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SENATE BILL NO. 517

Offered January 11, 2012

Prefiled January 11, 2012

A *BILL to amend and reenact § 54.1-3014 of the Code of Virginia, relating to nursing education programs; due process.*

Patron—Wagner

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:**1. That § 54.1-3014 of the Code of Virginia is amended and reenacted as follows:**

§ 54.1-3014. Survey of nursing education programs; discontinuance of program; due process requirements.

A. The Board shall, through its administrative officer or other authorized representative, survey all nursing education programs in the Commonwealth as necessary. Written reports of such surveys shall be submitted to the Board. If the Board determines that any approved nursing education program is not maintaining the required standards, notice in writing specifying the deficiencies shall be immediately given to the institution conducting the program.

B. If the Board proposes any restriction on the nursing education program's ability to enroll students:

1. The nursing education program shall receive no less than 30 days' written notice of the proposed action of the Board, which notice shall include, at a minimum:

a. The factual basis for the proposed restriction on enrollment;

b. Any law or regulation alleged to be violated by the nursing education program that is the basis for the Board's action;

c. A statement that the nursing education program may demonstrate that the Board's allegations are in error or cure and provide the Board with documentation of such cure of the alleged violations and avoid the enrollment restriction, provided the documentation of an error or cure is submitted to the Board at least seven days before the proposed effective date of the enrollment restriction, and the Board shall make a written determination on the adequacy of the nursing education program's response on or before the proposed effective date of the enrollment restriction. In the event the nursing education program provides the Board with information regarding an error in the Board's allegations or cure of the identified violations and the Board fails to provide a written response on or before the proposed effective date of the enrollment restriction, the nursing education program's response shall be deemed to be adequate and no restriction on enrollment shall apply; and

d. A description of the nursing education program's rights to a formal hearing under § 2.2-4020 if the nursing education program elects to challenge the restriction on enrollment or if the Board determines that the nursing education program has not demonstrated an error and has not cured the alleged violations as permitted by this section. In the event the nursing education program elects to receive a formal hearing, the proposed restriction on admissions shall be stayed until the decision from the formal hearing is rendered.

2. Any restriction on enrollment shall be limited to one year and shall expire automatically unless the Board provides the nursing education program with written notice that the specific violation has not been cured and provides the nursing education program with an opportunity to present evidence before the Board of compliance on or before the renewal of any action that prevents the enrollment of students for a period of greater than one year under this section.

A program ~~which~~ that fails to correct ~~these~~ the deficiencies identified by the Board to ~~the~~ its satisfaction of the Board within a reasonable time shall be discontinued after a hearing in which such facts are established.

C. Nothing in this section shall prevent the Board from taking immediate action to restrict a nursing education program's enrollment, provided:

1. The Board must provide written notice of clear and convincing facts indicating that a significant public safety issue necessitates immediate action to restrict enrollment; and

2. The Board's action shall entitle the nursing education program to a formal hearing under § 2.2-4020 within 30 days of issuing the action.

D. Nothing in this section shall prohibit a nursing education program from seeking an injunction pursuant to § 8.01-620 as a result of any action taken by the Board.

E. The Board shall take no adverse action against a nursing education program, whether upon a

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59 *recommendation of any committee or by motion of any member of the Board, unless the applicable*
60 *recommendation contains, briefly, the factual or procedural basis for the adverse action and the nursing*
61 *education program has the opportunity to present evidence to refute the factual or procedural basis*
62 *before the Board.*

63 *F. The Board shall informally investigate any complaint against a nursing education program to*
64 *determine whether it warrants further investigation before any subpoena or administrative request for*
65 *information is issued to the nursing education program, and ensure that no subpoena or administrative*
66 *request for information is issued without providing a copy of the relevant complaint to the administrator*
67 *and designated contact person for the nursing education program. Any subpoena shall be narrowly*
68 *drafted to address only a violation of the rules and regulations of the Board. The nursing education*
69 *program shall have the right to receive the record of the investigation.*

70 *G. The Board shall require nursing education programs to designate one or more persons with*
71 *whom the Board and Board staff will communicate for purposes of providing official notices, obtaining*
72 *information, and responding to requests for information regarding the nursing education program; such*
73 *persons need not be licensed nurses and need not maintain their primary place of business at the same*
74 *address as the nursing education program.*