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March 17, 2022

Assemblymember Cottie Petrie-Norris  
Chair, Assembly Accountability and Administrative Review Committee  
1020 N Street, Room 357  
Sacramento, CA 95814

**RE: AB 1996 (Cooley) – OPPOSE**

Dear Assemblymember Cottie Petrie-Norris,

The California Nurses Association/National Nurses United (CNA), representing more than 100,000 California registered nurses, opposes AB 1996 (Cooley) because it is unnecessary and costly. Moreover, AB 1996 will result in the diversion of public resources away from protecting the health and safety of workers, families, and communities in California and instead spend those scarce resources on a redundant, unnecessary bureaucratic process.

• *Existing Law Already Addresses This Issue*

Under existing law, the Office of Administrative Law (OAL) reviews proposed regulations to determine whether they meet the standards set forth in the Administrative Procedure Act (APA). The APA requires that all regulations meet the following standards: (1) Necessity, (2) Authority, (3) Clarity, (4) Consistency, (5) Reference, and (6) Nonduplication. As a result, existing law already provides for a process to ensure that proposed regulations are not duplicative, overlapping, or inconsistent.

Existing law also provides that any interested person may petition a state agency to request the adoption, amendment, or repeal of a regulation. This would include any regulations that the petitioner believes are duplicative, overlapping, inconsistent, or out of date. And existing law provides that the Legislature may direct OAL to initiate a priority review of any regulations that it believes fail to meet the APA standards.

• *Regulations Are Protections*

Furthermore, the underlying premise of AB 1996 would appear to be that regulations are bad. This is simply a fallacy. Regulations are protections which safeguard the health and safety of workers, families, and communities in California. Californians depend on these protections—i.e., regulations—to ensure they have safe workplaces, are paid and treated fairly, have access to clean air and water, and are protected from serious harm by incompetent or negligent practitioners. These protections help keep our roads safe, our crops free from pests, and our children protected from toxic chemicals.

- *AB 1996 Diverts Scarce Public Resources Away From Protecting Californians' Health And Safety And Instead Directs Those Resources To A Redundant Bureaucratic Process*

Under AB 1996, state agencies (including departments, divisions, boards, and bureaus) will spend time and resources on a duplicative bureaucratic process instead of protecting the health and safety of workers, families, and communities in California. If AB 312 passes, the agencies will have to put their efforts to protect Californians' health and safety on hold while they divert their limited resources toward the redundant bureaucratic process created by the bill.

- *AB 1996 Does Not Safeguard Important Health and Safety Protections*

Finally, while the bill provides that is not intended to weaken or undermine various protections established under statute, this language does nothing to safeguard the important protections described above. First, AB 1996 creates a paradigm shift in which state agencies will essentially be under a mandate to determine that their regulations are duplicative, overlapping, inconsistent, or out of date or else they may be viewed as not performing their job duties. Second, this language applies only to protections established under statute. There are certainly many instances where agencies act under their implied rulemaking authority to carry out their agency mission and protect Californians. These protections are not "established under statute." And third, it may not always be clear when a particular regulatory action will "weaken or undermine" an established protection. What may seem on the one hand to be innocuous change may in fact result in weakening or undermining the protection in question.

For all the above reasons, CNA must oppose AB 1996 and urges you to vote "NO" on AB 1996 (Cooley) when it comes before you in the Assembly Accountability and Administrative Review Committee.

Respectfully,



Curtis Lang, Jr.  
Legislative Advocate  
California Nurses Association/ National Nurses United

Cc: Members, Accountability and Administrative Review Committee  
Assemblymember Ken Cooley



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March 17, 2022

Honorable Marc Berman  
Chair, Assembly Business and Professions Committee  
1020 N Street, Room 379  
Sacramento, CA 95814

**RE: AB 2637 (Rubio) Nursing: schools and programs: exemptions.**

Dear Assemblymember Berman,

The California Nurses Association/National Nurses United (CNA), representing over 100,000 registered nurses, opposes AB 2637 (Rubio) because it would deregulate nursing education and would instead allow nursing schools themselves to regulate their own enrollment and clinical curriculum. The bill would remove the authority of the Board of Registered Nursing (BRN) to oversee minimum nursing education standards, including education programming, student enrollment, clinical placements, and qualifications of faculty. In addition, AB 2637 would substitute computer-based simulation for clinical experience with actual patients, thus threatening safe patient care by increasing the risk of decreased clinical competency.

The conflict that currently exists between a few private nursing programs and the BRN initially started when some public community college nursing programs were displaced from clinical sites by hospitals so that rapidly expanding private programs offering baccalaureate nursing degrees could use those clinical sites for their students as they increased enrollment without BRN approval. After looking into the matter, the BRN determined that rapid, unauthorized program expansion in several Southern California regions had created this problem. The added enrollments had not been approved by the BRN as a part of a “major curriculum change,” the process that has always been used to evaluate and approve expanded enrollment and other major changes for all nursing programs. If AB 2637 is enacted into law, it will exacerbate these problems thus threatening the very existence of public community college nursing programs.

- **Deregulation of Minimum Nursing Education Standards Directly Undermines BRN’s Public Protection Mandate**

As required by the Business and Professions Code, the primary role of the BRN is to protect the public and not to promote the business and financial interests of private corporate entities or their alliances with the corporate healthcare industry. Specifically, Business and Professions Code Section 2708.1 states:

Protection of the public shall be the highest priority for the Board of Registered Nursing in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

AB 2637 directly conflicts with the BRN's public protection mandate. Here, the "public" that is being protected is the nursing student who enrolls in a BRN-approved pre-licensure program expecting that she/he will receive a basic nursing education that will prepare her/him for entry-level professional practice. The "public" is also every patient in California who receives care from a nurse graduate of a BRN-approved nursing program, expecting that the nurse taking care of him/her is qualified and safe to practice.

And health facilities rely upon RNs who are prepared for practice upon graduation and who have gained diverse clinical competencies that prepare them for employment with mixed patient populations. Moreover, AB 2637 would undermine the public interest by allowing uninhibited expansion of private nursing programs which can leave students with significant educational debt.

- **AB 2637's Proposed Deregulation Comes at a Time of Exponential Growth and Cost of Private Nursing Programs**

*Exponential Growth of Private Nursing Programs* The deregulation created by AB 2637 is especially troubling given that it is coming at a time when there has been a rapid expansion of private nursing programs in addition to the federal government's rollback of student protections, particularly regarding student debt.<sup>1</sup> In fact, the number of *public* pre-licensure nursing programs in California has remained static since 2006-2007 while the number of *private* programs has increased from 25 to 38—a 52% increase.<sup>2</sup>

In California, enrollment at private nursing programs is also increasing, and graduates of these private programs are increasingly making up a larger share of nursing school graduates. For example, the West Coast University nursing program graduated more than 11% of the total number of NCLEX takers in 2017-2018.<sup>3</sup> And, four private schools graduated 21% of all of the NCLEX takers in that same time period.<sup>4</sup> On this issue, the BRN's 2016-2017 Annual School Report also noted, "Private programs had an increase in enrollment, while public programs experienced a slight decrease. Public programs have seen their enrollments decline by -24%

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<sup>1</sup> Minsky, "The Definitive List of Rollbacks to Student Loan Protections," *Forbes* (March 26, 2019) (<https://www.forbes.com/sites/adamminsky/2019/03/26/the-definitive-list-of-rollbacks-to-student-loan-protections/#4fab09a22818>).

<sup>2</sup> BRN, 2015-2016 Annual School Report, Table 2 at 3; List of Approved Schools (Prelicensure Programs) (see [www.rn.ca.gov](http://www.rn.ca.gov));  $38 - 25 = 13 \div 25 = 52\%$  increase.

<sup>3</sup>  $1,288 \div 11,648$  (Excel sum of all schools' first-time NCLEX test takers on BRN website; see <https://www.rn.ca.gov/education/passrates.shtml>) = 11.25%.

<sup>4</sup>  $West\ Coast\ (1,288) + Samuel\ Merritt\ (503) + Azusa\ Pacific\ (367) + National\ University\ (265) = 2,423 \div 11,648$  total first time NCLEX takers (Excel sum of all schools' NCLEX test takers on BRN website; see <https://www.rn.ca.gov/education/passrates.shtml>) = 21%.

(n=2,427) in the last ten years, while new enrollments in private programs have gone up by 113% in the same period (n=3,063).”<sup>5</sup>

Consistent with this, public community college nursing programs have reported having to decrease their student enrollment sizes because of reduced clinical placements.

California’s experience is also playing out nationally. A nationwide study—which included California—found a 402% increase in for-profit nursing programs across the country over a ten-year period (2007-2016).<sup>6</sup> The same study found the number of for-profit nursing program graduates increased 1,305% over the same period.<sup>7</sup>

*Increased Cost of Private Nursing Programs* Requiring a nursing student to take out burdensome loans to fund her/his nursing education can mean saddling her/him with significant debt. This can create an occupational barrier that threatens the ability of students from disadvantaged backgrounds to enter the middle-class workforce.

Public nursing programs are much less costly than private nursing programs. For example, public Associate Degree Nursing (ADN) programs cost approximately \$7,000-8,000 for in-state residents.<sup>8</sup> Tuition costs for the four-year CSU Bachelor of Science in Nursing (BSN) program would be approximately \$35,000.<sup>9</sup> The cost of private nursing programs, on the other hand, can run as high as \$74,225 for an ADN<sup>10</sup> and \$144,512 for a BSN.<sup>11</sup> Public nursing programs in particular help diversify the nursing workforce by keeping costs low so that California’s RNs are more reflective of its healthcare consumers.

*Impact of Attrition Rates of Large Private Nursing Programs More Significant* Because the number and enrollment size of private nursing programs has increased significantly, it is important to look at the global impact of attrition on students. For example, West Coast University had more than 1,000 students drop out of its 2016-17 cohort of approximately 2,400 students and more than 400 drop out of its 2017-18 cohort of approximately 1,900 students.<sup>12</sup> This means that more than 1,400 students, who will not qualify to take the NCLEX, will be stuck with loans or will have already paid (and thus lost) tuition fees of approximately \$36,000 for each year in which they were enrolled before dropping out of the program.<sup>13</sup>

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<sup>5</sup> BRN, 2016-2017 Annual School Report, Data Summary and Historical Trend Analysis, at 9.

<sup>6</sup> Pittman, et al., “The Growth and Performance of Nursing Programs by Ownership Status,” *Journal of Nursing Regulation*, Vol. 9, Issue 4 (January 2019) at 9.

<sup>7</sup> *Id.*

<sup>8</sup> See, e.g., <http://www.chabotcollege.edu/nursing/registered-nurse-program/>.

<sup>9</sup> See, e.g., <https://www2.calstate.edu/attend/paying-for-college/pages/campus-costs-of-attendance.aspx>; [https://www.csus.edu/hhs/nrs/programs/undergraduate/traditional/Docs/fees\\_2-3-17.pdf](https://www.csus.edu/hhs/nrs/programs/undergraduate/traditional/Docs/fees_2-3-17.pdf).

<sup>10</sup> See, e.g., <https://americancareercollege.edu/catalog/2018-2019/financial-information/program-tuition-and-fees/degree-programs-tuition.html>.

<sup>11</sup> See, e.g., <http://westcoastuniversity.smartcatalogiq.com/en/Spring-2019/West-Coast-University-Catalog/Financial-Policies-and-Information/Tuition-and-Fees>.

<sup>12</sup> 2016-17: West Coast 1,284 NCLEX test takers ÷ .53 completion rate = 2,423 × .43 attrition rate = 1,042 student departures from program; 2017-18: West Coast 1,288 NCLEX test takers ÷ .66 completion rate = 1,952 × .22 attrition rate = 429 student departures from program (see <https://www.rn.ca.gov/education/passrates.shtml>; Philip R. Lee Institute for Health Policy Studies, Raw data, School attrition rates and on-time completion rates (2019)).

<sup>13</sup> <https://nces.ed.gov/collegenavigator/?q=West+Coast+University&s=CA&id=443331>.

In effect, a 22% attrition rate for a private program that has 1,000 students means that 220 students—with **private school tuition loans**—dropped out or were dismissed by the school before completion, without the ability to sit for the NCLEX. In comparison, a public program with an enrollment of 100 students and a 22% attrition rate would have lost 22 students who have **public school tuition loans** when they dropped out or were dismissed by the school before completion. As a result, it is clear that the larger a nursing program—and the higher the cost of that program—the more impact a higher attrition rate may have.

*Recent School Closures Urge Caution in Allowing Uninhibited Growth* A number of nursing schools or nursing programs have closed over the past few years leaving students scrambling and the BRN in the position of stepping in to help. For example, the most recent school closed in December 2018. Brightwood College, a private, for-profit nursing school, announced its sudden closure just one day into a new semester.<sup>14</sup> Some students were just weeks away from completing their programs.<sup>15</sup> In 2017, Shepherd University filed for bankruptcy and closed its doors.<sup>16</sup> AB 2637 would permit the unchecked growth of nursing programs, and CNA would urge caution as any closure of a program or school—particularly large programs—has significant impacts on students and the public.

- **Bill’s Proponents Use Supposed Nursing “Shortage” to Justify Unchecked Growth**

In support of AB 2637, proponents have asserted that California is facing a nursing “shortage” that must be addressed by allowing programs to grow. To support this assertion, they rely on a study that is not consistent with any other studies that have looked at California’s workforce needs. In fact, the study has been characterized by the Healthforce Center at UCSF as an “outlier in relation to other projection models”.<sup>17</sup>

Instead, the most recent evaluation by the Healthforce Center at UCSF of California’s future workforce needs for registered nurses indicates there is a sufficient supply of nurses graduating from nursing programs, provided that current enrollment numbers are maintained. Healthforce describes a geographical mal-distribution challenge, noting, “[t]he RN labor markets in the Northern Counties and Southern Border will be fairly well-balanced, surpluses may emerge in the Sacramento, Los Angeles, and Inland Empire regions, and shortages may develop in the San Francisco, Central Valley, and Central Coast regions.”<sup>18</sup>

The report also compares the current and projected number of RNs per 100,000 population in each region as another way to look at potential regional demand. Using this analysis, UCSF finds that by 2035, “several regions are projected to have RN-to-population ratios that exceed the

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<sup>14</sup> <https://www.nbcsandiego.com/news/local/brightwood-college-kearny-mesa-chula-vista-closure-education-corporation-of-america-students-502031331.html>.

<sup>15</sup> *Id.*

<sup>16</sup> <https://www.wsj.com/articles/shepherd-university-in-california-files-for-bankruptcy-1502830949>

<sup>17</sup> Spetz, “Comparing Forecasts of Registered Nurse Supply and Demand for California,” Healthforce Center at UCSF (2019).

<sup>18</sup> Spetz, “Regional Forecasts of the Registered Nurse Workforce in California; Summary of December 2018 Report,” Healthforce Center at UCSF (2019).

current national average: Northern Counties, Sacramento, Los Angeles, and Inland Empire; the ratio in the Southern Border region will nearly equal the national average and the ratio in the San Francisco region will reach the current national 25<sup>th</sup> percentile by 2035.”<sup>19</sup>

As a result, it does not appear that one of the primary justifications for this bill even exists.

- **AB 2637 Would Reduce Direct Patient Care Clinical Experience and Replace It With Computer-Based Simulation**

AB 2637 proposes to allow nursing programs to provide up to 50% of clinical instruction as computer-based simulation. Currently, BRN regulations require that 75% of clinical hours must be in direct patient care in specified areas.<sup>20</sup> This effectively caps the use of simulation at 25%. It is important to note first that, currently, the vast majority of nursing programs are not even using the currently allowed 25% so it is not clear why there should be an increase in allowable simulation given that most are not even bumping up against existing standards.

CNA is opposed to the substitution of clinical learning with actual patients for learning in a high-fidelity simulation laboratory beyond what is currently allowed. The most sophisticated mannequin cannot replicate the human response to nursing care or indicate the subtle changes that can occur during the course of an illness. It cannot replace mentored, experiential time with patients in the actual environment of care. Students should be educated so that they are able to develop skills and critical thinking ability rather than simply being trained in tasks. The observations made and knowledge acquired during clinical training is the beginning of a vast amount of experiential learning that is going to be needed to provide safe and effective direct care to patients in hospitals, clinics, and in community settings. Protection of the public requires direct patient care experience.

CNA also has concerns with the costs of simulation programs which can be steep and even cost-prohibitive, particularly for public nursing programs. One high fidelity mannequin, Sim Man 3G, costs roughly \$27,000, but can cost up to \$60,000 with additional accessories and programs available for download onto the mannequin.<sup>21</sup> That does not even take into consideration the ongoing labor costs associated with maintenance and troubleshooting of the simulation lab mannequins or the cost of educating faculty on the use of the simulation technology.

CNA believes the BRN standards for patient care clinical learning should not be altered. There is nothing that prevents a school from increasing the time its students have with simulation mannequins if the school believes the time spent has value for its nursing students. But, the replacement of minimum clinical hours with patients with increased simulation time is an action that threatens safe patient care by increasing the risk of decreased clinical competency.

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<sup>19</sup> *Id.*

<sup>20</sup> 16 CCR 1426(g).

<sup>21</sup> <https://www.healthleadersmedia.com/innovation/high-tech-mannequins-give-nurses-real-life-experience>.

In sum, CNA opposes AB 2637 because it is an attempt to circumvent the BRN's judicious and even-handed evaluation of nursing programs and to alter the nursing curriculum to prioritize profit making over patient safety. For these reasons, we urge your 'No' vote on AB 2637 when it comes before you in the Assembly Business and Professions Committee.

Respectfully,

A handwritten signature in black ink, appearing to read "C. Lang". The signature is stylized and cursive.

Curtis Lang, Jr.  
Legislative Advocate  
California Nurses Association/ National Nurses United

Cc: Assembly Business and Professions Committee, Members  
Assemblymember Blanca Rubio





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March 17, 2022

Honorable Richard Pan  
Chair, Senate Health Committee  
1021 O Street, Room 3310  
Sacramento, CA 95814

**RE: SB 1475 (Glazer) – Blood banks: collection – OPPOSE**

Dear Senator Pan,

On behalf of the California Nurses Association/ National Nurses United (CNA) representing more than 100,000 registered nurses statewide, I write in opposition to SB 1475 by Senator Glazer. This bill would end the requirement that blood banks have a registered nurse (RN) physically present during blood draws and instead allow RNs to supervise the process via teleconference.

Nurses are very concerned that patient safety will be put at risk by this change. As it has become painfully clear after the last year, teleconference services are frequently unreliable. Audio and video teleconferencing services often drop calls or cause delays that could prove extremely harmful in a health care setting. This risk would even be exacerbated in rural areas with less reliable internet or phone service, and these rural areas also likely involve longer travel time to emergency care, creating additional risks to those donating.

The California Department of Public Health (CDPH) has previously denied a petition to consider rulemaking that was virtually identical to this legislation. The following is from the original notice denying the blood banks' petition:

"A primary focus of CDPH and the adopted "Standards for Blood Banks and Transfusion Services" is the safety of patients and donors. **Components of safety that would be affected by the presence of an onsite RN or physician include the proper supervision of staff and the ability to respond appropriately to donor reactions...** While the CDPH appreciates the workforce concerns associated with having on-site registered nurses, *whether nurses need to be physically on-site at blood donation locations is a complicated matter that not only raises issues related to the appropriate staffing required for such activities under CDPH's jurisdiction but also potential issues relating to the nursing scope of practice and supervision.*"

Unfortunately, due to industry pressure CDPH has since reversed that decision and begun rulemaking, which we are also concerned with. Health care workers simply can't interpret someone's physical reaction to this procedure over the phone, or even by video conferencing, as well as can be done in person. The collection of whole blood from healthy donors is only one procedure performed in blood bank settings.

Other procedures that involve a potential for greater risk include apheresis during which a particular blood component is obtained from a donor and separated out for collection and the remaining blood is returned to the donor at the end of the procedure. **While the risks of drawing**

***blood are not as severe as other types of procedures in blood bank settings, they are very real, and SB 1475 would increase the odds that such risks could cause significant adverse health events.***

For all these reasons CNA respectfully requests your “NO” vote on SB 1475 (Glazer) when it comes before your committee for a vote.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Lang, Jr.", with a stylized, cursive script.

Curtis Lang, Jr.  
Legislative Advocate  
California Nurses Association/ National Nurses United

Cc: Members, Senate Health Committee  
Senator Steven Glazer