

**California Board of Registered Nursing  
California Department of Consumer Affairs**

**INITIAL STATEMENT OF REASONS CONCERNING  
PRELICENSURE NURSING PROGRAMS**

**Hearing Date:** No hearing has been scheduled.

**Subject Matter of Proposed Regulations:** Approval Requirements and Changes to an Approved Program

**Section(s) Affected:** Sections 1423 and 1432 of Title 16, California Code of Regulations (CCR)

**Specific Purpose of Each Adoption, Amendment, or Repeal:**

**1. Background/Introduction:**

Pursuant to Business and Professions Code (BPC) section 2700 *et seq.*, the Board of Registered Nursing (Board) licenses registered nurses, and certifies advanced practice nurses, which include certified nurse-midwives, nurse practitioners, registered nurse anesthetists, clinical nurse specialists, and public health nurses. In addition to licensing and certification, the Board establishes accreditation requirements for California nursing schools and reviews nursing school criteria (“prelicensure”); receives and investigates complaints against its licensees; and takes disciplinary action as appropriate. As of 2020, the Board licenses over 450,000 RNs and certifies approximately 97,000 advanced practice nurses.

**2. Problem Being Addressed/Purpose of the Amendments:**

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. The last significant revision to the regulations was in 2010. Since then, the Board has refined its processes and issues have developed. In particular, stakeholders have expressed uncertainty regarding the Board’s authority to approve changes in enrollment patterns under section 1432.

**• Amendment of section 1423**

Existing law regarding approval of prelicensure programs provides the Board may deny approval to a nursing program or revoke an approved program’s approval if the applicant makes a material misrepresentation of fact to the Board. (Cal. Code Regs., tit.

16, § 1423, subd. (b).) In reviewing and monitoring nursing programs, the Board and its staff collect a significant amount of information from nursing programs. The Board may collect information at Board meetings where regulated schools provide information for the Board's consideration but where persons providing information regarding a nursing program are not placed under oath. Existing regulation addresses only misrepresentation of facts 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, and also to ensure that the Board can take appropriate action against the prelicensure program if it conceals material information.

- **Amendment of section 1432**

Existing law provides that approved nursing programs may not make substantive changes to a prelicensure program without prior Board authorization. The regulation states that four (4) categories of substantive changes are included: a change in location, a change in ownership, the addition of a new campus or location, and a significant change in the agreement between an approved nursing program that is not an institution of higher education and the institution of higher education with which it is affiliated.

The Board has historically interpreted section 1432(b), addressing reportable changes to nursing programs, to authorize the Board to preapprove nursing programs seeking to increase enrollment numbers and change enrollment patterns. 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 for the number of students it intends to enroll. This level of oversight is consistent with the rigorous analysis a proposed nursing program faces prior to initial approval and the Board's ongoing oversight after approval. However, stakeholders have taken the position that they are not required to report changes in admission or annual enrollment under existing regulation.

Accordingly, the Board proposes to amend section 1432 to include increases in total annual enrollment, or any change in the frequency, timing, or number of new student admissions as a type of substantive change which requires the Board's approval. The Board also proposes to require nursing programs to comply with specified requirements if they seek to add new campuses or locations.

### **3. Anticipated Benefits of the Regulatory Action:**

- **Amendment of section 1423**

This proposal will encourage applicants and approved programs to furnish complete and accurate information to the Board and will increase the integrity of the Board's oversight of prelicensure nursing programs. The proposed language communicates to nursing program applicants and Board approved programs the Board will deny or revoke approvals when a program knowingly conceals required information or misrepresents a material fact submitted to the Board.

- **Amendment of section 1432**

This proposal will clarify the Board has the authority to require preapproval of an approved nursing program's changes in enrollment numbers or patterns. This change will alleviate stakeholder uncertainty and assist the Board in maintaining quality control over nursing education for protection of the public. Failure to provide this oversight of nursing education programs could result in nursing students not having sufficient educational preparation due to decreased clinical opportunities that prepare the student with the requisite knowledge, skills, and abilities needed to safely and competently perform required nursing functions.

Additionally, the Board proposes to require nursing programs applying for a new campus or location and board to follow the process set forth in section 1421(a). This is to ensure that the addition of a new campus will not cause clinical displacement for the students who are enrolled in nursing programs in that region and help to balance the nursing workforce supply and demand in high need locations.

Additionally, the proposal will clarify that the Board must preapprove a nursing program increasing enrollment or making a change to its enrollment pattern. The proposed amendment will protect consumers by ensuring that approved nursing programs have adequate faculty, facilities, clinical placements, policies, procedures, staff, support services, physical space, and equipment to operate a sustainable program for the number of students the program intends to enroll.

## **Factual Basis/Rationale**

### **Amend section 1423**

#### **Subdivision (b)**

The Board proposes to delete “A material misrepresentation of fact by a program applicant or an approved nursing program in any information required to be submitted to the board is grounds for denial of approval or revocation of the program's approval,” and replace it with, “Knowingly concealing a material fact required to be submitted to the board or knowingly misrepresenting a material fact submitted to the board is cause for denial of an application or revocation of an approved nursing program’s approval.”

This amendment is necessary because the existing regulation only prohibits material misrepresentations of fact to the Board. The amendment will ensure that applicants and approved programs provide all relevant information to the Board during the preapproval process. Without this change, applicants would be able to conceal relevant information from the Board so long as they do not make a misrepresentation of fact to the Board.

#### **Reference Note**

The Board deletes the dash between 2786 and 2788, as there is no Title 16, section 2787.

### **Amend section 1432(b)**

This proposal will:

- Amend subdivision (b) to replace “authorization” with “approval” to track the enabling statute.
- Reference in subdivision (b)(3) the process set forth in section 1421(a) as the means to seek Board approval for a new campus or location. The Form outlines the process by which a nursing program may obtain approval for the addition of a new campus or location from the Board.
- Add to the list of reportable “substantial changes” in subdivision (b)(5), any increase in the total annual enrollment, or any change in the frequency, timing, or number of new student admissions for each board approved nursing program or degree option.

(1) Delete “authorization” and replace it with “approval.”

The Board proposes to delete “authorization” and replace it with “approval.”

BPC section 2786 refers to “approved school of nursing” and “approved nursing program.” Therefore, the Board proposes to change “authorization” to “approval” to track the language of the enabling statute.

(2) Add to subdivision (b)(3), “The approved nursing program applying for a new campus or location and board shall follow the process set forth in section 1421(a).”

The Form contains requirements and process for an institution seeking approval of a new prelicensure registered nursing program pursuant to BPC section 2786.

The Board refers to section 1421(a) as the means to seek Board approval for a new campus or location. Section 1421(a) requires institutions of higher education or affiliated institutions applying for approval of a new prelicensure registered nursing program to comply with the requirements specified in the board's document entitled, “Instructions for Institutions Seeking Approval of a New Prelicensure Registered Nursing Program”, (EDP-I-01Rev 03/10) (“Form”). The Form elicits information the Board needs to start its evaluation is contained in this form. The Form articulates nine steps in the approval process and contains a facility verification form.

This change is necessary to guide established nursing programs on the correct procedure to use when they plan program changes. It makes clear that approved programs needs to follow the same process that is used for the approval of new programs, also needs to be used by approved programs for the addition of a new campus or location. Historically, the Board has requested the information elicited in the form from programs seeking to add a new campus or location through the request to make a substantive change, also known as a major curriculum revision. The Board seeks to formalize this process by asking programs to complete the process referenced in this form.

The Board proposes to use this form to collect information from programs because, in its experience, the addition of a new campus or location poses concerns similar to an institution proposing to establish a new program. For instance, a program proposing to establish a new campus or location would need to show it has the same necessary infrastructure, support, and personnel as a new program in demonstrating the feasibility of a new campus or location. It would also have to show that it can obtain clinical support for its students. Accordingly, the Board requires a program proposing to establish a new campus or location to demonstrate feasibility to the same degree as an institution establishing a new program.

- (3) Add subdivision (b)(5), which states “Any increase in total annual enrollment, or any change in the frequency, timing, or number of new student admissions for each board approved nursing program or degree option.”

The Board proposes to add this category of change to the categories of changes an approved nursing program must report to the Board for approval.

This amendment is necessary to ensure that approved nursing programs have adequate faculty, facilities, clinical placements, policies, procedures, staff, support services, physical space, and equipment to operate a sustainable program for the number of students the program intends to enroll. The change will communicate to programs that this is a substantive change that must be reported to the Board for approval and will alleviate any confusion among approved nursing programs. The number of clinical placement slots available to a nursing program affects the number of students that can be enrolled. Clinical displacement occurs when a nursing program loses clinical placement slots that is needed to provide the required clinical experience. A component of the BRN annual school survey relates to clinical facilities settings, including clinical displacement. In the 2017-2018 Annual School Survey, 75 of 140 nursing programs reported clinical displacement affecting more than 2,300 students. Additionally, 37 of these programs reported being displaced by another nursing program and 17 nursing programs stated they were displaced due to closure or partial closure of clinical facilities.

The Board proposes to require a program to obtain approval from the Board when there is any change in the frequency or timing of new student admissions for two reasons. First, some programs teach on a traditional academic calendar. The traditional calendar accommodates new student enrollments in fall and spring. Additionally, hospital/healthcare facilities have more vacation requests during summer and winter and that may affect their ability to support clinical rotations scheduled during that time. There may also be times they (the healthcare facilities) are using to train their new staff or offer new graduate programs. Due to these variables, there may not be adequate time or resources available to accommodate students in a clinical rotation. Accordingly, the timing/frequency of new student admissions, based on the academic calendar, and hospital/facility factors, could impact the ability to provide clinical support to students.

Clinical displacement can occur through program growth, including increased enrollment numbers and frequency, additional locations, and approval of new nursing programs. This displacement directly affects the students already enrolled in nursing programs in that regional area and may halt their progression and delay their graduation.

## **Underlying Data:**

- Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges, *Substantive Change Manual* (January 2019).
- *American Career College v. The California Board of Registered Nursing*, Superior Court of the State of California, County of Los Angeles Case No. 19STCP01383, Notice of Ruling on American Career College's Application for a Preliminary Injunction filed May 21, 2019.
- Assembly Bill No. 1364 (2019-2020 Reg. Sess.), as introduced February 22, 2019, located online at [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB1364](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1364)
- Assembly Committee on Appropriations, Report on Assembly Bill 1364 (2019-2020 Reg. Sess.), as amended April 25, 2019, located online at [http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200AB1364](http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB1364)
- Commission on Collegiate Nursing Education, *Procedures for Accreditation of Baccalaureate and Graduate Nursing Programs* (May 31, 2019) at pp. 23-24.
- Spetz, J., *Regional Forecasts of the Registered Nurse Workforce in California* (Healthforce Center at UCSF, 2018), located online at <https://healthforce.ucsf.edu/sites/healthforce.ucsf.edu/files/publication-pdf/RN%20Forecast%20Report.pdf>
- Berg, J., *Regional Nursing Summits, Bridging the Gaps in Pre-licensure RN Clinical Education Capacity, Summary Report* (Health Impact 2019).
- California Board of Registered Nursing 2017-2018 Annual School Report. Data Summary for Pre-Licensure Nursing Programs (July 16, 2019). <https://www.rn.ca.gov/pdfs/education/prelicensure17-18.pdf>

## **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

This regulatory proposal will not:

- Create or eliminate jobs or businesses within the State of California because the regulations (1) only expand the types of untruthfulness that could cause revocation of approval or denial of approval, and (2) make explicit the Board's

long-standing interpretation of its existing regulation that an increase in enrollment or change in enrollment pattern require preapproval of the Board.

- Affect the expansion of businesses currently doing business within the State of California, as the proposed regulations only state the Board's existing interpretation of an existing regulation and encourages increased transparency on the part of proposed and approved nursing programs.
- Affect the state's environment because it is not related to any environmental issues.
- Affect worker safety because this regulation does not relate to worker safety.

This regulation proposal will:

- Benefit California consumers by increasing the integrity of the Board's oversight of prelicensure nursing schools through increased transparency of regulated nursing schools;
- Eliminate stakeholder confusion regarding the Board's interpretation of its existing regulation regarding the requirement for Board preapproval for enrollment increases and changes in enrollment patterns;
- Make regulatory language consistent with authorizing statutes; and
- Benefit the general health and safety of all Californians.

### **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

There is no significant statewide adverse economic impact directly affecting business with this regulation proposal. There are currently 150 pre-licensure nursing programs in California. The proposed regulations encourage increased program transparency and oversight integrity, and make explicit the Board's longstanding interpretation of its existing regulation regarding Board preapproval of enrollment increases and changes in enrollment patterns.

### **SPECIFIC TECHNOLOGIES OR EQUIPMENT**

This regulation does not mandate the use of specific technologies or equipment.

### **CONSIDERATION OF ALTERNATIVES**

The Board has 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.

Set forth below are the alternatives that were considered and the reason the alternative was rejected or adopted:

Option 1 – Do not pursue regulations. The Board rejected this option because the Board determined that (1) it needed to close gaps to encourage transparency by approved nursing programs and applicants to increase oversight integrity, (2) make explicit its interpretation of its regulation that increases in enrollment and changes in enrollment pattern require preapproval of the Board, and (3) make the regulatory language consistent with the authorizing statutes.