

1 of 1 DOCUMENT

NEW JERSEY REGISTER

Copyright © 2008 by the New Jersey Office of Administrative Law

VOLUME 41, ISSUE 1

ISSUE DATE: JANUARY 5, 2009

RULE PROPOSALS

**LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY BOARD OF NURSING**

41 N.J.R. 95(a)

Proposed Amendments: *N.J.A.C. 13:37-2.3* and *5.3*

[Click here to view Interested Persons Statement](#)

Application Requirements; Graduates of Foreign Nursing Programs; Continuing Education

Authorized By: State Board of Nursing, George Hebert, Executive Director.

Authority: *N.J.S.A. 45:11-24*.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2009-24.

Submit written comments by March 6, 2009 to:

George Hebert, Executive Director

State Board of Nursing

PO Box 45010

Newark, New Jersey 07101

The agency proposal follows:

Summary

On May 1, 2006, the Board adopted amendments to *N.J.A.C. 13:37-2.3* that revised application requirements for individuals who graduate from foreign nursing programs. Comments the Board received on these amendments suggested that the Board further amend *N.J.A.C. 13:37-2.3* to recognize a transcript review performed by the World Evaluation Services (WES) organization and the English proficiency examination offered by the International English Language Testing System (IELTS).

The Board has reviewed the transcript review performed by WES and investigated the acceptance of WES by other state boards of nursing. The Board has determined that WES does not perform a transcript review that would provide

the Board with the information it needs to assess adequately a foreign nursing program. WES is not accepted by many other state boards of nursing. Accordingly, the Board will not amend *N.J.A.C. 13:37-2.3* to recognize WES as requested.

The Board has reviewed entities that provide English proficiency examinations and has investigated United States Department of Homeland Security standards for English proficiency examinations. The Board has determined that the IELTS and the Test of English in International Communication (TOEIC) examinations, both recognized by the Department of Homeland Security, provide accurate assessments of an applicant's ability to communicate in English. Accordingly, the Board is proposing to amend *N.J.A.C. 13:37-2.3* to recognize the IELTS and TOEIC examinations as valid examinations of English proficiency.

The Board is also proposing to amend *N.J.A.C. 13:37-2.3* to impose a two-year period during which a passing score on an English proficiency will be valid. The Board is concerned that a passing score that is more than two years old does not accurately assess an applicant's current competency to communicate in English. The Board points out that the Commission on Graduates of Foreign Nursing Schools (CGFNS) imposes a similar two-year expiration date for English proficiency examination test scores.

The Department of Education requires school nurses to complete continuing education courses. These Department of Education courses are not recognized by *N.J.A.C. 13:37-5.3*, which sets forth Board of Nursing (Board) continuing education requirements. The New Jersey State School Nurses Association has requested that the Board permit nurses to count Department of Education continuing education courses towards Board continuing education requirements. The Board has reviewed this request and has determined that any nursing course that is completed to satisfy another State agency or Federal agency continuing education requirement provides a valid avenue for nursing continuing education and should receive Board recognition. The Board proposes to amend *N.J.A.C. 13:37-5.3* to recognize these courses.

The Board has determined that the comment period for this proposal will be 60 days; therefore, pursuant to *N.J.A.C. 1:30-3.3(a)5*, this proposal is excepted from the rulemaking calendar requirement.

Social Impact

The Board believes that the proposed amendment will have a positive impact on applicants for licensure who were educated in foreign nursing programs. These applicants will have more options for examinations that assess English proficiency and will therefore find it easier to complete this application requirement. Requiring that passing scores be no more than two years old will protect patients by ensuring that foreign educated applicants are currently proficient in English. This amendment may have a positive impact on the public. Facilitating the application process for foreign educated nurses may increase the number of nurses who become licensed in New Jersey and are available to provide services to patients in New Jersey.

The Board believes that the second proposed amendment will have a positive impact on nurses. Increasing the number of courses that qualify for continuing education credit will make it less burdensome for nurses to comply with continuing education requirements. The Board believes that these courses provide nurses with valuable education, which will enhance their professional competency.

Economic Impact

The two-year effectiveness period for passing scores on English proficiency examinations may result in applicants taking the English proficiency examination more than once. Applicants will bear the cost of retaking the English proficiency examination. The proposed amendment may reduce costs for nurses who take continuing education courses to satisfy another State agency's or Federal agency's requirements. These nurses will be able to count these courses towards Board continuing education requirements and will not be required to pay for additional courses to meet Board requirements.

Federal Standards Statement

A Federal standards analysis for the proposed amendment to *N.J.A.C. 13:37-2.3* is not required because there are no Federal laws or standards applicable to State licensing application requirements for nurses. A Federal standards analysis for the proposed amendment to *N.J.A.C. 13:37-5.3* is not required because there are no Federal laws or standards applicable to continuing education required to renew a nursing license. The proposed amendment recognize that courses completed in order to satisfy Federal continuing education requirements will satisfy Board requirements, but this recognition does not indicate that there are Federal laws or standards applicable to renewal of a State nursing license.

[page=96] Jobs Impact

This proposed amendments will not increase or decrease the number of jobs in New Jersey.

Agriculture Industry Impact

The Board does not believe that the proposed amendments will have any impact on the agriculture industry of this State.

Regulatory Flexibility Statement

A regulatory flexibility analysis on the proposed amendment to *N.J.A.C. 13:37-2.3* is not required because these proposed amendment applies to applicants for licensure who are not considered "small business" under the Regulatory Flexibility Act (the Act), *N.J.S.A. 52:14B-16* et seq.

Since licensed nurses are individually licensed by the Board, they may be considered "small businesses" under the Act. The proposed amendment to *N.J.A.C. 13:37-5.3* will not have an economic impact on licensed nurses and licensed nurses will not need to employ any professional services to comply with the proposed amendment. The proposed amendment to *N.J.A.C. 13:37-5.3* does not impose compliance, reporting or recordkeeping requirements.

Smart Growth Impact

The Board does not anticipate that the proposed amendments will have any impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan, otherwise known as the State Plan.

Housing Affordability Impact

The proposed amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the proposed amendments concern application requirements for individuals educated in a foreign country and continuing education requirements for licensed nurses.

Smart Growth Development Impact

The proposed amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the proposed amendments concern application requirements for individuals educated in a foreign country and continuing education requirements for licensed nurses.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets, [thus]):

SUBCHAPTER 2. LICENSURE BY EXAMINATION; REGISTERED PROFESSIONAL AND LICENSED PRACTICAL NURSES

13:37-2.3 Application requirements; graduates of foreign nursing programs

(a) An applicant for licensure who graduated from a foreign nursing program shall submit:

1.-2. (No change.)

3. Proof that the applicant has achieved a passing score on the Test of English as a Foreign Language [exam.] (TOEFL) **examination, the International English Language Testing System (IELTS) examination or the Test of English in International Communications (TOEIC) examination, within the past two years;** and

4. (No change.)

(b)-(c) (No change.)

SUBCHAPTER 5. GENERAL REQUIREMENTS OF LICENSURE; LICENSE RENEWAL; FEE SCHEDULE

13:37-5.3 Continuing education

(a)-(c) (No change.)

(d) A registered professional nurse or licensed practical nurse may obtain continuing education hours from the following:

1. (No change.)

2. Successful completion of a continuing education course or program related to nursing, which is taken in order to comply with the requirements of a State or Federal agency; one hour for each 60 minutes of attendance;

Recodify existing 2.-14. as **3.-15.** (No change in text.)

(e)-(j) (No change.)