any time request information appropriate to confirm that a Vermont nursing education program is operating in conformity with applicable rules and accrediting standards. The Board may conduct a site visit to any proposed or existing nursing education program during the application review, during any review for extension of approval, or at any time deemed necessary to assess compliance with these rules. A nursing education program shall reimburse the Board for actual and necessary costs incurred for a site visit.

**5-5 Duty to Report Site, Administrative, and Curricular Changes.** A program shall copy to the Board any required report made to accrediting authorities concerning significant changes to program curriculum or structure.

**5-6 Program Application.** At least nine months before a program proposes to admit its first students, or within 30 days of a request from the Executive Director to an operating program, an authorized representative of the governing organization shall submit the following information or copies of submissions to or from an approved accreditor reflecting the same:

- (a) accreditation status of the governing organization;
- (b) a statement of mission and purpose;
- (c) an initiation plan for the program including curricula, policies, outcome measurements;
- (d) the identity and qualifications of the Program Administrator;
- (e) a description of faculty, including numbers and qualifications;
- (f) a chart illustrating the program's administrative and supervisory hierarchy;
- (g) evidence of the feasibility of the program and community readiness to accept and support the program;
- (h) the certificate(s) or degree(s) to be offered;
- (i) a statement of clinical and academic facilities and resources, including classroom, conference room, library, office space, and skills laboratory;
- (j) evidence of financial resources sufficient for the planning, implementation and operation of the program;
- (k) a description of the anticipated student population; and
- (l) any other information showing that the proposed program will meet the requirements of these rules.

## ADMINISTRATIVE RULES OF THE BOARD OF NURSING

**5-7 Preliminary Program Approval.** When the Board determines that an application to commence a new program is satisfactory, as indicated by substantial progress toward compliance with prevailing accrediting standards and demonstrated ability to attain full compliance, it will issue a preliminary approval authorizing the applicant may hire faculty, enroll students, develop and implement the program, commence the use of all assigned facilities and resources, and otherwise begin operation of the program.

**5-8 Full Program Approval and Reapproval.** A program granted preliminary approval shall notify the Board when it graduates its first class and shall apply for full program approval by submitting such information as the Executive Director or Board may request demonstrating progress toward full accreditation. The Board may condition full program approval upon accreditation.

**5-9 Application Denial.** If a program's preliminary application, full-program application, or application for re-approval is found to be deficient, the Board will offer a reasonable opportunity, not to exceed two years, for the program to cure the deficiency before acting on the application. The process for denial of an application is set out at 3 V.S.A. § 129(e).

**5-10 Annual Reports.** Approved programs shall submit annual reports on forms available from the Board. Each annual report shall be submitted no later than October 1 and cover the period between August 1 of the preceding year and July 31 of the year the report is submitted. Annual reports to include any new sites or site changes, administrative changes affecting the program, and significant curricular changes, to include changes in, duration, structure, graduation requirements, or core curricular content. Programs shall cooperate with reasonable requests for supplemental information.

**5-11 Forms of Approval.** An operating program shall apply for reapproval as determined by the duration of its prior approval, which may be set by the Board but will not in any event exceed the duration of the program's national accreditation. Approvals may be conditioned as appropriate to protect the public health, safety, and welfare, or to ensure ongoing ability to conform to prevailing accrediting standards.

**5-12 Intervention for Cause.** If the Board or Executive Director reasonably suspects a program is at risk of falling out of substantial compliance with prevailing accrediting standards, either may require that a program undergo a site visit, apply for reapproval early, or otherwise show cause why its approval should not be conditioned or withdrawn. The Board will give written notice to any program considered for withdrawal of approval and will afford program administrators a reasonable opportunity to be heard before acting upon a motion to terminate or condition a program's approval.

**5-13 Voluntary Program Closure.** The governing organization shall advise the Board of a decision to close its program. All Board approval requirements shall be maintained until the last student has transferred or graduated. The governing organization shall notify the Board where permanent program and student records are stored and how they may be retrieved. The program shall:

- (a) discontinue student admissions;
- (b) assist accepted applicants and current students to transfer to other approved programs;
- and
- (c) officially close when the last student has graduated.

## ADMINISTRATIVE RULES OF THE BOARD OF NURSING

**5-14 Practical Nurse Program: Duration.** An acceptable practical nurse curriculum shall require no less than one academic year to complete.

**5-15 Practical Nurse Program: Curriculum.** In accordance with the standards of a program's accrediting agency, practical nursing programs shall include clinical and theory hours sufficient to establish competency in Adult Nursing, Maternal/Infant Nursing, Pediatric Nursing, and Psychiatric/Mental Health Nursing.

- (a) Didactic content will include Anatomy and Physiology, Social/Behavioral Science, Pharmacology and Nutrition
- (b) Nursing education programs shall include clinical experience in state approved facilities. Clinical experiences must provide an opportunity for direct care in the promotion, prevention, restoration and maintenance of health in clients across the life span in a variety of settings. No more than 25% of clinical experience may be obtained in a medium- or high-fidelity simulation learning laboratory without prior Board approval or the approval of the program accrediting agency.

**5-16 Practical Nurse Re-Entry Programs.** The Board will approve, for a presumptive period of five years, a re-entry program that:

- (a) has a written purpose, program and unit objectives, and measurable outcomes;
- (b) includes at least 80 hours of theory and 80 hours of clinical experience;
- (c) provides direct RN supervision for re-entry program clinical experience; and
- (d) is located within, or if individually designed, is under the direction of, a program providing nursing education.

**5-17 Registered Nurse Program Curriculum.** In accordance with a program's accreditation agency standards, a registered nursing program will provide a sound foundation in biological, physical, social and behavioral sciences and include:

- (a) Didactic content including prevention of illness and the promotion, restoration and maintenance of health in patients across the lifespan and from diverse cultural, ethnic, social and economic backgrounds.
- (b) Didactic and clinical experiences shall include clinical and theory hours sufficient to establish competency in Medical/ Surgical, Obstetrics, Pediatrics, Psychiatric/ Mental Health and Community Health.
- (c) No more than 25% of clinical experience may be obtained in a medium- or high-fidelity simulation learning laboratory without prior Board approval or the approval of the program's accrediting agency.
- (d) Clinical experiences shall be supervised and occur directly with patients. Clinical experiences and simulation shall include a variety of clinical settings sufficient for meeting program outcomes.

**5-18 RN Re-entry Program Design.**

- (a) Re-entry programs may be individually designed or established by a nursing education program or a nursing service facility. Re-entry programs must be approved by the Board. Program approval is valid for five years unless otherwise specified.
- (b) The Board will approve a re-entry program which meets the following requirements:
  - (1) The re-entry program has a written purpose, program and unit objectives, and measurable outcomes;
  - (2) consists of a minimum of 120 hours of theory and a minimum of 120 hours of clinical experience;
  - (3) provides direct RN supervision for re-entry program clinical experience; and

## ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (4) is located within, or if individually designed, is under the direction of a program providing nursing education.

### 5-19 APRN Refresher Course.

- (a) Individuals who have been out of practice for less than five years and who do not meet the practice requirement for initial licensure, or renewal, or reinstatement of an APRN license must take a refresher course as set forth in parts 9-16 through 9-18 of these Rules. Once commenced, the course must be completed within 18 months.
- (b) Individuals who have been out of practice for more than five and fewer than ten years may be assigned a case-specific refresher assignment approved by the Board.
- (c) Individuals who have been out of practice for more than ten years must complete a new post-masters APRN program that includes a minimum of 500 clinical practice hours.

### 5-20 Refresher Course Clinical Practice Permit.

The Board may grant a refresher course clinical practice permit, valid in six month increments and renewable not more than twice, to an applicant who:

- (a) holds a Vermont RN license;
- (b) holds a national APRN certification.

A person practicing under a permit shall be conspicuously identified as an "APRN Applicant" on name badges, signature blocks, medical record entries, and other locations calling for a professional designation.

### 5-21 APRN Refresher Course Design.

- (a) Refresher programs may be individually designed or established by a nursing education program or a non-accredited nursing service facility. Each must be approved by the Board.
- (b) The Board may accept a Nationally Accredited Refresher Program in Vermont or elsewhere which meets the requirements of Parts 9-17 and 9-18 of these rules.
- (c) Refresher programs are available to APRN's who have been out of practice for ten years or less.

**5-22 APRN Refresher Course Approval Criteria.** The Board may approve a refresher program that provides on-site supervision by an APRN collaborating provider qualified under Part 9 of these rules who holds an unencumbered Vermont license, or a physician collaborating provider who holds an unencumbered Vermont license. A supervising provider must practice in the same role and population focus. Minimum course hours are:

- (a) for a licensee who has been out of practice for less than five years consists of a minimum of:
  - (1) 150 hours of theory; and
  - (2) 200 hours of clinical experience; or
- (b) for a licensee who has been out of practice for more than five years, but less than ten years consists of a minimum of:
  - (1) 150 hours of theory and
  - (2) 400 hours of clinical experience.

**5-23 APRN Refresher Program Curricula.** Curricula must include a review and update of:

- (a) advanced pharmacotherapeutics;
- (b) advanced assessment;
- (c) role and population specific theory and practice standards;
- (d) role and population specific clinical practicum; and
- (e) advanced practice nursing skills.

# ADMINISTRATIVE RULES OF THE BOARD OF NURSING

## Part 6 Licensed Practical Nurses

**6-1 Licensure by Examination.** To qualify for licensure by examination, an applicant shall:

- (a) be a graduate of an approved LPN education program, as verified by an official transcript;
- (b) complete a federal criminal background check;
- (c) receive Board approval to sit for the NCLEX-PN examination; and
- (d) pass the NCLEX-PN examination within five years of nursing program graduation.

**6-2 Licensure by Endorsement.** To qualify for licensure by endorsement, based on licensure and experience outside Vermont, an applicant who is not eligible for expedited endorsement under Rule 4-1 shall:

- (a) be licensed in a United States jurisdiction with licensing requirements substantially equivalent to those of Vermont, on the basis of a U.S. nursing education program;
- (b) complete a federal criminal background check; and
- (c) demonstrate ongoing competency to practice in the form of:
  - (1) active practice in the jurisdiction of origin totaling at least 50 days (400 hours) in the previous 2 years or 120 days (960 hours) in the previous 5 years, verified by appropriately certified employment records; or
  - (2) satisfactory completion of 20 hours of qualifying continuing education in the two years immediately preceding application; or
  - (3) current, nationally recognized certification.

**6-3 Scope of Practice.** Refer to Part 11-1. Consistent with 26 V.S.A. § 1572, an LPN's scope of practice is directed by a licensed RN, APRN, MD, DO, physician assistant, or dentist acting within his or her own scope of practice. Direction may occur via direct supervision or through provider orders, forms, guidelines, policies or procedures, protocols, algorithms, or clearly established plans of care.

(a) The LPN/VN, practicing to the extent of their education and training under the supervision of an RN, advanced practice registered nurse (APRN), physician or other authorized licensed health care provider:

- (1) Participates in nursing care, health maintenance, patient teaching, counseling, collaborative planning and rehabilitation.
- (2) Plans for patient care, including:
  - (i) Planning nursing care for a patient whose condition is stable or predictable.
  - (ii) Assisting the RN, APRN, or physician in identification of patient needs and goals.
  - (iii) Determining priorities of care together with the RN, APRN or physician.
- (3) Provides patient surveillance and monitoring, participating with other health care providers and contributing to the development, modification, and implementation of the patient centered healthcare plan.
- (4) Implements nursing interventions and prescribed medical regimens in a timely and safe manner.
- (5) Documents nursing care provided accurately and timely.
- (6) Collaborates and communicates relevant and timely patient information with patients and other health team members to ensure quality and continuity of care, including:
  - (i) Patient status and progress.
  - (ii) Patient response or lack of response to therapies.



# ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (iii) Changes in patient condition.
- (iv) Patient needs and special requests.
- (7) Takes preventive measures to promote an environment that is conducive to safety and health for patients, others and self.
- (8) Respects patient diversity and advocates for the patient's rights, concerns, decisions and dignity.
- (9) Maintains appropriate professional boundaries.
- (10) Participates in systems, clinical practice and patient care performance improvement efforts to improve patient outcomes.
- (11) Assigns and delegates nursing activities to assistive personnel. The LPN shall delegate only those nursing measures the delegate has the training, education, and experience to accomplish safely.

**6-4 Individual Scope.** The individual scope of practice for each LPN is determined by the individual's education, training, experience, and certification. Each LPN has a responsibility to practice in a manner that protects and promotes the health, safety and rights of the patient. Each nursing activity must be consistent with reasonable and prudent practice. Refer to Part 11-1 of these Rules.

## Part 7 Registered Nurses

**7-1 Licensure by Examination.** To qualify for licensure by examination, an applicant shall:

- (a) be a graduate of an approved RN education program, as verified by an official transcript;
- (b) complete a federal criminal background check;
- (c) receive Board approval to sit for the NCLEX-RN examination; and
- (d) pass the NCLEX-RN examination within five years of nursing program graduation.

**7-2 Licensure by Endorsement.** To qualify for licensure by endorsement, based on licensure and experience outside Vermont, an applicant who is not eligible for expedited endorsement under Rule 4-1 shall:

- (a) be licensed as an RN in a United States jurisdiction with licensing requirements substantially equivalent to those of Vermont, on the basis of a U.S. nursing education program;
- (b) complete a federal criminal background check; and
- (c) demonstrate ongoing competency to practice in the form of:
  - (1) active practice in the jurisdiction of origin totaling at least 50 days (400 hours) in the previous 2 years or 120 days (960 hours) in the previous 5 years, verified by appropriately certified employment records; or
  - (2) satisfactory completion of 20 hours of qualifying continuing education in the two years immediately preceding application; or
  - (3) current, nationally recognized practice-area certification.

**7-3 Scope of Practice.** "Registered nursing" means the practice of nursing as defined at 26 V.S.A. § 1572.

**7-4 Individual Scope.** The individual scope of practice for each RN is determined by the individual's education, training, experience, and certification. Each RN has a responsibility to practice in a manner that protects and promotes the health, safety and rights of the patient. Each

# ADMINISTRATIVE RULES OF THE BOARD OF NURSING

nursing activity must be consistent with reasonable and prudent practice. Refer to part 11-1 of these Rules

## Part 8 Interstate Practice Privileges for RNs and LPNs: The Nurse Licensure Compact

### 8-1 Applicant Responsibilities.

- (a) An applicant for a multistate license shall declare Vermont as primary state of residence.
- (b) A nurse who changes primary state of residence to another party state shall apply for a license in the new party state when the nurse declares to be a resident of the state and obtains multistate privileges not ordinarily extended to nonresidents of the state.
- (c) A nurse shall not apply for a Vermont single state license while the nurse holds a multistate license in another party state.
- (d) An applicant must provide evidence of residence in Vermont. This evidence may include, but is not limited to, a current:
  - (1) driver's license with a home address;
  - (2) voter registration card with a home address;
  - (3) federal income tax return with a primary state of residence declaration;
  - (4) military form no. 2058 (state of legal residence certificate); or
  - (5) W2 form from the United States government or any bureau, division, or agency thereof, indicating residence.
- (e) An applicant who is a citizen of a foreign country, and who is lawfully present in the United States and is applying for multistate licensure in Vermont may declare either the applicant's country of origin or Vermont as the primary state of residence.
- (f) If the applicant declares the foreign country as the primary state of residence, they are not eligible for a multistate license, but may apply for a single state license if the applicant meets licensure requirements.
- (g) An applicant shall disclose current participation in an alternative program to any party state, whether upon initial application or within ten (10) calendar days of enrollment in the program.

### 8-2 Change in Primary State of Residence.

- (a) A nurse who changes his or her primary state of residence from one party state to another party state may continue to practice under the existing multistate license while the nurse's application is processed, and a multistate license is issued in the new primary state of residence.
- (b) Upon issuance of a new multistate license in another party state, the Vermont multistate license will be deactivated/expired.
- (c) If a party state verifies that a licensee who holds a multistate license changes primary state of residence to a non-party state, the party state shall convert the multistate license to a single state license within fifteen (15) calendar days and report this conversion to the Coordinated Licensure Information System.

**8-3 Temporary Permits and Licenses.** A temporary permit, license, or similar temporary authorization to practice issued by a party state to an applicant for licensure shall not grant multistate licensure privileges.

**8-4 Identification of Licenses.** A license issued by a party state shall be clearly identified as either a single state license or a multistate license.

# ADMINISTRATIVE RULES OF THE BOARD OF NURSING

## **8-5 Credentialing and English Proficiency for Foreign Nurse Graduates.**

- (a) A party state shall verify that an independent credentials review agency evaluated the credentials of graduates.
- (b) The party state shall verify successful completion of an English proficiency examination for graduates.

## **8-6 Deactivation, Discipline, and Revocation.**

- (a) The Board of Nursing shall determine whether a disqualifying event will result in adverse action or deactivation of a multistate license or privilege.
- (b) Upon deactivation due to a disqualifying event, the Board may issue a single state license.

**8-7 Federal Criminal Records.** Communication between Vermont and the Nurse Licensure Compact Commission and communication between party states regarding verification of the nurse's eligibility for licensure pursuant to the Compact shall not include any Criminal History Record Information (CHRI) received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member board under Public Law 92-544.

## **8-8 Active-duty Military Personnel and Spouses.**

- (a) An active-duty service member, or the member's spouse, shall designate a home state where the service member or spouse has a current license in good standing.
- (b) The service member may retain the home state designation during the period the service member or spouse is on active duty.
- (c) After designating a home state, the service member or spouse shall only change home state through application for licensure in the new state.

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| <b>Part 9</b> | <b>Advanced Practice Registered Nurses</b> |
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## **9-1 APRN License Requirements**

To be eligible for licensure as an APRN the applicant must:

- (a) hold an unencumbered Vermont registered nursing license or an unencumbered multistate registered nursing license from another Compact state;
- (b) meet the education requirements set forth below;
- (c) hold certification from a national board;
- (d) complete a federal criminal background check; and
- (e) meet the practice requirements.

**9-2 Roles.** The Board may license an individual to practice as an APRN in the following roles:

- (a) Certified Nurse Practitioner;
- (b) Certified Nurse Midwife;
- (c) Certified Registered Nurse Anesthetist; and
- (d) Clinical Nurse Specialist.

**9-3 Identification.** APRNs shall use, at a minimum, the license designation "APRN" for purposes of identification and documentation.

**9-4 Population Focus.** Population Focus means that segment of the population, defined by age group or health status to which an APRN provides professional services. Each licensee is assigned a population focus area based on the licensee's certification. Refer to the Board Website for recognized population focus areas.

# ADMINISTRATIVE RULES OF THE BOARD OF NURSING

## 9-5 Education

To be eligible for an APRN license, an applicant shall:

- (a) have a degree or certificate as shown by the official transcripts from the applicant's graduate nursing program in one of the four recognized APRN roles from:
  - (1) a Vermont graduate nursing program approved by the Board; or
  - (2) a United States graduate nursing program approved by a state or a national accrediting agency approved by the Board; and
- (b) have successfully completed graduate level courses in:
  - (1) advanced pharmacotherapeutics;
  - (2) advanced patient assessment;
  - (3) advanced pathophysiology.

## 9-6 APRN Certification Organizations

The Board may accept certification by a certifying organization which:

- (a) follows established certification testing and psychometrically sound, legally defensible standards for APRN certification exams;
- (b) assesses APRN core and role competencies across a minimum of one population focus of practice;
- (c) assesses specialty competencies, when applicable, separately from the APRN core role and population-focused competencies; and
- (d) is accredited by a national U.S. or Canadian certification accreditation body.

**9-7 Education and Practice Requirement.** To be eligible for initial licensure or to renew or reinstate an APRN license, an applicant must have:

- (a) graduated from an APRN program within two years of making the application; or
- (b) practiced as a licensed APRN for a minimum of:
  - (1) 50 days (400 hours) in the previous two years; or
  - (2) 120 days (960 hours) in the previous five years; or
- (c) Maintained certification by a national certification accreditation body; or
- (d) completed a Board approved APRN Refresher Course as set forth in 9-14 through 9-17 of these Rules within two (2) years of making the application.

**9-8 Transition to Practice: Collaborative Provider Agreement.** An APRN with fewer than 24 months and 2,400 hours of licensed active advanced nursing practice in an initial role and population focus or fewer than 12 months and 1,600 hours for any additional role and population focus shall have a formal agreement with a collaborating provider as required by 26 VSA § 1613 and these Rules:

- (a) An APRN shall maintain signed and dated copies of all collaborative provider agreements, and when the transition to practice is complete, shall retain a copy of the Board form attesting to completion of the transition to practice.
- (b) An APRN required to practice under a collaborative provider agreement may not practice in a setting where there are no additional APRNs or licensed physicians to provide mentoring, consultation or advisement.

**9-9 Collaborating Providers.** A collaborating provider may be a Vermont APRN, a medical doctor licensed under 26 V.S.A. Ch. 23, or an osteopathic physician licensed under 26 V.S.A. § Ch. 33. An APRN may have more than one collaborating provider. A collaborating provider must be actively licensed in good standing and possess at least four years of practice experience in the same role and population focus or specialty as the APRN.

# ADMINISTRATIVE RULES OF THE BOARD OF NURSING

## 9-10 Collaborating Provider Responsibilities

A collaborating provider shall establish a written agreement with an APRN to serve as an advisor, mentor, and consultant. A collaborating provider shall participate in quality assurance activities.

**9-11 APRN Group Practice.** An APRN group practice must include one or more APRNs who are not required to practice under a collaborative provider agreement.

## 9-12 APRN Refresher Course

- (a) Individuals who have been out of practice for less than five years and who do not meet the practice requirement for initial licensure, or renewal, or reinstatement of an APRN license must take a refresher course as set forth in parts 9-16 through 9-18 of these Rules. Once commenced, the course must be completed within 18 months.
- (b) Individuals who have been out of practice for more than five and fewer than ten years may be assigned a case-specific refresher assignment approved by the Board;
- (c) Individuals who have been out of practice for more than ten years must complete a new post-masters APRN program that includes a minimum of 500 clinical practice hours.

**9-13 Refresher Course Clinical Practice Permit.** The Board may grant a refresher course clinical practice permit, valid in six month increments and renewable not more than twice, to an applicant who:

- (a) holds a Vermont RN license;
- (b) holds a national APRN certification.

A person practicing under a permit shall be conspicuously identified as an "APRN Applicant" on name badges, signature blocks, medical record entries, and other locations calling for a professional designation.

## 9-14 APRN Refresher Course Design

- (a) Refresher programs may be individually designed or established by a nursing education program or a non-accredited nursing service facility. Each must be approved by the Board.
- (b) The Board may accept a Nationally Accredited Refresher Program in Vermont or elsewhere which meets the requirements of Parts 9-17 and 9-18 of these rules.
- (c) Refresher programs are available to APRNs who have been out of practice for ten years or less.

## 9-15 APRN Refresher Course Approval Criteria

The Board will approve a refresher program which:

- (a) for a licensee who has been out of practice for less than five years consists of a minimum of:
  - (1) 150 hours of theory; and
  - (2) 200 hours of clinical experience; or
- (b) for a licensee who has been out of practice for more than five years, but less than ten years consists of a minimum of:
  - (1) 150 hours of theory and
  - (2) 400 hours of clinical experience; and
- (c) which provides on-site supervision:
  - (1) by an APRN collaborating provider qualified under Part 9 of these rules holding a Vermont unencumbered APRN license, or a physician collaborating provider with a Vermont unencumbered license; and
  - (2) who practices in the same role and population focus.

## ADMINISTRATIVE RULES OF THE BOARD OF NURSING

**9-16 APRN Refresher Program Curricula.** Curricula must include a review and update of:

- (a) advanced pharmacotherapeutics;
- (b) advanced assessment;
- (c) role and population specific theory and practice standards;
- (d) role and population specific clinical practicum; and
- (e) advanced practice nursing skills.

### **9-17 Scope of Practice**

- (a) The individual scope of practice for each APRN is determined by the APRN's education, training, experience, role, population focus, and national certification, consistent with Rule 11-1.
- (b) Nurse practitioners providing primary care may be primary care providers of record.
- (c) The scope of an APRN includes:
  - (1) registered nurse scope of practice;
  - (2) acts of medical diagnosis including, ordering, and interpreting diagnostic tests and procedures;
  - (3) prescribing medications;
  - (4) prescribing medical, therapeutic, or corrective measures;
  - (5) initiating written or verbal orders to other health care providers; and
  - (6) managing and evaluating care.

### **9-18 Eligible Colleges or Universities**

The Board will approve a Vermont APRN education program which:

- (a) is offered by a college or university;
- (b) confers a graduate degree with a major in nursing or a graduate degree that prepares nurses to practice advanced practice nursing; and
- (c) meets the educational standards set by a national accrediting body and national certifying board approved by the Board.

**9-19 Approval Process** To obtain and maintain Board approval, an APRN education program must follow the processes outlined in Part 5 of these Rules.

## **Part 10 Licensed Nurse Assistants**

**10-1 Licensure by Examination.** To qualify for licensure by examination, an applicant shall:

- (a) have completed, within two years of application, a nursing assistant education program approved by the Department of Disabilities, Aging, and Independent Living or its equivalent in another U.S. jurisdiction, or be a student in an RN or LPN education program who has completed studies equivalent thereto;
- (b) complete a federal criminal background check; and
- (c) pass a competency examination approved by the Department of Disabilities, Aging, and Independent Living or an equivalent exam acceptable to the Board.

**10-2 Examination Attempts.** A candidate who has not passed LNA exams after three attempts must repeat an approved nursing assistant education program.

## ADMINISTRATIVE RULES OF THE BOARD OF NURSING

**10-3 Licensure by Endorsement.** To qualify for licensure by endorsement, based on licensure and experience outside Vermont, an applicant who is not eligible for expedited endorsement under Rule 4-1 shall:

- (a) be licensed or certified as nursing assistant by another state;
- (b) complete a federal criminal background check; and
- (c) demonstrate, via job description or other appropriate employer verification, at least 50 days (400 hours), in the two years preceding application, of employment as a nurse assistant or in a role, regardless of title or obligation to hold a license, that would reasonably tend to reinforce the training and skills of a licensed nurse assistant.

### **10-4 Scope of Practice**

(a) An LNA's scope of practice includes:

- (1) Basic Nursing Care;
- (2) Personal Care;
- (3) Basic Restorative Care;
- (4) Psychosocial Support;
- (5) Care of the Cognitively Impaired;
- (6) Communication;
- (7) Patient Safety.

(b) Additional tasks and skills may be performed by LNAs through the delegation process by APRNs, RNs and LPNs as described in section 11.2

(c) An LNA may not perform activities which exceed the scope defined by the level of licensure. This means that LNAs may not perform, even if directed to do so, an activity not appropriate to their level of licensure or otherwise prohibited by law. Examples of activities not within the LNA scope of practice include nursing assessments, nursing judgments, and development of the plan of care.

### **Subpart A Medication Nursing Assistants**

**10-5 Definition:** A medication nursing assistant (MNA) is a licensed nursing assistant authorized by a specialty designation to administer medications in limited settings set out by 26 V.S.A. § 1641.

**10-6 Eligibility for MNA Specialty Designation.** To be eligible for the MNA specialty designation, an applicant must:

- (a) hold an unencumbered Vermont LNA license;
- (b) be at least 18 years of age;
- (c) have a high school diploma or G.E.D.;
- (d) have two years' experience consisting of no fewer than 4,000 hours of LNA experience, of which at least one year and 2,000 hours were acquired in a long-term care nursing facility;
- (e) complete, within the year preceding application, an MNA training program approved by the Board; and
- (f) successfully complete MNA competency and math proficiency examinations approved by the Board.

**10-7 Nursing Student Eligibility.** The experience and training requirements set out in subparts 10-6(d) & (e) may be waived for a student enrolled in a Board-approved RN or LPN program that has covered MNA training content.

# ADMINISTRATIVE RULES OF THE BOARD OF NURSING

**10-8 Training from Other Jurisdictions.** The Board may issue an MNA specialty designation to a Vermont LNA who received MNA training found by the Board to be substantially equivalent to that of a Board-approved training program. The applicant must successfully complete MNA competency and math proficiency examinations approved by the Board.

**10-9 Scope of Practice.**

- (a) An MNA is supervised on-site, on the unit, by an LPN, RN, or APRN.
- (b) A medication nursing assistant upon delegation by an LPN, RN, or APRN may:
  - a. administer medications to individual residents; and
  - b. administer medication via oral, sublingual, buccal, inhalation, spray (on oral mucosa), topical, nasal, ocular, optic, and suppository (vaginal or rectal) route.

**10-10 Limitations.** An MNA may:

- (a) administer medications to a newly admitted resident only after the delegating nurse determines that the resident is stable, and then only according to facility policy.
- (b) administer prn medication only after an RN assessment confirms the need for the medication.

**10-11 Exclusions.** An MNA may not:

- (a) administer injectable medications.
- (b) administer medications new to the patient;
- (c) make adjustments to dosage;
- (d) take or transcribe orders;
- (e) apply medicated dressings;
- (f) administer insulin;
- (g) administer bladder instillations;
- (h) calculate conversions;
- (i) dispose of medications; or
- (j) administer enteral feedings or medications.

## Subpart B MNA Training Programs

**10-12 Board Approval Required.** Before providing MNA training, an MNA program must receive Board approval. The process for receiving Board approval is set forth in Part 5 of these rules. The Board will approve a program which assures that participants are trained in:

- (a) communication and documentation;
- (b) ethical and legal responsibilities regarding medication administration;
- (c) medication use, side effects, abbreviations, look alike drugs, drug interactions, proper storage, and the need for reporting side effects;
- (d) apothecary and metric measurements;
- (e) patient safety principles regarding proper medication administration; and
- (f) facility policies regarding medication errors.

**10-13 MNA Training Program Requirements.** To receive Board approval each MNA training program must:

- (a) employ a standardized textbook approved by the Board;
- (b) require no fewer than 60 hours of class instruction including lab/simulation instruction; and 40 hours of supervised clinical instruction;
- (c) have instructors who:



# ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (1) possess unencumbered Vermont RN licenses;
- (2) have at least 2 years' full-time practice experience, of which one year was in clinical practice; and
- (3) hold a baccalaureate or higher degree in nursing; and
- (d) have a program administrator who holds a baccalaureate or higher degree in nursing.

**10-14 MNA Program Review.** An annual report shall be submitted to the Board by each MNA program as per 5-9 of these rules and site visits to MNA programs may be conducted by the Board in accordance with section 5-3 of these rules.

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| <b>Part 11</b> | <b>Standards of Nursing Practice</b> |
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**11-1 Determination of Scope of Practice.** An activity not prohibited by Vermont Administrative Rules or Statutes and that is consistent with current national professional nursing organizational standards, accreditation standards and or credible nursing research may be considered within an individual nurse's scope of practice if the following conditions are met:

- (a) the nurse has completed the necessary education and possesses adequate knowledge to perform the activity;
- (b) there is evidence of the nurse's current competency and skill; and
- (c) a reasonable and prudent nurse with similar training and experience would perform the activity;
- (d) there are institutional policies and /or procedures in place governing the activity, and the activity is consistent with those;
- (e) There are adequate resources, equipment and supports in the care setting to ensure patient safety; and
- (f) The nurse is prepared to accept and manage the consequences of performing the activity.

In the absence of any of the above, the activity would be considered out of scope for an individual nurse and should not be performed. A nurse may not perform, even if directed to do so, an activity not recognized by the profession as appropriate for that level of licensure or otherwise prohibited by law.

**11-2 Delegation.** A licensee shall not delegate tasks to a person the licensee knows, or has reason to know, is not qualified by training, experience, education, or licensing credentials to perform them. See 3 V.S.A. § 129a(a)(6). Decision-making regarding the delegation of nursing care must be focused on the protection of the health, safety, and well-being of the patient/client.

- (a) **Non-delegable functions.** An APRN or RN may never delegate the exercise of nursing judgment, including patient assessment, care planning, and evaluation of care, to a licensee whose scope of practice does not include those functions.
- (b) **Factors.** A nurse delegating tasks shall consider the Five Rights set out in the National Guidelines for Nursing Delegation:
  - (1) **Right task:** the activity must be within the delegate's job description and consistent with written policies and procedures;
  - (2) **Right circumstance:** the patient's condition must be appropriately stable, and the delegating nurse must be situated to be aware of changes;
  - (3) **Right person:** the delegate must have the skills and knowledge to perform the activity;
  - (4) **Right direction and communication:** the delegate must be appropriately educated, and understanding must be confirmed by two-way communication and clear understanding and acceptance of the delegated activity; and

## ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (5) **Right supervision and evaluation:** the delegating nurse must monitor the delegated activity, remain ready and available to intervene, and follow up to evaluate performance, outcomes, and accurate documentation.

### 11-3 Evidence-based Practice; Competent and Credible Evidence

- (a) **Duty of competence.** A licensee shall maintain awareness of evolving evidence-based practice guidelines and standards; shall implement these in nursing practice; and shall exercise the critical thinking required to meet the statutory obligation to refrain from “promoting or recommending a therapy or treatment in a manner tending to deceive the public or to suggest a degree of reliability or efficacy unsupported by competent evidence and professional judgment.” 3 V.S.A. § 129a(a)(17).
- (b) **Credibility of sources.** An APRN considering a therapeutic intervention shall consider whether the therapy is reasonably indicated for the relevant diagnosis, as indicated by FDA approval or support by credible literature, meaning literature upon which a reasonable clinician competent in the prevailing practice would rely.

**11-4 Fitness.** A licensee shall practice as a nurse or nurse assistant only when fit to work. Fitness includes the ability to collect data, notice detail, analyze information, solve problems, and respond rapidly to hazards to patient safety or wellbeing. Fitness may be impaired by fatigue, stress, alcohol, drugs, physical impairment, medical condition, or emotional state. Nurse peers, nurse supervisors, and nursing employers share a responsibility to ensure fitness and to intervene if a licensee appears unfit.

(a) A nurse or nurse assistant shall:

- (1) Assure his or her ongoing wellness and fitness for work, by such means as such as getting adequate rest, seeking treatment for medical conditions, seeking counseling for emotional problems, managing stress, and avoiding substances and activities that may impair fitness for work;
- (2) Notify the manager, supervisor, or responsible person of any concerns regarding his or her fitness for work and request appropriate accommodations, as needed;
- (3) Refuse an assignment, if not fit to competently and safely perform the assignment; and
- (4) Notify the individual and the manager, supervisor, or responsible person of any concerns regarding another person's fitness for work.

(b) A nurse supervising others shall:

- (1) Develop or enforce workplace policies and procedures regarding fitness for work;
- (2) Schedule responsibly, allowing adequate time for rest breaks during and between shifts;
- (3) Manage the work environment to promote safety and avoid fatigue and hazards;
- (4) Educate employees regarding fitness for work concepts and available supports;
- (5) Be available to observe and assess the fitness for work of employees on duty, and
- (6) if a nurse or nurse assistant appears to be unfit for work, remove the employee from the work environment until the situation has been assessed, appropriate action taken, and the employee is determined to be fit to perform their assigned work.

**11-5 Patient Abandonment.** A licensee shall not abandon a patient. Abandonment occurs when a licensee who has accepted a patient assignment or accepted responsibility for care of a patient jeopardizes the safety of that or other patients by improperly disengaging from the assignment or responsibility.

## ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (a) Examples of abandonment include, without limitation:
- (1) Leaving the patient care area without transferring responsibility appropriately;
  - (2) Remaining unavailable for patient care for a duration that compromises patient care;
  - (3) Inattention or insufficient observation or contact with a patient;
  - (4) Sleeping while on duty outside supervisor-approved rest consistent with written facility policy;
  - (5) Failing to timely notify a supervisor or employer if unable to initiate or complete an assignment where the licensee is the sole care provider; or
  - (6) For an APRN, terminating the nurse-patient relationship without providing reasonable notification to the patient and resources for continuity of care.
- (b) The following employment acts generally do not constitute patient abandonment:
- (1) Failing to report to work when an assignment has not been assumed or accepted;
  - (2) Refusing to accept an assignment to a unit when there has been no orientation and no educational preparation or an assignment outside the licensee's scope of practice;
  - (3) Leaving an assignment after notifying the appropriate personnel and transferring responsibility for patient care;
  - (4) Leaving an assignment due to circumstances reasonably perceived by the licensee as placing the licensee in imminent danger of serious harm;
  - (5) Refusing to work beyond a scheduled shift; or
  - (6) Resigning without giving specific notice.

**11-6 Informed Consent.** Each person has a right to determine what shall be done with his or her body and a right to accept or refuse medical treatment. For those determinations to be informed, the person, as patient, must be capable of making relevant decisions, based not only on personal capacity, but also upon the provision of accurate and adequate information by providers of care. If a patient lacks capacity, informed consent is to be obtained from a parent or legal guardian.

- (a) An APRN or RN may obtain a patient's informed consent for a treatment or procedure if:
- (1) The APRN or RN will perform the treatment or procedure;
  - (2) The treatment or procedure is within the APRN or RN's scope of practice;
  - (3) The APRN or RN is able accurately to convey to the patient:
    - i. A description of the treatment or procedure;
    - ii. The indications for the treatment or procedure;
    - iii. Risks and benefits of the treatment or procedure;
    - iv. Alternatives and their risks and benefits;
    - v. The probable consequences of declining the recommended treatment or procedure; and
    - vi. Roles of others who may be involved in executing the treatment or procedure.

**11-7 Duty to Update and Self-report.** Applicants and licensees owe a duty of candor to the Board and shall disclose circumstances that may call for further investigation to protect the public. That a matter is reportable does not imply that the matter necessarily is a basis for discipline. A licensee, including an applicant for licensure, shall report to the Office, in writing, within 30 days:

- (a) any change of name, e-mail, or mailing address;

## ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (b) any material inaccuracy or change in circumstance relative to any application question, where the changed circumstance arises between submission of a license application and issuance of the license sought;
- (c) any arrest or charge for conduct occurring in the course of, or in direct relation to, the practice of nursing;
- (d) any conviction for any criminal act;
- (e) any injunction or other order of a court or regulatory authority, including any order to cease & desist and any assurance of discontinuance, limiting the licensee's ability to practice;
- (f) any legal claim, settlement, or judgment arising from alleged professional negligence, misconduct, or malpractice; and
- (g) any adverse action against a professional license in another jurisdiction, where the adverse action relates to an allegation of misconduct, substandard practice, or unethical conduct.

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| <b>Part 12</b> | <b>Alternative to Discipline Program</b> |
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**12-1 Alternative Program.** As authorized by 26 V.S.A. § 1574(a)(10), the Board administers an Alternative Program to serve as an alternative to the disciplinary process for nurses and nursing assistants with substance use disorders or other professional practice issues as designated by the Board. The purpose of the Program is to protect the public safety while encouraging licensees to seek help when necessary and without fear of adverse licensing consequences or undue publicity. The Program reflects the Board's belief that nurse wellness is foundational to safe practice.

**12-2 Eligibility.** A person eligible to participate in the Alternative Program shall:

- (a) hold a license issued by the Board or be an eligible applicant for one;
- (b) voluntarily request to participate;
- (c) not be the subject of any unresolved complaint, investigation, or charge, unless specifically approved for participation by the State Prosecuting Attorney authorized to bring disciplinary charges;
- (d) acknowledge that a deficiency in some aspect of nursing practice, or a substance use disorder, if not appropriately addressed, may impact the licensee's ability to practice safely and competently;
- (e) illustrate that the condition or circumstance is of a type susceptible to successful treatment or remedial training; and
- (f) if requested, agree to undergo a comprehensive assessment, at the applicant's expense, from a pre-approved qualified provider based on criteria determined by the Committee.

**12-3 Disqualification.** Notwithstanding Rule 12-2, *supra.*, no person shall be eligible to participate in the Program who:

- (a) has harmed or endangered a patient through willful, knowing, or reckless or inexcusably negligent conduct, or has exhibited abusive or cruel behavior toward a patient;
- (b) presents a danger to the public;
- (c) has a history of non-compliance with treatment or remediation programs;
- (d) has attempted to conceal a practice error or falsify records; or
- (e) in the judgment of the Committee, is not an appropriate candidate for any reason.

**12-4 Confidentiality.** Records pertaining to an individual's participation in the Program are not available to the public and shall not be publicized, except:

- (a) by order of a court of competent jurisdiction;

## ADMINISTRATIVE RULES OF THE BOARD OF NURSING

- (b) when necessary and appropriate to monitor compliance with Program requirements, such as by confirming conditions are followed at a place of employment or that a participant has remained in treatment;
- (c) when the Board is required by the terms of the Nurse Licensure Compact to report Program participation to the coordinated licensure information system, pursuant to 26 V.S.A. § 1647f; or
- (d) when participation in the Program is considered in a future disciplinary matter.

**12-5 Administration and Selection.** The Alternative Program is administered by the Executive Director. The investigative team assigned to a matter may refer a potential participant if the team believes participation would be in the interest of the public health, safety, and welfare; consistent with these Rules and applicable policies of the Alternative Program Committee; and likely to benefit the eligible person's fitness to practice.

**12-6 Agreement.** When a participant is approved, the Executive Director or case manager shall propose an Alternative Program Agreement suited to address the underlying conduct or circumstance. The Agreement must be jointly approved by the participant and the Executive Director. The Agreement shall at a minimum specify:

- (a) the conduct, circumstance, or condition acknowledged to require treatment or remediation;
- (b) that such conduct, circumstance, or condition shall not be the subject of Board discipline if the participant successfully completes the Alternative Program as set out in the Agreement;
- (c) the conditions of participation, to include without limitation any supervision, restriction, testing, coursework, treatment or other requirements calculated to aid the participant while appropriately protecting the public;
- (d) that the Agreement is voluntary and that the participant agrees to forgo due process rights associated with a contested disciplinary case before the Board;
- (e) that the participant shall grant the Program releases as may be reasonably requested to confirm treatment compliance and progress and agrees not to assert patient-provider privilege to frustrate Program oversight; and
- (f) that violation of the Agreement shall constitute unprofessional conduct and may result in public disciplinary charges.

**12-7 Effect on Multistate Licensure Privilege.** The Board is obligated by the Nurse Licensure Compact to deactivate the multistate licensure privilege of any nurse licensed by the Board, for the duration of the nurse's participation in an alternative program. *See* 26 V.S.A. § 1647(e)(c).

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| <b>Part 13</b> | <b>Discipline</b> |
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**13- 1 Unprofessional Conduct.** Unprofessional conduct includes those acts set out at 3 V.S.A. § 129a (applicable to all professional licensees) and 26 V.S.A. § 1582 (applicable to the nursing professions). Violation of these rules is cognizable as unprofessional conduct pursuant to 3 V.S.A. § 129a(a)(3).

**13-2 Remedies.** Upon a finding by the Board that a licensee, applicant, or person who later becomes an applicant has committed unprofessional conduct, within or without this State, or has had a license application denied or a license revoked, suspended, limited, conditioned, or otherwise disciplined by a licensing agency in another jurisdiction for conduct which would constitute unprofessional conduct in this State, or has surrendered a license while under investigation for unprofessional conduct, the Board may warn, reprimand, suspend, revoke, limit, condition, deny, or prevent the renewal of a license or privilege to practice. *See* 3 V.S.A. § 129(a). A license may be

## **ADMINISTRATIVE RULES OF THE BOARD OF NURSING**

summarily suspended pending further proceedings, consistent with 3 V.S.A. § 814(c), upon a finding that public health, safety, or welfare imperatively requires emergency action.

VERMONT **GENERAL ASSEMBLY**

# The Vermont Statutes Online

## Title 26 : Professions And Occupations

### Chapter 028 : Nursing

#### Subchapter 001 : General Provisions

(Cite as: 26 V.S.A. § 1574)

#### § 1574. Powers and duties

(a) In addition to the powers granted by 3 V.S.A. § 129, the Board shall:

(1) Hold annual meetings at which it shall elect a chair, a vice chair, and a secretary from its members; and hold such other meetings as may be deemed necessary to transact its business.

(2) Adopt rules necessary to perform its duties under this chapter.

(3) Adopt rules setting standards for approval of medication nursing assistant and nursing education programs in Vermont, including all clinical facilities. The Board may require reimbursement for actual and necessary costs incurred for site surveys.

(A) After an opportunity for a hearing, the Board may deny or withdraw approval or take lesser action when a program fails to meet the rules requirements.

(B) The Board may reinstate a program whose approval has been denied or withdrawn when the Board is satisfied that deficiencies have been remedied and the requirements have been met.

(C) Standards for nursing education programs and clinical facilities shall:

(i) rely upon the standards of recognized national accrediting bodies without duplicating the function of those bodies;

(ii) call for the annual reporting of data, including graduation rates and examination pass rates, appropriate to verify that programs are capable of meeting national standards and sustaining responsible operation in the interests of the public; and

(iii) be waivable by the Director of Professional Regulation if the Director finds that a program has exhausted reasonable efforts to comply and that such waiver will not compromise a program's educational integrity.

(4) [Repealed.]

(5) Adopt rules setting standards required for licensure as a nursing assistant,

practical nurse, registered nurse, or advanced practice registered nurse, and for endorsement of those nurses in special areas of nursing practice that require additional education and experience.

(6) Examine, license, and renew the licenses of duly qualified applicants and keep a record of all persons currently licensed as nursing assistants, practical nurses, registered nurses, and advanced practice registered nurses.

(7) Adopt rules setting active practice requirements for licensure and renewal.

(8) Adopt rules for and approve education programs for the benefit of nurses who are reentering practice following a lapse of five or more years.

(9) Investigate complaints of unauthorized practice or unprofessional conduct or incompetency against any person and take proper action under section 1582 or 1584 of this chapter, as the case may be.

(10) Adopt rules establishing a program to serve as an alternative to the disciplinary process for nurses and nursing assistants with chemical dependencies or other professional practice issues as designated by the Board.

(b) In consultation with the Board, the Director of the Office of Professional Regulation may employ an Executive Director of the Board and contract for such persons as may be necessary to carry out the work of the Board. (Added 1979, No. 192 (Adj. Sess.), § 1; amended 1993, No. 201 (Adj. Sess.), § 1; 2007, No. 29, § 25; 2009, No. 103 (Adj. Sess.), § 10; 2015, No. 38, § 7, eff. May 28, 2015; 2019, No. 30, § 11; 2019, No. 178 (Adj. Sess.), § 7, eff. Oct. 1, 2020.)



# The Vermont Statutes Online

## Title 3 : Executive

### Chapter 005 : Secretary Of State

#### Subchapter 003 : Professional Regulation

(Cite as: 3 V.S.A. § 123)

#### § 123. Duties of office

(a) The Office shall provide administrative, secretarial, financial, investigatory, inspection, and legal services to the boards. The services provided by the Office shall include:

(1) Sending, receiving, and processing applications for licenses.

(2) Issuing, recording, renewing, and reinstating all licenses as ordered by the boards, an appellate officer, the Director, an administrative law officer, or a court.

(3) Revoking or suspending licenses as ordered by the boards, the Director, an administrative law officer, or a court.

(4) Keeping all files and records of the boards, including minutes of meetings.

(5) Compiling and maintaining a current register of all licensees.

(6) Compiling and maintaining statistical information for each board, including the number of applications received; the number of licenses, certificates, registrations, and permits issued, renewed, and reinstated; examination results; the number and disposition of inspections and complaints; and the number of board meetings.

(7) Collecting and depositing all fees into the Professional Regulatory Fee Fund.

(8) Arranging payment of all expenses incurred by the boards within the limits of the funds appropriated to them.

(9) Standardizing, to the extent feasible and with the advice of the boards, all applications, licenses, and other related forms and procedures, and adopting uniform procedural rules governing the investigatory and disciplinary process for all boards set forth in section 122 of this chapter.

(10) Notifying the public and board members of all meetings and examinations to be held by the boards and arranging for places for those meetings and examinations.

(11) Assisting the boards in developing rules consistent with the principles set forth in 26 V.S.A. chapter 57. Notwithstanding any provision of law to the contrary, the

Secretary of State shall serve as the adopting authority for those rules.

(12) With the assistance of the boards, establishing a schedule of license renewal and termination dates so as to distribute the renewal work in the Office as effectively as possible.

(A) Licenses may be issued and renewed according to that schedule for periods of up to two years.

(B) A person whose initial license is issued within 90 days prior to the set renewal date shall not be required to renew the license until the end of the first full biennial licensing period following initial licensure.

(13) To the extent that resources permit, providing other administrative services that are necessary or desirable for the efficient operation of the boards.

(b) The Director shall consult with each board and prepare a consolidated budget for the Office. The consolidated budget shall also contain funds deemed to be required by the Director for the administration of this chapter. The Director shall submit the consolidated budget to the Secretary of State.

(c) The Director may purchase examination materials and contract with examination providers to administer examinations.

(d) The Director may adopt procedures for the effective administration of this section.

(e) The Secretary of State shall contract with and appoint one or more attorneys licensed to practice in this State to serve as administrative law officers under subsection 129(j) of this title or appellate officers under section 130a of this title.

(f) Classified State employees who are employed as investigators by the Secretary of State who have successfully met the standards of training for a Level III law enforcement officer under 20 V.S.A. chapter 151 shall have the same powers as sheriffs in criminal matters and the enforcement of the law and in serving criminal process, and shall have all the immunities and matters of defense now available or hereafter made available to sheriffs in a suit brought against them in consequence for acts done in the course of their employment.

(g)(1) The Office shall establish uniform procedures applicable to all of the professions and boards set forth in section 122 of this chapter, providing for:

(A) appropriate recognition of education, training, or service completed by a member of the U.S. Armed Forces toward the requirements of professional licensure; and

(B) expedited issuance of a professional license to a person who is licensed in good standing in another regulatory jurisdiction; and

(i) whose spouse is a member of the U.S. Armed Forces and who has been

subject to a military transfer to Vermont; and

(ii) who left employment to accompany his or her spouse to Vermont.

(2) The Director may evaluate specific military credentials to determine equivalency to credentials required for professions attached to the Office. The determinations shall be adopted through written policy that shall be posted on the Office's website.

(3) The Director may evaluate apprenticeship programs recognized or administered by the Vermont Department of Labor, Agency of Education, or U.S. Department of Labor to determine equivalency to credentials required for professions attached to the Office. The determinations shall be adopted through written policy that shall be posted on the Office's website.

(h) Notwithstanding any provision of Title 26 of the Vermont Statutes Annotated to the contrary, the Office, on behalf of the Director or a board, may use electronic mail to send notices and reminders that would otherwise be sent by mail, except certified mail, and may use online services to elicit information and sworn attestations that would otherwise be obtained on a paper form.

(i)(1) The Director shall actively monitor the actions of boards attached to the Office and shall ensure that all board actions pursued or decided are lawful, consistent with State policy, reasonably calculated to protect the public, and not an undue restraint of trade.

(2) If the Director finds an exercise of board authority or discretion does not meet those standards, the Director may, except in the case of disciplinary actions:

(A) provide written notice to the board explaining the perceived inconsistency, which notice shall have the effect of staying that action and implementing any alternative prescribed by the Director;

(B) schedule a public meeting with the board to resolve questions about the action and explore alternatives; and

(C) within 60 days following that meeting, issue a written directive finding that:

(i) the exercise of board authority or discretion is consistent with State policy, in which case the action shall be reinstated;

(ii) the exercise of board authority or discretion is inconsistent with State policy in form, but may be modified to achieve consistency, in which case the board may issue a modified action consistent with the Director's recommendation; or

(iii) the exercise of board authority or discretion is inconsistent with State policy in purpose, in which case any alternative prescribed by the Director shall stand as the regulatory policy of the State.

(j)(1) The Office may inquire into the criminal background histories of applicants for

initial licensure and for license renewal of any Office-issued credential, including a license, certification, registration, or specialty designation for the following professions:

(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter 28;

(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59;

(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; and

(D) osteopathic physicians licensed under 26 V.S.A. chapter 33.

(2) Prior to acting on an initial or renewal application, the Office may obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Federal Bureau of Investigation background checks shall be fingerprint-supported, and fingerprints so obtained may be retained on file and used to notify the Office of future triggering events. Each applicant shall consent to the release of criminal history records to the Office on forms developed by the Vermont Crime Information Center.

(3) Applicants subject to background checks shall be notified that a check is required, if fingerprints will be retained on file, and that criminal convictions are not an absolute bar to licensure, and shall be provided such other information as may be required by federal law or regulation.

(k) For any profession attached to it, the Office shall provide a pre-application determination of an individual's criminal background. This determination shall not be binding on the Office in a future application if the individual violates probation or parole or is convicted of another crime following the determination.

(1) The Office shall initiate this determination upon an individual's "second chance" determination request. This request shall provide documentation related to the individual's conviction or convictions, evidence of rehabilitation, and identification of the profession or professions for which the individual seeks licensure.

(2) The individual shall submit this request online, accompanied by the fee for preapplication determinations set forth in section 125 of this subchapter. If the individual thereafter applies for licensure, this preapplication fee shall be deducted from that license application fee.

(3) The Office shall:

(A) process a request within 30 days of receiving a complete request;

(B) assess the nature of the underlying conviction or convictions, the nexus to the profession or professions for which the individual seeks licensure, and the provided evidence of rehabilitation; and

(C) respond to the individual's request in writing.

(l) When, by reason of disqualification, resignation, vacancy, or necessary absence, a board is unable to form a quorum or assign one or more members to assist in the investigation and prosecution of complaints or license applications, or to adjudicate a contested case, the Secretary of State may appoint ad hoc members, either as voting members to establish a quorum at a specific meeting or as nonvoting members to assist Office investigators and prosecutors. (Added 1989, No. 250 (Adj. Sess.), § 1; amended 1997, No. 40, § 2; 1999, No. 133 (Adj. Sess.), § 51; 2003, No. 122 (Adj. Sess.), § 78g; 2005, No. 27, § 1; 2007, No. 163 (Adj. Sess.), § 1; 2009, No. 33, § 4; 2009, No. 103 (Adj. Sess.), § 1; 2011, No. 116 (Adj. Sess.), § 2; 2013, No. 27, § 1; 2013, No. 138 (Adj. Sess.), § 2; 2013, No. 141 (Adj. Sess.), § 11, eff. July 1, 2015; 2017, No. 48, § 1; 2017, No. 115 (Adj. Sess.), § 2, eff. Jan. 1, 2020; 2017, No. 144 (Adj. Sess.), § 1; 2019, No. 152 (Adj. Sess.), § 1, eff. April 1, 2021; 2019, No. 178 (Adj. Sess.), § 2, eff. Oct. 1, 2020; 2021, No. 69, § 2.)



# Proposed Rules Postings

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### Search Rules

### Deadline For Public Comment

Deadline: Dec 21, 2022

Please submit comments to the agency or primary contact person listed below, before the deadline.

### Rule Details

|                  |   |
|------------------|---|
| Rule Number:     | 22P025  |
| Title:           | Administrative Rules of the Board of Nursing.   |
| Type:            | Standard  |
| Status:          | Proposed  |
| Agency:          | Vermont Board of Nursing  |
| Legal Authority: | 26 V.S.A. § 1574; and 3 V.S.A. § 123(11).   |
| Summary:         | This strike-and-rewrite update to the Administrative Rules of the Board of Nursing reflects substantial changes in the legal and practice landscape since the last rule update in January, 2015. The rule minimizes administrative burdens, conforms to license uniformity and streamlining legislation in Title 3, |

and provides for the administration of the Nurse Licensure Compact (NLC), to which Vermont became a party state in February, 2022. The rule articulates clear nursing practice standards, completing a multi-year effort by the Board and its Practice Committee to refine a body of non-rule position statements, retire those that were dated or unnecessary, and incorporate into rule those that were seen to warrant retention. Finally, the rule adds more flexible avenues by which to demonstrate ongoing nursing competency, ending exclusive reliance on practice hours.

Persons Affected:

APRNs, RNs, LPNs, LNAs, MNAs; hospitals, clinics, private provider offices, nursing homes, rehabilitation facilities, and other nursing employers; nursing schools and education programs; acute, long-term, and residential care organizations; the Vermont Department of Health.

Economic Impact:

The significant economic impacts of this rule are derived from Vermont's participation in the Nurse Licensure Compact. Each Board licensee will pay a one-time fee of \$13.25 to cover the cost of the federal criminal background check required by 3 V.S.A. § 123(j)(1)(A). RNs and LPNs whose primary states of residence are other Compact states may now practice in Vermont without need of a Vermont license, resulting in a biennial savings of \$150 - \$190. Compact participation is expected to yield substantial net savings to nurses and nursing employers, but net revenue loss to the agency from forgone licensing fees; however, the magnitude of these effects is contingent upon discretionary use of Compact privileges by nurses in and outside of Vermont. Act 64 (2021), Sec. 1a directs OPR to report to the Legislature, by January 15, 2024, on specific fiscal impacts.

Posting date:

Oct 26,2022

## Hearing Information

### Information for Hearing # 1

Hearing date:

12-08-2022 5:30 PM [ADD TO YOUR CALENDAR](#)

Location:

City Center

Address:

89 Main St., 3rd Floor

City:

Montpelier

State:

VT

Zip: 05620

Hearing Notes:

**Information for Hearing # 2**

Hearing date: 12-12-2022 1:00 PM [ADD TO YOUR CALENDAR](#)

Location: City Center

Address: 89 Main Street, 3rd Floor

City: Montpelier

State: VT

Zip: 05620

Hearing Notes:

**Contact Information**

**Information for Primary Contact**

**PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.**

Level: Primary

Name: Gabriel Gilman

Agency: Office of Professional Regulation, Office of the Secretary of State

Address: 89 Main Street, 3rd Floor

City: Montpelier

State: VT

Zip: 05620-3402

Telephone: 802-828-2492

Fax:

Email: [gabriel.gilman@vermont.gov](mailto:gabriel.gilman@vermont.gov)

[SEND A COMMENT](#)

Website <https://sos.vermont.gov/nursing/statutes-rules-resources/>

Address: [VIEW WEBSITE](#)

**Information for Secondary Contact**

**SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.**

Level: Secondary

Name: Kelsi Alger

Agency: Office of Professional Regulation, Office of the Secretary of State

Address: 89 Main Street, 3rd Floor

City: Montpelier

State: VT



Zip: 05620-3402  
Telephone: 802-828-2191  
Fax:  
Email: [kelsi.alger@vermont.gov](mailto:kelsi.alger@vermont.gov)

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## Keyword Information

Keywords:

Nursing Administrative Rules  
Nursing Practice  
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**(802) 828-3700**

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|------------|---|--|
| <b>TO:</b> | Seven Days<br>Legals ( <a href="mailto:legals@sevendaysvt.com">legals@sevendaysvt.com</a> )<br>Katie Hodges ( <a href="mailto:khodges@sevendaysvt.com">khodges@sevendaysvt.com</a> )  | Tel: (802) 865-1020 x110.<br>Attn: Kaitlin                   |
|            | The Caledonian Record<br>Julie Poutre ( <a href="mailto:adv@caledonian-record.com">adv@caledonian-record.com</a> )  | Tel: 748-8121 FAX: 748-1613                                  |
|            | Times Argus / Rutland Herald<br>Melody Hudson ( <a href="mailto:classified.ads@rutlandherald.com">classified.ads@rutlandherald.com</a> )<br>Elizabeth Marrier ( <a href="mailto:elizabeth.marrier@rutlandherald.com">elizabeth.marrier@rutlandherald.com</a> )                                      | Tel: 802-747-6121 ext 2238<br>FAX: 802-776-5600              |
|            | The Valley News<br>( <a href="mailto:advertising@vnews.com">advertising@vnews.com</a> )   | Tel: 603-298-8711<br>FAX: 603-298-0212                       |
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|            | The Bennington Banner / Brattleboro Reformer<br>Lylah Wright ( <a href="mailto:lwright@reformer.com">lwright@reformer.com</a> )   | Tel: 254-2311 ext. 132 FAX: 447-2028<br>Attn: Lylah Wright   |
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|            | Herald of Randolph<br>( <a href="mailto:ads@ourherald.com">ads@ourherald.com</a> )  | Tel: 728-3232 FAX: 728-9275<br>Attn: Brandi Comette          |
|            | Newport Daily Express<br>( <a href="mailto:jlafae@newportvermontdailyexpress.com">jlafae@newportvermontdailyexpress.com</a> )   | Tel: 334-6568 FAX: 334-6891<br>Attn: Jon Lafoe               |
|            | News & Citizen ( <a href="mailto:mike@stowereporter.com">mike@stowereporter.com</a> )<br>Irene Nuzzo ( <a href="mailto:irene@newsandcitizen.com">irene@newsandcitizen.com</a> and <a href="mailto:ads@stowereporter.com">ads@stowereporter.com</a> removed from distribution list per Lisa Stearns. | Tel: 888-2212 FAX: 888-2173<br>Attn: Bryan                   |
|            | St. Albans Messenger<br>Ben Letourneau ( <a href="mailto:ben.letourneau@samessenger.com">ben.letourneau@samessenger.com</a> )   | Tel: 524-9771 ext. 117 FAX: 527-1948<br>Attn: Ben Letourneau |
|            | The Islander<br>( <a href="mailto:islander@vermontislander.com">islander@vermontislander.com</a> )  | Tel: 802-372-5600 FAX: 802-372-3025                          |
|            | Vermont Lawyer<br>( <a href="mailto:hunter.press.vermont@gmail.com">hunter.press.vermont@gmail.com</a> )  | Attn: Will Hunter  |

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**FROM:** APA Coordinator, VSARA

**Date of Fax:** October 25, 2022

**RE:** The "Proposed State Rules " ad copy to run on

**November 3, 2022**

**PAGES INCLUDING THIS COVER MEMO:**

**3**

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**\*NOTE\* 8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

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If you have questions, or if the printing schedule of your paper is disrupted by holiday, etc. please contact VSARA at 802-828-3700 or E-Mail [sos.statutoryfilings@vermont.gov](mailto:sos.statutoryfilings@vermont.gov), Thanks.

## PROPOSED STATE RULES

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By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/>. The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

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Administrative Rules of the Board of Nursing.

Vermont Proposed Rule: 22P025

AGENCY: Board of Nursing

**CONCISE SUMMARY:** This strike-and-rewrite update to the Administrative Rules of the Board of Nursing reflects substantial changes in the legal and practice landscape since the last rule update in January 2015. The rule minimizes administrative burdens, conforms to license uniformity and streamlining legislation in Title 3, and provides for the administration of the Nurse Licensure Compact (NLC), to which Vermont became a party state in February 2022. The rule articulates clear nursing practice standards, completing a multi-year effort by the Board and its Practice Committee to refine a body of non-rule position statements, retire those that were dated or unnecessary, and incorporate into rule those that were seen to warrant retention. Finally, the rule adds more flexible avenues by which to demonstrate ongoing nursing competency, ending exclusive reliance on practice hours.

**FOR FURTHER INFORMATION, CONTACT:** Gabriel Gilman, Secretary of State, Office of Professional Regulation, 89 Main Street, 3rd Floor, Montpelier Vermont, 05620-3402 Tel: (802)828-2492 Email: [gabriel.gilman@vermont.gov](mailto:gabriel.gilman@vermont.gov) URL: <https://sos.vermont.gov/nursing/statutes-rules-resources/>.

**FOR COPIES:** Kelsi Alger, Secretary of State, Office of Professional Regulation, 89 Main Street, 3rd Floor, Montpelier Vermont, 05620-3402 Tel: 802-828-2191 Email: [kelsi.alger@vermont.gov](mailto:kelsi.alger@vermont.gov).

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Rule on Alternative Preparatory Paths for Funeral Directors and Embalmers.

Vermont Proposed Rule: 22P026

AGENCY: Board of Funeral Services

**CONCISE SUMMARY:** This is an amendment to the current Rule on Alternative Preparatory Path for Funeral Directors that establishes a program of apprenticeship and study for aspirants to funeral director licensure who have not attended a school of funeral service. The amendment to this rule adds a program of apprenticeship and study for those who seek to become a licensed embalmer. Additionally, minor revisions

were made to the section of the rule pertaining to funeral directors. The number of credits for the required coursework topics in section (a) were removed in anticipation of the number of credits potentially changing in the future based on the specific college, university or career and technical school's requirements. In section (c) the specific Community College of Vermont course sequence with corresponding credits was removed to allow for future colleges, universities, and career and technical centers to create their own programs. Sections (a) and (c) of the embalmer section of the rule mirrors these revisions.

FOR FURTHER INFORMATION, CONTACT: Lauren Layman, Office of Professional Regulation, 89 Main St., Montpelier, VT 05620-3402 Tel: 802-828-2883 Email: [lauren.layman@vermont.gov](mailto:lauren.layman@vermont.gov) URL: <https://sos.vermont.gov/funeral-service/statutes-rules-resources/>.

FOR COPIES: Kelsi Alger, Secretary of State, Office of Professional Regulation, 89 Main Street, 3rd Floor, Montpelier Vermont, 05620-3402 Tel: 802-828-2191 Email: [kelsi.alger@vermont.gov](mailto:kelsi.alger@vermont.gov).

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Administrative Rules for Notary Public Continuing Education.

Vermont Proposed Rule: 22P027

AGENCY: Secretary of State, Office of Professional Regulation

CONCISE SUMMARY: The proposed rule requires that notaries public complete one hour (60 minutes) of continuing education related to the Vermont laws and requirements for performing notarial acts every two years. The completion of the course is required for a notary public to renew their commission. The notary public course may be offered in many different formats.

FOR FURTHER INFORMATION, CONTACT: Lauren Layman, Office of Professional Regulation, 89 Main St., Montpelier, VT 05620-3402 Tel: 802-828-2883 Email: [lauren.layman@vermont.gov](mailto:lauren.layman@vermont.gov) URL: <https://sos.vermont.gov/notaries-public/statutes-rules-resources/>.

FOR COPIES: Kelsi Alger, Secretary of State, Office of Professional Regulation, 89 Main Street, 3rd Floor, Montpelier Vermont, 05620-3402 Tel: 802-828-2191 Email: [kelsi.alger@vermont.gov](mailto:kelsi.alger@vermont.gov).

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