

**Title 16, Division 14, Article 3, sections 1423 and 1432
California Code of Regulations**

Board of Registered Nursing

Final Statement of Reasons

Prelicensure Nursing Programs

Sections Affected: California Code of Regulations (CCR), Title 16, Division 14, Article 3, sections 1423 & 1432 [and 1421]

Updated Information

The Informative Digest and Initial Statement of Reasons are included in the rulemaking file and incorporated as though set forth herein.

The 45-day public comment period began on November 12, 2021 and ended on December 28, 2021. The Board of Registered Nursing (Board) received six letters during the public comment period. The Board also received two requests for a public hearing. The Board held a public hearing on January 20, 2022. The Board considered these comments at the July 26, 2022, Board Meeting, approved the responses, and voted to accept the proposed text without making any changes. The Board adopted the proposed text.

The proposed language as noticed by the Board in section 1432(b)(3) differed from the proposed language submitted by the Board to OAL in the final rulemaking proposal.

As noticed, the proposed language was:

(3) Addition of a new campus or location. The approved nursing program applying for a new campus or location and board shall follow the process set forth in section 1421(a).

As submitted to OAL, the proposed language was:

(3) Addition of a new campus or location. The approved nursing program applying for a new campus or location and board will follow the process defined in the board's document entitled "Instructions for Institutions Seeking Approval of a New Prelicensure Registered Nursing Program" (EDP-I-01 Rev 03/10), which is incorporated in section 1421.

The Board adopts the latter language as the final version, with the amendments below.

Additionally, the Board makes the following non-substantive amendments to proposed section 1432 and section 1421:

1. The Board added “the” between “and” and “board” in section 1432(b)(3) for syntactical accuracy.
2. The Board struck through the dash in the reference section of section 1432 and added an underline to “and” as it did not show this amendment in the originally proposed language.
3. The Board revised the title of the form referenced in section 1432(b)(3) to “Instructions for Institutions Seeking Approval of a New Prelicensure Registered Nursing Program or Addition of a New Campus or Location for a Currently Approved Nursing Program” (EDP-I-01 Rev 10/22) (form) to align with the updates to section 1432(b)(3).
4. The Board added in the first paragraph in the form “or seeking to add a new campus or location for a currently approved nursing program pursuant to Title 16, section 1432(b)(3) of the California Code of Regulations (CCR)” to explain that the form is also used for nursing programs to add a new campus or location. The Board deleted the next “California Code of Regulations” in the next paragraph because it abbreviated this title in the addition of further language.
5. The Board revised the revision date in the footer of the form to state it was revised in October, 2022, and changed the revision date of Facility Verification Form at page 2 of the form.
6. The Board revised the title of the form incorporated by reference in section 1421 to match the revised title of the form in section 1432(b)(3).
7. The Board revises the title of Preparing the Self-Study Report for Initial Approval of Pre-Licensure Nursing Program EDP-I-19 (REV 01/09), a form referenced in the form at page 5, by deleting “Initial” and changing the revision date to 10/22, so that the reader knows it applies to new and continuing approvals of nursing programs.
8. The Board changes the revision date of Form EDP-I-19 in the form at page 5 to 10/22 to reflect the revision referenced in paragraph 7 of this list.

Objections or Recommendations/Responses

Below are the comments the Board received regarding the proposed text, followed by the responses the Board approved thereto.

A. Letter dated December 1, 2021, from Concordia University Irvine

Comment A-1

Summary of Comment:

Commenter states that they understand that new entities must be thoroughly examined but it is difficult to imagine that long-standing programs with consistently good outcomes would be subject to the same lengthy approval process as new programs.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The proposed amendments codify the existing guidance given by the Board's Nursing Education Consultants (NEC) to the Board approved Directors of Nursing. This guidance is provided annually at a Deans and Directors conference and as needed when the program requests a substantive change. Additionally, the amendment provides consistency when evaluating the impact of adding a nursing program to a new community and adds one additional approval step. Currently, nursing programs are completing the substantive change request for a new campus or location based on guidance received from their assigned NEC. This new process outlined in the proposed regulatory update aligns the process for approval of a new campus or location with the same process that schools use when seeking approval of a new program. This allows the Board to review the programs' ability to develop, implement, and sustain a viable prelicensure registered nursing program in this new location consistently for all similar requests.

The proposed amendments do not change the current fee requirements. The \$40,000 application fee for an institution of higher education or a private postsecondary school of nursing approval outlined in Business and Professions Code (BPC) section 2786.5(a)(1) and 16 CCR 1417(ap) does not apply. Rather, the Board has charged and will continue to charge the \$2,500 fee for authorizing of a substantive change to an approval of a school of nursing authorized by BPC section 2786.5(a)(3) and 16 CCR 1417(ar).

These amendments seek to formalize this guidance and maintain consistency when evaluating the impact of new nursing programs opening in communities.

Comment A-2

Summary of Comment:

Commenter states that they currently turn away qualified nursing students due to lack of capacity and that these proposed changes will make it very time-consuming and expensive to grow an outstanding Bachelor of Science in Nursing (BSN) program to accommodate more students.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment A-1.

B. Letter dated December 1, 2021, from Dominican University of California

Comment B-1

Summary of Comment:

Commenter states the Board proposed changes will make it more time-consuming and expensive to grow their outstanding BSN program to accommodate additional students.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment A-1.

C. Letter dated December 20, 2021, from California Hospital Association (CHA)

Comment C-1

Summary of Comment:

Commenter suggests the Board add “substantive” before “increase” and delete “any” before “change” in section 1432(b)(5). Commenter states the beginning of the subdivision already refers to a “substantive change.” Therefore, referring to “any increase” or “any change” in subdivision (b)(5) is internally inconsistent and confusing.

Commenter requests they only be required to inform the Board of substantive changes.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The proposed text reflects the Board's determination that "any increase" or "any change" is substantive in terms of the changes required to be reported pursuant to 16 CCR section 1432(b). The term "substantive" means "having substance: involving matters of major or practical importance to all concerned." (See [https://www.merriam-webster.com/dictionary/substantive.](https://www.merriam-webster.com/dictionary/substantive))

For instance, the addition of one clinical group with 5 students to a nursing program can be substantive within the meaning of section 1432(b)(5). Nursing programs commonly have a difficult time finding adequate clinical facilities as facilities have decreased the size of their clinical groups. This has resulted in the need for additional faculty and more clinical facilities and has increased the use of night and weekend timeslots to teach the additional groups of the currently enrolled students.

Smaller clinical groups require additional faculty because each clinical group of students, no matter the size, must be overseen by a faculty member. Therefore, if a school has 20 students and the clinical site can only take 5 students at a time then 4 faculty members are needed to cover the 4 clinical groups. Accordingly, if a school has 20 students and the clinical site says they can take 10 students at a time, then 2 faculty members are needed to cover the 2 clinical groups.

Increases in enrollment, and changes in the frequency, timing, or number of student admissions can also affect the community and a nursing program's resources. The Board oversees nursing programs with annual enrollment numbers as low as 20 students a year to as high as 2,000 students per year. Depending on the school, increasing enrollment by five students could necessitate the addition of a new clinical group, additional faculty, and an addition of a new clinical facility placement.

Furthermore, changes in enrollment in one nursing program can displace students in other schools' geographic areas if the new students take the previously assigned spot that has been historically used by the neighboring school, thus displacing the already established clinical group. This increase in enrollment in one nursing program can then have a negative effect on the resources of another nursing program and can place that nursing program's current students at risk of not being able to progress and graduate due to the loss of a clinical placement and an inability to complete the required clinical practice hour requirement outlined in 16 CCR 1426(c)(1), (d) and (g)(2).

Requiring Board preapproval of a nursing program's change in enrollment numbers or patterns allows the Board to ensure that the nursing program has adequate faculty, facilities, clinical placements, policies, procedures, staff, support services, physical space, and equipment to operate a sustainable nursing program that can support the new student from enrollment through graduation. This includes taking into consideration the requirement in 16 CCR 1427(d) when addressing "the impact that an additional group of students would have on students of other nursing programs already assigned to the agency or facility." The Board also evaluates the adequacy of resources, including the clinical settings as required in 16 CCR 1424(d), (h), and (k)(1)-(6).

D. Letter dated January 18, 2022, from West Coast University

Comment D-1

Summary of Comment:

Commenter states the proposed language in section 1423(b) is vague because "material fact" is undefined.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

According to Black's Law Dictionary, "material" means "[h]aving some logical connection with the consequential facts" or "of such a nature that knowledge of the item would affect a person's decision-making; significant; essential." (Black's Law Dictionary (11th ed. 2019).) This is the meaning the Board intends with respect to the term "material" in section 1423(b). The Board need not define every term in a regulation. Its use of the term is consistent with the mandate to use "plain, straightforward language." [Government Code Section 6219(a).]

Existing regulation addresses only "a material misrepresentation of fact" but not concealment of facts from the Board. Accordingly, the Board proposes to amend section 1423 to prohibit both material misrepresentation of facts and concealment of facts, which is necessary to ensure that all requested information is completely and accurately provided to the Board for its consideration and evaluation. This will allow the Board to take an appropriate action against the precicensure program if it does not report the information required for a program to be approved by the Board or to retain its approval.

Comment D-2

Summary of Comment:

The proposed amendments to section 1432 do not meet the goal of maintaining sustainable nursing programs. Specifically:

- a. The amendments do not recognize the distinction between pre-nursing core enrollments and students involved in a core nursing program.
- b. Nursing programs should not have to report “any increase” in total enrollment to the Board and the administrative burden this imposes on the Board is unnecessary.
- c. Existing law at BPC sections 2786 and 2788 and 16 CCR section 1427, already provide the Board with the statutory authority to review the adequacy of nursing programs and clinical facilities.
- d. There is a lack of objective standards in section 1432 for how the Board will review nursing programs’ applications.
- e. The Board should consider aligning the proposed language with state nursing boards who require a change of enrollment in excess of a certain threshold to trigger a “substantive review.”

Response to Comment D-2a:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

In their reference to “pre-nursing core programs,” it appears the commenter is referring to prerequisite or corequisite nursing courses such as general education requirements. General education requirements can be English language, communication, critical thinking, scientific inquiry and quantitative reasoning, arts and humanities, social sciences, lifelong learning and self-development, ethnic studies, U.S. history, constitution, and American ideals. Students can take these courses over extended periods of times at various academic institutions and programs then evaluate these courses for transfer credit or reviewed for admission to a nursing program. Some nursing programs define successful completion of sciences met by a letter grade of B or higher and a C in other courses. These admission requirements are established by an academic institution, not by the Board.

The Board has jurisdiction over content required for licensure as outlined in 16 CCR 1426 and does not govern degree awarding, elective courses, or other non-nursing courses at an academic institution that are not part of the content required for licensure.

Response to Comment D-2b:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment C-1.

Response to Comment D-2c:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment C-1.

Additionally, BPC sections 2785 through 2789 authorize the Board to approve and regulate prelicensure nursing programs in California. The Board's prelicensure nursing program regulations are set forth in Title 16, Division 14, Article 3 of the CCR. As set forth in the initial statement of reasons, the last significant revision to the prelicensure regulations was in 2010. Since then, the Board has refined its processes and issues have been identified. Stakeholders have expressed uncertainty regarding the Board's authority to approve changes in enrollment patterns under section 1432. These amendments clarify the role of the Board. The Board evaluates the impact of enrollment growth on the community, including other nearby nursing programs, and ensures the requesting school has the resources and the ability to sustain a viable prelicensure nursing program without negatively affecting nearby nursing programs.

Response to Comment D-2d:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board has two program approval processes. One process is used for academic institutions seeking a new program approval and one process reviews previously approved nursing programs for continued approval.

The objective standards the Board uses to review applications for approval of a new prelicensure registered nursing program are addressed in 16 CCR 1421 and further outlined in Form EDP-I-01: Instructions for Institutions Seeking Approval of New Prelicensure Registered Nursing Program (Form EDP-I-01).

The objective standards the Board uses to review nursing program applications for continued approval are addressed in BPC section 2786 through 2788 and Title 16, Division 14, Article 3 of the CCR. This process is codified in 16 CCR 1422(b)(2).

Response to Comment D-2e:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment C-1.

E. Letter dated January 18, 2022, from California Association of Private Postsecondary Schools

Comment E-1

Summary of Comment:

Commenter states it is unclear what the Board means by a “material fact” in proposed section 1423(b). The term should be defined and narrowed.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment D-1.

Comment E-2

Summary of Comment:

Commenter asks what options exist for a program to appeal the Board’s decision to deny or revoke approval of a program. An appeal process should be outlined.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

According to BPC section 2788, if the Board determines that any approved school of nursing is not maintaining the standard required by the Board, notice thereof in writing specifying the defect or defects shall be immediately given to the school. If the defects are not corrected within a reasonable time, the school of nursing may be removed from

the approved list and notice thereof in writing given to it.

This process is presented during both the Board's Education Licensing Committee (ELC) meeting and the full Board meeting by the NEC assigned to the school. The presentation and discussion of non-compliance with statute and/or regulation are reviewed by the Board and the school's administrators, including the Board approved Director of Nursing, who develop a plan to address and remedy non-compliance to allow for continued approval.

Comment E-3

Summary of Comment:

Commenter suggests the Board delete proposed subdivision (b)(3) of section 1432 because it will make it more time consuming and expensive for an approved program to seek a new campus or location.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment A-1.

Comment E-4

Summary of Comment:

Commenter challenges the requirement in section 1432(b)(5) to report "any change" in enrollments, which would require the reporting of even one student and would also require the reporting of a decrease in student enrollment. The Board should consider allowing nursing programs to alter their enrollments if they meet certain requirements.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment C-1.

Comment E-5

Summary of Comment:

Commenter asks why these regulations are being proposed ahead of the Legislature's Sunset Review process and whether the Board should delay them until after the sunset review unfolds.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

It is common practice for the promulgation of regulations to occur outside of the sunset process. The Board reviews its regulations on a routine basis to identify and remedy sections that may be outdated, incomplete, or require further clarification.

F. Letter dated January 18, 2022, from Dominican University of California

Comment F-1

Summary of Comment:

Commenter asks for a rationale for requiring existing approved programs in good standing to go through the same process (in section 1432) as an entirely new program with no proven outcomes or history of Board compliance.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment A-1.

Comment F-2

Summary of Comment:

Commenter states the proposed process in section 1432 will impede the ability of institutions of higher education to address the workforce needs of their communities of interest.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

As part of the existing new location or campus approval process, Form EDP-I-01 specifically addresses the new geographic area served by the institution including, but not limited to, a description of the community and its population, the program's intended start date, projected size of first class and enrollment projection for five years, including the method for determining the projected enrollment, information on the applicant pool and sustainability of enrollment, provision for resources including faculty, evidence of availability of clinical placements for students, the impact on the use of the clinical facilities by existing prelicensure registered nursing programs, and the process for coordinating clinical placements with existing programs.

This information is used by the Board to verify there is an existing workforce need in the community and validate the proposed new campus or location is sufficiently prepared to address it.

Comment F-3

Summary of Comment:

Commenter asks how stakeholders are notified about changes to regulations that may impact their strategic plans and budget.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

All proposed changes to Board regulations go through the process set forth in California's Administrative Procedure Act and overseen by the California Office of Administrative Law. The Board's website has a page with all proposed regulations.

Furthermore, any proposed regulatory changes are discussed at Committee and Board meetings which are noticed on the Board website at least 10 days in advance, in accordance with the Bagley-Keene Open Meeting Act. Members of the public can attend meetings either in person or remotely via live webcast. The Board also posts all meeting materials in advance of meeting and the webcast once the meeting has concluded.

Stakeholders may add their names to the contact list of interested parties maintained by

the Board to receive updates.

Comment F-4

Summary of Comment:

Commenter states the regulation's extra steps and layers are duplicative of periodic self-studies. Commenter asks for the rationale to require programs already in good standing to expend additional time and resources.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

It appears the commenter is referring to the language proposed to be added to section 1432(b)(3). A report is required when an approved program submits a request through their NEC for any substantive change to an approved nursing program. This is not periodic but only required when a program requests a substantial change.

This process is outlined by the NEC annually as part of the Board updates provided to the nursing program Deans and Directors and as needed when the program requests a substantive change. The self-study outlined in the EDP-I-01 codifies this process and provides a clear step by step method for review by the Board. This self-study report demonstrates how the program will continue to comply with the requirements set forth in BPC sections 2786 through 2788 and Article 3, Title 16 CCR. The Board must review this report to ensure program sustainability before approving or denying any substantive change request from the school.

Comment F-5

Summary of Comment:

Commenter states on the required site visit there is a lack of clarity about what this means in execution. Commenter questions whether the new site needs to be student-ready before the NEC allows the proposal to move toward Board approval. Commenter states that the costs for a site with all the necessary facilities could be greater than \$1 million.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

As outlined on page 2 of Form EDP-I-01, the feasibility study documents the need for the program in a geographic location and the ability to develop, implement, and sustain a viable program. If the Board accepts the feasibility study documents, then the program only must show compliance with all of the Board's nursing program related rules and regulations. This compliance review is completed through the self-study report and site visit. Once compliance is demonstrated then the Board can approve the program.

Comment F-6

Summary of Comment:

Commenter states the ELC/Board often suggests substantially lower enrollment numbers than requested which makes it impossible to determine whether an expansion can be financially viable.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board relies on the information provided by the school and in consultation with the NECs and makes their decision through a majority vote in the interests of public protection.

When the Board makes a motion to accept the feasibility study, the Board specifies in the motion what the approved enrollment pattern must be and the number of students the program can admit each time (e.g., 30 students twice a year in the spring and the fall). The Board considers the budget projection provided by the school and evaluates whether it demonstrates a sustainable nursing program and has the budgetary provisions for a full enrollment with reserves. With this information, the program can determine if that enrollment number meets their budgetary needs and decide if they wish to progress to the next part of the approval process where it would need to complete a self-study and participate in a site visit to verify resources.

Comment F-7

Commenter states the proposed amendments cause significant financial burden to currently approved programs. It may cause a disproportionate number of wealthy programs to expand, while programs in need of financial growth opportunities will be limited.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

It appears the commenter is referring to the language added to section 1432(b)(3). The Board incorporates by reference its response to Comment A-1.

Comment F-8

Commenter states the cost of filing for changes to a program would be substantially more than the current costs, potentially creating a financial obstacle for some colleges and universities seeking to expand their nursing programs, given that there is no guarantee of approval.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment A-1.

Comment F-9

Summary of Comment:

Commenter states the current Board approval process involves one submission and one approval cycle with the NEC, ELC, and the Board (taking about 6 months to complete). The proposed process will involve three submissions and two approval cycles with the NEC, ELC and Board and could take up to 3 years. Commenter asks for an estimate for how long the process will take.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

It appears the commenter is referring to the language added to section 1432(b)(3). The proposed amendments change the current approval process aligning with the two-step approval process outlined in Form EDP-I-01. The Board meets at minimum every three months as required under BPC section 2709. The process requires two submissions to the Board; therefore, the process can take a minimum of six months, and generally, a

maximum of one year. The EDP-I-01 requests that the school starts this process at least one year in advance of the anticipated date for admission of students and requests the program submit a completed self-study and coordinate the site-visit at least six months prior to the projected date of student enrollment.

Comment F-10

Summary of Comment:

Commenter states the content required in the feasibility study is already on record for approved programs. The remainder of the content is already part of the current curriculum change process for a new site for an approved program. Commenter asks why this duplication is necessary.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The information outlined in Form EDP-I-01, at page 2 (regarding the geographic area served, information on the applicant pool and sustainability of enrollment including data on existing nursing programs preparing students for licensure within a 50 mile radius, budget projection including the ability to sustain the resources required for program approval, evidence of available clinical placements and coordinating efforts with existing registered nursing programs and any regional planning consortiums) is specific to the proposed new campus location and not already on record with the Board.

G. Letter dated January 20, 2022, from Concordia University Irvine

Comment G-1

Summary of Comment:

Commenter states there is a robust process already in place for an established program to add an alternate/secondary location which costs \$2,500 and the timeline for approval is 6-9 months.

Commenter states that if the regulation is amended to require the new program process (completion of Form EDP-I-01 Rev 3/10), an established program (that can successfully pass the NCLEX boards) must go through the same process of a new unvetted program. The new program process timeline will lengthen to 2-3 years (feasibility study + self-study + site visit) and the cost will change to 40,000 dollars impacting the production of competent RNs to fill the needs in our communities in California.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The proposed amendments codify the existing guidance given by the Board's NECs to the Board approved Directors of Nursing. This guidance is provided annually at the Deans and Directors conference and as needed when the program requests a substantive change. Additionally, the amendment provides consistency when evaluating the impact of adding a nursing program to a new community and adds one additional approval step. Currently, nursing programs are completing the substantive change request for a new campus or location based on guidance received from their assigned NEC. This new process outlined in the proposed regulatory update aligns the process for approval of a new campus or location with the same process that schools use when seeking approval of a new program. This allows the Board to review the programs' ability to develop, implement, and sustain a viable prelicensure registered nursing program in this new location consistently for all similar requests.

The Board meets at minimum every three months as required under BPC section 2709. The process requires two submissions to the Board; therefore, the process can take a minimum of six months and generally, a maximum one year. The EDP-I-01 requests that the school starts this process at least one year in advance of the anticipated date for admission of students and requests that the program submit a completed self-study and coordinate the site-visit at least six months prior to the projected date of student enrollment.

The proposed amendments do not change the current fee requirements. The \$40,000 application fee for an institution of higher education or a private postsecondary school of nursing approval outlined in BPC section 2786.5(a)(1) and 16 CCR 1417(ap) does not apply. Rather, the Board has charged and will continue to charge the \$2,500 fee for authorizing of a substantive change to an approval of a school of nursing authorized by BPC section 2786.5(a)(3) and 16 CCR 1417(ar).

H. Letter dated January 20, 2022, from Unitek College

Comment H-1

Summary of Comment:

Commenter states the proposed amendments to section 1423(b) are vague and fail to define a "material fact."

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment D-1.

Comment H-2

Summary of Comment:

Commenter states there should be an appeal process provided to allow for review of any denial.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

It appears the commenter is referring to the denial of program approval as outlined in 16 CCR 1421(d) or a revocation of a nursing program's approval as outlined in 16 CCR 1422(b). The Board incorporates by reference its response to Comment E-2.

Comment H-3

Summary of Comment:

Commenter states the proposed amendments to section 1432(b)(3) will have a significant financial impact on nursing schools by making it more time consuming and expensive for an approved program to seek a new campus or location.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its responses to Comments A-1 and F-9.

Comment H-4

Summary of Comment:

Commenter voices concerns with the amendments proposed to section 1432(b)(5). As

written, this would require any nursing program to obtain Board approval for "any change" in enrollments, even for 1 student. It suggests that the Board look to other states' nursing boards that employ a percentage of enrollment for change triggers like a variance of 10% or higher in an academic year or year over year.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to C-1.

I. Email dated January 20, 2022, from The Quad Council

Comment I-1

Summary of Comment:

Commenter states there is already a process for programs that are currently approved so questions why the Board is requiring approved programs in good standing to go through the same process as an entirely new program.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its responses to Comments A-1 and F-10.

Comment I-2

Summary of Comment:

Commenter states the proposed process will impede the ability of institutions of higher education to address the workforce needs of their communities by delaying approval of new sites with workforce needs.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment F-2.

Comment I-3

Summary of Comment:

Commenter asks how stakeholders are notified about changes in regulations that may impact their strategic plans and budget.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment F-3.

Comment I-4

Summary of Comment:

Commenter states approved programs already submit periodic self-studies, and these extra steps and layers are duplicative.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment F-4.

Comment I-5

Summary of Comment:

Commenter asks whether a new site needs to be student ready before the NEC allows the proposal to move toward Board approval. If it does, then the school may be risking a substantial amount of money estimated to be greater than \$1 million without knowing if it will be approved. Commenter also states the ELC/Board suggests substantially lower enrollment numbers than requested, which makes it impossible to determine whether an expansion is financially viable.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any

amendments to the proposed text based thereon.

The Board incorporates by reference its responses to Comments F-5 and F-6.

Comment I-6

Summary of Comment:

Commenter states the proposed amendments to the language added to section 1432(b)(3) will cause a financial burden to currently approved programs since the investment (fee, salaries, site build) will not receive a return (tuition) for 3-4 years.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment A-1.

Comment I-7

Summary of Comment:

Commenter states the cost of seeking a major curriculum change vs. a new program approval is substantial (\$40K vs. \$2.5K) which will be an obstacle for colleges and universities to expand, given there is no guarantee of approval.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment A-1.

Comment I-8

Summary of Comment:

The commenter states the current process involves one submission, and one approval cycle with the NEC, ELC and takes about 6 months to approve. The proposed process involves three submissions and two approval cycles with the NEC, ELC and board. Commenter asks how long that process will take.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment F-9.

Comment I-9

Summary of Comment:

Commenter states a significant amount of the content required in the feasibility study is already on record for approved programs and the remainder is already part of the current curriculum change process for a new site, and questions why this duplication is necessary.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment F-10.

Comment I-10

Summary of Comment:

Commenter expresses concern regarding Board promulgating regulations ahead of the sunset review process and the additional cost burden on existing programs.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its responses to Comments A-1 and E-5.

Comment I-11

Summary of Comment:

Commenter states they have previously submitted documents outlining the importance of the Board aligning with accreditor standards but has not seen any movement towards

that goal and this action is contrary to that alignment.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board approves nursing programs in a manner consistent with its mission of public protection. Completion of a Board approved nursing program is required for nursing graduates to be permitted to take the licensing examination. The Board's approval process reviews the governing entity, program leadership, faculty qualifications and responsibilities, curriculum, clinical learning experiences, physical and fiscal resources, and an evaluation plan. These standards are designed to produce safe, competent nursing graduates and establish benchmarks for evaluation and improvement.

Comparatively, nursing program accreditation is completed by private entities including the Commission on Collegiate Nursing Education (CCNE), Accreditation Commission for Education in Nursing (ACEN), or National League for Nursing's Commission for Nursing Education Accreditation (NLN-CNEA). These accrediting entities set standards for nursing education, how the program is executed, and review whether it meets the qualitative standards of the profession. Accreditation is optional, and standards differ between each accrediting agency and are specific to degree or program type.

Public Hearing Comments, dated January 20, 2022

J. Concordia University Irvine - Cheryl Padgham

Comment J-1

Summary of Comment:

Commenter states there is a robust process already in place for an established program to add an alternate/secondary location which costs \$2,500 and the timeline for approval is 6-9 months.

Commenter states if the regulation is amended to require the new program process (completion of Form EDP-I-01 Rev 3/10), an established program (that can successfully pass the NCLEX boards) must go through the same process of a new unvetted program. The new program process timeline will lengthen to 2-3 years (feasibility study + self-study + site visit) and the cost will change to 40,000 dollars impacting the production of competent RNs to fill the needs in our communities in California.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its responses to Comments G-1.

K. Dominican University of California - Andrea Renwanz Boyle

Comment K-1

Summary of Comment:

Regarding section 1432, commenter states currently approved programs have an existing process in place. Commenter asks if there is a rationale to having established programs in good standing go through the exact same process as new programs with no proven outcomes and history of Board compliance.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comments A-1, F-10, and G-1.

Comment K-2

Summary of Comment:

Commenter states the current Board approval process includes submission and approval cycles with the NEC, ELC and Board and takes about nine months. Commenter states the proposed process will involve at least three submissions of material, two approval cycles and asks how long the entire process will take. Commenter indicates an assumption of a three-year time frame.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comments F-9 and G-1.

Comment K-3

Summary of Comment:

Commenter states much of the content required for the feasibility study is already on record for approved programs and the remainder of the content is a part of the curriculum change process. Commenter asks why the duplication is necessary.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment F-10.

L. California Association of Colleges of Nursing, Director at CSU Chico & speaking on behalf of the Quad Council - Karen Lightfoot

Comment L-1

Summary of Comment:

Commenter states they submitted a letter of concern to the Board regarding the proposed amendments to section 1432. Commenter states they reinforce and support the comments made by Dr. Padgham and Dr. Boyle during the public hearing.

Response to Comment:

The Board incorporates by reference its response to Comment A-1, F-9, F-10, and G-1.

M. West Coast University - Scott Casanover

Comment M-1

Summary of Comment:

Commenter states the proposed amendments to section 1423 are vague and do not offer a definition of “material fact.” Commenter states that without a clear definition of this term the Board is granted extensive latitude to deny or revoke an approved program or a school's approval to operate.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment D-1.

Comment M-2

Summary of Comment:

Commenter states the proposed amendments to section 1432 require an approved program to seek a new approval potentially every year for enrollment increases of one or two students. Commenter does not agree that a single digit increase of a student reflects or impacts the educational integrity of an approved nursing program with an established track record.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment C-1.

Comment M-3

Summary of Comment:

Commenter states the administrative burden of a school going through a review process and the Board examining a new application does not seem administratively reasonable and seems extremely costly for both the schools and the Board.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment A-1.

Comment M-4

Summary of Comment:

Commenter states making amendments to 1432 in order to make sure schools have adequate faculty facilities and clinical placements is not reasonable because those statutes and regulations already exist. Commenter states BPC sections 2786 and 2788 and Title 16, section 1427, already provide the Board with the statutory authority to review the adequacy of nursing programs and clinical facilities.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment C-1 and D-2c.

Comment M-5

Summary of Comment:

Commenter states their concerns with the lack of objective standards in section 1432 for how the Board will review nursing programs' applications.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment D-2d.

N. Concordia University Irvine - Peter Senkbeil

Comment N-1

Summary of Comment:

Commenter asks whether a new site needs to be student ready before the NEC allows the proposal to move toward full Board approval. Commenter states that if that's the case, then the school may be risking more than \$1 million with no guarantee of board approval.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment F-5.

Comment N-2

Summary of Comment:

Commenter states the Board ELC often suggests substantially lower enrollment numbers than requested by a college or university, even when the program provides evidence to support the enrollment request. Commenter states this unknown variable would make it impossible to determine whether expansion to an additional site could be financially viable in the long term or the short term.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment F-6.

Comment N-3

Summary of Comment:

Commenter states the cost of filing a major curriculum change versus a new program approval is substantial. Commenter states that the increase to \$40,000 is considerable, this will be an obstacle for some colleges and universities to expand given that there's no guarantee of approval.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comment A-1.

O. Dominican University of California - Ruth Ramsey

Comment O-1

Summary of Comment:

Commenter shared the same concerns (regarding the new regulations) as the previous speakers and wanted to go on public record as saying so.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference its response to Comments A-1, C-1, D-1, D-2c, D-2d, F-5, F-6, F-9, F-10, G-1.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Supplement to Finding of No Significant Statewide Adverse Economic Impact Directly Affecting Business

In its ISOR, the Board found there was no significant statewide adverse economic impact directly affecting business with this regulation proposal.

The Board supplements the evidence supporting its finding as follows:

On August 24, 2022, the Third District Court of Appeal held the Board, based on the existing text in section 1432(b), could require nursing programs to request approval before increasing enrollment. (*West Coast University, Inc. v. Board of Registered Nursing* (2022) 82 Cal.App.5th 624, 642.) Accordingly, any changes to the text through this rulemaking proposal clarify rather than create any new obligation that could impact nursing programs.

Supplement to Consideration of Alternatives in Initial Statement of Reasons (ISOR)

In its ISOR, the Board made an initial determination that no reasonable alternative to the regulatory proposal would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective or less burdensome to affected private

persons than the proposed regulation, or equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

The Board adds it considered requiring Board approval in section 1432(b)(5) for only substantive increases in total annual enrollment, or changes in the frequency, timing, or number of new student admissions. As further detailed in its response to Comment C-1, supra, the Board rejected this alternative because even small changes in total enrollment and student admissions can adversely affect a nursing program.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulations or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Board incorporates by reference the alternatives identified in its Initial Statement of Reasons and did not receive any comments that altered its findings.