

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1059 Nursing Education Programs
SPONSOR(S): Pigman
TIED BILLS: **IDEN./SIM. BILLS:** SB 1036

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Select Committee on Health Care Workforce Innovation		Dunn	Calamas
2) Health Care Appropriations Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

In 2009, the Legislature determined that the state had a growing nursing workforce shortage and that there was an insufficient number of nursing programs in the state due to strict program requirements established by the Board of Nursing. That year, the Legislature reformed regulation over nursing programs by removing the Board of Nursing's discretion to approve nursing programs and the board's rulemaking authority related to such programs. Instead, the Legislature codified the requirements for becoming an approved program. The law also included an accountability mechanism. Any program with two consecutive years of National Council Licensure Examination (NCLEX) passage rates 10 percent below the national average was required to be placed on probation. A nursing program's subsequent failure to meet or exceed that threshold in the next two years would result in termination of the program.

To monitor progress of the regulatory reform, the Office of Program Policy Analysis and Government Accountability was charged with conducting a five-year implementation study. The study found the changes to the nursing program approval process led to rapid increases in the number of approved programs and available seats for students. However, most of the programs approved after 2009 had NCLEX passages rates below 10 percent of the national average.

To hold nursing programs more accountable, this bill amends the Florida Nurse Practice Act to require nursing education programs that prepare students to be registered nurses (RNs) to be accredited by a nationally recognized nursing accrediting agency. The bill establishes a timeline within which certain programs must become accredited.

The bill authorizes the Board of Nursing to adopt rules relating to documenting the accreditation of nursing education programs. The bill removes the requirement that the Office of Program Policy Analysis and Government Accountability participate in an implementation study of the reformed regulation of the nursing programs.

In addition, the bill revises the definition of "clinical training" to include clinical simulation and removes the limit on clinical simulation training. The bill revises the definition of "practical nursing" to include teaching of general principles of health and wellness to the public and to students other than nursing students. The bill exempts nurses with specialty health care certification from continuing education required at biennial license renewal.

The bill has a fiscal impact on public colleges and universities that will have to obtain nursing program accreditation for their RN nursing programs. The bill has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1059.SCHCWI

DATE: 3/17/2014

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Nursing Licensure

The Nurse Practice Act, chapter 464, F.S., governs the licensure and regulation of nurses in Florida. The Department of Health (DOH) is the licensing agency for nurses, and the Board of Nursing (BON) is the regulatory authority. The BON is comprised of 13 members appointed by the Governor and confirmed by the Senate.¹

Applicants may apply to the DOH to be licensed as a registered nurse (RN) or a licensed practical nurse (LPN). RNs are licensed to practice “professional nursing;” whereas, LPNs are licensed to practice “practical nursing.”² After graduating from a BON approved nursing program or equivalent, applicants must submit an application, pay a fee, submit information for a criminal background check, and pass a licensure exam.³ For the exam requirement, the DOH uses the National Council Licensure Examination (NCLEX), developed by the National Council of State Boards of Nursing.

License renewal is required biennially.⁴ Each renewal period, an RN must document completion of one hour of continuing education for each calendar month of the licensure cycle.⁵ As part of the total hours required, all licensees must complete a two-hour course on the prevention of medical errors.⁶ Beginning with the biennium ending in 2015, each licensee shall complete a two hour course on the laws and rules that govern the practice of nursing in Florida.⁷

Nurse Specialty Certification

Specialty certification is a process by which a nongovernmental agency validates, based upon predetermined standards, an individual nurse’s qualifications for practice in a defined functional or clinical area of nursing.⁸ Certifications are intended to raise nursing standards and are earned through an assessment process.⁹

Periodic recertification is required in order to maintain a specialty certification. Recertification typically requires proof of a designated number of clinic hours in the specialty practice, testing, professional competency (continuing education), or some combination of the three.¹⁰

The National Commission for Certifying Agencies accredits sixteen nursing certification programs, for example the American Nurses Credentialing Center.¹¹ The individual certification programs offer specialty certification in a wide range of areas, such as acute care, ambulatory care, and clinical care.¹²

¹ Section 464.004, F.S. Board membership consists of seven registered nurses, three licensed practical nurses, and three lay persons without any connection to a health care facility. *Id.*

² Section 464.003, F.S. “Practice of professional nursing” means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences. *Id.* “Practice of practical nursing” means the performance of selected acts and being responsible and accountable for making decisions that are based upon the individual’s educational preparation and experience in nursing. *Id.*

³ Section 464.008, F.S. The state also has a licensure by endorsement provision for nurses currently licensed and practicing in another state. Section 464.009, F.S.

⁴ Section 464.013, F.S.

⁵ Fla. Admin. Code Ann. r. 64B9-5.002 (2014).

⁶ Fla. Admin. Code Ann. r. 64B9-5.011.

⁷ Fla. Admin. Code Ann. r. 64B9-5.013.

⁸ American Association of Critical-Care Nurses, *What is Nurse Certification?*, available at <http://www.aacn.org/wd/certifications/content/consumer-whatiscert.pcms?menu=certification> (last visited Mar. 12, 2014).

⁹ *Id.*

¹⁰ See, e.g., American Nurses Credentialing Center, *2014 Certification Renewal Requirements*, available at <http://www.nursecredentialing.org/RenewalRequirements.aspx> (last visited Mar. 12, 2014).

In Florida, RNs are not required to obtain specialty certification.¹³ Nurses may voluntarily seek certification, or certification may be required by an employer.

Nursing Education Programs

Nursing programs in Florida are offered by: public school districts, Florida colleges, state universities, private institutions licensed by the Commission for Independent Education, private institutions that are members of the Independent Colleges and Universities of Florida (ICUF), and Pensacola Christian College, which is statutorily authorized by s. 1005.06(1)(e), F.S.¹⁴

An educational institution may apply to the DOH to establish a nursing program. The DOH reviews the applications for completeness. The application must document compliance with the following program standards: faculty qualifications, clinical training requirements, faculty-to-student ratios, signed agreements with clinical training sites in the curriculum plan, and curriculum and instruction requirements.¹⁵

Applications deemed complete are forwarded to the BON for approval. Within 90 days of receipt of the application from the DOH, the BON must approve the application or notify the applicant of the intent to deny the application. If noticed of the intent to deny, the applicant may request a hearing under chapter 120, F.S.¹⁶

Currently, 50 percent of an associate's degree professional nursing education program and 40 percent of a bachelor's degree professional nursing education program must consist of clinical training.¹⁷

Clinical simulation is the practice of recreating a clinical scenario in an artificial setting. Simulation training allows deliberate practice in a controlled environment and allows students to practice a procedure prior to performance on a live patient. Advances in technology have created the possibility of clinical simulation being used as a substitute for actual clinical experience.¹⁸ Under Florida law, no more than 25 percent of a program's clinical training may consist of clinical simulation.¹⁹

¹¹ Institute for Credentialing Excellence, *NCCA-Accredited Certification Programs*, available at <http://www.credentialingexcellence.org/p/cm/ld/fid=121> (last visited Mar. 12, 2014).

¹² *Id.*

¹³ Advanced Registered Nurse Practitioners are a special category of registered nurses. The Nurse Practice Act requires specialty certification in order to practice as an Advanced Registered Nurse Practitioner. See s. 464.012, F.S.

¹⁴ This section of law exempts schools from the Commission for Independent Education's licensure requirements if the institution: had been so exempted prior to 2001; is incorporated in this state; the institution's credits or degrees are accepted for credit by at least three colleges that are fully accredited by an agency recognized by the U.S. Department of Education; the institution was exempt under that category prior to July 1, 1982; and the institution does not enroll any students who receive state or federal financial aid. Section 1005.06(1)(e), F.S. Only two institutions in Florida, Pensacola Christian College and Landmark Baptist College, are subject to this exemption. Landmark Baptist College does not offer a nursing program.

¹⁵ Section 464.019(1), F.S.

¹⁶ Section 464.019(2), F.S.

¹⁷ Section 464.019(1)(b), F.S.

¹⁸ Frank D. Hicks et al., *The Effect of High-Fidelity Simulation on Nursing Students' Knowledge and Performance: A Pilot Study*, 1, (2009), available at https://www.ncsbn.org/09_SimulationStudy_Vol40_web_with_cover.pdf (last visited Mar. 12, 2014).

¹⁹ Section 464.019(1)(c), F.S.

Clinical Simulation

Clinical simulation is the practice of recreating a clinical scenario in an artificial setting. Simulation training allows deliberate practice in a controlled environment and allows students to practice a procedure prior to performance on a live patient. Advances in technology have created the opportunity for clinical simulation to be used as a substitute for actual clinical experience. The ability to substitute clinical simulation for clinical training is useful for nursing programs dealing with a limited number of clinical sites or clinical sites that have inadequate learning opportunities.²⁰ Advantages of clinical simulation include:²¹

- No direct risk to patients;
- The opportunity for repetitive practice;
- Team training;
- Standardized curriculums;
- Reflective learning by facilitated debriefing of scenarios and video feedback; and
- The potential to decrease the number and effect of errors through crisis resource management training.

A disadvantage to clinical simulation is difficulty in replicating reality. Equipment is often unable to imitate actual physiological signs or symptoms. An artificial environment with mannequins and standardized patients has the potential to eliminate emotional stress that would be present in a real situation. Trainee perception of the simulation may cause students to react differently due to the lack of consequences on patient safety.²²

The body of literature on the effectiveness of clinical simulation is growing. A recent review of studies published between 1999 and January 2009, found that medium and/or high fidelity simulation using mannequins is an effective teaching and learning method when best practice guidelines are used.²³

Competition for clinical training spots in Florida has increased significantly.²⁴ A recent Miami Herald article reported that some nursing programs have begun paying for access to hospitals for clinical training slots for students.²⁵ On-site clinical training is limited by the number of available sites and the hours the sites are available, which makes training through clinical simulation a valuable alternative.

Nursing Education Program Reform

Prior to 2009, the BON had additional statutory authority over nursing program approval, including the ability to adopt rules related to educational objectives, faculty qualifications, curriculum guidelines, administrative procedures, and clinical training.²⁶

However, in 2009, the Florida Legislature recognized that the state had a nursing shortage and that the shortage was projected to grow significantly. In 2007, demand for RNs exceeded supply by 10,850

²⁰ Frank D. Hicks et al., *The Effect of High-Fidelity Simulation on Nursing Students' Knowledge and Performance: A Pilot Study*, 1, (2009), available at https://www.ncsbn.org/09_SimulationStudy_Vol40_web_with_cover.pdf (last visited Mar. 12, 2014).

²¹ *Id.* at 1-2.

²² *Id.* at 2-3.

²³ Robyn P. Cant & Simon J. Cooper, *Simulation-based Learning in Nurse Education: Systematic Review*, 66 J. ADVANCED NURSING 3, 3 (2009). See Denise Ellis et al., *Hospital, Simulation Center, and Teamwork Training for Eclampsia Management: A Randomized Controlled Trial*, 111 OBSTETRICS AND GYNECOLOGY 723, 723 (2008), for recent study of 132 students finding revealing no differences in clinical versus simulated training. *But cf.* Frank D. Hicks et al., *supra* note 20 (finding inconclusive results, with clinical students and simulation students having different strengths and weaknesses).

²⁴ Michael Vasquez, *Trend of Pay-to-play Medical Training Worries Critics*, March 8, 2014), available at <http://www.miamiherald.com/2014/03/08/3983064/trend-of-pay-to-play-medical-training.html> (last visited Mar. 12, 2014).

²⁵ *Id.*

²⁶ Florida House of Representatives, Government Accountability Act Council, 2009 Legislative Bill Analysis at 5, CS/CS/HB 1209, April 2, 2009, on file with committee staff.

RNs.²⁷ The Florida Center for Nursing predicted a statewide RN shortage of 52,209 nurses by 2020.²⁸ The Legislature identified a shortage of available seats in nursing programs for qualified applicants. For academic year 2007-2008, over 12,500 qualified applicants in Florida were turned away because schools were at capacity, and 68 percent of qualified RN applicants were turned away.²⁹

To address the issue of program seat capacity, the 2009 Legislature codified the requirements for becoming an approved nursing program, removing the discretion and rulemaking authority from the BON.³⁰ The new law removed BON oversight of faculty requirements, student to faculty ratios, clinical training and clinical simulation requirements, and curriculum and instruction requirements. The law added transparency provisions and a measure to hold programs accountable via NCLEX passage rates.

The new law increased transparency by requiring nursing programs to submit an annual report to the BON, which the BON was required to use to publish program data to its website. The BON was required to publish new programs' applications; program accreditation status, including the accrediting agency; program probationary status; each program's NCLEX passage rate; program's student retention rates; and the national average passage rate for the NCLEX.

The legislation also included a mechanism for holding accountable programs that consistently post poor national exam passage rates. The provision required that programs with two consecutive years of national exam passage rates 10 percent below the national average be placed on probation by the BON. If a program placed on probation pursuant to this provision did not achieve the required passage rate for any one calendar year during the two calendar years following its placement on probation, the BON would be required to terminate the program.³¹

The Legislature charged the Office of Program Policy Analysis and Government Accountability (OPPAGA) with conducting a five-year implementation study of the effects of the 2009 changes.³² OPPAGA issued a report in 2014, which found that the changes to the nursing program approval process led to rapid increases in the number of approved programs and available seats for students. Since 2009, 231 new programs have been approved, and over 29,500 seats have been added.³³ From academic years 2008-2009 to 2012-2013, the number of graduating students increased by 30 percent.³⁴ However, most of the programs approved after 2009 had poor passage rates on the NCLEX. Of the programs approved since 2009, 73 percent had exam passage rates 10 percent below the national average passing rate.³⁵

²⁷ Florida Center for Nursing. *Forecasting Supply, Demand, and Shortage of RNs and LPNs in Florida, 2007-2020*, 6 (July 2008), available at http://www.flcenterfornursing.org/DigitalLibrary.aspx?Command=Core_Download&EntryId=193 (last viewed March 13, 2014)

²⁸ *Id.* at 6.

²⁹ Florida Center for Nursing. *2008 Nursing Education Program Annual Report and Workforce Survey*, 16 (January 2009), available at http://www.flcenterfornursing.org/DigitalLibrary.aspx?Command=Core_Download&EntryId=8 (last viewed March 13, 2014).

³⁰ Ch. 2009-168, Laws of Fla.

³¹ Section 464.019(6), F.S.

³² Office of Program Policy and Government Accountability, Florida Legislature, *Florida's Nursing Education Programs Continued to Expand in 2013, While Licensure Exams Passage Rates of New Programs Declined*, Report No. 14-03 at 1, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1403rpt.pdf> (last visited Mar. 12, 2014).

³³ *Id.* at 3-4. Only 112 of the newly approved programs had graduates take the 2013 NCLEX. *Id.* at 7.

³⁴ *Id.* at 6.

³⁵ *Id.* at 7.

Nursing Education Program Accreditation

Accreditation is a voluntary process by which a non-governmental entity reviews and recognizes educational institutions or programs that meet or exceed standards for educational quality.³⁶ Accreditation is designed to distinguish schools adhering to a set of educational standards.³⁷ Nursing programs in Florida fall into one of the following accreditation categories:

- Programmatic accreditation;
- Broader institutional accreditation;
- Both programmatic accreditation and institutional accreditation; and
- Neither the program nor the institution is accredited.

The process for obtaining accreditation generally requires the following: an application, fees, a self-evaluation report, a peer review site visit, and a detailed analysis of materials and reviewer findings. Once accreditation is obtained, programs are subject to ongoing review, periodic site visits, and continuing accreditation fees.³⁸

The United States Secretary of Education recognizes two accrediting agencies for nursing program accreditation, the Accreditation Commission for Education in Nursing (ACEN) and the Commission on Collegiate Nursing Education (CCNE).³⁹ Obtaining initial accreditation is an involved process. CCNE requires nursing programs to have students enrolled at least one year before applying.⁴⁰ Both ACEN and CCNE require programs to complete the accreditation process within two years.⁴¹

CCNE charges the following fees.⁴²

- \$3,500 new applicant fee per program;
- \$1,750 evaluation fee per evaluation team member (typically, 3 - 5 members); and
- \$2,468 annual fee to maintain accreditation.

ACEN charges the following fees:

- \$2,500 candidacy fee;
- \$1,000 review fee for initial or continuing accreditation (per program); and
- \$835 site visit fee per evaluator per day.

Institutional accreditation applies to the entire institution and is not program specific. For example, the Southern Association of Colleges and Schools Council on Accreditation and School Improvement accredits almost seventy institutions that provide nursing programs, including all of the schools in the Florida university system.⁴³ At present, all schools that have nursing program accreditation also have institutional accreditation. However, not all schools with institutional accreditation have nursing program

³⁶ Accreditation Commission for Education in Nursing, *Accreditation Manual*, 1, (July 31, 2013), available at <http://www.acenursing.net/manuals/GeneralInformation.pdf> (last visited Mar. 12, 2014).

³⁷ AdvancedEd, *What Is Accreditation?*, available at <http://www.advanc-ed.org/what-accreditation> (last visited Mar. 12, 2014).

³⁸ Accreditation Commission for Education in Nursing, *Accreditation Manual*, *supra* note 36 at 13.

³⁹ United States Department of Education, *Specialized Accrediting Agencies*, https://www2.ed.gov/admins/finaid/accred/accreditation_pg7.html (last visited Mar. 12, 2014).

⁴⁰ Commission on Collegiate Nursing Education, *Procedures for Accreditation of Baccalaureate and Graduate Degree Nursing Programs* at 7 (April 28, 2012), available at <http://www.aacn.nche.edu/ccne-accreditation/procedures.pdf> (last visited Mar. 12, 2014).

⁴¹ *Id.* at 6. Accreditation Commission for Education in Nursing, *Accreditation Manual*, *supra* note 36 at 13.

⁴² Commission on Collegiate Nursing Education, *CCNE Fee Structure Nursing Education Programs*, available at <http://www.aacn.nche.edu/ccne-accreditation/FEESTR.pdf> (last visited Mar. 12, 2014).

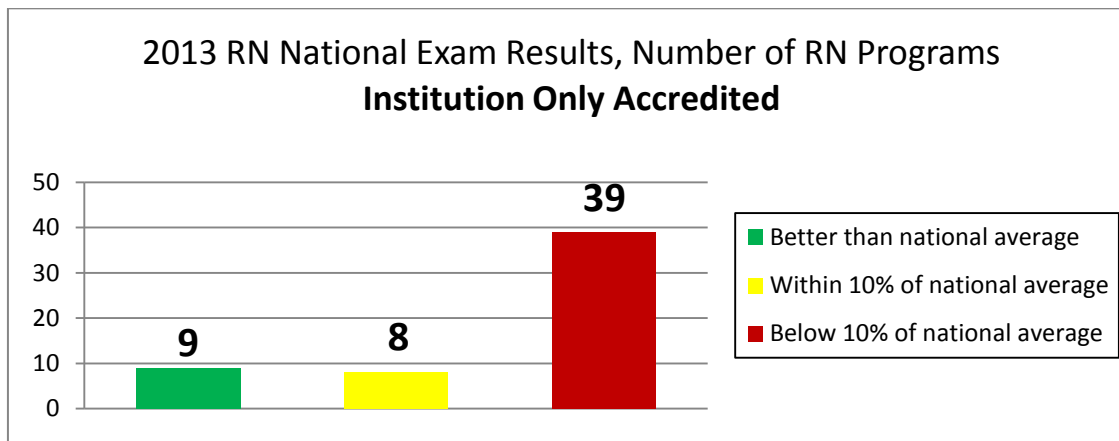
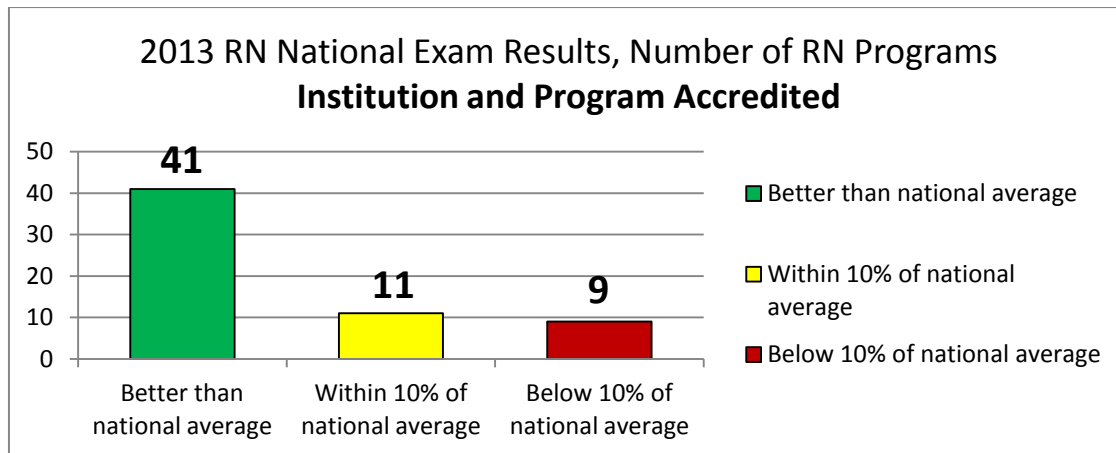
⁴³ Data retrieved from Florida Department of Health, *Compare Florida Prelicensure Nursing Education Programs*, available at <http://www2.doh.state.fl.us/MQANEP/SCSearchCriteria.aspx> (last visited Mar. 12, 2014).

accreditation. Fifty-six nursing programs with only institutional accreditation had students take the 2013 NCLEX.⁴⁴

There currently is no requirement to be accredited in order to become an approved nursing program. In 2013, eleven schools with neither nursing program accreditation nor institutional accreditation had students take the 2013 NCLEX.⁴⁵

2013 RN Education Programs National Exam Results by Accreditation Type

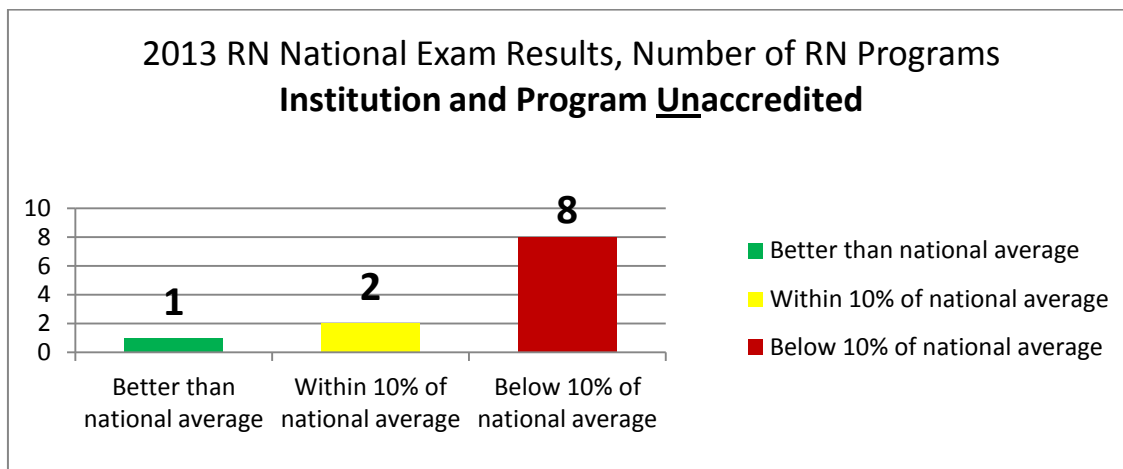
The charts below show by accreditation type the number of RN nursing programs that exceeded the NCLEX national average passage rate for first time test takers in 2013. The charts also illustrate the number of programs that were within or below 10 percent of the national passage rate.⁴⁶



⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Charts created from data available from the DOH and the 2013 nursing education OPPAGA report. See Florida Department of Health, *Compare Florida Prelicensure Nursing Education Programs*, *supra* note 43; Office of Program Policy and Government Accountability, Florida Legislature, *Florida's Nursing Education Programs Continued to Expand in 2013, While Licensure Exams Passage Rates of New Programs Declined*, *supra* note 32. Charts only include schools with more than one test taker.



Effect of Proposed Changes

The bill amends s. 464.019, F.S., to require all nursing education programs that prepare students for the practice of professional nursing to be accredited by a specialized nursing accrediting agency that is nationally recognized by the United States Secretary of Education, with the exception of a nursing education program statutorily authorized by s. 1005.06(1)(e), F.S.⁴⁷ The bill establishes the following schedule for programs to become accredited:

- Programs approved before July 1, 2014, and that enrolled students before July 1, 2014, must obtain nursing program accreditation by July 1, 2019;
- Programs approved before July 1, 2014, but did not enroll students before that date, must obtain nursing program accreditation within 5 years after the date of enrolling the program's first students; and
- Programs approved after June 30, 2014, must obtain nursing program accreditation within 5 years after the date of enrolling the program's first students.

The bill revises the definition of “clinical training” to include clinical simulation and removes the limit on clinical simulation training. The bill revises the definition of “practical nursing” to include teaching of general principles of health and wellness to the public and to students other than nursing students.

The bill amends s. 464.013, F.S., to exempt nurses with specialty health care certification from a program accredited by the National Commission for Certifying Agencies from continuing education required at biennial license renewal.

The bill provides the Board of Nursing the authority to adopt rules relating to documenting the accreditation of nursing education programs. The bill removes the requirement that the Office of Program Policy Analysis and Government Accountability participate in an implementation study.

The bill repeals obsolete language in s. 464.019, F.S., related to the status of certain programs during the transition to the new program approval process effective July 1, 2009.

The bill amends s. 456.014 F.S., to conform a cross-reference.

The bill provides an effective date of July 1, 2014.

B. SECTION DIRECTORY:

Section 1. Amends s. 464.003, F.S., relating to nursing definitions.

⁴⁷ Only Pensacola Christian College and Landmark Baptist College qualify for this exception. Pensacola Christian College has a professional nursing education program, but Landmark Baptist College does not offer a nursing program.

- Section 2.** Amends s. 464.013, F.S., relating to renewal of license or certificate.
- Section 3.** Amends s. 464.019, F.S., relating to approval of nursing education programs.
- Section 4.** Amends s. 456.014, F.S., relating to public inspection of information required from applicants; exceptions; examination hearing.
- Section 5.** Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The DOH anticipates non-recurring costs for rule-making and workload to revise the nursing application, which can be absorbed by existing resources.⁴⁸

Public colleges and universities that do not currently have nursing program accreditation will incur the cost of becoming accredited and ongoing accreditation maintenance costs. ACEN charges an application fee of \$2,500, an initial accreditation or continuing accreditation review fee of \$1,000, and a site visit fee of \$835 per site visit. CCNE charges an application fee of \$3,500, an annual maintenance fee of \$2,468, and an evaluation fee of \$1,750 per evaluation team member (typically, 3 - 5 members). There are currently 9 public associate degree RN nursing programs that do not have nursing program accreditation.⁴⁹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private colleges and universities that do not currently have nursing program accreditation will incur the cost of becoming accredited and ongoing accreditation maintenance costs. There are currently 20 bachelor of science RN nursing programs and 122 associate degree RN nursing programs that do not have nursing program accreditation.⁵⁰

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

⁴⁸ Florida Department of Health, 2014 Agency Legislative Bill Analysis, HB 1059, March 10, 2014, on file with committee staff.

⁴⁹ Data retrieved from Florida Department of Health, *Compare Florida Prelicensure Nursing Education Programs*, *supra* note 43.

⁵⁰ Data retrieved from Florida Department of Health, *Compare Florida Prelicensure Nursing Education Programs*, *supra* note 43.

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the BON sufficient authority to adopt rules relating to documenting the accreditation of nursing education programs.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES