

**Title 16, Division 14, Article 3, Sections 1423 and 1432
Board of Registered Nursing**

**NOTICE OF PROPOSED REGULATORY ACTION CONCERNING
Approval Requirements, § 1423
Changes to an Approved Program, § 1432**

California Code of Regulations (CCR)

NOTICE IS HEREBY GIVEN that the Board of Registered Nursing (Board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office on by Monday, December 27, 2021.

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE:

Pursuant to the authority vested by Business and Professions Code (BPC) sections 2715, 2786, and 2788, the Board proposes to implement, interpret and make specific BPC sections 2715, 2786 and 2788, in amending sections 1423 and 1432, Division 14 of Title 16 of the CCR.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

Existing law for approval of prelicensure programs provides that the Board may deny approval to a nursing program or revoke an approved program's approval if the applicant makes a material misrepresentation of fact to the Board. Existing regulation addresses only misrepresentation of facts but not concealment of facts from the Board. The Board proposes to amend the regulation to adopt more comprehensive language to address both types of misrepresentation to better ensure that all relevant information is provided to the Board.

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

This proposal will:

- Amend section 1432(b) to replace "authorization" with "approval" to track the enabling statute.
- Reference in section 1432(b)(3) "Instructions for Institutions Seeking Approval of a New Prelicensure Registered Nursing Program" (EDP-I-01 Rev 03/10)" (Form) as the means to seek Board approval for a new campus or location. The Form outlines the process by which a nursing program may obtain approval for the addition of a new campus or location from the Board.
- Add to the list of reportable "substantial changes" in section 1432(b)(5), any increase in the total annual enrollment, or any change in the frequency, timing, or number of new student admissions for each board approved nursing program or degree option.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION:

The proposal will encourage complete and forthright communication with the Board and increase the integrity of the Board's oversight of prelicensure nursing programs. The amended regulation will communicate to nursing program applicants and approved programs the Board will deny or revoke approvals when a program knowingly conceals required information or misrepresents a material fact submitted to the Board.

Additionally, the proposal will clarify that the Board must preapprove a nursing program increasing enrollment or making a change to its enrollment pattern. The proposed amendment will protect consumers by ensuring that approved nursing programs have adequate faculty, facilities, clinical placements, policies, procedures, staff, support

services, physical space, and equipment to operate a sustainable program for the number of students the program intends to enroll.

The BRN continues its efforts to increase the number of RN graduates through program approval and enrollment increase process for nursing programs. Additionally, the BRN is working with schools to develop collaborations that allow for timely matriculation for students pursuing a higher degree by alleviating course repetition through standardized course requirements and finding ways to increase access to nursing programs, especially for socioeconomically disadvantaged students. This regulation will benefit nursing students to become nurses, and thus provide more options for those employers trying to hire nurses.

The data collection, analysis, and evaluation that is completed through this process in collaboration with these programs requesting these changes allows the Board to strategically address issues associated with California's nursing workforce, including preparing for anticipated shortages, which benefits the general health and safety of all Californians.

DETERMINATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING REGULATION:

During the process of developing these regulations and amendments, the Board conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

FISCAL IMPACT ESTIMATES

The Board has made the following initial determinations:

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies: The proposed regulations do not have a fiscal impact to the state because nursing programs are already required to notify the Board of enrollment changes under current law and Board practice. As a result, the Board does not anticipate any additional workload or costs to implement the regulations.

Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 – 17630 Require Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. There are currently 150 pre-licensure nursing programs in California. The proposed regulations encourage increased program transparency and oversight integrity and make explicit the Board's long-standing interpretation of its existing regulation regarding Board preapproval of new/additional locations, enrollment increases, and changes in enrollment patterns.

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in state of California. The regulations only expand the types of untruthfulness that could cause revocation of approval or denial of approval, and make explicit the Board's long-standing interpretation of its existing regulation that an increase in enrollment or change in enrollment pattern require preapproval of the Board. The inclusion of form EDP-I-01 Rev 03/10) which is incorporated by reference in existing regulation will help the Board evaluate each program and will assist schools who wish to make changes to program locations, frequency, timing or number of new student admissions for each program previously approved by the Board to detail their request.

Cost Impact on Representative Private Person or Business:

The proposed regulations are intended to better align the Board's regulations with existing practice and procedures consistent with current law. The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board estimates that there will be no increased costs for small businesses with the proposed regulations. This change may actually assist small businesses by leveling the playing field for them as clinical placement slot availability can become competitive and larger businesses could otherwise exert greater influence.

RESULTS OF ECONOMIC IMPACT ASSESMENT/ANALYSIS

The Board has determined this regulatory proposal will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the state of California. It may actually streamline and help to minimize clinical displacement that can occur through program growth, including increased enrollment numbers and frequency, additional locations, and approval of new

nursing programs.

These regulations benefit the health and welfare of California residents because the data obtained regarding enrollment changes from programs allows the Board to strategically address issues associated with California's nursing workforce, including preparing for anticipated shortages, which benefits the general health and safety of all Californians.

The proposed amendments will not affect worker safety and the environment because this regulation does not relate to worker safety and the environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of the law.

Interested persons are invited to present statements or arguments orally or in writing relevant to the above determinations at the above scheduled hearing or during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and may be obtained upon request from the person designated in the Notice under Contact Person or by accessing the Board's website, www.rn.ca.gov.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed

to:

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Website Access: Materials regarding this proposal can be found at www.rn.ca.gov.