

**TITLE 16. CALIFORNIA BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

Hearing Date: No hearing has been scheduled.

Subject Matter of Proposed Regulations: Required Curriculum

Section Affected: Amend Section 1426 of Title 16, Division 14, Article 3, California Code of Regulations (CCR)¹

Background and Statement of the Problem:

Pursuant to Business and Professions Code (BPC) section 2700 *et seq.*, the Board of Registered Nursing (Board) licenses registered nurses (RN), and certifies Advanced Practice Registered Nurses (APRN), which include certified nurse-midwives (CNM), nurse practitioners (NP), registered nurse anesthetists (CRNA), clinical nurse specialists (CNS), and public health nurses (PHN). In addition to licensing and certification, the Board establishes approval requirements for California nursing schools and reviews nursing school criteria for both prelicensure and NP programs; receives and investigates complaints against its licensees; and takes disciplinary action as appropriate.

The Board establishes and maintains standards of conduct within the nursing profession, primarily through its authority to license and enforce minimum standards for the protection of the public. (Nursing Practice Act (Chapter 6 (commencing with section 2700) of Division 2 of the Business and Professions Code (BPC 2708.1)) (Act)). The Board is authorized to establish necessary regulations for the enforcement of the Act and the laws subject to its jurisdiction (Bus. & Prof. Code, § 2715). Furthermore, BPC section 2786 authorizes the Board to determine the required subjects of instruction to be completed in an approved school of nursing for licensure as an RN in California.

According to CCR 1426(c), a nursing program's curriculum must consist of at least 58 semester units, or 87 quarter units which shall include at least the following number of units in the specified course areas:

- Art and science of nursing, 36 semester units or 54 quarter units, of which 18 semester or 27 quarter units will be in theory, and 18 semester or 27 quarter units will be in clinical practice.
- Communication skills, 6 semester or 9 quarter units. Communication skills shall include principles of oral, written, and group communication.
- Related natural sciences (anatomy, physiology, and microbiology courses with labs), behavioral and social sciences, 16 semester or 24 quarter units.

¹ Unless otherwise noted, all references to the CCR hereafter are to Title 16.

As outlined above, of the 36 semester units that must be completed in the art and science of nursing, 18 semester units must be in theory and 18 semester units must be in clinical practice. CCR Section 1426(d) further requires clinical practice to be provided in the following nursing areas: geriatrics, medical-surgical, mental health/psychiatric nursing, obstetrics, and pediatrics. Clinical practice hours can be provided in different lab settings such as a simulation lab, skills lab, and computer lab or through direct patient care.

Existing regulations at CCR 1426(g)(2) state that, “Three hours of clinical practice each week throughout a semester or quarter equals one unit. With the exception of an initial nursing course that teaches basic nursing skills in a skills lab, 75% of clinical hours in a course must be in direct patient care in an area specified in section 1426(d) in a board-approved clinical setting.”

While this regulatory language establishes a minimum per course percentage that must be completed in direct patient care, it does not establish an overall minimum number of hours in direct patient care that must be completed by the student upon graduation. This is because the same course being offered at different schools can be worth different units and therefore consist of a different number of hours. The language also does not specify a minimum number of direct patient care hours that must be dedicated to each nursing area. This lack of clear guidance allows for significant variability in the clinical preparation of nursing students from course to course and school to school.

The example below depicts how two schools following the guidance in 16 CCR 1426(g)(2) offering the same course over the same time frame, with different unit requirements, have a different number of direct patient care hours that their students will complete.

- School A: A clinical course is 4 semester units delivered over 15 weeks. This course requires 180 hours of clinical experiences with 75%, equaling 135 hours of those experiences to be completed in direct patient care, allowing for only 45 hours to be completed in another clinical modality, such as simulation or a skills lab.
- School B: A clinical course is 2 semester units delivered over 15 weeks. This course requires 90 hours of clinical experiences with 75%, equaling 67.5 hours of those experiences to be completed in direct patient care, allowing for only 22.5 hours to be completed in another clinical modality, such as simulation or a skills lab.

According to the National Nursing Education Annual Report 2020-2021 produced by the National Council on State Boards of Nursing, at least 13 other Boards of Nursing across the country have chosen to establish an overall minimum number of clinical hours for prelicensure nursing programs with the baseline numbers ranging anywhere from 250 hours to over 1,000 hours.

In 2022, the Legislature passed the Board’s sunset bill, Assembly Bill 2684 (Berman, Chapter 413, Statutes of 2022), which updated BPC section 2786 to state that an

approved school of nursing or nursing program shall meet a minimum of 500 direct patient care clinical hours in a Board-approved clinical setting with a minimum of 30 hours of supervised direct patient care clinical hours dedicated to each nursing area specified by the Board.

This creates a consistent baseline for the number of direct patient care hours that a student graduating from a California approved nursing program is required to complete, thereby ensuring a more uniform preparation of California's future nursing workforce.

This also allows prelicensure nursing programs to maintain autonomy and allocate direct patient care hours to the subjects or specialties that make the most sense for their program, so long as the foundational minimum of 30 hours in each of the five nursing areas (geriatrics, medical-surgical, mental health/psychiatric nursing, obstetrics, and pediatrics) is met. The ability to tailor nursing curriculum and clinical experience is crucial in a state as culturally, geographically, and economically diverse as California. This is because the healthcare needs of the community and the availability of clinical space to complete direct patient care experience differs significantly from region to region.

Furthermore, given the variance in course and unit requirements from school to school, as was noted above, to comply with both the new mandate at BPC section 2786 and the existing mandate at CCR 1426(g)(2), some prelicensure nursing programs would have to provide significantly more direct patient care hours than the minimum 500 hours with 30 hours in each content area that is required by statute. With the regulatory percentage requirement and the statutory hourly requirement, there is inconsistency with programs regarding the number of direct patient care hours that their students will complete.

This can create significant operational barriers for nursing programs as there are many other external factors at play that limit how many total units a nursing program can provide. For example, nursing programs that offer an Associate of Science degree in Nursing (ASN) are required to have a plan and collaborative agreement for matriculating students to a Bachelor of Science degree Nursing program (BSN). However, the number of semester units that can be transferred when moving from an ASN to a BSN program is typically capped. Normally, students in ASN degree nursing programs are limited to 60 semester units when in transferring to a four-year college. This is done to avoid duplicative coursework that would negatively affect the student due to increased financial aid, lost time, and/or repeated content. If a school chose to require additional semesters or course work above that minimum, they could be seen as predatory or over burdensome.

Consequently, the Board is requesting to delete the following sentence from CCR 1426(g)(2): *"With the exception of an initial nursing course that teaches basic nursing skills in a skills lab, 75% of clinical hours in a course must be in direct patient care in an area specified in section 1426(d) in a board-approved clinical setting."*

Board staff first attempted to amend the regulation pursuant to the procedures for Changes Without Regulatory Effect (1 CCR § 100). However, the Office of Administrative

Law directed the Board to instead proceed through the regular rulemaking process. Consequently, at their meeting on February 16, 2023, the full Board approved proposed text amending CCR 1426(g)(2) to remove its reference to the 75% direct patient care clinical requirement and directed staff to begin the regular rulemaking process. Since then, Board staff found that the proposed text was incomplete, and brought a revised proposed text back before the Board at the Board's August 2023 meeting, when the Board rescinded the prior proposed text, approved the revised proposed text, and directed staff to continue the formal rulemaking process.

Anticipated benefits from this regulatory action:

This regulatory proposal benefits the health and welfare of California residents by reducing variance in direct patient care experience amongst the Board's approved prelicensure nursing programs by ensuring that all students in California are receiving the same baseline level of preparation and hands on experience before entering the workforce. Members of the public will benefit from having competent licensees, who as health care practitioners, are adequately prepared to treat the public.

Specific purpose of, and rationale for, each adoption, amendment, or repeal:

1. Amend Section 1426(g)(2)

Purpose

The Board proposes to delete "With the exception of an initial nursing course that teaches basic nursing skills in a skills lab, 75% of clinical hours in a course must be in direct patient care in an area specified in section 1426(d) in a board-approved clinical setting."

Rationale

Eliminating the 75% direct patient care course requirement currently in regulation will allow prelicensure nursing programs to defer solely to the statutory requirement in BPC section 2786 for a program to have a minimum 500 direct patient care clinical hours with at least 30 hours in each nursing area.

This amendment is necessary to ensure that all nursing students across the state are receiving the same foundation of direct patient care experience in key content areas prior to entering the workforce, while still providing prelicensure nursing programs schools with the flexibility to design their curriculum in manner that best meets the unique needs of their program, their students, and their communities. This amendment reduces confusion around the direct patient care clinical hours requirements and addresses the discrepancy between programs providing a different number of clinical hours in direct patient care, while still making sure that licensees meet requirements and training to adequately treat the public.

Underlying Data

Technical, theoretical, or empirical studies, reports, or documents relied upon:

- AB 2684 (Berman, Chapter 413, Statutes of 2022)
- Assembly Floor Bill Analysis August 30, 2022
- Board Meeting Materials for February 15-16, 2023 - Agenda Item 6.1
- Board Meeting Minutes for May 18, 2022 - Agenda Item 5.3
- National Nursing Education Annual Report : 2020–2021 Aggregate Data
- Board Meeting Materials for August 24, 2023 - Agenda Item 6.1

Business Impact

The Board has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other States. This initial determination is based on the following facts:

The regulatory changes do not impose any additional requirements on California's licensees or businesses. Rather, the proposed change will allow California's pre-licensure nursing programs to defer to state statute when determining the number of clinical hours they offer their students in a direct patient care setting.

Economic Impact Assessment:

The Board has determined that this regulatory proposal will not have any of the following effects:

- Create or eliminate jobs within the State of California.
- Create or eliminate businesses within the State of California.
- Significantly change the creation or elimination of new businesses.
- Affect the expansion of businesses currently doing business within the State of California.
- Have an impact on worker safety, because the proposed regulations only detail curriculum requirements for RN's and do not relate to worker safety.
- Impact on the state's environment, because the regulations will simply set forth minimum requirements for state license applicants and do not relate to any environmental issues.
- Have any effect on housing costs.

The proposed regulation will not result in additional costs to California licensees. Rather, it will clarify California's curriculum requirement for prelicensure nursing programs.

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 benefit the general health and welfare of California residents by:

- Reducing variance in direct patient care experience amongst the Board's approved prelicensure nursing programs by ensuring that all students in California are receiving the same baseline level of preparation and hands on experience before entering the workforce.

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 or would be as effective or less burdensome to affected private persons and 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 which were considered and the reasons each alternative was rejected or accepted:

- 1) Not pursuing a regulatory change. This alternative was rejected because the Board wants to address current inconsistencies between its statutory and regulatory guidance.
- 2) Adopt the proposed regulatory amendments. This alternative was determined to be the most appropriate because it eliminates confusion, allows prelicensure nursing programs more flexibility in developing their curriculum, and ensures that all prelicensure nursing students in California are receiving the same baseline level of preparation and hands on experience before entering the workforce.

Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:

No reasonable alternative to the regulatory proposal would lessen any adverse impact on small business.

No such alternatives have been proposed, however, the Board welcomes comments from the public.