

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 14, Article 5.
BOARD OF REGISTERED NURSING

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
Continuing Education Requirements; Exemptions

NOTICE IS HEREBY GIVEN that the Board of Registered Nursing (hereafter Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be received by the Board at its office no later than by **5:00 p.m. on Wednesday, January 3, 2024**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) sections 2715, 2736.5 and 2811.5, and to implement, interpret or make specific BPC sections 2736.5, 2811.5 and 2786, the Board is considering changes to Article 5, Division 14 of Title 16 of the CCR.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing regulations at 16 CCR sections 1451 and 1452 require registered nurses (RN) in California to complete 30 contact hours of continuing education (CE) every two years to maintain an active license and provide circumstances where licensees may be exempt from CE requirements, such as the first two years immediately following initial licensure in California, or military service or disability hardship.

In 2021, the Legislature passed Assembly Bill (AB) 1407 (Burke, Chapter 445, Statutes of 2021), amending BPC section 2811.5 to create a new mandate for Board licensees to complete one-hour of implicit bias training as part of their CE requirements. Although licensees are typically exempt from CE requirements during the first two years immediately following their initial licensure in California, BPC section 2811.5 now

establishes that the new implicit bias training requirement is not included in that standing exemption. BPC section 2811.5 requires that, starting January 1, 2023, a licensee still within the first 2 years of holding their license, immediately following their licensure, must complete one-hour of direct participation in an implicit bias course offered by a CE provider that has been approved by the Board.

According to BPC Section 2811.5(h), the Board also has the discretion to provide exceptions from CE requirements for licensees who meet certain criteria. This criterion includes, but is not limited to, residing in another state or country, reasons of health, military service, or other good causes. During their November 2022 and February 2023 meetings, the Board voted that licensees would not be allowed to request an exemption from the new implicit bias training requirement and approved the proposed text. The Board's proposal to remove the option of an exemption aims to lessen health care disparities affecting California's diverse patient population.

This proposal makes specific and clarifies provisions and will amend California Code of Regulations (CCR), Title 16, Division 14, section 1452 to add that all newly licensed licensees in California (both by exam or endorsing in from out of state) shall complete one-hour of implicit bias continuing education (CE) training within the first two years of licensure and may not request an exemption for the one-hour of implicit bias training.

The Board proposes the following changes:

- Amend the Title of Section 1452 from "Exemptions from Continuing Education Requirements" to "Continuing Education Requirements; Exemptions."
- Amend Subsection (a) of Section 1452 to establish that all licensees must complete one-hour of implicit bias training within their first two years of licensure.
- Amend Subsection (b) of Section 1452 to clarify that the implicit bias training requirement is not subject to the general CE requirement exemption provided during the first two years immediately following licensure.
- Amend Subsection (c) of Section 1452 to clarify that a licensee may not request an exemption from the implicit bias training requirement for reasons of health, military service, or other good cause.

Anticipated Benefits Of The Proposed Regulation

The Board has determined that this regulatory proposal does not affect worker safety, or the state's environment.

This regulatory proposal benefits the health and welfare of California residents by ensuring newly licensed licensees fulfill the one-hour implicit bias CE requirement and are not allowed to request any exemptions, which helps to achieve more fair and equal treatment of residents by competent licensees and promotes consumer protection.

Implicit bias impacts the health care disparities experienced by members of racial, ethnic, or religious minorities and other groups, and instruction in understanding implicit bias will increase awareness among licensees about issues that can unconsciously influence the care they provide and will help them adjust their practices to better serve California's diverse population. Members of the public will benefit from having a more informed licensee as such education on implicit bias will aid in creating a professional environment that provides equal treatment to patients.

Evaluation of Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board conducted a search of any similar regulations on this topic and concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

No forms are incorporated by reference in the proposed regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies: None.

The proposed regulations do not result in a fiscal impact to the state. The Board does not anticipate additional workload or costs resulting from the proposed regulations or costs of implementation are a result of current law.

Costs/Savings in Federal Funding to the State: None.

The regulations do not result in federal funding or any cost or savings to the state.

Nondiscretionary Costs/Savings to Local Agencies: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500 – 17630 Require Reimbursement: None.

Local Mandate: None.

Business Impact: None.

The Board has made an initial determination that this proposed regulatory action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business: None.

The Board is not aware of any other additional cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulation.

The requirement for specified licensees to complete a one-hour implicit bias training was established by state statute, not this rulemaking package.

Effect on Housing Costs: None.

Business Reporting Requirements: None.

The regulatory action does not require businesses to file a report with the Board.

EFFECT ON SMALL BUSINESS

The Board has determined that there will be no increased costs for small businesses with the proposed regulations because businesses are Board licensees and, therefore, are not subject to the one-hour implicit bias training requirement.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Board has determined this regulatory proposal (1) will not create or eliminate jobs; (2) will not create new business nor eliminate existing businesses; (3) will not expand existing businesses in the state of California.

The Board is not aware of any other cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulation.

This regulatory proposal will affect the general health and welfare of California residents by:

- Ensuring that new RNs are trained to identify implicit bias so that potential harms to patients can be recognized and corrected.
- Aligning with California's broader efforts to address the racial disparities that exist within the healthcare system and work towards health equity.

The proposed amendments will not affect worker safety and the environment because this regulation does not relate to worker safety and the environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of the law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1747 N Market Blvd, Suite 150 Sacramento, CA 95834 during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial

Statement of Reasons proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the Initial Statement of Reasons, and all the information upon which the proposal is based, may be obtained upon request from the person designated in the Notice under Contact Person or by accessing the Board's website, www.rn.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Marissa Clark
Address:	1747 N. Market Blvd., Suite 150 Sacramento, CA 95834
Telephone No.:	916-574-7438
Fax No.:	916-574-7700
E-Mail Address:	Marissa.Clark@dca.ca.gov

The backup contact person is:

Name: Ras Siddiqui
Address: 1747 N. Market Blvd., Suite 150
Sacramento, CA 95834
Telephone No.: 916-574-7922
Fax No.: 916-574-7700
E-Mail Address: brn.regulations@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process on the Board's website. Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations can be accessed at: <https://www.rn.ca.gov/regulations/proposed.shtml>.