

**52 N.J.R. 45(a)**

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**RULE ADOPTIONS**

**Reporter**

52 N.J.R. 45(a)

*NJ - New Jersey Register > 2020 > JANUARY > JANUARY 6, 2020 > RULE ADOPTIONS > LAW AND PUBLIC SAFETY -- DIVISION OF CONSUMER AFFAIRS*

**Agency**

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

**Administrative Code Citation**

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**Adopted Amendment: N.J.A.C. 13:37-1.3**

**Text**

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**Provisional Accreditation**

Proposed: December 17, 2018, at 50 N.J.R. 2547(a).

Adopted: June 7, 2019, by the Board of Nursing, Barbara B. Blozen, Ed.D., MA, RN, President.

Filed: December 9, 2019, as R.2020 d.004, **without change.**

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

Effective Date: January 6, 2020.

Expiration Date: January 24, 2025.

**Summary of Public Comments and Agency Responses:**

The Official comment period ended February 15, 2019. The Board received comments from the Marsha A. Pollard, Ph.D., Provost, Berkeley College.

1. COMMENT: The commenter believes the definition of "calendar year" at N.J.A.C. 13:37-1.3(a) and the requirement that nursing programs notify students about accreditation status are appropriate.

RESPONSE: The Board thanks the commenter for her support.

2. COMMENT: The commenter opposes N.J.A.C. 13:37-1.3(c)2, which requires a nursing program that does not obtain accreditation to cease operations regardless of whether students in the program have completed their education. The commenter points out that programs placed on probation are often able to improve NCLEX pass rates. The commenter believes that this requirement would cause nursing programs on provisional accreditation to establish exclusive admission criteria to ensure that admitted students pass NCLEX and that this could limit class size. The commenter is also concerned that the requirement will harm prospects of new programs in that it will be difficult to enroll students when programs could close at any time during their course of study.

RESPONSE: Existing N.J.A.C. 13:37-1.3 establishes that a program that does not obtain accreditation within two years of graduating its first class shall cease to admit students. The proposed amendment to N.J.A.C. 13:37-1.3(c)2 establish that such a program cannot continue to teach students enrolled in the program. Programs that do not obtain accreditation are not providing an appropriate education for students and they should not be allowed to continue to provide this insufficient education to enrolled students.

3. COMMENT: The commenter contends that the Jobs Impact statement in the notice of proposal was incorrect in that it stated that the proposed amendment would not increase or decrease the number of jobs in New Jersey. The commenter contends that closing programs that do not obtain accreditation will reduce the nurse workforce.

RESPONSE: The Jobs Impact statement addresses the creation or removal of jobs in the State, it does not address, as the commenter contends, the workforce that is available to perform those jobs.

4. COMMENT: The commenter contends that the Federal Standards Statement in the notice of proposal was incorrect in that it stated that there are no Federal laws or standards applicable to the proposed amendment. The commenter contends that there are Federal implications for student loans if programs must cease operation prior to all students completing the program.

RESPONSE: The Federal Standards Statement addresses whether there are Federal standards on the same subject matter as the proposed amendment.

There are no Federal standards for the accreditation of nurse education programs.

5. COMMENT: The commenter contends that using only NCLEX pass rates to determine the quality of a nurse education program is inappropriate. The commenter contends that NCLEX pass rates depend on many variables, some of which do not stem from the quality of a program. The commenter contends that the Board does not use any other indicator to evaluate a program. Relying solely on NCLEX pass rates will result in programs focusing solely on NCLEX pass rates and will negatively impact retention and graduation rates.

RESPONSE: The commenter is incorrect that the Board relies solely on NCLEX pass rates to evaluate programs. N.J.A.C. 13:37-1.3(c)3 requires nursing programs to submit a self-study report showing that the program is in compliance with the requirements of N.J.A.C. 13:37-1.4 through 1.11, including educator experience, curriculums, student retention and progression, program evaluations, among others. This self-study report is a vital component in the Board's determination as to whether a program should be granted accreditation.

6. COMMENT: The commenter is concerned that nursing programs do not receive NCLEX pass rates in a timely manner. The commenter contends that NCLEX pass rates are made available on an annual basis. Given that a program has two years to achieve the required NCLEX pass rates, there is not sufficient time for program assessment and implementation of changes.

RESPONSE: The Board sends out NCLEX pass rate reports every three months as a courtesy to nursing programs. Programs that wish to review pass rates more often are able to contract with the entity providing NCLEX to obtain pass rate reports.

7. COMMENT: The commenter is concerned with N.J.A.C. 13:378-1.3(d), which requires program administrators to have at least three years of full-time experience working in accredited or approved nursing education programs. The commenter contends that there is a declining number of nurse educators and that this requirement will exacerbate the decline, as it will reduce the opportunity for advancement and promotion of nursing faculty. The commenter also questions how the required experience would be documented.

RESPONSE: The requirements of N.J.A.C. 13:37-1.3(d) apply solely to administrators for nursing programs on provisional accreditation. As this standard only applies to a small portion of nursing programs in the State, it should not impose the burdens posited by the commenter. The Board believes that the experience requirements for program administrators for programs on provisional accreditation will help to

ensure that administrators have the experience necessary to guide nursing programs through the accreditation process. Experience would be documented through the administrator's resume.

8. COMMENT: The commenter is confused by N.J.A.C. 13:37-1.3(e), which establishes that a nursing program on provisional accreditation may only graduate one class per calendar year. The commenter is particularly concerned with accelerated programs, which admit students at different levels, that may have students graduating during the same calendar year but during different terms. The commenter questions how programs will control when students graduate. As opposed to limiting the number of classes that graduate in a calendar year, the commenter recommends that the Board limit the number of admission cohorts a program can start while on provisional accreditation.

RESPONSE: The Board will not amend the rule as the commenter recommends. Limiting programs to one graduating class per year will ensure that provisionally accredited programs are limited to admitting 40 students per year to the extent required by existing rule. Additionally, limiting the number of graduating classes to one per year will simplify the Board's analysis whether a provisionally accredited program has met accreditation requirements under existing N.J.A.C. 13:37-1.3(c)1, which permits accreditation only after "the first class has graduated." Finally, the proposed amendment will also ensure that programs' NCLEX passage rates can be accurately calculated.

#### **Federal Standards Statement**

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the adopted amendments.

**Full text** of the adoption follows:

#### SUBCHAPTER 1. PROGRAMS IN NURSING EDUCATION

##### 13:37-1.3 Provisional accreditation

(a) For purposes of this section, the term "calendar year" means a year beginning on January 1 and ending on December 31.

(b) (No change in text.)

[page=46] (c) A nursing program that has provisional accreditation shall inform applicants that:

1. The nursing program has provisional accreditation; and
2. If the nursing program does not obtain accreditation, it will cease operation, regardless of whether all of the students in the nursing program have completed their education.

(d) The program administrator for a nursing program that has provisional accreditation shall have at least three years of full-time experience working in an accredited or approved nursing education program in a position that includes responsibility for development, implementation, and evaluation of nursing curriculum.

(e) A nursing program on provisional accreditation shall only graduate one class per calendar year.

(f) (No change in text.)

(g) A nursing program that has been granted provisional accreditation shall not be granted accreditation until:

1. (No change.)

2. Within either the first or second calendar year after the first graduates complete the program, 75 percent of the graduates who take the examination in each calendar year pass the examination the first time it is taken by the student. This means that students who graduate in the first year, but do not take the exam until the second year will be counted in the results of the second-year exam; and

3. A self-study report is submitted to the Board, three months from when the nursing program receives the examination results of the first graduating class, that shows the nursing program is in compliance with the requirements of N.J.A.C. 13:37-1.4 through 1.11.

(h) (No change in text.)

(i) A program that does not meet the requirements of (g) above shall remain on provisional accreditation status. A program may remain on provisional accreditation status for no more than two years from the date the first class graduates. A program that has not met the requirements of (g) above in that two-year period shall lose its provisional accreditation. A program that has lost provisional accreditation pursuant to this subsection, or any officer, director, owner, or principal of such a program, shall not be permitted to reapply for accreditation for three years from the date the provisional accreditation was lost.