



Board Meeting Packet

**Supplemental Materials to the
Board Meeting Agenda**

BRN Board Meeting | March 24, 2022

March 24, 2022 BRN Board Meeting

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Agenda Item 2.0

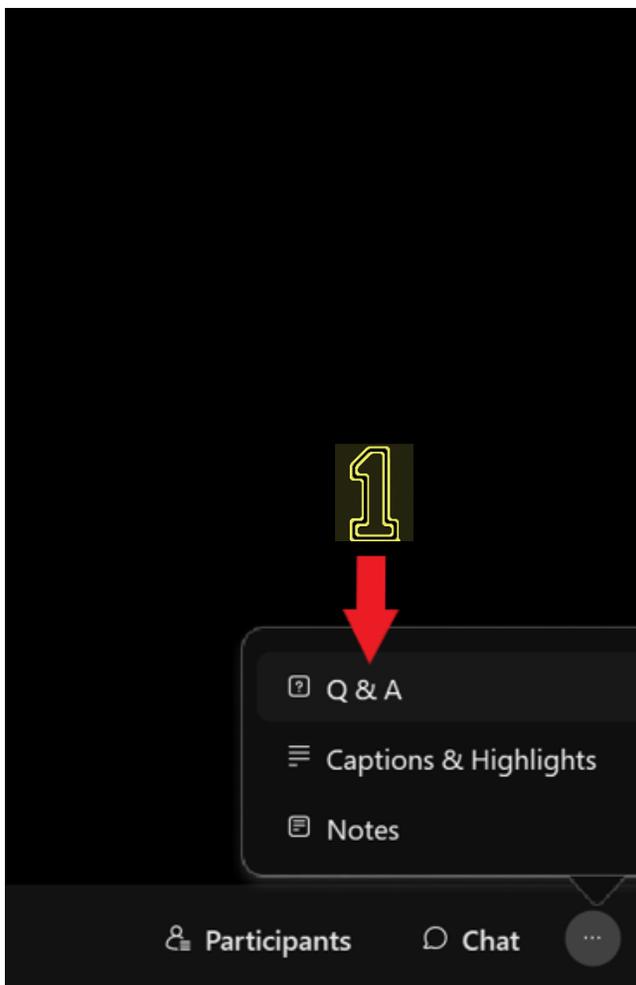
General Instructions for the Format of a Teleconference

BRN Board Meeting | March 24, 2022

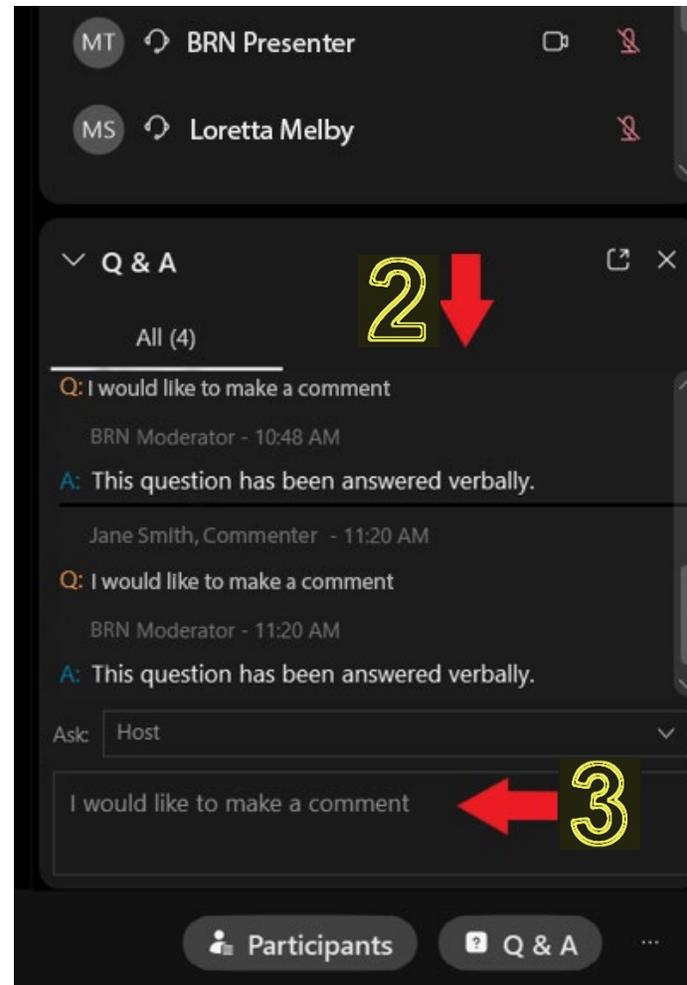
Participating During a Public Comment Period

If you would like to make a public comment:

1. Click on the 'Q & A' button at the lower right of your WebEx session (you may need to click the three dots (...) to find this option).



2. The 'Q & A' panel will appear.



3. In the 'Q & A' panel, type "I would like to make a comment". You will be identified by the name or moniker you used to join the WebEx session, your line will be opened (click the 'Unmute me' button), and you will have **2 minutes** to provide comment. Every effort is made to take comments in the order which they are requested.

NOTE: Please submit a new request for each agenda item on which you would like to comment.



Agenda Item 4.0

Discussion and Possible Action: Regarding Public Comments Received and Adoption of Regulatory Language for California Code of Regulations, Title 16, Section 1427 –Clinical Facilities

BRN Board Meeting | March 24, 2022

BOARD OF REGISTERED NURSING
Board Meeting
Agenda Item Summary

AGENDA ITEM: 4.0
DATE: March 24, 2022

ACTION REQUESTED: Discussion and Possible Action: Regarding Public Comments Received and Adoption of Regulatory Language for California Code of Regulations, Title 16, Section 1427 – Clinical Facilities.

REQUESTED BY: Loretta Melby RN, MSN
Executive Officer, California Board of Registered Nursing

BACKGROUND:

For California Code of Regulations, title 16 (CCR), section 1427, proposed regulatory language was approved by the Board at its November 2021 board meeting. The regulatory package was noticed on November 12, 2021, with the public comment period ending on December 28, 2021. BRN Management in consultation with DCA Legal is now asking for approval of a proposed response to one public comment received on December 20, 2021. No request for a hearing was received for this package.

Comment: Sheree Lowe, California Hospital Association (CHA).

CHA maintains that minor changes, such as small fluctuations to the number of students in a particular facility, or temporary changes, need not be reported. They report that “capacity” may not equate to the number of students a hospital or facility will accept and is not required to be reported to nursing programs. Further, CHA does not want a requirement that the BRN review “trivial” amendments to clinical affiliation agreements.

CHA suggests replacement of the phrases “the number of students from the program who have been approved for placement at the clinical facility” and “changes in the annual clinical placement capacity”¹ with “cancellation or substantive alteration of clinical affiliation agreement” so that the language would read:

As used in this subdivision, “changes” ~~includes~~ means cancellation or substantive alteration of clinical affiliation agreements.

Proposed text of CCR 1427(e), as previously approved by the Board, with focus area highlighted:

(e) A nursing program shall report to a designee of the Board in writing any changes the program makes to their use of clinical facilities within ninety (90) calendar days of making a change. By no later than December 31 of each year, a nursing program shall confirm in response to an inquiry from the Board whether the program has made any

¹ These phrases were quoted in CHA’s letter as, respectively, “the number of students approved in the program,” and “changes in placement capacity.”

such changes in addition to those, if any, already reported by the program to the Board within the calendar year. If necessary, the program shall report any additional changes to the Board that have not been reported for that calendar year. As used in this subdivision, “changes” includes changes to the number of students from the program who have been approved for placement at the clinical facility, changes in the annual clinical placement capacity at the clinical facility, and cancellation or alteration of clinical affiliation agreements.

BRN Response:

The Board appreciates this comment. However, as originally described in our Initial Statement of Reasons and as shown by the Underlying Data listed within that document, the information requested here is consistent with the California State Auditor recommendations.²

Additionally, this proposed text is consistent with the mandate in Assembly Bill (AB) 1015 (Chapter 591, Statutes of 2021) ([AB-1015 Board of Registered Nursing: workforce planning: nursing programs: clinical placements](#)). This bill was approved by the Governor and chaptered on October 6, 2021, adding Business and Professions Code section 2717³. This new legislation requires the Board to incorporate regional forecasts into its biennial analyses of the nursing workforce, to develop a plan to address regional areas of shortage identified by its nursing workforce forecast, and to identify in the plan additional facilities that could offer clinical placement slots. The Board must now annually collect, analyze, and report information related to the number of clinical placement slots that are available and the location of those clinical placement slots within the state, including, but not limited to, information concerning the total number of placement slots that a clinical facility can accommodate and how many slots the programs that use the facility will need.

To accomplish the Board’s mission, it is necessary to know any and all changes in the number of students, permanent or temporary, and in the clinical affiliation agreements, no matter if the program deems either to be a minor change or a major one.

² California State Auditor (CSA) Report [2019-120 \(CSA 2019-120 Recommendations\)](#); the proposed language specifically addresses Recommendations 3, 4, 5, 11, and 13.

³ Business and Professions Code section 2717 (as added 1/1/22, pursuant to AB 1015):

- (a) The board shall incorporate regional forecasts into its biennial analyses of the nursing workforce conducted pursuant to Section 502.
- (b) The board shall develop a plan to address regional areas of shortage identified by its nursing workforce forecast. The board plan shall identify additional facilities that could offer clinical placement slots.
- (c) The board shall annually collect, analyze, and report information related to the number of clinical placement slots that are available and the location of those clinical placement slots within the state, including, but not limited to, information concerning the total number of placement slots a clinical facility can accommodate and how many slots the programs that use the facility will need. The board shall place the annual report on its internet website.

Finally, current regulation 1427, subsection (c), addresses the requirements of what must be in a clinical affiliation agreement. Those agreements are regularly reviewed by the Board for compliance during continuing education reviews, so it is reasonable that changes to those agreements be brought to the Board's attention.

Note: The comment noted and addressed here is specific to the regulatory package pertaining to CCR 1427; CHA's comments pertaining to the regulatory packages affecting section 1456 and sections 1423/1432 will be summarized and responded to in their respective rulemaking packages.

NEXT STEPS:

Submit the regulatory package to OAL following board approval.

FISCAL IMPACT, IF ANY:

Staff estimates that there will be no fiscal impact to the Board.

PERSON TO CONTACT:

Ras Siddiqui
Regulatory Analyst
California Board of Registered Nursing
Email: Ras.Siddiqui@dca.ca.gov

Action Requested:

Staff requests the Board: consider the comment received and provide any feedback as is deemed necessary; adopt the regulatory text of CCR section 1427 as it was noticed; and delegate to the Executive Officer the authority to make any technical or non-substantive changes required by the control agencies as this regulation is finalized.

If the Board wishes to change any text, then once the language is agreed upon, delegate to the Executive Officer authority to adopt the modified text in the absence of any relevant adverse comments and continue with the process to finalize the regulatory package, including making any technical or non-substantive changes.

Reference Material

Attachment A: Notice of Proposed Rulemaking:
<https://www.rn.ca.gov/pdfs/regulations/notice-1427.pdf>

Attachment B: Initial Statement of Reasons:
<https://www.rn.ca.gov/pdfs/regulations/isor-1427.pdf>

Attachment C: Noticed Regulatory Language and Documents Incorporated by Reference: <https://www.rn.ca.gov/pdfs/regulations/proposedlang-1427.pdf>

Attachment D: Comments received during the 45-day comment period

Attachment E: California State Auditor Report [2019-120](#): Board of Registered Nursing

Attachment F: AB 1015:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1015



December 20, 2021

Evon Lenerd Tapps
Board of Registered Nursing
1747 N, Market Blvd., Suite 150
Sacramento, California 95834

Via Email: Evon.Lenerd@dca.ca.gov

Re: Comments on Proposed Revisions to Title 16, Division 14, Article 3 Sections 1423 and 1432, Title 16, Title 16, Division 14, Article 5 Sections 1450 and 1456, Title 16, Division 14, Article 8, Section 1484, Title 16, Division 14, Article 3, Section 1427

Dear Ms. Tapps:

Thank you for the opportunity to comment on the California Board of Registered Nursing (BRN) proposed amendments. The California Hospital Association (CHA), representing more than 400 hospitals and health systems, is pleased to provide feedback on these important proposed regulatory changes.

Our detailed recommendations and rationale are provided on the attached CHA Title 16. BRN Proposed Language Grid. The grid outlines the BRN's proposed language on the left hand or first column of the grid and CHA's revisions and rationale for the amendment change is located on the right hand or second column of the grid.

In summary,

- We suggest that ***only substantive changes*** to student enrollment be required versus ***any increase*** in the total annual enrollment numbers to prevent BRN administrative burden for minor changes that hamper the BRN's ability to be nimble and act quickly to ramp up California's nursing pipeline.
- Related to the definition of experimental medical procedure or treatment, CHA suggests ***using the FDA's definition that includes drugs and devices***. In addition, CHA's proposed language allows nurses to obtain continued education on the topic of clinical research studies ***that may not have yet resulted in a published peer review study*** and allows nurses to obtain continuing education on ***research that may not be subject of an on-going clinical trial, but rather a future or past clinical trial***.

- We recommend ***the addition of telehealth*** in the definition of “direct patient care as defined in Section 2290.5 of the Business and Professions Code due to its extreme importance in present and future delivery of health care services.
- We recommend the ***deletion of the definition of the term generally accepted*** in that the term experimental medical procedures or treatment is sufficiently clear and may preclude RNs obtaining continuing education credits in cutting-edge studies that may reveal that a particular treatment or procedure is not beneficial after all.
- We advise removing trivial reporting requirements and ***inserting the word “substantive” as done in Section 1430(b)***.
- And finally, we suggest, replacement of “the number of students approved in the program “, and “changes in placement capacity” ***with “cancellation or substantive alteration of clinical affiliation agreement”***.

Thank you for your review and consideration of CHA’s revisions. Please do not hesitate to contact me with any questions you have about our comments. We stand ready to work alongside you at the BRN to enhance the regulations that guide RN practices that improve the safety and quality of care they provide in California hospitals.

Sincerely,



Sheree Lowe
Vice President Policy
California Hospital Association

Attachment: CHA Title 16. BRN Proposed Language Grid

Legend: Added text is indicated with an underline.
Omitted text is indicated by (* * * *)
Deleted text is indicated by ~~strikeout~~.

| Proposed Language | Recommendation/Comments: |
|--|--------------------------|
| <p><u>Amend Sections 1423 and 1432 of Title 16 of the California Code of Regulations to read as follows:</u></p> | |
| <p>Section 1423. Approval Requirements.</p> | |
| <p>(a) In order for a program to be approved by the board or to retain its approval, it shall comply with all requirements set forth in this article and in sections 2715 through 2788 of the code.</p> <p>(b) 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. <u>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.</u></p> <p>Note: Authority cited: Section 2715, Business and Professions Code. Reference: Sections 2786 and 2788, Business and Professions Code.</p> | <h1>Not Applicable</h1> |
| <p>Section 1432. Changes to an Approved Program</p> | |

(a) Each nursing program holding a certificate of approval shall:
(1) File its legal name and current mailing address with the board at its principal office and shall notify the board at said office of any change of name or mailing address within thirty (30) days prior to such change. It shall give both the old and the new name or address.

(2) Notify the board within ten (10) days of any:

(A) Change in fiscal condition that will or may potentially adversely affect applicants or students enrolled in the nursing program.

(B) Substantive change in the organizational structure, administrative responsibility, or accountability in the nursing program, the institution of higher education in which the nursing program is located or with which it is affiliated that will affect the nursing program.

(b) An approved nursing program shall not make a substantive change without prior board authorization approval. These changes include:

(1) Change in location.

(2) Change in ownership.

(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).

(4) Significant change in the agreement between an approved nursing program that is not an institution of higher education

Not Applicable

and the institution of higher education with which it is affiliated.

(5) 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.

Note: Authority cited: Sections 2715, 2786 and 2788, Business and Professions Code. Reference: Sections 2715, 2786 and 2788, Business and Professions Code.

CHA requests that BRN revise this amendment to read as follows:

(5) ~~Any~~ A substantive 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.

Rationale: The beginning of this section says: (b) An approved nursing program shall not make a substantive change without prior board ~~authorization~~ approval. Then subdivision (b) goes on to require approval of “any increase” or “any change.” This is internally inconsistent and therefore confusing. We suggest that BRN require approval only of substantive changes, not every trivial change (such as admitting one or two extra students in a year due to a higher non-acceptance rate). Requiring approval of every little change creates an administrative headache for nursing schools and will bog down the BRN at a time where it needs to act more quickly, not slower, so we can improve the nursing practice in California.

Not Applicable

Continuing Education – Experimental Procedures and Implicit Bias (AB 241)

Amend sections 1450 and 1456 of Article 5 of Division 14 of Title 16 of the California Code of Regulations to read as follows:

Section 1450. Definitions

(a) For purposes of this Article:
(1a) “Continuing Education” means the variety of forms of learning experiences, including, but not limited to, lectures, conferences, academic studies, in service education, institutes, seminars, workshops, extension studies, and independent/home study programs

undertaken by registered nurses for relicensure. These learning experiences are meant to enhance the knowledge of the registered nurse in the practice of nursing in direct and indirect patient care.

(2b) “Course” means a systematic learning experience, at least one hour in length, which deals with and is designed for the acquisition of knowledge, skills, and information in direct and indirect patient care.

(3c) “Content Relevant to the Practice of Nursing” means content related to the development and maintenance of current competency in the delivery of nursing care as specified in Section 1456.

(d) “Experimental medical procedure or treatment” means the management and care of a patient involving any of the following: for drugs, the treatment will be considered experimental if the United States Food and Drug Administration approved the drug for use, but the drug is used for a purpose other than that for which it was approved; or, (2) any treatment or procedure for which peer-reviewed scientific journals or studies show that the procedure or treatment is the subject of on-going clinical trials.

(4e) “Independent/Home Study Courses” means continuing education courses offered for individual study by an approved provider.

(5f) “Hour” means at least fifty (50) minutes of participation in an organized learning experience;

CHA requests that BRN revise this amendment to read as follows:

(d) “Experimental medical procedure or treatment” means the management and care of a patient involving any of the following: (1) clinical trial on human subject research approved by a Institutional Review Board, or the statute in the Code of Federal Regulations, Section 46.102; ~~(1)~~ (2) for drugs or devices, the treatment will be considered experimental if the United States Food and Drug Administration approved the drug or device for use, but the drug or device is used for a purpose other than that for which it was approved; or, ~~(2)~~ (3) any treatment or procedure for which peer-reviewed scientific journals or studies show that the procedure or treatment is the subject of on-going clinical trials.

Rationale: Nurses are often involved in cutting-edge clinical research studies. They need education on the scientific underpinnings of these studies as well as how to care for patients enrolled in these studies. The language recommended above allows nurses to obtain continuing

Not Applicable

(6g) “Approved Providers” means those individuals, partnerships, corporations, associations, organizations, organized health care systems, educational institutions, or governmental agencies offering continuing education as approved by the Board.

(h) “Implicit bias” means the attitudes or internalized stereotypes that affect our perceptions, actions, and decisions in an unconscious manner. Implicit bias often contributes to unequal treatment of people based on race, ethnicity, gender identity, sexual orientation, age, disability, and other characteristics.

(i) “Direct patient care” means the provision of health care services directly to individuals being treated for or suspected of having physical or mental illnesses. Direct patient care includes preventive care.

Note: Authority cited: Sections 271, and 273.5, and 2811.5, Business and Professions Code.

Reference: Sections 2811.1 and 2811.5, Business and Professions Code.

§ 1456. Continuing Education Courses.

(a) The content of all courses of continuing education must be relevant to the practice of nursing and must:

(a1) bBe related to the scientific knowledge and/or technical skills required for the practice of nursing, or

(b2) bBe related to direct and/or indirect patient/client care.

education on the topic of clinical research studies that may not have yet resulted in a published, peer-review study. It also allows nurses to obtain continuing education on research that may not be the subject of an on-going clinical trial, but rather a future or past clinical trial. In addition, CHA recommends using the words “drugs or devices” rather than simply “drugs,” recognizing that the FDA regulates devices in the same way it regulates drugs.

CHA requests that BRN revise this amendment to read as follows:

(i) “Direct patient care” means the provision of health care services directly to individuals being treated for or suspected of having physical or mental illnesses. Direct patient care includes preventive care and telehealth as defined in Section 2490.6 of the Business and Professions Code.

Rationale: This definition proposed by BRN is unclear as to whether telehealth is considered “direct patient care.” Given the increasing importance of telehealth services, especially to provide care to otherwise underserved individuals and those living in rural areas, CHA recommends clarifying that telehealth is considered direct patient care.

Not Applicable

(e3) ~~Learning experiences are expected to e~~Enhance the knowledge of the Registered Nurse at a level above that required for licensure. Courses related to the scientific knowledge for the practice of nursing include basic and advanced courses in the physical, social, and behavioral sciences, as well as advanced nursing in general or specialty areas. Content which includes the application of scientific knowledge to patient care in addition to advanced nursing courses may include courses in related areas, i.e., human sexuality; death, dying, and grief; foreign languages (conversational); therapeutic interpersonal relationship skills; pharmacology; generally accepted experimental medical procedures or treatments; and those related to specialty areas of nursing practice. Courses in nursing administration, management, education, research, or other functional areas of nursing relating to indirect patient/client care would be acceptable. Courses which deal with self-improvement, changes in attitude, financial gain, and those courses designed for lay people are not acceptable for meeting requirements for license renewal.

(4) Beginning January 1, 2022, contain curriculum that includes the understanding of implicit bias pursuant to Section 2736.5 of the code, unless the course is dedicated solely to research or other issues that does not include a direct patient care component.

(b) For the purposes of this section, “generally accepted experimental medical procedures or treatments” means the efficacy of the procedure(s) or treatment(s)

CHA recommends that BRN delete the words “generally accepted.”

Rationale. The proposed new term “experimental medical procedure or treatment” in § 1450(d) is sufficiently clear to exclude bogus “studies” including the requirement that the treatment be “generally accepted.” Would preclude research nurses from obtaining continuing education credits at academic medical centers for education and training related to their role in providing care to patients enrolled in these cutting-edge studies. Nurses are an integral part of these studies, many of which are not yet “generally accepted.” In fact, some of these studies may reveal that a particular treatment or procedure is not beneficial after all.

CHA recommends that BRN delete the definition of the term “generally accepted experimental medical procedures or treatments” for the rationale stated above.

Not Applicable

is supported by at least two peer-reviewed, publicly available scientific journals or studies, is published in medical and/or scientific literature, and is generally accepted as effective by the medical community.

Note: Authority cited: Sections 2715, 2736.5, and 2811.5, Business and Professions Code.
Reference: Sections 2736.5 and 2811.5, Business and Professions Code.

**Article 8 – Standards for Nurse Practitioners
CCR 1484 Proposed Text**

**Amend section 1484 of Title 16 of the California Code of Regulations to read as follows:
Section 1484 Nurse Practitioner Education:**

(h) Nurse Practitioner Education Program Curriculum. The nurse practitioner education program curriculum shall include all theoretical and clinical instruction that meets the standards set forth in this section and be consistent with national standards for graduate and nurse practitioner education, including nationally recognized core role and category competencies and be approved by the board.

(1) The program shall evaluate previous education and experience in health care for the purpose of granting credit for meeting program requirements.

(2) The curriculum shall provide broad educational preparation and include a graduate core, advance practice registered nursing core, the nurse practitioner core role competencies, and the competencies specific to the category.

Not Applicable

(3) The program shall prepare the graduate to be eligible to sit for a specific national nurse practitioner category certification examination consistent with educational preparation.

(4) The curriculum plan shall have appropriate course sequencing and progression, which includes, but is not limited to the following:

(A) The advanced practice registered nursing core courses in advanced health assessment, advanced pharmacology, and advanced pathophysiology shall be completed prior to or concurrent with commencing clinical course work.

(B) Instruction and skills practice for diagnostic and treatment procedures shall occur prior to application in the clinical setting.

(C) Concurrent theory and clinical practice courses in the category shall emphasize the management of health-illness needs in primary and/or acute care.

(D) The supervised direct patient care precepted clinical experiences shall be under the supervision of a certified nurse practitioner.

(5) The program shall meet and may exceed the minimum of 500 clinical hours of supervised direct patient care experiences, as specified in current nurse practitioner standards described in this section. Additional clinical hours required for preparation in more than one category shall be identified and documented in the curriculum plan for each category.

Not Applicable

(6) The nurse practitioner education curriculum shall include content related to California Nursing Practice Act, Business & Professions Code, Division 2, Chapter 6, Article 8, “Nurse Practitioners”, and California Code of Regulations Title 16, Division 14, Article 7, “Standardized Procedure Guidelines” and Article 8, “Standards for Nurse Practitioners,” including, but not limited to:

(A) Section 2835.7 of Business & Professions Code, “Additional authorized acts; implementation of standardized procedures”;

(B) Section 2836.1 of Business & Professions Code, “Furnishing or ordering of drugs or devices.”

(7) The program may be full-time or part-time, and shall be consistent with standards as established by The National Organization of Nurse Practitioner Faculties (NONPF) in “Nurse Practitioner Core Competencies for Entry-Level” (2017) or the American Association of Colleges of Nursing (AACN) in “Criteria for Evaluation of Nurse Practitioner Programs” (2016), which is hereby incorporated by reference. The program must also include theory and supervised clinical practice.

(8) The course of instruction program units and contact hours shall be calculated using the following formulas:

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

Not Applicable

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| <p>(B) Three (3) hours of clinical practice each week throughout a semester or quarter equals one (1) unit. Academic year means two semesters, where each semester is 15-18 weeks; or three quarters, where each quarter is 10-12 weeks.</p> <p>(9) Supervised clinical practice shall consist of at least 12 semester units or 18 quarter units.</p> <p>(10) The duration of clinical experience shall be sufficient for the student to demonstrate clinical competencies in the nurse practitioner category.</p> <p>(11) The nurse practitioner education program shall arrange for clinical instruction and supervision of the student. Authority cited: Sections 2715, 2835.7 and 2836, Business and Professions Code. Reference: Sections 2835, 2835.5, 2835.7, 2836, 2836.1, 2836.2, 2836.3 and 2837, Business and Professions Code.</p> | |
| <p>Title 16, Division 14, Article 3, section 1427 Notice of Proposed Regulatory Action Concerning Prelicensure Nursing Programs, Section 1427</p> | |
| <p>Title 16. Professional and Vocational Regulations. Division 14. Board of Registered Nursing. Article 3. Prelicensure Nursing Programs</p> | |
| <p>Amend Section 1427. Clinical Facilities</p> | |
| <p>(a) A nursing program shall not utilize any agency or facility for clinical experience without prior approval by the board. Each program must submit evidence that it has complied with the requirements of subdivisions (b), (c), and (d) of this section and the policies outlined by the board.</p> | |

(b) A program that utilizes an agency or facility for clinical experience shall maintain written objectives for student learning in such facilities, and shall assign students only to facilities that can provide the experience necessary to meet those objectives.

(c) Each such program shall maintain written agreements with such facilities and such agreements shall include the following:

- (1) Assurance of the availability and appropriateness of the learning environment in relation to the program's written objectives;
- (2) Provision for orientation of faculty and students;
- (3) A specification of the responsibilities and authority of the facility's staff as related to the program and to the educational experience of the students;
- (4) Assurance that staff is adequate in number and quality to ensure safe and continuous health care services to patients;
- (5) Provisions for continuing communication between the facility and the program; and
- (6) A description of the responsibilities of faculty assigned to the facility utilized by the program.

(d) In selecting a new clinical agency or facility for student placement, the program shall take into consideration the impact that an additional group of students would have on students of other nursing programs already assigned to the agency or facility.

(e) A nursing program shall report to a designee of the Board in writing any changes the program makes to their use of clinical facilities within ninety (90) calendar days of making a change. By no later than December 31 of each year, a nursing program shall confirm in response to an inquiry from the Board whether the program has made any such changes in addition to those, if any, already reported by the program to the Board within the calendar year. If necessary, the program shall report any additional changes to the Board that have not been reported for that calendar year. As used in this subdivision, “changes” includes changes to the number of students from the program who have been approved for placement at the clinical facility, changes in the annual clinical placement capacity at the clinical facility, and cancellation or alteration of clinical affiliation agreements.

Note: Authority cited: Sections 2715 and 2786, Business and Professions Code. Reference: Sections 2786 and 2788, Business and Professions Code.

CHA recommends that BRN revise this language to read as follows.

As used in this subdivision, “changes” ~~includes~~ means cancellation or substantive alteration of clinical affiliation agreements.

Rationale: It doesn’t make sense for a nursing program to report, and BRN to review and document, small fluctuations in the number of students approved for placement at a particular facility. Also, temporary changes in the number of students approved for placement may be required by the clinical agency such as instances of seismic retrofitting, structural damage to a particular section of the clinical agency, or fluctuations of patient census requiring the closure of a unit. Instead, CHA recommends inserting the word “substantive” as is done in Section 1432(b). Similarly, it doesn’t make sense for a nursing program to report, and BRN to review and document, trivial amendments to clinical affiliation agreements – these documents are often lengthy and include a lot of language that, if amended, BRN would have no interest in whatsoever. Creating new administrivia for nursing schools and BRN simply diverts staff time from important work that they need to do to education and license nurses. Finally, hospitals and other facilities determine the number of students they are willing to accept during a particular time period. This may or may

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| | <p>not be the same number as the facility’s theoretical “capacity.” In addition, hospitals and other facilities don’t share “capacity” information with nursing programs. Therefore nursing programs do not have the ability to report this information to BRN.</p> |
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Agenda Item 5.0

Discussion and Possible Action To Accept or Revise the Responses to the Board of Registered Nursing Sunset Background Paper

BRN Board Meeting | March 24, 2022

BOARD OF REGISTERED NURSING
Board Meeting
Agenda Item Summary

AGENDA ITEM: 5.0
DATE: March 24, 2022

ACTION REQUESTED: Discussion and Possible Action to Accept or Revise the Draft Board of Registered Nursing Background Paper Response for the Sunset Oversight Hearing held on March 18, 2022.

REQUESTED BY: Dolores Trujillo, President

BACKGROUND: After review, the Board can approve the Draft Board of Registered Nursing Background Paper Response for the Sunset Oversight Hearing held on March 18, 2022, with any suggested amendments, authorize staff to make any non-substantive changes and to delegate the Board President and Vice President to sign off on the final version prior to submission. These Responses are due on or before 30 days after the March 18, 2022, Sunset Oversight Hearing.

NEXT STEP: Place on Agenda.

PERSON TO CONTACT: Loretta Melby
Executive Officer
California Board of Registered Nursing
Loretta.Melby@dca.ca.gov



Agenda Item 6.0

Report of the Legislative Committee

BRN Board Meeting | March 24, 2022

BOARD OF REGISTERED NURSING
Board Meeting
Legislative Agenda Item Summary

AGENDA ITEM: 6.0
DATE: March 24, 2022

ACTION REQUESTED: Legislative Update

REQUESTED BY: Dolores Trujillo, RN, Chairperson

BACKGROUND: Presentation of bills for the Board to review and take a position on through vote.

NEXT STEPS: Continued tracking and analysis of BRN relevant bills
[2022 Legislative Calendar](#)
[California Legislative Process](#)

FINANCIAL IMPLICATIONS, IF ANY: Typically, only for direct impact bills, if any, as reflected by the proposed legislation and contained in bill analysis (available upon request).

PERSON TO CONTACT: Gurpreet Kaur
Legislative and Regulatory Analyst
gurpreet.kaur@dca.ca.gov
916.574.8520

2021-2022 Legislative Session

BRN Bills of Interest: Summaries

(Click on bill title for link to the text; Bill information/status as of March 16, 2022)

Direct Impact Bills

AB 225 (Gray), Department of Consumer Affairs: Boards: Veterans: Military Spouses: Licenses

Expands the eligibility for a temporary license to a veteran of the Armed Forces of the United States within 60 months of separation from active duty under other-than-dishonorable conditions as well as for a veteran within 120 months of separation from active duty under similar conditions who was a resident of California prior to entering military service.

Board Position: Watch

Status: In Senate Committee on Business, Professions and Economic Development (two-year bill, i.e. introduced in 2021)

AB 562 (Low), Frontline COVID-19 Provider Mental Health Resiliency Act of 2021: Health Care Providers: Mental Health Services

Requires the DCA director to establish a program to provide mental health services to specified frontline health care licensees treating patients with COVID-19.

Makes mental health services available to BRN licensees who provide or have provided direct care healthcare services to COVID-19 patients. It also requires notification to licensees by the BRN and solicitation of applications from licensees.

Board Position: Support

Status: In Senate Committee on Appropriations, Suspense File (two-year bill, i.e. introduced in 2021)

AB 646 (Low), Department of Consumer Affairs: Boards: Expunged Convictions

Requires a professional licensing board to update or remove information posted on its online license search system about a revoked license within 90 days of receiving an expungement order related to the conviction as specified. It, also, requires the board to charge a fee of \$25 to cover the reasonable regulatory cost.

Board Position: Watch

Status: In Senate (two-year bill, i.e. introduced in 2021)

AB 852 (Wood), Nurse Practitioners: Scope of Practice: Practice Without Standardized Procedures

Adds the new category of nurse practitioners (NPs) who are authorized to practice independently starting January 1, 2023, to provisions of law that include physician and surgeons and other relevant health care licensees; corrects a drafting error related to the conditions when an

independent NP must refer to a physician and surgeon; adds the new independent NPs to pharmacy definitions for prescribers; and makes other technical and clarifying changes.

Board Position: Support

Status: In Senate Committee on Business, Professions and Economic Development (two-year bill, i.e. introduced in 2021)

AB 858 (Jones-Sawyer), Employment: Health Information Technology: Clinical Practice Guidelines: Worker Rights

Prohibits a general acute care hospital (GACH) from limiting a worker providing direct patient care from exercising independent clinical judgement, as specified; authorizes a worker who provides direct patient care at a GACH to override health information technology and clinical practice guidelines, as specified; and prohibits a GACH from retaliating against a worker providing direct patient care for overriding health information technology and clinical practice guidelines.

Board Position: Support

Status: In Senate Inactive File (two-year bill, i.e. introduced in 2021)

AB 1604 (Holden), The Upward Mobility Act of 2022: Boards and Commissions: Civil Service: Examinations: Classifications

Same as AB 105 (Holden), which was vetoed by Governor Newsom in October, 2021, with the recommendation that the bill costs be considered through the annual state budget process.

Modifies certain state civil service employment processes, including those related to job announcements, examinations and classifications; requires state boards and commissions that have at least one volunteer member to have at least one member from an underrepresented community; makes changes to departmental upward mobility programs; and adds a new demographic category for data collection by state agencies, among other provisions.

Board Position: To be determined

Status: In Assembly Committee on Public Employment and Retirement

AB 1662 (Gipson), Licensing Boards: Disqualification from Licensure: Criminal Conviction

Authorizes a prospective applicant that has been convicted of a crime to submit to a board a request for a preapplication determination that includes information provided by the prospective applicant regarding their criminal conviction. The bill would require a board that receives that request to determine if the prospective applicant would be disqualified from licensure by the board based on the information submitted with the request, and deliver that determination to the prospective applicant.

Board Position: To be determined

Status: In Assembly Committee on Business and Professions

AB 1733 (Quirk), State Bodies: Open Meetings

Makes changes to the Bagley-Keene Open Meetings Act and requires all open meetings to be held via teleconference.

Specifies that a “meeting” under the act, includes a meeting held entirely by teleconference. It allows for use of teleconference in closed sessions, and would remove existing provisions of the act that require each teleconference location to be identified in the notice and agenda and accessible to the public.

The bill would require the state body to provide a means by which the public may remotely hear, or hear and observe, the meeting and may remotely address the state body via two-way audiovisual platform or two-way telephonic service, as specified, and would require information to be provided in any notice to the public indicating how the public can access the meeting remotely. It would require the state body to provide an opportunity for members of the public to address the state body. It would require the state body to provide members of the public a physical location to hear, observe, and address the state body, and would authorize the members of the state body to participate in a meeting remotely or at a designated physical meeting location, and specify that physical presence at any physical meeting location is not necessary for the member to be deemed present at the meeting. The bill would require the agenda to be posted 10 days in advance of the meeting, or as provided in accordance with the provisions applicable to a special or emergency meeting, as well as posted on the state body’s internet website and, on the day of the meeting, at any physical meeting location designated in the notice. It would also provide that the notice of the meeting is required to specify the means by which a meeting may be accessed by teleconference. It would prohibit the notice and agenda from disclosing any information regarding any remote location from which a member is participating, and require members attending a meeting from a remote location to disclose whether any other individuals 18 years of age or older are present in the room, as specified.

If a state body discovers that a means of remote participation, as defined, required by these provisions has failed during a meeting and cannot be restored, the state body would be required to end or adjourn the meeting and take specified actions to notify participants and communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of, or observe, the meeting.

This bill would remove certain notice provisions specific to advisory bodies of state boards.

It would exempt a board from the requirement to meet in northern and southern California each once a year if the board’s meetings are held entirely by teleconference.

Board Position: To be determined

Status: In Assembly Committee on Governmental Organization

AB 1756 (Smith), Department of Consumer Affairs

Currently, makes non-substantive changes. Place-holder bill.

Board Position: To be determined

Status: Yet to be assigned to Committee

AB 1996 (Cooley), State Government: Administrative Regulations: Review

Requires each state agency to, on or before January 1, 2026, review that agency’s regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise

those identified regulations, as provided, and report to the Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2027.

Board Position: To be determined

Status: In Assembly Committee on Accountability and Administrative Review

AB 2104 (Flora), Professions and Vocations

No longer requires, but authorizes DCA and each board to charge a fee not to exceed \$2 for the certification of a copy of any record, document, or paper in its custody. The bill would also require the delinquency, penalty, or late fee for any licensee within the department to be 50% of the renewal fee for that license, but not to exceed \$150. It removes the requirement that the fee not be below \$25.

Board Position: To be determined

Status: In Assembly Committee on Business and Professions

AB 2107 (Flora), Department of Consumer Affairs

Currently, makes non-substantive changes. Place-holder bill.

Board Position: To be determined

Status: Yet to be assigned to Committee

AB 2188 (Quirk), Discrimination in Employment: Use of Cannabis

Amends the California Fair Employment and Housing Act to make it unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize a person, if the discrimination is based upon the person's use of cannabis off the job and away from the workplace or, with prescribed exceptions, upon an employer-required drug screening test that has found the person to have non-psychoactive cannabis metabolites in their urine, hair, or bodily fluids.

Board Position: To be determined

Status: In Assembly Committee on Labor and Employment

AB 2397 (Dahle), Board of Registered Nursing: Online License Verification

Requires the board to consult with the department no later than July 1, 2023, and develop recommendations for the implementation of the Nursys online license verification system for verifying the licenses of California nurses seeking to practice outside the state. The bill would require the board to implement those recommendations within a reasonable period.

Board Position: To be determined

Status: In Assembly Committee on Business and Professions

AB 2452 (Chen), Consumer Affairs

Currently, makes non-substantive changes. Place-holder bill.

Board Position: To be determined
Status: Yet to be assigned to Committee

AB 2600 (Dahle), State Agencies: Letters and Notices: Requirements

Requires that every state agency, when sending any communication to any recipient shall state, in bolded font at the beginning of the communication, whether it requires action on the part of the recipient or serves as notice requiring no action.

Board Position: To be determined
Status: In Assembly Committee on Accountability and Administrative Review

AB 2626 (Calderon), Uniform Standards: Substance-Abuse

Currently, makes non-substantive changes. Place-holder bill.

Board Position: To be determined
Status: Yet to be assigned to Committee

AB 2636 (Berman), Refugees, Asylees, and Special Immigrant Visa Holders: Professional Licensing: Initial Licensure Process

Currently, makes non-substantive changes. Place-holder bill.

Board Position: To be determined
Status: Yet to be assigned to Committee

AB 2637 (Rubio), Nursing: Schools and Programs: Exemptions

Exempts an approved school of nursing or approved nursing program that is accredited and maintains accreditation through a national nursing accrediting agency recognized by the United States Department of Education or is a public institution, is accredited through a regional accrediting agency, maintains a minimum pass rate of 80% on the licensing examination for a minimum of 2 consecutive academic years, and meets other specified criteria.

This bill would require an approved school of nursing or an approved nursing program that is seeking exempt status to submit an application to the board and would require the board to approve the application if specific requirements are met. It would require an exempt school of nursing or an exempt approved nursing program to continue to notify the board of other changes and to continue to submit annual reports to the board. It would specify that an exempt approved school of nursing or an exempt approved nursing program is not required to pay fees or seek board approval for certain program changes that are approved by the applicable accreditors or within the scope of the program's accreditation. These changes would include, among others, clinical experience placements at a clinical agency or facility that is already approved by the board to provide clinical practice hours and if the program staff and school or program attest under penalty of perjury that the new clinical placements will not displace existing placements.

It would also specify that an institute of higher education or a private postsecondary school of nursing, subject to the above exemption provision, is prohibited from making a payment to any clinical agency or facility in exchange for clinical experience placements for students enrolled in

a nursing program offered by or affiliated with the institution or private postsecondary school of nursing.

Board Position: To be determined

Status: In Assembly Committee on Business and Professions

AB 2684 (Committee on Business and Professions), Board of Registered Nurses: Removal of Member

Rescinds the Governor's power to remove any member of the Board of Registered Nurses for cause, except for those members appointed by the Governor as well other non-substantive changes.

Place-holder for the BRN Sunset Extension bill.

Board Position: To be determined

Status: In Assembly Committee on Business and Professions

AB 2694 (Rubio), Nursing: Nursing Schools

Currently, makes non-substantive changes. Place-holder bill.

Board Position: To be determined

Status: Yet to be assigned to Committee

AB 2948 (Cooper), Consumer Protection: Department of Consumer Affairs: Complaints

Requires the DCA Director to advise, within 60 calendar days of the date that the complaint is deemed closed, the consumer of the action taken on the complaint and of any other means which may be available to the consumer to secure relief, unless doing so would be injurious to the public health, safety, or welfare.

Board Position: To be determined

Status: Yet to be assigned to Committee

SB 889 (Ochoa Bogh), Nurse Anesthetists

Allows a nurse anesthetist to administer general anesthesia or deep sedation to dental patients if the nurse anesthetist receives a permit from the Dental Board of California. This bill would require that a nurse anesthetist, in order to administer deep sedation or general anesthesia, apply to the Dental Board and provide, among other things, evidence that the nurse anesthetist has met specified educational requirements. This bill would authorize the Dental Board to require an onsite inspection and evaluation prior to the issuance or renewal of a permit, and would require that a nurse anesthetist who fails that inspection and evaluation have their permit suspended, as specified. This bill would authorize a nurse anesthetist to apply to the Dental Board for an endorsement to perform general anesthesia or deep sedation on a child under 7 years of age.

Also, requires a nurse anesthetist that is providing general anesthesia or deep sedation in a dental office to do so in accordance with the provisions of the Dental Practice Act that govern the use of

general anesthesia or deep sedation in a dental office and in accordance with specified provisions of the Nursing Practice Act.

Board Position: To be determined

Status: In Senate Committee on Business, Professions and Economic Development

SB 1031 (Ochoa Bogh), Healing Arts Boards: Inactive License Fees

Requires the renewal fee for an inactive license to be $\frac{1}{2}$ of the amount of the fee for a renewal of an active license, unless the board establishes a lower fee.

Board Position: To be determined

Status: In Senate Committee on Business, Professions and Economic Development

SB 1237 (Newman), Licenses: Military Service

Require DCA Boards to waive the renewal fee of any licensee or registrant who is called to active duty as a member of the United States Armed Forces or the California National Guard if the licensee or registrant is stationed outside of California.

Board Position: To be determined

Status: In Senate Committee on Business, Professions and Economic Development

SB 1365 (Jones), Licensing Boards: Procedures

Requires each board within the DCA to publicly post on its internet website a list of criteria used to evaluate applicants with criminal convictions so that potential applicants for licensure may be better informed about their possibilities of gaining licensure before investing time and resources into education, training, and application fees. The bill would require DCA to establish a process to assist each board in developing its internet website, as specified.

Also, requires DCA to develop a process for each board to use in verifying applicant information and performing background checks of applicants, and would require that process to require applicants with convictions to provide certified court documents instead of listing convictions on application documents. The bill would further require the board to develop a procedure to provide for an informal appeals process that would occur between an initial license denial and an administrative law hearing.

Board Position: To be determined

Status: In Senate Committee on Business, Professions and Economic Development

SB 1375 (Atkins), Nursing: Nurse Practitioners

Allows a nurse practitioner practicing pursuant to a standardized procedure, a qualified nurse practitioner functioning pursuant to Section 2837.103 or 2837.104 (103 and 104 NPs), to perform an abortion by aspiration techniques pursuant to Section 2253 upon completing training recognized by the Board of Registered Nursing.

It does not apply sub-section (c) of Business and Professions Code Section 2725 to 103 and 104 NPs, which pertains to physician supervision, assistance and consultation.

It removes the requirement of AB 890 (Wood, 2019-20) that the BRN shall, by regulation, define minimum standards for transition to practice, and that clinical experience may include experience obtained before January 1, 2021, if the experience meets the requirements established by the board. Instead, it requires that a nurse practitioner who has been practicing a minimum of three full-time equivalent years or 4,600 hours as of January 1, 2023, shall satisfy the transition to practice requirement. Clinical experience may include experience obtained before January 1, 2023, and be counted towards the three full-time equivalent years or 4,600 hours.

It, also, updates Section 123468 (b) (1) and (2) with nurse practitioner and certified nurse-midwife additions.

Board Position: To be determined

Status: In Senate Committee on Business, Professions and Economic Development

SB 1424 (Nielsen), Consumer Affairs: The Department of Consumer Affairs

Currently, makes non-substantive changes. Place-holder bill.

Board Position: To be determined

Status: Yet to be assigned to Committee

SB 1451 (Borgeas), Department of Consumer Affairs

Currently, makes non-substantive changes. Place-holder bill.

Board Position: To be determined

Status: Yet to be assigned to Committee

Indirect Impact Bills

AB 1105 (Rodriguez), Hospital Workers: COVID-19 Testing

Requires general acute care hospital employers to develop and implement a program to offer COVID-19 screening testing for health care personnel, as defined.

Requires general acute care hospital employers to test patients for COVID-19 prior to being admitted, with specified conditions and exceptions.

Board Position: Support

Status: In Senate Committee on Appropriations, Suspense File (two-year bill, i.e. introduced in 2021)

AB 1120 (Irwin), Clinical Laboratories: Blood Withdrawal

Expands the scope of practice of certified phlebotomists to include the collection of blood through a peripheral venous catheter using blood collection devices approved by the United States Food and Drug Administration, as specified.

Board Position: Oppose

Status: In Senate (two-year bill, i.e. introduced in 2021)

AB 1810 (Levine), Pupil Health: Seizure Disorders

This bill would, if a pupil diagnosed with seizures, a seizure disorder, or epilepsy has been prescribed an emergency anti-seizure medication by the pupil's health care provider, authorize the pupil's local educational agency, upon receipt of a request from the pupil's parent or guardian, to designate one or more volunteers at the pupil's school to receive initial and annual refresher training regarding the emergency use of anti-seizure medication. The bill would require the Superintendent of Public Instruction to establish minimum standards of training for the administration of emergency anti-seizure medication, as provided. The bill would authorize a school nurse or, if the school does not have a school nurse or the school nurse is not onsite or available, a volunteer who has been designated and received training regarding the emergency use of anti-seizure medication, to administer emergency anti-seizure medication to a pupil diagnosed with seizures, a seizure disorder, or epilepsy if the pupil is suffering from a seizure.

The bill would require any local educational agency or school upon receipt of a parent or guardian's request to distribute a related notice at least once per school year to all staff. Before administering emergency anti-seizure medication or therapy prescribed to treat seizures in a pupil diagnosed with seizures, a seizure disorder, or epilepsy, the bill would require a local educational agency to obtain from the pupil's parent or guardian a seizure action plan that includes specified information. of education, and charter schools, the bill would impose a state-mandated local program.

Board Position: To be determined

Status: In Assembly Committee on Education

AB 1914 (Davies), Resource Family Approval: Training

Exempts a resource family member that has an active and unrestricted license issued by the Medical Board of California, the Osteopathic Medical Board of California, the Podiatric Medical Board of California, the Physician Assistant Board, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the Respiratory Care Board of California, or the Emergency Medical Services Authority from any requirement to complete, or show proof of completing, CPR or first aid training.

Board Position: To be determined

Status: In Assembly Committee on Human Services

AB 2055 (Low), Controlled Substances: CURES Database

As of April 1, 2023, transfers the responsibility for administration of the CURES database from the Department of Justice to a department specified by the Governor.

Board Position: To be determined

Status: In Assembly Committee on Business and Professions

AB 2123 (Villapudua), Bringing Health Care into Communities Act of 2023

Establishes the Bringing Health Care into Communities Program to be administered by the California Housing Finance Agency to provide housing grants to specified health professionals, including nurse practitioners and certified nurse midwives, to be used for mortgage payments for a permanent residence in a health professional shortage area, as specified. Under the bill, a health professional would be eligible for a grant for up to 5 years. The bill would make its provisions operative upon appropriation by the Legislature.

Board Position: To be determined

Status: In Assembly Committee on Health

SB 213 (Cortese), Workers' Compensation: Hospital Employees

Creates rebuttable presumptions that infectious disease, COVID-19, cancer, musculoskeletal injury, post-traumatic stress disorder or respiratory disease are occupational injuries for a direct patient care worker employed in an acute care hospital and are therefore eligible for workers' compensation benefits.

Board Position: Support

Status: In Assembly (two-year bill, i.e. introduced in 2021)

SB 441 (Hurtado), Health Care Workforce Training Programs: Geriatric Medicine

Requires the Office of Statewide Health Planning and Development (OSHPD) to include students and professionals with training in geriatrics in the office's administration of health professions workforce programs. This bill would provide access to loan repayment programs to nurse practitioners and certified nurse midwives practicing as geriatric professionals in underserved areas.

Board Position: Support

Status: In Assembly Committee on Appropriations, Suspense File (two-year bill, i.e. introduced in 2021)

SB 637 (Newman), Health Facility Reporting: Staffing

Requires hospitals to report weekly during a statewide health-related state of emergency, and monthly at all other times, information, including but not limited to, staffing, staffing shortages, bed counts, and patient census, and layoffs and furloughs, to CDPH on a form and schedule determined by CDPH. Requires CDPH to publicly post the information. Also, requires hospitals to report weekly during a statewide health-related state of emergency, and monthly at all other times (no emergency declaration), until January 1, 2025, or the end of the declared COVID-19 emergency, whichever comes first, specified information regarding COVID-19-positive staff. Requires a licensed health facility to post any approval granted by CDPH for program flexibility immediately adjacent to the health facility's posted license, and on the facility's internet website.

Board Position: Support

Status: In Assembly Inactive File (two-year bill, i.e. introduced in 2021)

SB 731 (Durazo), Criminal Records: Relief

Permits additional relief by way of withdrawing a plea and deleting arrest records for the purpose of most criminal background checks. Expands automatic arrest record and conviction relief to additional felony offenses, as specified. Expands discretionary expungement relief to include felonies where the defendant was sentenced to state prison, rather than just realigned felonies, as specified.

Board Position: Watch

Status: Under Assembly Motion to Reconsider (two-year bill, i.e. introduced in 2021)

SB 1475 (Glazer), Blood Banks: Collection

Authorizes blood collection at a blood bank when a physician or surgeon is not physically present if the medical director and their medical advisory committee approve and if the employee placed in charge is a registered nurse. The bill would authorize the registered nurse placed in charge to be physically present or available via telehealth. The bill would exempt a blood bank from the requirement to obtain verbal or written consent from a patient for the use of telehealth.

Board Position: To be determined

Status: In Senate Committee on Health