

# BOARD OF REGISTERED NURSING

## Board Meeting

### Agenda Item Summary

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**AGENDA ITEM:** 5.0

**DATE:** April 16, 2020

**ACTION REQUESTED:** Discussion Regarding Executive Order N-39-20 and Waivers by the Director of the California Department of Consumer Affairs

**REQUESTED BY:** Loretta Melby, Nursing Education Consultant and Acting Executive Officer

**BACKGROUND:** The response to this COVID-19 pandemic may continue for many weeks, if not months. On March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency (SOE). [Executive Order N-39-20](#) issued on March 30, 2020, gives the Director of the Department of Consumer Affairs (DCA) authority to issue waivers of certain laws and regulations pertaining to licensees of DCA's Healing Arts boards. Currently there are 5 posted waivers related to Nursing in response to COVID-19. It is important to remember that a waiver or flex is not a tool to write new laws and/or regulations but to waive or flex existing ones. Board of Registered Nursing (BRN or Board) is currently offering these five (5) waivers (full waivers can be accessed on the [DCA Waivers Page](#)).

- 1) For individuals whose active licenses expire between March 31, 2020, and June 30, 2020, the Director of DCA temporarily waives: 1) any statutory or regulatory requirement that individuals renewing a license pursuant to Division 2 of the Code take and pass an examination in order to renew a license; and, 2) any statutory or regulatory requirement that an individual renewing a license pursuant to Division 2 of the Code complete, or demonstrate compliance with, any continuing education requirements in order to renew a license. (Waiver DCA-20-01: [https://www.dca.ca.gov/licensees/continuing\\_ed.pdf](https://www.dca.ca.gov/licensees/continuing_ed.pdf)).
  - The CEU waiver is for our currently licensed RNs that expire between March 31-June 30, 2020. This is a temporary waiver and the CEU requirement will need to be satisfied six months after the emergency order is lifted. The RN license period is 2-years and is different from the back to active license that is only in effect for 6 months.
- 2) The Director of DCA may waive any statutory or regulatory requirements with respect to a professional license issued pursuant to Division 2 of the Business and Professions Code (the Code), including the requirements to reactivate or restore a license to active status. Accordingly, the Director of DCA temporarily waives any statutory or regulatory requirement that an individual seeking to reactivate or restore a license originally issued pursuant to Division 2 of the Code (Waiver DCA-20-02: [https://www.dca.ca.gov/licensees/reinstate\\_licensure.pdf](https://www.dca.ca.gov/licensees/reinstate_licensure.pdf)).
  - This back to active process is waiving fees and CEUs. This license is only restored and valid for up to six months, or when the SOE ceases to exist, whichever is sooner. If these individuals want to stay licensed after the SOE they will have to apply and complete the licensure process. These waivers apply only to an individual's license that: (1) is in a retired, inactive, or canceled status, and (2) has been in such status no longer than five years. This does not apply to any license that was surrendered or revoked pursuant to disciplinary proceedings or any individual who entered a retired, inactive, or canceled status following initiation of a disciplinary proceeding. As of April 9, 2020, staff have received 153 waiver requests.

- 3) With respect to courses in the nursing areas of mental health, obstetrics, and pediatrics, the Director of DCA waives that portion of California Code of Regulations, title 16, section 1426, subdivision (g)(2) that requires 75% of clinical hours in a course to be in direct patient care in a Board-approved clinical setting, this now decreases that requirement to 50% of the clinical hours in such courses must be in direct patient care. With respect to courses in the geriatrics and medical-surgical this waiver can be applied after meeting the following conditions: The director of an approved nursing program submits evidence satisfactory to the Board of the following: a. That the agency or facility being used by the approved nursing program for direct patient care clinical practice is no longer available for that use due to the conditions giving rise to the SOE; b. That no alternative agency or facility located within 50 miles of the impacted approved nursing program, campus, or location, as applicable, is available to the approved nursing program for use by all of the impacted students for direct patient care clinical practice hours in the same subject matter area; and, c. That the substitute clinical practice hours not in direct patient care provide a learning experience that is reasonably comparable to the learning experience provided by the direct patient care clinical practice hour. If the conditions of this waiver are met, a NEC shall approve the request. If an approved nursing program fails to submit information satisfactory to the Board, or fails to meet the conditions, a NEC shall deny the request. If the request is not approved or denied on or before 5:00 p.m. on the seventh business days after receipt of the request, the request shall be deemed approved (Waiver DCA-20-03: [https://www.dca.ca.gov/licensees/clinical\\_hours.pdf](https://www.dca.ca.gov/licensees/clinical_hours.pdf)).
- As a matter of policy, the BRN considers that time spent in direct patient care better prepares a student for situations the student may face once licensed but we are aware that this is an unprecedented time. The NECs are continuing to process these waiver requests as they come in and are meeting the 7-business day time line.
- 4) Business and Professions Code section 2836.1, subdivision (d) permits a certified nurse practitioner holding a furnishing number to furnish or order drugs or devices under physician and surgeon supervision. In addition, Business and Professions Code section 2836.1, subdivision (e) limits to four the number of nurse practitioners that physicians and surgeons may supervise at any one time. Pursuant to the Governor's Executive Order, the Director of DCA waives Business and Professions Code section 2836.1, subdivision (e), which prohibits a physician and surgeon from supervising more than four nurse practitioners at any one time when furnishing or ordering drugs or devices. (Waiver DCA-20-05: [https://www.dca.ca.gov/licensees/nurse\\_practitioner\\_supervision\\_requirements.pdf](https://www.dca.ca.gov/licensees/nurse_practitioner_supervision_requirements.pdf))
- 5) Business and Professions Code section 2746.51 permits a certified nurse-midwife holding a furnishing number to furnish or order drugs or devices under physician and surgeon supervision. Business and Professions Code section 2746.51, subdivision (a)(4) limits to four the number of certified nurse-midwives a physician and surgeon may supervise at one time. Pursuant to the Governor's Executive Order, the Director of DCA waives Business and Professions Code section 2746.51, subdivision (a)(4) to the extent it limits to four the number of certified nurse-midwives a physician and surgeon may supervise at one time. (Waiver DCA-20-06: [https://www.dca.ca.gov/licensees/nurse\\_midwife\\_supervision\\_requirements.pdf](https://www.dca.ca.gov/licensees/nurse_midwife_supervision_requirements.pdf))

**NEXT STEP:** Place on Board Agenda.

**PERSON TO CONTACT:** Loretta Melby, MSN, RN  
Nursing Education Consultant and Acting Executive Officer

# BOARD OF REGISTERED NURSING

## Board Meeting

### Agenda Item Summary

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**AGENDA ITEM:** 6.1

**DATE:** April 16, 2020

**ACTION REQUESTED:** Discussion and possible action regarding regulatory modifications to California Code of Regulations, title 16. Section 1426 to permit increased clinical practice hours not in direct patient care during a declared state of emergency

**REQUESTED BY:** Michael Jackson, RN, MSN, President, Chairperson

**BACKGROUND:** On March 18, 2020, the California Association of Colleges of Nursing (CACN) and California Organization of Associate Degree Nursing (COAD) sent a letter to the Governor asking for emergency regulatory amendments to Title 16, California Code of Regulations (CCR), section 1426. Section 1426 prescribes the required curriculum for nursing programs in the State of California. Presently, under section 1426(g)(2), 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.

However, according to CACN and COAD letter dated March 18, 2020, clinical agencies in California had discontinued nursing clinical rotations, forcing schools to find alternative methods for registered nursing students to meet their clinical hours. In this current crisis, nursing programs are no longer able to adhere to the requirement that 75% of clinical hours in a course be in direct patient care. To address this problem, CACN and COAD propose that the Board of Registered Nursing (Board) allow alternative means of meeting this clinical hours requirement, including the increased use of distance education and simulation to meet program objectives.

The Board proposes amendments to section 1426 to allow approved nursing programs to request to be allowed to substitute up to an additional 25% of clinical practice hours in a course not in direct patient care for clinical practice hours in a course in direct patient care, subject to specified requirements. Providing a mechanism to change the educational requirements in section 1426 will enable nursing students to graduate and obtain licensure even during a declared state of emergency (SOE).

Existing law provides that a nursing program course of instruction must be comprised of 75% of clinical hours in direct patient care in an area specified in section 1426(d) in a Board-approved clinical setting. This proposal would permit the substitution of up to 25% of clinical practice hours in a course not in direct patient care for clinical practice hours in a course in direct patient care

This proposal will enable registered nursing students to satisfy educational requirements needed graduate from approved nursing programs. More importantly, it will increase the numbers of qualified healthcare personnel needed to assist with patient care during the SOE to the extent that a greater number of students can obtain licensure or progress in their nursing programs.

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on this topic and has concluded that the proposed regulatory action is not inconsistent or incompatible with existing state regulations.

**NEXT STEP:** Place on Board Agenda.

**PERSON TO CONTACT:** Michael Jackson, RN, MSN  
President, Chairperson

**PROPOSED**  
**BOARD OF REGISTERED NURSING**  
**TEXT OF REGULATIONS**

**CALIFORNIA CODE OF REGULATIONS**  
**TITLE 16**  
**DIVISION 14. BOARD OF REGISTERED NURSING**

**Article 3. Prelicensure Programs.**

**§ 1426. Required Curriculum.**

(a) The curriculum of a nursing program shall be that set forth in this section, and shall be approved by the board. Any revised curriculum shall be approved by the board prior to its implementation.

(b) The curriculum shall reflect a unifying theme, which includes the nursing process as defined by the faculty, and shall be designed so that a student who completes the program will have the knowledge, skills, and abilities necessary to function in accordance with the registered nurse scope of practice as defined in code section 2725, and to meet minimum competency standards of a registered nurse.

(c) The curriculum shall consist of not less than fifty-eight (58) semester units, or eighty-seven (87) quarter units, which shall include at least the following number of units in the specified course areas:

(1) Art and science of nursing, thirty-six (36) semester units or fifty-four (54) quarter units, of which eighteen (18) semester or twenty-seven (27) quarter units will be in theory and eighteen (18) semester or twenty-seven (27) quarter units will be in clinical practice.

(2) Communication skills, six (6) semester or nine (9) quarter units. Communication skills shall include principles of oral, written, and group communication.

(3) Related natural sciences (anatomy, physiology, and microbiology courses with labs), behavioral and social sciences, sixteen (16) semester or twenty-four (24) quarter units.

(d) Theory and clinical practice shall be concurrent in the following nursing areas: geriatrics, medical-surgical, mental health/psychiatric nursing, obstetrics, and pediatrics. Instructional outcomes will focus on delivering safe, therapeutic, effective, patient-centered care; practicing evidence-based practice; working as part of interdisciplinary teams; focusing on quality improvement; and using information technology. Instructional content shall include, but is not limited to, the following: critical thinking, personal hygiene, patient protection and safety, pain management, human sexuality, client abuse, cultural diversity, nutrition (including therapeutic aspects), pharmacology, patient

advocacy, legal, social and ethical aspects of nursing, and nursing leadership and management.

(1) Theory and clinical practice requirements of the curriculum will be adjusted in recognition of military education and experiences of the student, when applicable, through an individualized process for evaluating and granting equivalency credit for military education and experience that results in meeting the same course objectives and competency standards.

(e) The following shall be integrated throughout the entire nursing curriculum:

(1) The nursing process;

(2) Basic intervention skills in preventive, remedial, supportive, and rehabilitative nursing;

(3) Physical, behavioral, and social aspects of human development from birth through all age levels;

(4) Knowledge and skills required to develop collegial relationships with health care providers from other disciplines;

(5) Communication skills including principles of oral, written, and group communications;

(6) Natural science, including human anatomy, physiology, and microbiology; and

(7) Related behavioral and social sciences with emphasis on societal and cultural patterns, human development, and behavior relevant to health-illness.

(f) The program shall have tools to evaluate a student's academic progress, performance, and clinical learning experiences that are directly related to course objectives.

(g) The course of instruction shall be presented in semester or quarter units or the equivalent under the following formula:

(1) One (1) hour of instruction in theory each week throughout a semester or quarter equals one (1) unit.

(2) Three (3) hours of clinical practice each week throughout a semester or quarter equals one (1) 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.

(3) (A) When the Governor declares a state of emergency for the county in which an agency or facility that is used by an approved nursing program for direct patient care clinical practice is located, the director of the approved nursing program may request that the approved nursing program be allowed to substitute up to an additional 25% of clinical practice hours in a course not in direct patient care for clinical practice hours in a course in direct patient care.

(B) Such substitution will be approved only upon a showing that all of the following conditions are met:

- (1) that the agency or facility being used by the approved nursing program for direct patient care clinical practice is no longer available for use by the approved nursing program due to the conditions giving rise to the state of emergency;
- (2) that no alternative agency or facility located within 50 miles of the impacted approved nursing program, campus, or location, as applicable, is available to the approved nursing program for direct patient care clinical practice hours in the same subject matter area;
- (3) that the substitute clinical practice hours not in direct patient care will not subject the impacted students or clinical practice faculty to the same dangerous conditions as those giving rise to the state of emergency;
- (4) that the number of substitute clinical practice hours each week is no greater than the number of direct patient care clinical practice hours being substituted; and
- (5) that the substitute clinical practice hours not in direct patient care provide a learning experience that is at least equivalent to the learning experience provided by the direct patient care clinical practice hours.

(C) Substitute clinical practice hours not in direct patient care must cease once the applicable state of emergency is lifted.

(D) If the conditions in paragraph (B) are met, a nursing education consultant will approve the approved nursing program's request to substitute clinical practice hours and report the approval to the board at its next meeting.

**BOARD OF REGISTERED NURSING**

**Board Meeting**

**Agenda Item Summary**

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**AGENDA ITEM:** 6.2

**DATE:** April 16, 2020

**ACTION REQUESTED:** Discussion and possible action regarding revisions to the May and June 2020 meetings as to dates and locations or cancellation during a declared state of emergency

**REQUESTED BY:** Michael Jackson, RN, MSN, President, Chairperson

**BACKGROUND:** At the June 2019 Board Meeting, a Board Resolution was adopted setting the future meeting dates and whether the meeting would be held in Northern or Southern California. This resolution covered the scheduled meetings from August 2019 to June 2020. There are no scheduled meetings in July and December.

Due to the response to COVID-19 and the declared state of emergency, a subsequent Board Resolution allowing flexibility to revise or cancel the meeting dates and location for May and June 2020 is requested.

**NEXT STEP:** Place on Board Agenda.

**PERSON TO CONTACT:** Michael Jackson, RN, MSN  
President, Chairperson

**BOARD OF REGISTERED NURSING**  
**Legislative Committee**  
**Agenda Item Summary**

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**AGENDA ITEM:** 8.1

**DATE:** April 16, 2020

**ACTION REQUESTED:**     **Discussion of Bills of Interest to the Board of Registered Nursing (Board) and Possible Vote to Recommend that the Board Adopt or Modify Positions on Bills Introduced during the 2019-2020 Legislative Session, Including But Not Limited To the Following Bills:**

**REQUESTED BY:**             Donna Gerber, Chair, Legislative Committee

**BACKGROUND:**             Bills of interest for the 2019-2020 legislative session are listed on the attached tables.

**Bold** denotes a new bill for Committee or Board consideration, is one that has been amended since the last Committee or Board meeting, or is one about which the Board has taken a position and may wish to discuss further and restate or modify its position.

An analysis of and the bill text for these bills are included for further review.

**NEXT STEPS:**             Present recommendations to the Board

**FINANCIAL IMPLICATIONS, IF ANY:**             As reflected by the proposed legislation

**PERSON TO CONTACT:**     Thelma Harris, RN, PHN, MSN  
Chief of Legislation  
(916) 574-7600

**BOARD OF REGISTERED NURSING**  
**Assembly Bills 2019-2020**  
**Status Update**  
**April 16, 2020**

<b>BILL #</b>	<b>AUTHOR/ BILL SPONSOR</b>	<b>SUBJECT</b>	<b>COM POSITION/ date</b>	<b>BOARD POSITION/ date</b>	<b>BILL STATUS as of March 12, 2020</b>
<a href="#">AB 329</a>	Rodriguez/ CENA	Hospitals: assaults and batteries	Watch 3/14/19	Watch 4/11/19	Senate PubSafety
<a href="#">AB 362</a>	Eggman/ DPA; HRC	Controlled substances: overdose prevention program	Information 5/9/19	Watch 4/11/19	Senate Health
<a href="#">AB 613</a>	Low	Professions and vocations: regulatory fees	Watch 3/14/19	Watch 4/11/19	Senate BP&ED
<a href="#">AB 732</a>	Bonta	County jails: prisons: incarcerated pregnant persons	Watch 3/14/19	Watch 4/11/19	Assembly APPR
<a href="#">AB 890</a>	Wood	Nurse practitioners: scope of practice: unsupervised practice	Oppose unless amended 01/09/2019	Oppose unless amended 6/13/19	Assembly APPR
<a href="#">AB 1145</a>	Cristina Garcia	Child abuse: reportable conduct	Watch 3/14/19	Watch 4/11/19	Assembly APPR
<a href="#">AB 1544</a>	Gipson	Community Paramedicine or Triage to Alternate Destination Act	Oppose 8/15/19	Oppose	Senate Rules
<a href="#">AB 1616</a>	Low	Department of Consumer Affairs: boards: expunged convictions			Senate
<a href="#">AB 1759</a>	Salas	Health care workers: rural and underserved areas			
<a href="#">AB 1909</a>	Gonzalez	Healing arts licensees: virginity examinations or tests			
<a href="#">AB 1917</a>	Ting	Budget Act of 2020			
<a href="#">AB 1928</a>	Kiley/Melendez	Employment standards: independent contractors and employees			
<a href="#">AB 1998</a>	Low	Dental Practice Act: unprofessional conduct: patient of record			
<a href="#">AB 2028</a>	Aguilar-Curry	State agencies: meetings	Oppose unless amended 03/12/20		
<a href="#">AB 2185</a>	Patterson/Gallag her	Professions and vocations: applicants licensed in other states: reciprocity	Oppose 03/12/20		
<a href="#">AB 2549</a>	Salas	Department of Consumer Affairs: temporary licenses			

**BOARD OF REGISTERED NURSING**  
**Assembly Bills 2019-2020**  
**Status Update**  
**April 16, 2020**

<a href="#"><u>AB 2704</u></a>	Ting	Healing Arts: licenses: data collection			
<a href="#"><u>AB 3016</u></a>	Dahle	Board of Registered Nursing: online license verification	Oppose 03/12/20		

**BOARD OF REGISTERED NURSING**  
**Assembly Bills 2019-2020**  
**Status Update**  
**April 16, 2020**

<b>BILL #</b>	<b>AUTHOR/ BILL SPONSOR</b>	<b>SUBJECT</b>	<b>COM POSITION/ date</b>	<b>BOARD POSITION/ date</b>	<b>BILL STATUS as of March 12, 2020</b>
<a href="#"><u>SB 3</u></a>	Allen/Glazer	Office of Higher Education Coordination, Accountability, and performance			
<a href="#"><u>SB 808</u></a>	Mitchell	Budget Act of 2020			
<a href="#"><u>SB 878</u></a>	Jones	Department of Consumer Affairs Licensing: applications: wait times			
<a href="#"><u>SB 1053</u></a>	Moorlach	Licensed registered nurses and licensed vocational nurses: Nurse Licensure Compact	Oppose 03/12/20		Hearing postponed
<a href="#"><u>SB 1237</u></a>	Dodd	Nurse-Midwives: scope of practice	Support 03/12/20		Hearing postponed