

TO: Department of Education-Negotiated Rule Making Committee  
FROM: Amy Ackerson, Nursing Program Approvers Constituency  
RE: Proposed 34 C.F.R. Part 604 – The Secretary’s Recognition of State Agencies for the Approval of Nurse Education (Proposed Changes with Rationale)  
DATE: February 5th, 2024  
Issue:

1. Current language from the 1969 Federal Register is not in line with current practice/language that is used by National Council for State Boards of Nursing or the State Approval Agencies (Nursing Regulatory Boards). As a reminder, NRB approval rules are set in state statute and any change to the rules requires rule making procedures at the state level.
2. The goal is to update the register language, move the language to rule, and to align more closely to programmatic accreditation. This can be difficult as approval and accreditation are fundamentally different. Nursing program accreditation models the standards of accreditation after the model rules for approval as supplied by the NCSBN.
3. Nursing program approval agencies have a regular review process (usually every 5 years) that are a thorough review of all aspects of the nursing program. Annual reporting is a data collection tool and a compliance tool but not as stringent as the review process that is guided by state rule and regulation.
4. Proposed Changes with rationale:
  - a. Subpart A; 604.12
    - i. (a) Success with respect to student achievement, including consideration of [State licensing National Council Licensure Examination \(NCLEX\)](#) pass rates. All states utilize the NCLEX exam for licensure. This is standard practice for all US programs and regulatory boards.
    - ii. (i) [Refund policies](#)– The proposal is to eliminate the refund policies as a standard of approval. The institutional accreditation has jurisdiction over any financial aid issues. In the event that the nursing program is also a stand-alone institution, the institution will still be required to maintain an accreditation that monitors any Title IV requirements.
  - b. 604.13 – Site visit and documentation
    - i. (b) Allow the program of nurse education the opportunity to respond in writing to the report of the [onsite review](#); and [Many NRB use a paper survey option or a virtual survey option](#). Requiring the onsite review of approval visits does not align with current practice.
  - c. 604.14 – Annual report

- i. (5) Performance of students on ~~State licensing~~ NCLEX examination(s) for prior 5 years. Again, all states and all NRB use the NCLEX exam for licensure.
  - ii. ~~(7) A copy of the course catalog;~~ The course catalog will be reviewed during the regular review process. Review of an annual course catalog is a redundancy of the other documentation that is provided on an annual basis such as curriculum changes. If a nursing program is also a stand-alone institution, the institutional accreditor will have jurisdiction over institutional policies and procedures and financial aid indicators.
  - iii. ~~(9) A copy of its audited fiscal report;~~ and The audited fiscal report of the institution falls under the jurisdiction of the institutional accreditation. The concern of the nursing program approval agency is that the nursing education program has budgetary allocations that allow the program to operate and meet program outcomes. The nursing program budget will be reviewed during the regular review process. Many nursing program budgets are not visible in larger fiscal reports of the institution.
  - iv. ~~(8) An attestation of financial resources sufficient to support program outcomes.~~ In lieu of a copy of the audited fiscal report, it is recommended that the NRB require an attestation that the program has financial resources sufficient for program outcomes. The full fiscal report will be reviewed during the regular review process. If a program denies that financial resources are sufficient, the denial could trigger a review of the program.
- d. 604.18 Due Process
  - i. Provides for adequate discussion during the ~~on~~-site visit between the visiting team and the faculty, administrative staff, students, and other appropriate persons; Many NRB use a paper survey option or a virtual survey option. Requiring the onsite review of approval visits does not align with current practice.
  - ii. (iv) Provides the Department head of the ~~institution~~ program with a specific statement of reasons for any adverse action, and notice of the right to appeal such action before an appeal body designated for that purpose; It is unclear why the adverse action notice would go to the head of the institution and not the head of the nursing program. All other communications are with the head of the nursing program.
- e. Subpart C – The Recognition Process
 

The Department will follow the regulations at Part 602, Subpart C for the recognition process except that each State approval agency recognized under this subpart will be reevaluated by the Secretary at his discretion, but at least once every ~~four~~ five years. Normal review by the DOE is every 5 years for accreditation. Moving to a 5-year review instead of a 4-year review will ease the burden on the NRB as well as the Department. It is unclear as to the original intent for the tight 4-year time frame.

