

**Title 16, Division 14, Article 3, Sections 1427
California Code of Regulations**

Board of Registered Nursing

Final Statement of Reasons

Clinical Facilities

Sections Affected: California Code of Regulations (CCR), Title 16, Division 14, Article 3, Section 1427

Updated Information

The Informative Digest and Initial Statement of Reasons are included in the original rulemaking file 2022-0330-02S and incorporated as though set forth herein. The noticed Supplemental Statement of Reasons is also incorporated as though set forth herein.

This rulemaking package was noticed (Z-2021-1102-05) on November 12, 2021, and the public comment period was through December 28, 2021. No public hearing was originally set for this proposal, and none was requested. One comment was received and considered by the Board at its March 2022 meeting, discussed below.

After filing with the Office of Administrative Law on March 30, 2022 (2022-0330-02S), modifications to the text were determined necessary. The Board withdrew file 2022-0330-02S to prepare the needed modifications. Modified Text was approved by the Board at its June 23, 2022, meeting and a modified text comment period was held from July 20 to August 4, 2022. In addition, a Supplemental Statement of Reasons explaining the modifications was noticed for the same time period and added to the rulemaking file. The Board received one letter commenting on the text that was submitted on behalf of four organizations, discussed below. The Board reviewed the comments and determined that no further changes were necessary to the text.

Objections or Recommendations/Responses

During the initial 45-day comment period, on December 20, 2021, the Board received one comment from the California Hospital Association. Below is a summary of those comments and the Board's responses.

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 in subsection (e) would read:

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

That language would be instead of the proposed text of:

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.

Board Response to Comment:

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.²²

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 2717.³ 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

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

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.

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.

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 and necessary 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.

During the 15-day modified text comment period, from July 20 to August 4, 2022, the Board received one joint comment letter from the California Hospital Association, Health Impact, Association of California Nurse Leaders, and American Nurses Association/California. Below is a summary of those comments and the Board's responses.

Comment 1

Summary of Comment:

Commenter states the proposed language in Business and Professions Code (BPC) section 1427(e) lacks clarity. Specifically, the addition of the words “**include, but not limited to**” in the changes proposed undermines the stated goals of adding clarity and reducing confusion as stated in the Initial Statement of Reasons, the Administrative Procedure Act and Government Code section 11349(c). Commenter proposes the deletion of the words “include but not limited to” and replace them with “means” instead.

Board Response to Comment:

The Board reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The phrase, “includes but not limited to” allows for notification of changes that are deemed

to be similar in purpose and consistent with the intent of the defined items listed within the proposed text.

The Board did not feel it was appropriate to provide an exclusive list of examples, because circumstances may vary. The Board also did not feel it was appropriate to provide no examples since that would not be helpful to the reader. Therefore, the Board chose the middle ground of including some examples with the potential for other items to be included on a case-by-case basis.

Comment 2

Summary of Comment:

Commenter requests that in section 1427(e) nursing programs only be required to inform the Board of substantive changes instead of **any** alteration of clinical affiliation agreements. Commenter states that some changes, such as affiliation agreements or moving a nursing school liaison officer to a different building on campus, are not relevant to the BRN. Commenter suggests the Board add “substantive” before “alteration of clinical affiliation agreements.”

Board Response to Comment:

This comment does not relate to the modified text that was noticed on July 20, 2022, and is therefore not within the scope of the modified text comment period. The Board previously received and considered this comment during the 45-day public comment period and its response, incorporated herein, was approved at the March 2022 Board meeting.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulations or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Board incorporates by reference the alternatives identified in its Initial Statement of Reasons and did not receive any comments that altered its findings.