

LEGAL MEMORANDUM

**TO: JESSICA L. ESTES, DNP, APRN-NP
EXECUTIVE DIRECTOR**

FROM: MORGAN G. RANSELL, GENERAL COUNSEL

DATE: MARCH 20, 2020

**RE: SUMMARY OF BOARD ACTIONS IN LIGHT OF COVID19 REGARDING
CLINICAL EDUCATION REQUIREMENTS, PROVISIONAL LICENSES
ISSUED TO EXAM APPLICANTS, AND TEMPORARY LICENSES ISSUED
TO ENDORSEMENT APPLICANTS**

I. CLINICAL EDUCATION REQUIREMENTS

During the state of emergency regarding COVID19, the Board has directed relaxed enforcement of two (2) clinical education requirements set forth at 201 KAR 20:320, Section 2(9) and Section 3(1)(b), as follows:

Section 2(9) of 201 KAR 20:320 states: “(9) Integrated practicum. (a) The curriculum shall include an integrated practicum. The integrated practicum shall consist of a minimum of 120 clock hours of concentrated clinical experience of direct patient care in a health care facility or health care organization. (b) The integrated practicum shall be completed within a period not to exceed seven (7) consecutive weeks while the governing institution is in session and within seven (7) months of graduation.”

During the period of emergency, for enforcement purposes, the following highlighted words shall be regarded as omitted from Section 2(9) of 201 KAR 20:320: “(9) Integrated practicum. (a) The curriculum shall include an integrated practicum. The integrated practicum shall consist of a minimum of 120 clock hours of ~~concentrated~~ clinical experience ~~of direct patient care in a health care facility or health care organization.~~ (b) The integrated practicum shall be completed ~~within a period not to exceed seven (7) consecutive weeks~~ while the governing institution is in session and within seven (7) months of graduation.”

Section 3(1) of 201 KAR 20:320 states: “Section 3. Simulation Standards. (1)(a) A program of nursing that uses simulation shall adhere to the standards set in this section. (b) A program of nursing shall not use simulation for more than fifty (50) percent of its total clinical hours required for graduation.”

During the period of emergency, for enforcement purposes, the following highlighted words shall be regarded as omitted from Section 3(1) of 201 KAR 20:320: “Section 3. Simulation Standards. (1)(a) A program of nursing that uses simulation shall adhere to the standards set in this section. ~~(b) A program of~~

nursing shall not use simulation for more than fifty (50) percent of its total clinical hours required for graduation.”

This relaxed enforcement of 201 KAR 20:320, Section 2(9) and Section 3(1)(b) means, that during the state of emergency, Board staff will not enforce the 120 hour integrated practicum requirement in a manner that requires direct patient care, or the completion of the integrated practicum within seven (7) consecutive weeks. Also, Board staff will not enforce the fifty (50) percent threshold for simulation with regard to the one hundred twenty (120) clock hours of integrated practicum, or with regard to the overall clinical requirement set forth in the Program curriculum. This means that, during the emergency, the integrated practicum requirement and overall clinical education requirement of a Program of Nursing may be met through simulation, up to one hundred percent (100%), provided the simulation comports with 201 KAR 20:320 Section 3.

II. PROVISIONAL LICENSES ISSUED TO EXAM APPLICANTS, AND TEMPORARY LICENSES ISSUED TO ENDORSEMENT APPLICANTS

The Kentucky Board of Nursing has received notification from the National Council of State Boards of Nursing that Pearson VUE test centers have been closed, and that the NCLEX test is suspended until April 16, 2020. For this reason, in anticipation of the possibility that NCLEX testing will not resume on April 16, 2020, during the state of emergency regarding COVID19, the Board has directed that, upon the expiration of a provisional Licensed Practical Nurse (“LPN”) license pursuant to 314.051(5), or the expiration of a provisional Registered Nurse (“RN”) license pursuant to KRS 314.041(3), the Board will issue a new provisional license, thus extending the period of permissible provisional licensure by up to six (6) months.

Also, the Kentucky Board of Nursing has received notification from the Kentucky State Police that all fingerprinting locations have been closed, and that the processing of fingerprint-driven criminal background checks have been suspended temporarily, due to the state of emergency regarding COVID19. During the state of emergency regarding COVID19, the Board has directed relaxed enforcement of two (2) regulations that pertain to provisional and temporary licensure, as follows

201 KAR 20:070 Section 4(2)(a) states: “The board shall issue the provisional license to the applicant after Section 1(1)(a) and (3) of this administrative regulation are met, but not until the report is received from the FBI and any conviction is addressed by the board.”

During the period of emergency, for enforcement purposes, the following highlighted words shall be regarded as omitted from 201 KAR 20:070 Section 4(2)(a): “The board shall issue the provisional license to the applicant after Section 1(1)(a) and (3) of this administrative regulation are met, ~~but not until the report is received from the FBI~~ and any conviction is addressed by the board.” Further, the reference in 201 KAR 20:070 Section 4(2)(a) to Section

1(1)(a) shall not be regarded as incorporating one subsection of Section 1(1)(a), namely, Section 1(1)(a)(1)(3), which, by its incorporation, would otherwise preclude the issuance of a provisional license in the absence of “a criminal record check completed within six (6) months of the date of the application by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI) using the FBI Applicant Fingerprint Card, and including payment of any required fee to the KSP and the FBI.” This relaxation of this requirement in 201 KAR 20:070 for submission of a fingerprint card/scan and an FBI criminal background report is applicable to provisional licensure only.

201 KAR 20:110 Section 3 states, in pertinent part: “Section 3. Temporary Work Permit. (1) An applicant for licensure by endorsement who meets all of the requirements of Section 1(1)(a) through (i), except for paragraph (g) of this administrative regulation shall be issued a temporary work permit, but not until the report is received from the FBI and any conviction is addressed by the board. (2) A temporary work permit shall be valid for a period not to exceed six (6) months.”

During the period of emergency, for enforcement purposes, the following highlighted words shall be regarded as omitted from 201 KAR 20:110 Section 3: “Temporary Work Permit. (1) An applicant for licensure by endorsement who meets all of the requirements of Section 1(1)(a) through (i), except for paragraph (g) of this administrative regulation shall be issued a temporary work permit, ~~but not until the report is received from the FBI and any conviction is addressed by the board.~~ (2) ~~A temporary work permit shall be valid for a period not to exceed six (6) months.~~” Further, the reference in 201 KAR 20:110 Section 3 to Section 1(1)(a) through (i) shall not be regarded as incorporating Section 1(1)(h), which, by its incorporation, would otherwise preclude the issuance of a temporary license in the absence of “a criminal record check completed within six (6) months of the date of the application by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI) using the FBI Applicant Fingerprint Card, and including payment of any required fee to the KSP and the FBI.” This relaxation of the requirement in 201 KAR 20:110 for submission of a fingerprint card/scan and an FBI criminal background report is applicable to temporary licensure only.

A fingerprint card/scan and an FBI report still will be required as a condition of full licensure pursuant to: 201 KAR 20:470 (Dialysis Technician); 201 KAR 20:056 (Advanced Practice Registered Nurse); 201 KAR 20:070 (LPN & RN License by Examination); 201 KAR 20:110 (License by endorsement); 201 KAR 20:225 (Reinstatement of License); and 201 KAR 20:411 (Sexual Assault Nurse Examiner).