

Date: 11 February 2019

To: Kentucky Administrative Regulation Review Committee  
State Senator Stephen West, Chair

From: Galen College of Nursing  
Louisville Kentucky 40207

Subject: Proposed Kentucky Board of Nursing Rules Change  
**201 KAR 020:320**

**General Background - Galen College of Nursing**

Galen College of Nursing (Galen) is a single-purpose nursing college with a mission that is focused on preparing diverse learners to become competent and caring nurses to meet the healthcare needs of the communities they serve. This mission is supported by dedicated and qualified faculty and staff members who are committed to achieving academic excellence; collaborative relationships with healthcare and education providers; continuous quality improvement through ongoing assessment of students' needs and program outcomes; and comprehensive planning by the Board of Directors and College administrators. Galen offers prelicensure and post licensure nursing education programs at its main campus in Louisville, Kentucky and at branch campuses in Hazard, Kentucky; St. Petersburg, Florida; Cincinnati, Ohio; and San Antonio, Texas.

Galen was established by Humana Health Institutes, Inc. (Humana) in 1989 in response to a national nursing shortage and Humana's decision to increase the number of licensed practical nurses (LPNs) in their nursing practice model. Initially, the College offered practical/vocational nursing education programs only. Upon the dissolution of the Humana Hospital System in 1994, the College, operating under the name of Galen Health Institutes, Inc. became an independent educational organization and has expanded programming exponentially over the previous 30 years, now offering a Diploma in Practical Nursing, Associate Degree in Nursing: LPN /LVN to RN Bridge Option, Associate Degree in Nursing: Two-Year Option, Bachelor of Science in Nursing Degree: RN-to-BSN Option and Bachelor of Science in Nursing Degree: Prelicensure Option. Galen College of Nursing is regionally accredited by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC). In December 2018, SACSCOC accreditation was extended to allow Galen to offer a Master of Science in Nursing Degree, to begin September 2019.

Galen College of Nursing programs in Kentucky graduate more nurses (Registered Nurse and Practical Nurse) than any other nursing education program in the Commonwealth, by as much as 60% more, and have maintained national licensure exam (NCLEX) pass rates that have consistently exceeded both state and nationally required percentages since 2012.

**Opposition to Proposed 201 KAR 020:320 Rule Change**

## Key Points:

- The proposed KBN rule overreaches the intent of the NLN Fair Testing Practice White Paper (NLN, 2012)
- The proposed rule change infringes on faculty's educator role and responsibilities
- The proposed rule change conflicts with KBN language which states that the 'development, implementation, evaluation and revision of the curriculum shall be the responsibility of the nursing faculty...' (KBN, Section 2. General. (5) Curriculum plan. (a).
- The KBN is attempting to correct a perceived problem by means of regulation, whereas other boards of nursing have addressed this issue through position statements, not law.

Galen contends that the proposed 201 KAR 020:320 Rule Change oversteps the Board of Nursing's authority in the regulation of nursing practice. Specifically, the proposed rule change reads, 'Proposed amendments to 201 KAR 20:320 Section 4 would prohibit the use of an external, standardized examination (not produced by the program of nursing) as a determinant for a student's progression or graduation from a program of nursing and would limit the use of an external examination to no more than 10% of a course grade.' Aside from the overreach of the proposed rule to limit faculty's role and responsibilities in the evaluation of students and curriculum, a contradiction exists in the proposed rule where a standardized exam can account for up to 10% of a grade. This verbiage can be interpreted to determine progression and/or graduation which the KBN intends to deter. Rule change language and application are unclear.

In the current proposed rule language, the KBN cites the original National League for Nursing (NLN, May 2012) White Paper which provides fair testing guidelines, not imperatives or requirements, *to guide faculty* in the implementation of fair testing processes by valuing student's perspectives and backgrounds, and to acknowledge the *faculty specific role* in the program evaluation process. The NLN's Fair Testing Guidelines, specifically state that,

Faculty have an ethical obligation to ensure that both tests and the decisions based on tests are valid, supported by solid evidence, consistent across courses and fair to all test takers...;

Faculty have the responsibility to assess students' abilities and assure that they are competent to practice nursing, while recognizing that current approaches to learning assessment are limited and imperfect;

Multiple sources of evidence are needed to evaluate basic nursing competence. Multiple approaches for assessment of knowledge and clinical abilities are particularly critical when high-stakes decisions (such as progression or graduation) are based on the assessment (NLN, 2012).

It is important to note in the NLN Fair Testing Guidelines (2012) that the role of faculty is the foremost body of nursing education professionals who are responsible for the determination, implementation and evaluation of student learning. The NLN White Paper further recognizes the keen pressure placed on nursing faculty to meet national standards for the safety of the public and evaluation of student competence in preparation for the highest stakes National Council State Boards of Nursing Exam (NCLEX). While there is no argument related to the role and responsibilities of nursing faculty, in the evaluation of both students and a program's curriculum, *'the prevalent use of standardized tests to block graduation or in some other way deny eligibility to take the licensing exam'* is the concern underscored by the NLN (2012).

Nursing program accreditation standards and criterion further define the role of faculty in the evaluation of curricula to ensure that graduates are competent and prepared to successfully pass the national licensure examination (NCLEX) (ACEN, 2017):

Standard 4.4.3. The curriculum is developed by the faculty and regularly reviewed to ensure integrity, rigor, and current.

Likewise, the KBN administrative regulations establish curriculum requirements for prelicensure registered nurse and practical nursing programs, which state that the 'development, implementation, evaluation and revision of the curriculum shall be the responsibility of the nursing faculty...' (KBN, Section 2. General. (5) Curriculum plan. (a).

While other state boards of nursing have commented on the use of standardized or external examinations, unlike the KBN's proposed 201 KAR 020:320 rule change, they do not countermand the authority and responsibility of nursing faculty and administrators to develop and follow mindful practices on the use and application of examinations in the evaluation of students for progression within the curriculum and graduation/completion of the program. Equally conscientious boards of nursing have provided statements to clarify external examination use without the creation of a binding statewide rule:

The Minnesota Board of Nursing has formally endorsed the National League for Nursing (NLN) "The Fair Testing Imperative in Nursing Education Guidelines" published by the NLN in 2012. "The guidelines developed by the NLN emerged after extensive review of the issues surrounding high stakes testing; that is, the use of a single standardized test in determining progression and/or graduation from a nursing program." (Minnesota, ND)

"To provide guidance to nursing faculty on appropriate and fair methods to assess student attainment of program, level, and course, outcomes. This interpretive statement focuses on high stakes testing or a single assessment event that halts student progression." (OSBON, 2016)

"Many vocational and professional nursing education programs have incorporated the use of standardized examinations into the curriculum in various ways. Though the Texas Board of Nursing has no purview over a nursing program's decisions to utilize standardized examinations,

Board Staff respond to numerous reports and questions from students, parents, and policy-makers about the use of standardized examinations, especially when they are used as a graduation requirement All agreed Standardized Examinations are one of many measures of program quality.

- a gauge of students' strengths and weaknesses for remediation purposes;
- an indicator of the need for early remediation for students experiencing difficulties to assist in their success in the program; and/or
- an assessment of readiness to take the NCLEX® examination.
- An academic progression policy should clarify the use, frequency, and points associated with standardized examinations and the use of the test results." (TBON, 2017)

### Summary

**Given the reasons outlined above, Galen respectfully requests that the Kentucky Legislature 2019 Administrative Regulation Review Subcommittee members reject the proposed 201 KAR 020:320 Rule Change in favor of a reworded KBN position statement (not legislation) to discourage application of a single standardized test to determine nursing program graduation and release of said graduate's name to the board of nursing for an Application to Test.**

Respectfully submitted,



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**Academic President**

### Points of Clarification

In December 2018, Galen College sought clarification from the KBN as to the intentions behind the drafted rule change. In their response, the KBN returned a document containing outdated research and conflicting or incorrect citations.

- KBN: Their research citation indicated that standardized examinations should not be used as a sole measure to evaluate student performance.
  - Fact: Galen College uses multiple means to assess student outcome attainment, and not as a sole measure for progression or graduation.
- KBN: Two researchers cited by the KBN, wrote in 2009 that standardized test scores should not be considered part of the course grade.
  - Fact: Galen College does not use standardized test scores as any portion of the course grade.
- KBN: The KBN response to Galen College of Nursing states that one of the reasons that externally made exams are inappropriate is because, "fair testing laws ensure that students have the legal right to review tests and test questions."
  - Fact: This was supposedly cited in Oermann & Gaberson, 2009. This statement cannot be found after review of the 2009, 2014 and 2017 published texts. Galen is unaware,

- after careful research of the topic, that any ‘Law’ or ‘Code’ of Fair Testing Practices in Education exists that indicates students have a right to review tests or test questions.
- KBN: The Johnson article (2007) mentioned by the KBN citing lawsuits for students taking standardized tests, mentioned issues with a 2005 SAT examination, and the teacher test PRAXIS, both of which are still used.
  - Fact: The SAT issue was a mis-score of approximately 5,000 of the 495,000 exams (0.01%).
- KBN: The KBN letter states, ‘Numerous nursing students have legally challenged programs of nursing as they believed their right were violated by testing programs and/or program policies (Oermann & Gaberson, 2009). In the 2017 text edition, the section regarding this issue states, “A number of issues have been raised in the courts by students claiming violation of their rights by testing programs. These issues include race or gender discrimination, violation of due process, unfairness of particular tests, various psychometric aspects such as measurement validity and reliability, and accommodations for students with disabilities.”
  - Fact: Neither the 2014 or the 2017 editions state that the student rights were perceived as violated by standardized examinations.

## References

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Kentucky Board of Nursing (KBN). *Welcome*. Retrieved from <http://www.kbn.ky.gov/>

Minnesota Board of Nursing (ND). *Endorsement of NLN Fair Testing Imperative in Nursing Education Guidelines*. Retrieved from <https://www.mn.gov/boards/nursing/education/nln-fair-testing-imperative/>

National League for Nursing (NLN). (May 10, 2012). *NLN Fair Testing Guidelines for Nursing Education*. Retrieved from <https://www.nln.org/newsroom/news-releases/news-release/2012/05/10/high-stakes-testing>

Oregon State Board of Nursing (OSBN) (Sep 8, 2016). *Use of High Stakes Testing or Single Assessment Approaches up Burbs Education Proteomes*. Retrieved from <https://www.oregon.gov/OSBN/layouts/OID.Web.V3/Pages/SearchResults.aspx?cx=005482606056434223770:uq7asij-tbc&cof=FORID%3A10&ie=UTF-8&q=use+of+high+stakes+testing>

Texas Board of Nursing (TBON) (Sep 28, 2017). *3.7.4.a. Education Guideline - The Use of Standardized Examinations in Nursing Education Programs*. Retrieved from <https://www.bon.texas.gov/results.asp?q=+high+stakes+testing>