



STATE OF DELAWARE
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MEMORANDUM

DATE: July 28, 2011

TO: Ms. Pamela Zickafoose, Executive Director
Delaware Board of Nursing

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: 15 DE Reg. 53 [Delaware Board of Nursing Proposed Board of Nursing Regulations]

The State Council for Persons with Disabilities (SCPD) has reviewed the Delaware Board of Nursing's (DBON) proposal to amend its regulations published as 15 DE Reg. 53 in the July 1, 2011 issue of the Register of Regulations. Specifically, DBON proposes to adopt extensive changes to its regulations in the following contexts: §1.0 General Provisions; §2.0 Nursing Education Programs; §3.0 Nursing Refresher Courses; §4.0 Alternative Supervised Practice Plans for Inactive Nurses; §6.0 Licensure Procedures and Requirements; §7.0 Standards of Nursing Practice; §9.0 Mandatory Continuing Education; §10.0 Disciplinary Proceedings; and §14.0 Compact Rules. SCPD has the following observations.

First, the education standards for LPN and RN programs include clinical practice in both physical and mental health care, across the age spectrum, covering acute and chronic conditions, and in "diverse settings". See §§2.4.1.7.1 and 2.4.1.7.2. SCPD endorses this provision.

Second, clinical facilities in which a student can practice include inpatient, outpatient, home health, hospice, day care centers, schools, senior centers, and correctional settings. See 2.4.1.9.4.1.1.3. SCPD endorses this provision.

Third, in contrast to the above flexibility in educational program settings, a supervised practice plan for inactive nurses if no refresher course is available is limited to "no less than a skilled nursing facility". See §4.3.1. SCPD recommends reconsideration of this narrow approach.

Fourth, the standards require nurses to practice without discrimination based on disability and to respect the dignity and rights of patients regardless of social or economic status, personal attributes or nature of health problems. See §§7.3.1.7 and 7.3.1.8. SCPD endorses this provision.

Fifth, §10.4.2.4 defines unprofessional conduct as including falsification of an agency “document” rather than an agency “record”. It may be preferable to retain the term “record” since it would ostensibly include electronic or computer-based entries while a reference to “documents” appears limited to entries on a physical paper.

Sixth, the list of offenses deemed “substantially related to the practice of nursing” (§15.0) spans 8 pages and is manifestly overbroad. It includes many esoteric offenses and unrelated offenses such as environmental misdemeanors [e.g. hunting from farm machinery (§15.8.63)]; and minor violations with a maximum penalty of \$100 or less [e.g. licensee failure to post conspicuously a sign warning against drinking during pregnancy (§15.8.54)]. Consistent with the attached Philadelphia Inquirer article, one in four Americans has some criminal record and governments are taking remedial action to not “overreact” in undermining the employability of such individuals. In Delaware, the June 8 enactment of S.B. 59, authorizing the Board of Nursing to restore licenses of persons with criminal convictions after five years, sends a “similar message” discouraging sweeping, inflexible exclusions from licensure. SCPD recommends reconsideration of this overbroad approach.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations on the proposed regulations.

cc: Mr. James Collins
Mr. Brian Hartman, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

15reg53 bon 7-28-11

Phila. limits questions about criminal record

Businesses can ask in interview

By **MARYCLAIRE DALE**
Associated Press

PHILADELPHIA — Philadelphia will soon become the latest U.S. city to "ban the box," prohibiting questions about a person's criminal record on job applications. The president of the NAACP plans to be in town Monday when Mayor Michael Nutter signs the law.

Employers can still ask candidates about the issue, but proponents say ex-offenders at least deserve a chance to get a foot in the door. They say the interviews never come if they admit their records early on.

"Americans believe in second chances. We believe that when somebody has paid their debt to society, they deserve the right to earn a living, reunite their

families," said Benjamin Todd Jealous, president of the civil rights group.

Chicago, Boston and several other cities have adopted similar measures. Some involve only public-sector jobs, but the Philadelphia law will apply to most public and private employers.

About 65 million Americans, or one in four, have a criminal record, while 90 percent of employers use criminal background checks, according to New York's National Employment Law Project, which released a report on the issue last month.

The group argues that stable employment will help former offenders straighten out their lives, and save tax dollars that would otherwise go toward supporting them in or out of prison.

Some business groups, including the Greater Philadelphia Chamber of Commerce, oppose the law.



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