

**CALIFORNIA BOARD OF REGISTERED NURSING
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

Hearing Date: No hearing has been scheduled.

Subject Matter of Proposed Regulations: Coursework Exemptions for Out-of-State Applicants

Sections Affected: Add Section 1410.5 to Title 16, Division 14, Article 2 to the California Code of Regulations (CCR).

Background and Statement of the Problem:

Pursuant to Business and Professions Code (BPC) Section 2700 *et seq.*, the Board of Registered Nursing (Board) licenses registered nurses (RN), and certifies Advanced Practice Registered Nurses (APRN), which include certified nurse-midwives (CNM), nurse practitioners (NP), registered nurse anesthetists (CRNA), clinical nurse specialists (CNS), and public health nurses (PHN). In addition to licensing and certification, the Board establishes approval requirements for California nursing schools and reviews nursing school criteria for both prelicensure and NP programs; receives and investigates complaints against its licensees; and takes disciplinary action as appropriate. The Board currently regulates over 502,000 RNs and almost 34,000 NPs.

According to BPC Section 2715, the Board is authorized to amend or adopt regulations in accordance with the Administrative Procedure Act that may be reasonably necessary to enable it to carry into effect the Nursing Practice Act. Furthermore, BPC Section 2786 authorizes the Board to determine the required subjects of instruction to be completed in an approved school of nursing for licensure as an RN; BPC Section 2786.6 authorizes the Board to prescribe the education for which credit is to be given and the amount of credit that is to be given for each type of education.

In California, there are two major pathways to attain an RN license: 1) licensure by examination, and 2) licensure by endorsement, as described below. Additionally, all APRNs must endorse into California and be licensed as an RN before they can be recognized as an APRN. This includes NPs, CNMs, CRNAs, and CNSs.

For licensure by examination, an applicant must take the National Council Licensure Examination (NCLEX-RN) if they have never taken and passed the examination or been licensed as an RN in another state or U.S. territory. All applicants must have completed an educational program that meets California's requirements for an approved educational program.

For licensure by endorsement, an applicant must hold a current and active RN license in another state, U.S. territory, or Canada, have completed an educational program meeting all California requirements, and have passed the NCLEX-RN or the State Board Test Pool Examination to qualify. This is the pathway used to request reciprocity into California as an RN. The Board has seen a steady increase in the number of endorsement applications over the last several years and anticipates that trend will continue. In Fiscal Year 2021-22, the Board received over 38,000 endorsement applications.

Existing state law requires that an RN applying for endorsement into California must meet the education requirements outlined in Title 16 CCR Section 1426. The requirement in 16 CCR 1426(c)(3) includes successful completion of nursing-related natural science laboratory. If an applicant has not completed the lab component for any of the nursing-related natural science courses, then their application is deemed deficient, and they are not able to receive a license until that deficiency is cleared. If the applicant completes the missing lab component(s) at that time or submits proof of prior completion of the lab component(s) then the deficiency is cleared and the Board can issue a license, assuming the applicant has met all other pertinent requirements.

The laboratory component of California's nursing-related natural science course requirements has been a long-time barrier for applicants seeking licensure by endorsement into California. This is due in part to the fact that several other states do not have the same nursing-related natural science laboratory requirements for their nursing education licensure requirements. Consequently, individuals in those states can become licensed and practice as an RN without completing a lab as part of their anatomy, physiology, and microbiology courses.

Furthermore, it is sometimes difficult or impossible to obtain or access their prelicensure nursing program's course descriptions or syllabi to prove that a lab was part of their nursing-related natural science curriculum if the laboratory component was integrated and not scheduled as a separate course and noted on the transcript.

The laboratory requirement has caused processing delays and an inability for some applicants to become licensed. The Board discussed the matter at their November 17, 2021, meeting and voted to reconsider the laboratory component of the natural science course requirements for RNs who are licensed in another state and endorsing into California. Board staff worked with the Department of Consumer Affairs Legal Office to draft proposed regulatory language, which was approved by the Board at their May 18, 2022, meeting.

Subsequently, the item was brought to the Board's Nursing Education and Workforce Advisory Committee (NEWAC) for discussion at their July 28, 2022, meeting. The Committee recommended several clarifying changes to the proposed language. The revised language was approved by the Board at their August 17, 2022, meeting.

Anticipated benefits from this regulatory action:

This proposal will add Section 1410.5 to Title 16, CCR, Division 14, Article 2, titled “Coursework Exemptions for Out-of-State Applicants.”

The proposed exemption will streamline the endorsement process by removing an educational barrier frequently encountered by out of state nurses who want to become licensed in California. This will help California to recruit and maintain a larger pool of qualified nurses from across the country, thereby increasing access to care. The change will also reduce administrative workload for the Board’s licensing staff.

Specific purpose of, and rationale for, each adoption, amendment, or repeal:

1. Add Section 1410.5(a)

Purpose

Title 16 CCR Section 1410.5(a) sets forth the definitions for “proof of successful completion,” “good standing,” and “unrestricted.”

Rationale

The definition of “proof of successful completion” ensures that the applicant provided a complete transcript of the courses prescribed by the Board for licensure as outlined in 16 CCR 1410. This is necessary to establish that, while this proposal does provide an exemption for a narrow area of education, the balance of curriculum requirements must still be met.

The definitions of “good standing” and “unrestricted” ensure that the applicant’s experience practicing in another state did not include any type of disciplinary action that would indicate they are not safe to practice in California that could possibly be contributed to a lack of academic preparation. This is necessary to ensure public safety, which is the Board’s primary mission.

2. Add Section 1410.5(b)

Purpose

Title 16 CCR Section 1410.5(b) sets forth which out of state applicants are eligible for the proposed exemption to laboratory component of the natural science coursework requirement outlined in 16 CCR 1426(c)(3).

Rationale

The purpose of establishing specific criteria that must be met to receive the proposed exemption is to ensure that the applicant has the necessary education and training to practice safely. If a nurse has successfully completed all other educational requirements, including the theory component of these subject areas, and has been practicing in good standing for at least two years in another state, then they have exhibited that they are a safe practitioner and therefore the academic preparation can be deemed equivalent to the minimum requirements of the Board for licensure as outlined in BPC Section 2736.

Two years was chosen by the Board because that is the period of time when a nurse can apply for an advanced practice certification and was seen as consistent for a period of time in which nurses prove themselves as competent. Once a nurse has proven competent, the issue of whether or not an anatomy class in college had a laboratory component is less relevant.

To be clear, every nurse licensed to practice in California must have taken anatomy, physiology, and microbiology courses, but this regulation waives a laboratory requirement for each of these classes taken in an out-of-state school, once the nurse has proven competence by two years of practice without any disciplinary action.

Underlying Data

- Board Meeting Materials November 17-18, 2021 - Agenda Item 9.6
- Board Meeting Minutes November 17-18, 2021 - Agenda Item 9.6
- Board Meeting Materials May 18, 2022 - Agenda Item 5.2
- Board Meeting Minutes May 18, 2022 - Agenda Item 5.2
- NEWAC Committee Meeting Materials July 28, 2022 - Agenda Item 7.0
- NEWAC Committee Meeting Minutes July 28, 2022 - Agenda Item 7.0
- Board Meeting Materials August 17, 2022 - Agenda Item 5.1
- Board Meeting Minutes August 17, 2022 - Agenda Item 5.1

Impact on Businesses

The Board has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other States. This initial determination is based on the following facts:

The regulatory changes do not impose any additional requirements on California's licensees or businesses. Rather, the proposed change will make it easier for RNs licensed in other states to become licensed in California. This will make it easier for California businesses to hire nurses from across the country.

Economic Impact Assessment

The Board has determined that this regulatory proposal will not have any of the following effects:

- Create or eliminate jobs within the State of California.
- Create or eliminate businesses within the State of California.
- Significantly change the creation or elimination of new businesses.
- Affect the expansion of businesses currently doing business within the State of California, as the proposed regulation only expands on the requirements of applications through endorsement.
- Have an impact on worker safety, because the proposed regulations are only detailing requirements for out of state license applicants and do not relate to worker safety.
- Impact on the state's environment, because the regulations will simply set forth minimum requirements for out of state license applicants and do not relate to any environmental issues.
- Have any effect on housing costs.

The proposed regulation will not result in additional costs to California licensees or RNs who are already licensed in other states who wish to become licensed in California. Rather, it will streamline the current endorsement process by removing an existing barrier.

The Board is not aware of any other cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulation.

This regulatory proposal will affect the general health and welfare of California residents by:

- Eliminating a barrier to entry for out of state nursing professionals seeking to become licensed in California, and
- Reducing the time required for endorsement applicants to become licensed in California and enabling them to join the workforce more expeditiously.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The Board has made an initial determination that no reasonable alternative to the regulatory proposal would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost-effective to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

The Board did consider eliminating the lab requirement entirely, including for courses of instruction within California, but rejected that alternative based on feedback received from nursing programs who said that it was imperative to keep the lab requirement for students to see how cultures grow, to learn how antibiotics work, and to understand nosocomial infections and the science. The lab component has support from California nursing programs.

The Board has also considered the alternative of taking no action. However, taking no action was rejected because denial and delays in processing out-of-state applications of qualified nurses in good standing for licensing in California due to the lab requirement was not desirable. The public is invited to comment on this proposal.