

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Higher Education Committee

BILL: CS/SB 2284

INTRODUCER: Higher Education Committee and Senator Haridopolos

SUBJECT: Nursing Programs

DATE: April 2, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HR	Favorable
2.	Harkey	Matthews	HE	Fav/CS
3.			HA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill would streamline the application process for new nursing programs. The bill would repeal the Board of Nursing's (BON's) authority to adopt rules for the approval of nursing programs and instead would codify program standards. The BON would have to approve or deny a program within 90 days if the application documented compliance with program standards set by the bill for faculty qualifications; clinical training and clinical simulation requirements; faculty-to-student supervision ratios; and curriculum and instruction requirements.

Each nursing education program would be required to submit an annual report to the BON documenting the program's retention rates and verifying its continued compliance with each statutorily-specified program standard. A program would be placed on probation if it failed to submit its annual report or if the performance of its graduates on the National Council of State Boards of Nursing Licensing Exam (NCLEX) fell 10 percent or more below the national average score for that exam for two consecutive years.

The bill would require the Office of Program Policy and Government Accountability (OPPAGA) and the Florida Center for Nursing to monitor the effect of the legislation and issue a series of reports to the Governor and Legislative leaders concerning its effect on the production of nurses.

This bill amends sections 464.003 and 464.019, Florida Statutes.

II. Present Situation:

The Board of Nursing's Approval of Nursing Programs

The Nurse Practice Act¹ provides for the regulation of the practice of nursing by the Board of Nursing (BON) in Florida. An approved program is defined to mean a nursing program conducted in a school, college, or university which is approved by the BON pursuant to s. 464.019, F.S., for the education of nurses. Under s. 464.019, F.S., the BON approves nursing programs for the education of professional and practical nurses.

The BON must adopt rules for:

- The initial review and conditional approval of a program regarding:
 - Educational objectives;
 - Faculty qualifications;
 - Curriculum guidelines;
 - Administrative procedures; and
 - Clinical training.
- The full approval of a program to ensure that graduates are capable of competent practice, including:
 - Student attrition rate standards;
 - Availability of qualified faculty; and
 - Appropriate clinical training facilities; and
- The probation, suspension, and termination status of programs that fail to comply with the standards.

The BON may not adopt a rule that:

- Prohibits a qualified institution from placing a student in a facility for clinical experience, regardless of whether more than one nursing program is using the same facility for clinical experience; or
- Limits the number of students admitted to a nursing program, provided appropriate faculty/student ratios are maintained.

The Department of Health (DOH) must survey each institution applying for approval and submit its findings to the board. If the BON is satisfied that the program meets the requirements of part I, ch. 464, F.S., and its implementing rules, it must certify the program for approval and the department shall approve the program.

If the BON, through an investigation by the DOH, finds that an approved program no longer meets the required standards, it may place the program on probationary status until such time as the standards are restored. If a program fails to correct these conditions within a specified period of time, the BON may rescind the approval, and the program has the right to reapply. Provisional approval of new programs may be granted pending the licensure results of the first graduating class.

¹ Pt. I, ch. 464, F.S.

Any nursing program that maintains accreditation through a nursing accrediting body recognized by the United States Department of Education is exempt from the BON rules if the program maintains a student pass rate on the National Council Licensure Examination (NCLEX) of not less than 10 percentage points below the national average pass rate as reported annually by the National Council of State Boards of Nursing. If an institution's passing rate on the NCLEX drops below the established standard for two consecutive years, the program must be reviewed by the BON, and the BON may take action to assist the program to return to compliance. Any program having its approval rescinded has the right to reapply.

As of January 2009, the Board of Nursing granted provisional or full approval to 68 associate degree in nursing (ADN) programs, 25 bachelor of science programs, and 96 licensed practical nurse programs.² During 2008, the pass rate on the NCLEX for graduates of Florida BON approved programs was 87.68 percent for registered nurses (RNs) and 85.41 percent for licensed practical nurses (LPNs).³

Accreditation of Nursing Programs

Nursing programs are accredited by the National League for Nursing Accrediting Commission (NLNAC) and the Commission on Collegiate Nursing Education (CCNE). Both accrediting entities are recognized by the United States Department of Education and are nationally recognized accrediting organizations that accredit a broad array of nursing programs.⁴

Licensure of Nurses

Part I, ch. 464, F.S., specifies requirements for licensure by examination for applicants of professional and practical nursing, the use of protected titles, and exceptions to licensure for graduates of approved nursing programs pending the result of their licensure examination.

The Nursing Shortage

The National Center for Health Workforce Analysis at Health Resource and Service Administration has projected a growing shortage of RNs over the next 15 years, with a 12 percent shortage by 2010 and a 20 percent shortage by 2015.⁵

As of June 30, 2008, there were 57,682 active in-state licensed practical nurses (LPNs), 176,287 active in-state licensed registered nurses (RNs), and 11,280 active in-state licensed advanced registered nurse practitioners (ARNPs) in Florida.⁶

According to a report prepared by the Florida Center for Nursing, there is a current shortage of RNs and LPNs in Florida, and that shortage is projected to grow significantly. In 2007, demand

² Source: Florida Board of Nursing. http://www.doh.state.fl.us/mqa/nursing/1st_trainingprograms.pdf

³ Source: Florida Board of Nursing.

⁴ See the website of the National League for Nursing Accrediting Commission at <http://www.nlnac.org/home.htm> and the website of the Commission on Collegiate Nursing Education at <http://www.aacn.nche.edu/Accreditation/index.htm>.

⁵ U.S. Department of Health and Human Services, Bureau of Health Professions, National Center for Health Workforce Analysis, Nursing Workforce Data Analysis: Methods for Identifying Facilities and Communities with Shortages of Nurses, Technical Report. (February 2007). Available online at:

http://bhpr.hrsa.gov/healthworkforce/nursingshortage/tech_report/default.htm

⁶ Florida Department of Health, Division of Medical Quality Assurance, Annual Report: July 1, 2007-June 30, 2008.

for RNs exceeded supply by just under 11,000 RNs. By 2020, that shortage is projected to increase to more than 52,000. Similarly, a shortage of 2,644 LPNs in 2007 is expected to grow to just over 7,000 by 2020.⁷

In 2007, Florida produced nearly 6,000 new RN graduates and 3,400 new LPN graduates. However, in academic year 2007-2008, over 12,500 qualified applicants were turned away by nursing schools in Florida because the schools were at capacity.⁸ Low nursing school faculty salaries, lack of clinical sites, and lack of qualified applicants for faculty positions have been cited as factors that contribute to the nurse shortage.⁹

III. Effect of Proposed Changes:

The bill amends s. 464.019, F.S., which provides the authority for the Board of Nursing (BON) to approve programs for the education of nurses. The bill would:

- Direct the BON to approve or deny the new nursing program applicant within 90 days;
- Eliminate the board's authority for rulemaking related to the regulation of nursing education programs and codify minimum standards in law; and
- Require new programs to submit an application documenting specified aspects of their educational program along with the \$1000 application fee.

The bill would establish minimum requirements for curriculum, clinical training, and faculty qualifications as follows:

- For professional nursing programs, the director and at least 50 percent of the faculty must be registered nurses who have a bachelor's degree in nursing and a master's degree in nursing or a related field;
- For practical nursing programs, the director and at least 50 percent of the faculty must be registered nurses who have a bachelor's degree in nursing;
- At least 50 percent of a program's nursing major curriculum must consist of clinical training;
- No more than 25 percent of the program's clinical training may consist of clinical simulation;
- The program must have signed agreements with clinical facilities that will serve as training sites;
- The program must have written policies that are consistent with the minimum standards established in the bill regarding student/ faculty ratios and direct or indirect supervision of students by program faculty or clinical preceptors; and
- Professional and practical nursing programs must provide instruction and clinical experience in the subjects listed in the bill.

Each nursing education program would be required to submit an annual report to the BON documenting the program's student retention rate and providing a statement verifying continued

⁷ Florida Center for Nursing. Forecasting Supply, Demand, and Shortage of RNs and LPNs in Florida. 2007-2020 (July, 2008).

⁸ Florida Center for Nursing. 2008 Nursing Education Program Annual Report and Workforce Survey, 16 (January 2009). Available at: www.flcenterfornursing.org/files/06-07_Education_Survey_Report.pdf

⁹ Florida Center for Nursing. 2008 Nursing Education Program Annual Report and Workforce Survey, 2 (January 2009). Available at: www.flcenterfornursing.org/files/06-07_Education_Survey_Report.pdf

compliance with each statutorily-specified program standard. A program that fails to submit its annual report would be placed on probation.

Likewise, a program would be placed on probation if the performance of its graduates on the NCLEX fell 10 percent or more below the national average score for that exam for two consecutive years. The program director would have to appear before the board to present a plan for remediation. Compliance would have to be achieved within the next two consecutive years or the program would be terminated. Programs on probation would have to disclose their status to students and applicants in writing. Programs would have to submit an annual report to the BON with an affidavit certifying continued compliance with the required provisions and data from the prior year pertaining to the capacity and performance of their program.

The BON could terminate a program on probation under the provisions of the Administrative Procedures Act¹⁰ if: (a) the program did not submit its annual report within six months; or (b) the performance of the program's graduates on the NCLEX did not achieve compliance within the next two consecutive years.

The BON would be required to publish on its website all new program applications and associated documents and program performance data collected in the annual report from all approved programs, including NCLEX pass rates, student retention rates, accreditation status and approval status.

The bill directs OPPAGA and the Florida Center for Nursing to monitor the effect of the legislation and evaluate its effectiveness in achieving nursing programs with a higher production of nursing graduates. Reports would be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives as follows: an initial 1-year impact report by February 1, 2010, a 5-year impact report on January 30, 2011, and reports annually thereafter through 2015.

Other Potential Implications:

By streamlining the current approval process for nursing education programs, this bill could allow a significant increase in the number of nursing education programs in public and private institutions in Florida that could produce nursing graduates to address the state's shortage of nurses.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁰ ch. 120, F.S.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A private nursing program would continue to pay the DOH application fee of \$1,000 for processing of its nursing program's applications.

C. Government Sector Impact:

The DOH would continue to receive an application fee of \$1,000 for processing each nursing program's applications.

The DOH estimates a cost of \$19,000 to implement the provisions of this bill. The costs would cover an OPS employee to prepare documents for the website and services for scanning documents into the imaging database system (EIS).

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Higher Education on April 1, 2009:

The committee substitute does not repeal s. 464.019, F.S., governing the approval of nursing programs but rather amends it to:

- Streamline the application process and require approval or denial within 90 days;
- Establish standards for faculty credentials, curriculum, clinical experience, and student/faculty ratios;
- Provide for the probation and elimination of programs that fail to meet certain criteria; and
- Require OPPAGA and the Florida Center for Nursing to monitor the effect of the legislation and report to the Governor and Legislative leaders concerning its effect on the production of nurses.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
