



## Agenda Item 9.0

### **Report on Legislation**

BRN Board Meeting | August 21-22, 2024

Legislative Committee  
August 21-22, 2024

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## **BOARD OF REGISTERED NURSING BILL ANALYSIS**

**BILL NUMBER:** [Assembly Bill 1577](#)  
**AUTHOR:** Assemblymember Low  
**BILL DATE:** June 25, 2024 – Amended  
**SUBJECT:** Health facilities and clinics: clinical placements: nursing

### **SUMMARY**

The bill would require health facilities and clinics to meet with a community college or California State University (CSU) with an approved school or nursing, upon the college's request, and work in good faith to meet the needs of the college's nursing program, including adding additional clinical placement slots to accommodate the nursing program.

It would require the hospital or clinic, if unable to provide additional clinical placement slots, to provide the Department of Health Care Access and Information with a written justification of its lack of capability or capacity within 30 days of the meeting, subject to a \$1,000 fine for failure to provide the justification.

### **BACKGROUND**

#### Department of Health Care Access and Information (HCAI)

HCAI's mission is to expand equitable access to quality, affordable health care for all Californians through resilient facilities, actionable information, and the health workforce each community needs.

Their main program areas including the following:

- Facilities: monitor the construction, renovation, and seismic safety of California's hospitals and skilled nursing facilities.
- Financing: provide loan insurance for nonprofit healthcare facilities to develop or expand services.
- Workforce: promote a culturally competent and diverse healthcare workforce
- Data: collect, manage, analyze, and report information about California's healthcare infrastructure and patient outcomes.
- Affordability: analyze health care cost trends and drivers of spending, enforce health care cost targets, and conduct cost and market impact reviews of proposed health care consolidations.

### **REASON FOR THE BILL**

According to the author, the State Auditor published an audit that found that during the 2017-18 academic year, nursing programs reported that more than 2,300 students were affected by clinical displacement. One of the issues particularly amplified by the pandemic has been the lack of clinical placements for nursing students. Given the unique requirements surrounding nursing clinical experiences, nursing student clinical placements are already a scarce commodity. COVID-19 has only worsened the scarcity of available clinical placements. In response, this bill will provide transparency into why

clinical placements slots are not being made available to the Community College and California State Universities.

### **ANALYSIS**

The bill would require a health facility or clinic, upon the request of a community college or CSU with an approved school of nursing or approved nursing program, to meet with the community college or CSU and work in good faith to meet the needs of the community college or CSU program, including adding additional placement slots to accommodate the nursing program.

The bill would require a health facility or clinic, if it cannot provide additional clinical placement slots after meeting with the community college or CSU, to provide HCAI with a written justification of its lack of capability or capacity to meet the needs of the community college or CSU nursing program.

The bill would require this justification to be provided within 30 days after the meeting and subjects the health facility or clinic to a civil fine of \$1,000 for failure to provide the written justification within the 30-day time period. The bill would also require the justification provided by a health facility or clinic for failure to provide additional clinical placement slots must be posted on HCAI's internet website.

The bill outlines the following definitions:

- “Approved school of nursing or approved nursing program” has the same meaning as defined in [Business and Professions Code Section 2786](#).
- “Clinic” has the same meaning as defined in [Health and Safety Code Section 1200](#), and includes a primary care clinic and a specialty clinic, as described in [Health and Safety Code Section 1204](#).
- “Health facility” has the same meaning as defined in [Health and Safety Code Section 1250](#).

### **FISCAL IMPACT**

None.

### **SUPPORT**

- United Nurses Associations of California/Union of Health Care Professionals
- American Federation of State, County, and Municipal Employees
- California Teachers Association
- San Diego and Imperial Valley Community College Nursing Programs
- Southwestern Community College District
- Two individuals

### **OPPOSITION**

- Association of California Healthcare Districts (unless amended)

- Association of Independent California Colleges & Universities (unless amended)
- California Association of Colleges of Nursing (unless amended)
- California Association of Private Postsecondary Schools (unless amended)
- California Baptist University (unless amended)
- Dominican University of California (unless amended)
- Samuel Merritt University (unless amended)
- University of the Pacific
- Nine individuals

**FULL BOARD POSITION**

The Board took a WATCH position on the 4/27 version at the May 2023 Board meeting.

## **BOARD OF REGISTERED NURSING BILL ANALYSIS**

**BILL NUMBER:** [Assembly Bill 1991](#)  
**AUTHOR:** Assemblymember Bonta  
**BILL DATE:** July 2, 2024 – Amended  
**SUBJECT:** Licensee and registrant renewal: National Provider Identifier

### **SUMMARY**

This bill would require a healing arts board to require a licensee or registrant who electronically renews their license or registration to provide to that board the licensee's or registrant's individual National Provider Identifier (NPI), if they have one.

### **BACKGROUND**

[AB 2102 \(Ting, Chapter 420, Statutes of 2014\)](#)

The bill required the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the Physician Assistant Board, and the Respiratory Care Board of California to collect and report specific demographic data related to its licensees. Specifically, the bill mandated that the four boards collect the following data from licensees: (1) location of practice, including city, county, and zip Code; (2) race or ethnicity; (3) gender; (4) languages spoken; (5) educational background and (6) classification of primary practice site, such as clinic, hospital, managed care organization, or private practice.

The Department of Consumer Affairs (DCA) established an interagency agreement with the Department of Healthcare Access and Information (HCAI) related to the collection and reporting of the specified data.

[AB 133 \(Committee on Health, Chapter 143, Statutes of 2021\)](#)

The bill authorized all DCA healing arts boards to request specified licensee demographic data and report that data to HCAI, while preserving the confidentiality of the licensee by reporting the data in an aggregate format. The list of data points collected was amended to include additional information that could be considered sensitive, such as sexual orientation or disability status as well as non-sensitive information, such as work hours and NPI.

According to [Business and Professions Code Section 502](#), the workforce data collected or requested by each board must include, at a minimum, all the following information:

- Anticipated year of retirement.
- Area of practice or specialty.
- City, county, and ZIP Code of practice.
- Date of birth.

- Educational background and the highest level attained at time of licensure or registration.
- Gender or gender identity.
- Hours spent in direct patient care, including telehealth hours as a subcategory, training, research, and administration.
- Languages spoken.
- National Provider Identifier.
- Race or ethnicity.
- Type of employer or classification of primary practice site among the types of practice sites specified by the board, including, but not limited to, clinic, hospital, managed care organization, or private practice.
- Work hours.
- Sexual orientation.
- Disability status.

A copy of the survey provided to healing arts licensees can be found on the HCAI website - [HCAI Health Workforce License Renewal Survey](#).

#### National Provider Identifier

According to the Centers for Medicare & Medicaid Services, an NPI is a unique identification number assigned to covered health care providers. Covered health care providers and all health plans and health care clearinghouses must use NPIs in administrative and financial transactions adopted under the Health Insurance Portability and Accountability Act. As outlined in federal regulations, covered providers must also share their NPI with other providers, health plans, clearinghouses, and any entity that may need it for billing purposes.

While RNs cannot typically bill for services, they are able to register for an NPI if they so choose. However, NPIs are usually required for Advanced Practice Registered Nurses (APRNs) to bill for services. APRNs whose care is billed through their employer can also still register for an individual NPI.

#### **REASON FOR THE BILL**

According to the Author, California faces major shortages of health workers, isn't producing enough new workers to meet future needs, and the current health workforce

does not match the diversity of the state. These workforce supply and diversity problems have a major impact on health access, quality, and equity.

The author goes on to state that health care professional oversight boards request workforce data upon re-licensure which includes an optional survey that is sent to HCAI. This bill simply requires a provider to include their NPI number in the survey, if they have one. This will let HCAI know if health care providers who agree to work in underserved areas in exchange for loan forgiveness continuing to work in those areas after their service obligation is up and allow policymakers to determine whether loan repayment programs intended to increase the diversity of the health workforce are working as intended.

### **ANALYSIS**

The bill states that a healing arts board shall require a licensee or registrant who electronically renews their license or registration to provide to that board the licensee's or registrant's individual NPI, if they have one.

The bill defines a "healing arts board" as any board, division, or examining committee in the DCA that licenses or certifies health professionals.

The bill also clarifies that a violation of this requirement shall not constitute a crime.

### **FISCAL IMPACT**

None.

### **SUPPORT**

- California Pan-Ethnic Health Network
- Board of Behavioral Sciences
- Mental Health America of California

### **OPPOSITION**

- Medical Board of California
- Board of Psychology

### **BOARD POSITION**

To Be Determined.



## **BOARD OF REGISTERED NURSING BILL ANALYSIS**

**BILL NUMBER:** [Assembly Bill 2578](#)  
**AUTHOR:** Assemblymember Flora  
**BILL DATE:** June 24, 2024 – Amended  
**SUBJECT:** Nursing: students in out-of-state nursing programs  
**SPONSOR:** Nightingale Education Group

### **SUMMARY**

This bill would authorize a nursing student who is a California resident enrolled in an out-of-state distance education nursing program to render nursing services, under the supervision of a licensed registered nurse, for the purpose of gaining experience in a clinical setting.

### **RECENT AMENDMENTS**

- Requires a program to provide, upon request by the board, a current list of all upcoming California facility clinical placements for students.
- Requires a program to only utilize clinical placements in nonacute care facilities.
- States that a program meets all applicable Bureau of Private Postsecondary Education regulatory requirements.
- States that a program's California instructors meet the same faculty requirements as required by the board for in-state schools.
- Requires a program to provide initial and subsequent annual reports to the board.

### **BACKGROUND**

#### Program Approval

Nursing program approval is a required process that is carried out by the public Board of Nursing (BON) in each state. The BONs evaluate programs from a state perspective, to see if they meet the specifications of the state's Nursing Practice Act (NPA) for the purpose of protecting both the students and the public.

Every state has its own NPA that sets the framework for how nurses are prepared and able to practice within that state. This includes different standards and rules related to nursing education, nursing discipline, and nursing scope of practice. Consequently, without BON approval, there is no way to ensure that the education students are receiving complies with that state's laws and regulations.

For these reasons, state law currently states that a nursing student can only provide nursing services if they are enrolled in a California Board approved nursing program. The Board provides initial vetting and ongoing oversight to California nursing programs

through its program approval process to ensure that they comply the laws set by the California Legislature related to nursing education and scope of practice.

### Program Accreditation

Nursing program accreditation is a voluntary process in which a private, nonprofit organization evaluates a nursing program from a national perspective to see if they meet certain standards of the profession. While there can be overlap between the two roles, national accrediting agencies have a distinctly different mission and focus than the BON in each state, as highlighted in the following chart from the National Council on State Boards of Nursing: [Approval vs Accreditation](#).

### **REASON FOR THE BILL**

According to the sponsor, the bill recognizes that for many California residents, distance nursing education is the best, or only, option for pursuing a nursing degree. By amending the nurse practice act to allow California residents enrolled in accredited distance nursing education programs to participate in clinical rotations at California facilities (conducted by California licensed registered nurses), the Legislature will allow these California residents to complete their online nursing education while simultaneously participating in their required hands-on training in their local communities, providing them much-needed experience and exposure to California healthcare systems and removing the need for costly out-of-state travel.

AB 2578 assures quality and cooperation from distance nursing education programs by mandating full accreditation by a USDOE recognized nursing education accrediting entity and by requiring programs to work together with California healthcare facilities to determine availability for local clinical rotations.

### **ANALYSIS**

According to [Business and Professions Code Section 2729](#), a student may render nursing services if those services are incidental to the course of study of one of the following:

- a) A student enrolled in a board-approved prelicensure program or school of nursing.
- b) A nurse licensed in another state or country taking a board-approved continuing education course or a post licensure course.

This bill would amend that section to add the following:

- c) A student who is a resident of the state and enrolled in a prelicensure distance education nursing program based at an out-of-state private postsecondary educational institution for the purpose of gaining clinical experience in a clinical setting that meets all the following criteria:
  - The program is accredited by a programmatic accreditation entity recognized by the United States Department of Education.
  - The board does not otherwise approve the program.
    - The student placement does not impact any students already assigned to the agency or facility.

- The program shall provide, upon request by the board, a current list of all upcoming California facility clinical placements for students.
- The program shall utilize clinical placements only in nonacute care facilities.
- The program does not make payments 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.
- The program qualifies graduates for licensure pursuant to board curriculum requirements.
- The program maintains minimum faculty to student ratios required of Board-approved programs for in-person clinical experiences.
- The program pays a one-time fee of \$100 to the Board for each student who participates in clinical experience placements in the state.
- The program meets all applicable Bureau of Private Postsecondary Education regulatory requirements.
- The program's California instructors meet the same faculty requirements as required by the board for in-state schools.

The bill states that a student shall be supervised in person by a registered nurse licensed by the Board while rendering nursing services, who shall ensure compliance with this chapter.

The bill also states that a clinical agency or facility shall not schedule a clinical experience placement with an out-of-state private postsecondary educational institution if the placement is needed to fulfill the clinical experience requirements of an in-state student enrolled in a board-approved nursing program.

The bill requires the program to provide initial and subsequent annual reports to the board. The initial report, which shall be submitted before initial clinical placements occur, shall include all the following:

- Proof of programmatic accreditation with an attestation under penalty of perjury that the program will notify the board within 10 days of any changes in accreditation status.
- Proof that the program is in good standing with its home-state nursing regulatory body with an attestation under penalty of perjury that the program will notify the board within 10 days of any changes in status.
- A schedule of planned clinical placements at California health care facilities for the current year, with accompanying payment of fees, that includes locations, dates, hours, and number of students.
- A list of California clinical instructors who meet the board requirements for in-state school instructors, detailing instructor names and California RN license numbers.

The annual report, which shall be submitted to the board by January 31 of each subsequent year, shall include all the following:

- A clinical placement report detailing the locations, dates, and number of students placed at California health care facilities during the previous calendar year.
- A schedule of planned clinical placements detailing the locations, dates, hours, and number of students scheduled at California health care facilities for the current calendar year.
- Accounting and reconciliation of the fee owed to the board for newly placed students for the previous year, and payment for the newly placed students planned for the current year.
- A list of California clinical instructors who meet the board requirements for in-state school instructors, detailing instructor names and California RN license numbers.

Lastly, the bill defines an out-of-state private postsecondary educational institution as a private entity without a physical presence in this state that offers distance education to California students for an institutional charge, regardless of whether the institution has affiliated institutions or institutional locations in California.

#### Additional Considerations

Recent amendments to the bill attempt to address some previously raised concerns, such as data collection. The new reporting requirements included in the bill would provide the Board with additional information that would be useful should the bill be signed into law.

The amendments also limit the clinical placements to non-acute settings. However, due to the scarcity of clinical placements most California approved nursing programs must also utilize non acute settings, in addition to acute care settings, for their students to be able to progress and graduate.

The amendments do not appear to address the issue of upfront oversight as it relates to clinical placements. Under the provisions of this bill, out of state nursing programs would still not be required to come before the Board or seek any type of Board approval prior to placing students in clinical placements throughout the state the same way that board approved nursing programs are required to.

#### **FISCAL IMPACT**

The Board estimates additional staffing would be needed to review the out of state nursing programs to ensure they meet California's licensure requirements. The Board estimates additional staffing would be needed create new profiles in BreZE for additional students each year, enter the required information, and attach the requisite payment to their profile for accounting and reconciliation purposes. The Board also anticipates needing to provide technical assistance to students, schools, and healthcare facilities utilizing the new process.

The bill requires out of state programs to provide a payment of \$100 per student placed in a California clinical placement. This revenue could help to offset a portion, but not all, of the administrative costs associated with implementing the bill.

### **SUPPORT**

- Nightingale Education Group
- California Kidney Care Alliance
- Fresenius Medical Care North America
- Generations Healthcare

### **OPPOSITION**

- California Association of Colleges of Nursing
- California Baptist University College of Nursing
- California Labor Federation
- California Nurses Association
- California Organization of Associate Degree Nursing Programs

### **BOARD POSITION**

The Board took an “OPPOSE” position on this bill at the May Board meeting.



June 5, 2024

Senator Angelique Ashby  
Chair, Senate Business, Professions, and Economic Development Committee  
1021 O Street, Room 3320  
Sacramento, CA 95814

**RE: AB 2578 (Flora) – Oppose Position**

Dear Chair Ashby:

The Board of Registered Nursing (Board) is charged with protecting the health, safety, and well-being of the public through the fair and consistent application of the statutes and regulations governing nursing practice and education in California. The Board is responsible for implementation and enforcement of California's Nursing Practice Act (NPA), which contains state laws related to nursing education, licensure, practice, and discipline.

The Board discussed AB 2578 by Assemblymember Flora at the May 24, 2024, Board meeting and took an **OPPOSE** position. We apologize for submitting an initial position later in the session, the bill had not been substantively amended in time to be discussed during the Board's first quarter meeting at the end of February, so it was discussed at the Board's second quarter meeting at the end of May.

While the Board acknowledges and appreciates the additional provisions that were added from last year's version, our concerns related to ongoing oversight remain. Exempting out of state private distance education nursing programs from California's nursing program approval process would remove the Board's only mechanism for ensuring the provisions put forth in the bill are being followed.

Nursing program approval is a required process that is carried out by the public Board of Nursing (BON) in each state. The BONs evaluate programs from a state perspective, to see if they meet the specifications of the state's NPA for the purpose of protecting both the students and the public. Every state has its own unique NPA that sets the framework for how nurses are prepared and able to practice within that state. This includes different standards and rules related to nursing education, licensure, scope of practice, and discipline.

For these reasons, the law currently states that a nursing student can only provide nursing services if they are enrolled in a California Board approved nursing program. The Board provides initial and ongoing oversight to both in state, and several out of state nursing programs with a physical presence in California, through its approval process to ensure that their preparation of students complies with California's nursing laws and regulations.

While the Board could provide up front vetting of out of state private distance education nursing programs under this bill, after an initial review the Board would have no way of ensuring that

any changes made to a program's curriculum, faculty, clinical placements, etc. remain in compliance with California's NPA. It is important to note that programmatic accrediting agencies do not monitor for compliance with state specific laws.

Several board members also expressed significant concern with the negative impact this bill could have on California's already strained supply of clinical placements. California's approved prelicensure nursing programs are having a very hard time securing enough clinical placement slots for their current students. Programs have reported decreasing their enrollment numbers, skipping enrollment cycles, or closing their programs all together because they are unable to secure and retain the clinical placement slots needed for their students to graduate.

There are said to be thousands of students enrolled in the out of state schools exempted by this bill that are living in California and seeking to do clinical placements here. Since the Board does not have authority over healthcare facilities and would not have oversight of the out of state nursing programs, there would be no way to identify if or when clinical displacement of students enrolled in California approved nursing programs is occurring. The Board would also not have any ability to take administrative action, if warranted.

Additionally, as requested by the California State Auditor, the Board has been working diligently to gather more robust and objective data on clinical placement availability throughout the state to better inform Board actions and support the growth of California approved nursing programs. This bill would greatly impede those efforts as well as interfere with the Board's ability to carry out its statutory mandate to annually collect, analyze, and report information related to the number of clinical placements slots that are available and their location within the state.

The Board strongly empathizes with the students enrolled in these out of state programs and very much understands their desire to complete their clinicals in California but is concerned that exempting a group of out of state nursing programs from California's public protection processes will have wide reaching unintended consequences.

For the reasons stated above, we strongly urge your no vote on this bill. Should you have any questions or need additional information, please contact our Chief of Legislative Affairs, Marissa Clark at [Marissa.Clark@dca.ca.gov](mailto:Marissa.Clark@dca.ca.gov).

Sincerely,

A handwritten signature in blue ink that reads "Loretta Melby". The signature is written in a cursive, flowing style.

Loretta Melby, RN, MSN  
Executive Officer  
Board of Registered Nursing

CC: Assemblymember Flora

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**SENATE COMMITTEE ON  
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**  
Senator Angelique Ashby, Chair  
2023 - 2024 Regular

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<b>Bill No:</b>	AB 2578	<b>Hearing Date:</b>	July 1, 2024
<b>Author:</b>	Flora		
<b>Version:</b>	June 24, 2024		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Elissa Silva		

**Subject:** Nursing: students in out-of-state nursing programs

**SUMMARY:** Allows a nursing student enrolled in an out-of-state nursing program to obtain clinical experience in California, if specified conditions are met, limits the type of health care facilities where the student may obtain clinical experience, and requires out-of-state nursing programs to provide initial and annual reports to the BRN.

**Existing law:**

- 1) Establishes the Board of Registered Nursing (BRN) to license and regulate registered nurses (RN) and advance practice registered nurses (APRN) and approval of nursing education programs. (Business and Professions Code (BPC) § 2701)
- 2) Defines “an approved school of nursing” or “an approved nursing program” as one that has been approved by the BRN, gives the course of instruction approved by the BRN, covering not fewer than two academic years, is affiliated or conducted in connection with one or more hospitals, and is an institution of higher education which includes but is not limited to, community colleges offering an associate of arts or associate of science degree, baccalaureate degree, or an entry level master’s degree, and is an institution that is not subject to specified provisions of the California Private Postsecondary Education Act, as specified. (BPC § 2786(a)(1))
- 3) Requires an approved school or nursing or nursing program to meet a minimum of 500 direct patient care clinical hours in a BRN-approved clinical setting with a minimum of 30 hours of supervised direct patient, care clinical hours dedicated to each nursing area specified by the BRN. (BPC § 2786(a)(2))
- 4) Requires the BRN to determine by regulation the subjects of instruction to be completed in an approved school of nursing for licensure as a registered nurse (RN) and must include the minimum units of theory and clinical experience and necessary to achieve essential clinical competency at the entry level of the RN. (BPC § 2786(c)(1))
- 5) Restricts the BRN, when considering a request from an approved school of nursing program, which is actively accredited by an institution or programmatic accreditor, to increase enrollment, to consider only the following factors related to the ability to adequately train additional students:



- a) Adequacy of resources, including but not limited to faculty, facilities, equipment, and supplies;
  - b) Availability of clinical placements;
  - c) Complaints that have been verified by the BRN from students, faculty, or other interested parties;
  - d) Licensing examination pass rates, graduation rates, and retention rates; and
  - e) Any other similar factors specified by the BRN in regulations, except for workforce issues, as specified. (BPC § 2786.2(b)(1)(F))
- 6) Requires the BRN to 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. (BPC § 2786(c)(3)(A))
- 7) Defines “out-of-state private postsecondary educational institution” as a private entity without a physical presence in this state that offers distance education to California students for an institutional charge, regardless of whether the institution has affiliated institutions or institutional locations in California. (Education Code (EDC) § 94850.5)

**This bill:**

- 1) Permits a student who is a resident of the state and enrolled in a prelicensure distance education nursing program based at an out-of-state private postsecondary educational institution for the purpose of gaining clinical experience in a clinical setting that meets all of the following criteria:
  - a) The program is accredited by a programmatic accreditation entity recognized by the United States Department of Education;
  - b) The board does not otherwise approve the program;
  - c) The student placement does not impact any students already assigned to the agency or facility;
  - d) The program provides, upon request by the BRN, a current list of all upcoming California facility clinical placements for students;
  - e) The program only utilizes clinical placements in nonacute care facilities;
  - f) The program does not make payments to any clinical agency or facility in exchange for clinical placements for students enrolled in a nursing program offered by or affiliated with the institution or private postsecondary school of

nursing;

- g) The program qualifies graduates for licensure under the California Nursing Practice Act, pursuant to BRN curriculum requirements;
  - h) The program maintains minimum faculty to student ratios required of BRN-approved programs for in-person clinical experience;
  - i) The program pays a one-time fee of \$100 to the BRN for each student who participates in the clinical experience placement in this state;
  - j) The program meets all applicable Bureau for Private Postsecondary (BPPE) regulatory requirements; and,
  - k) The program's California instructors meet the same faculty requirements as required by the BRN for in-state schools.
- 2) Requires the student in 1) above to be supervised in-person, by a CA-licensed RN.
  - 3) Prohibits a clinical agency or facility from offering clinical experience placements to an out-of-state private postsecondary institution if the placements are needed to fulfill the clinical experience requirements of an in-state student enrolled in a BRN-approved nursing program.
  - 4) Defines for purposes of this bill, "out-of-state private postsecondary educational institution" as a private entity without a physical presence in this state that offers distance education to California students for an institutional charge, regardless of whether the institution has affiliated institutions or institutional locations in California.
  - 5) Requires a program to provide initial and subsequent annual reports to the BRN, as specified.
  - 6) Requires the initial report in 5) above to be submitted before initial clinical placements occur to include the following:
    - a) Proof of programmatic accreditation with an attestation under penalty of perjury that the program will notify the BRN with 10 days of any changes in accreditation status;
    - b) Proof that the program is in good standing with its home state nursing regulatory body with an attestation under penalty of perjury that the program will notify the BRN within 10 days of any changes in status;
    - c) A schedule of planned clinical placements at California health care facilities for the current year, with accompanying payment of fees, that includes locations, dates, hours, and number of students; and,
    - d) A list of California clinical instructors who meet the BRN requirements for in-state school instructors, detailing instructor names and California RN license numbers.

- 7) Requires the annual report in 5) above to be submitted to the BRN by January 1, annually and include the following;
- a) A clinical placement report detailing the locations, dates, and number of students scheduled at California health care facilities for the current calendar year;
  - b) Accounting and reconciliation of the fee owed to the BRN for newly placed students for the previous year, and payment for the newly placed students planned for the current year; and,
  - c) A list of California clinical instructors who meet the BRN requirements for in-state school instructors, detailing instructor names and California RN license numbers.
- 8) Makes other technical and clarifying changes.

**FISCAL EFFECT:** According to the Assembly Committee on Appropriations BRN estimates increased workload at a cost of \$431,000 ongoing. BRN states it would need to review curriculum to ensure each school meets licensure requirements and estimates there could be up to up to 50 nursing programs across the country that could utilize this new process, and 3,000 additional students in California. BRN would also need to provide technical assistance for students, schools, and hospitals utilizing the new process. The Department of Consumer Affairs' Office of Information Services estimates absorbable costs of \$5,000 for new fee codes and to update enforcement codes in its electronic licensing system.

**COMMENTS:**

1. **Purpose.** Nightingale College is the sponsor of this bill. According to the author, "Current California statutes do not allow California residents enrolled in non-California Board of Registered Nursing (BRN)-approved out-of-state distance nursing education programs to participate in on-ground clinical rotations in the state. The regulatory authority for nursing education is granted to the California Board of Registered Nursing (BRN). Existing law allows nursing students to provide nursing services related to their course of study but only if they are enrolled in a BRN approved program that is located in the State. The BRN does not have the authority to authorize a program approve by a board of nursing in another state to host clinical rotations in the state.

Current law in California does not allow for these students to conduct on the ground clinical rotations in California, forcing students to move each semester away from their job, home and family in California, and find another State and facility to finish their degree."

2. **Background.**

*Board of Registered Nursing.* The BRN regulates nurse-licensees in California and is responsible for setting the educational standards for nursing programs, approving new and expanding programs, approving continuing education providers, evaluating and licensing applicants, administering discipline, managing an intervention

program for licensees with substance use disorders or mental illness, and providing stakeholder information and outreach. The BRN is a special fund agency that obtains its revenues from licensing, renewal and other fees. With respect to nursing programs, the BRN has authority to review and approve both new programs in California and oversees enrollment increases and other programmatic changes for existing programs. SB 122 (Price, Chapter 789, Statutes of 2012) provided the BRN with oversight and approval of nursing education programs in California and permitted the BRN to charge a fee for nursing program approval. Currently, an application for school approval is \$40,000. In addition to the BRN education program approval, a private postsecondary school or program must obtain approval from the Bureau of Private Postsecondary Education (BPPE) if it is not accredited by the Western Association of Schools and Colleges (WASC) or by a regional accreditor. An out-of-state academic institution providing education to students in California is required to register with the BPPE. This bill would specify in the Nurse Practice Act, that any out-of-state nursing program must meet the regulatory requirements of the BPPE in order for those students to obtain clinical experience in California.

*BRN School Approval Process.* In general, the BRN's current process requires institutions seeking approval for a nursing program to first submit a letter of intent with minor details about the name, contact, type, location, and then start date. Next, the proposed program submits a feasibility study, which is a detailed proposal that outlines most aspects of the proposed program, including a description of the overall institution, including history, accreditation status, and other programs. It also includes geographic area, description of program type, information on the applicant pool, description of the subject matter and support areas, including faculty and facilities, budget projections, and availability of clinical placements. Currently, the BRN does not play a role in finding or securing clinical placement slots for any institution, just reviews whether there is sufficient availability as reported by the institution. There are approximately 159 board-approved nursing programs in California.

*Clinical Placements.* Nursing programs approved by the BRN must comply with current BRN regulations, which require the program to maintain written objectives for student learning in such facilities and assign students only to facilities that can provide the experience necessary to meet those objectives. Each program must maintain written agreements with facilities that include the following:

- Assurance of the availability and appropriateness of the learning environment in relation to the program's written objectives;
- Provision for orientation of faculty and students;
- 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;
- Assurance that staff is adequate in number and quality to ensure safe and continuous health care services to patients;
- Provisions for continuing communication between the facility and the program; and
- A description of the responsibilities of faculty assigned to the facility utilized by the program.

Additionally, current regulations require when selecting a new clinical agency or facility for student placement, the nursing program must 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.

The issue of clinical placements for all nursing students remain a constant area of concern for many stakeholders. The lack of clinical facility resources for educational providers affects not only new programs seeking BRN-approval, but also programs that seek to expand and students in those programs who lose their clinical placements when a clinical facility no longer offers clinical space. The availability of student placements for clinical experiences is based on clinical facilities, such as hospitals or clinics that are willing to accept and teach students and their ability to accommodate students. While there are no mandatory requirements that any healthcare facility accept students, many willingly accept students because it is necessary for the workforce and can help with recruitment. The facilities must have staff who are qualified to teach and supervise students, and often develop contracts with partner educational programs to outline responsibilities, liability, and expectations. As a result, clinical placements are often difficult to find. The lack of clinical placement availability was elevated during the COVID-19 pandemic when clinical facilities closed their doors to students and faculty for a variety of reasons, including staff and patient safety and resource challenges. Although the pandemic has waned, the need for clinical space in healthcare facilities remains.

Currently, the BRN is required to review and collect some data about clinical placements. Annually the BRN collects, analyzes and reports 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 will need. The BRN has little to no direct control over the actual availability of placements. Part of the ongoing issue with clinical placement slots is the fairness in which some academic institutions may find clinical spots at facilities while other cannot. This bill would allow students who reside in California, but attend a non-BRN approved nursing school located outside of the state, an opportunity to obtain clinical placements in California.

Current law, (BPC § 2729), limits nursing services by a student when the services are incidental to the course of study by either a student enrolled in a BRN-approved prelicensure program or school of nursing, or a nurse licensed in another state or country taking a board-approved continuing education course or a post licensure course.

To be eligible for licensure in California, an individual must complete a BRN-approved education program, which must be at least two academic years and affiliated with a clinical facility. Today, California-approved nursing programs are located at various academic institutions throughout California including Community Colleges, the California State University system, the University of California system, and private for profit institutions regulated by the BPPE. All in-state nursing programs are required to meet the BRN's regulatory requirements for approved

nursing programs and curriculum and the BRN must determine the areas of coursework required for each program through regulations. Students who attend out-of-state nursing programs must have their education evaluated for equivalency with state requirements, including clinical experience. Those who do not meet the requirements will be denied or considered deficient and required to complete additional remedial education or training. Because the BRN only approves schools which have sought approval and ensures those programs meet the education and clinical standards under California's nurse practice act, the BRN does not review schools located outside of California that have not requested board-approval. The BRN does not evaluate whether or not a non-approved school's program meets the requirements for licensure in California. However, this bill expressly authorizes students from non-California based educational institutions to be eligible for clinical placement opportunities in California as part of their educational program even when BRN approval has not been obtained.

Students who live in California and enroll in non-BRN-approved distance programs likely move or commute to other states during their course of study to obtain the required clinical experience if they wish to immediately qualify for licensure in California upon graduation. This bill seeks to assist those students with a more simplified process to obtain clinical experience.

As currently drafted, this bill creates parameters on which institutions would be eligible to have their students obtain clinical placements in California. Those include: 1) the program has programmatic accreditation, 2) the clinical placement does not impact any current-California students already assigned to a clinical facility, 3) the program does not make any payments to any clinical agency in exchange for a clinical placement slot (which is currently prohibited for an institution in California), 4) the program qualifies graduates for licensure, and 5) the student is supervised by a California licensed RN while rendering RN services.

Recent amendments would limit the types of facilities where students would be eligible to be placed for their clinical training to specify only nonacute care facilities. Those settings could include skilled nursing facilities, clinics, home health agencies, dialysis clinics, to name a few, but not hospitals. For BRN-approved nursing programs, there are no limitations on the type facilities where clinical experience can be acquired; any many programs utilize nonacute settings. To facilitate the availability of placements, some nursing programs and clinical facilities utilize local databases known as regional consortiums to share placement availability and coordinate partnerships. The consortiums vary by region, function, and pricing methodologies. However, participation is voluntary and as a result, the databases are incomplete.

Additionally, this bill would prohibit a facility from offering clinical experience placements to an out-of-state private postsecondary educational institution if the clinical placement is needed to fulfill the clinical experience requirements of an in-state student enrolled in a BRN-approved nursing program. As currently drafted, there are not clear enforcement provisions in this bill. If a program violates any of the prohibitions listed in this bill, it is unclear how it would be enforced, including who violations are reported to. If a California-approved institution were to violate provisions of the nurse practice act, they are subject to discipline from the BRN.

While the bill requires a \$100 per student payment to the BRN for utilization of the clinical placements, it is unlikely the costs associated with the BRN's review process would be recuperated.

This bill was recently amended to additionally require the distance education programs to provide reports to the BRN. These programs will be required to provide an initial report to the BRN, before any clinical placement occur and subsequent annual reports. The report information aims to provide the BRN with important data about the utilization of clinical placements from distant education students by requiring the schools provide a schedule of planned clinical placement spots and subsequent information about the slots and locations utilized. In addition, the report attempts to provide accounting of students to ensure the appropriate per-student fee is paid appropriately to the BRN.

There is nothing in current law that prohibits any of the schools offering these distance education programs from obtaining BRN approval in California.

3. **Related Legislation.** SB 1042 (Roth of 2024) among various other provisions, would require a defined health facility that offers clinical placement slots, upon the request of an approved school of nursing or an approved program, to meet with representatives of the school or program to discuss the clinical placement needs, among other provisions. (Status: *This bill is currently pending the Assembly Committee on Appropriations*)

SB 1015 (Cortese of 2024) requires the BRN to study and recommend standards regarding how approved schools of nursing or nursing programs manage or coordinate clinical placements and to annually collect, analyze, and report information related to management of coordination of clinical placements. (Status: *this bill is pending in the Assembly Committee on Appropriations*)

AB 2015 (Schiavo of 2024) authorizes the BRN to approve an individual to serve as a member, director, or assistant director of faculty of a school of nursing or nursing program. (Status: *this bill is pending in the Senate Committee on Appropriations*)

AB 1292 (Flora of 2023) was substantially similar to this bill. (Status: *this bill was held on the Assembly Appropriations Committee suspense file.*)

AB 1577 (Low of 2023) would have required hospitals that offer pre-licensure clinical training slots to work in good faith with community college nursing programs to meet their clinical training needs. (Status: *This bill is pending in the Senate Health Committee*).

AB 2684 (Berman, Chapter 413, Statutes of 2022) made changes to address the lack of clinical placements, including establishing a lower 500 minimum number of clinical experience hours, authorizing clinical placements to take place in the academic term immediately following theory, prohibiting nursing schools and programs from paying for clinical placements, and requiring the BRN to utilize data from available regional or individual institution databases in collecting information related to the number of clinical placement slots available to nursing students.

AB 2288 (Low, Chapter 282, Statutes of 2020), authorized the director of an approved nursing program, during a state of emergency, to make requests to the BRN for the following: 1) use of a clinical setting without meeting specified requirements; 2) use of preceptorships without having to maintain specified written policies; 3) use of clinical simulation up to 50% for medical-surgical and geriatric courses; 4) use of clinical simulation up to 75% for psychiatric-mental health nursing, obstetrics, and pediatrics courses; and 5) allowing clinical placements to take place in the academic term immediately following theory.

AB 1015 (Blanca Rubio, Chapter 591, Statutes of 2021) requires the BRN to incorporate regional forecasts into its biennial analyses of the nursing workforce, develop a plan to address regional areas of shortage identified by its nursing workforce forecast, as specified, and 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.

4. **Arguments in Support.** Nightingale Education Group writes in support and notes, “AB 2578 recognizes that for many California residents, distance nursing education is the best, or only, option for pursuing a nursing degree. By amending the nurse practice act to allow California residents enrolled in accredited distance nursing education programs to participate in clinical rotations at California facilities (conducted by California licensed registered nurses), the Legislature will allow these California residents to complete their online nursing education while simultaneously participating in their required hands-on training in their local communities, providing them much-needed experience and exposure to California healthcare systems and removing the need for costly out-of-state travel. AB2578 assures quality and cooperation from distance nursing education programs by mandating full accreditation by a USDOE recognized nursing education accrediting entity and by requiring programs to work together with California healthcare facilities to determine availability for local clinical rotations.”

Generations Healthcare writes in support and notes, “Generations Healthcare facilities are currently at half capacity for clinical rotations and are eager and ready to host new clinical agreements with opportunities to develop new California nursing talent. In each of our establishments we have constructed a proctorship Graduate training program to nurture this superior talent. This program was designed to help facilitate the immersion and integration of nursing education via virtual hybrid formats to support on-the-ground learning techniques. This stewardship training course cultivates the sought after quality care and sets expectations for these nursing professionals. As an existing employee partner and clinical building in Henderson, NV. Generations Healthcare provides job offers to talent during their clinical rotations with a high success rate of placement, proctorship, and ongoing employment.”

California Kidney Care Alliance writes in support and notes that this bill “...addresses the pressing shortage of healthcare professions, particularly nurses, by expanding the future pool of potential recruits in the state. With an increasing demand for dialysis services due to factors such as aging population and rising rates of chronic diseases, having an adequate workforce is essential to ensure patients receive timely and quality care.”



Fresenius Medical Care North America writes in support and notes, “AB 2578 advances healthcare education and training, ultimately contributing to the overall improvement of healthcare delivery and outcomes in the state. “

5. **Arguments in Opposition.** The Board of Registered Nursing writes in opposition and notes, “There are said to be thousands of students enrolled in the out of state schools exempted by this bill that are living in California and seeking to do clinical placements here. Since the Board does not have authority over healthcare facilities and would not have oversight of the out of state nursing programs, there would be no way to identify if or when clinical displacement of students enrolled in California approved nursing programs is occurring. The Board would also not have any ability to take administrative action, if warranted.”

The California Labor Federation writes, “Direct patient care clinical experience for nursing students is a critical component of nursing education programs, but clinical nursing education slots in California are already limited. While we appreciate the author’s amendments from the previous iteration of this bill, AB 2578 would exacerbate the already limited access to clinical education slots for students in California by allowing out-state distance nursing programs to provide clinical education in the state. It would additionally displace nursing students in community college and state university nursing programs, which have long served as meaningful pathways into the nursing profession for racially, economically, and geographically diverse communities in California.”

The California Nurses Association states, “We are concerned that AB 2578 would undermine the availability of clinical education placements for nursing students of California-approved programs. The availability of clinical education slots in California health care facilities for existing nursing students is already limited.”

The California Association of Colleges of Nursing writes in opposition and notes, “We assert that AB 2578 is the wrong approach and that as an academic community we must work collaboratively side by side with the state and our clinical providers to learn how to expand access to California schools and programs of nursing for a long-term solution, and more importantly, meet California workforce needs. This must be done without legislation that gives up a precious state resource to out-of-state actors who seek to profit from California residents.”

The California Organization of Associate Degree Nursing and the California Baptist University College of Nursing write in opposition and notes, “Although AB 2578 suggests that California residents would be the beneficiaries of graduates of out-of-state entities, the real winner of this measure would be the educational entities who would directly profit from the tuition charged to these Californian students. This current measure takes a misguided step in the wrong direction by providing access to these limited placements to out-of-state educational entities, who have no ties to the state.”

6. **Policy Issues for Consideration.**

*Enforcement.* Although this bill has limitations on how students enrolled in out-of-state distance education schools would be able to obtain clinical education in

California, there is no enforcement mechanism to ensure compliance. If an out-of-state academic institution were to pay a clinical facility for placements, it unclear who would enforce the violation and what the penalty would be. The bill requires a school to pay \$100 per student, but there is no mechanism to ensure compliance, other than a proposed self-report. This bill requires schools to provide reports to the BRN however, if those reports are late or not submitted, the BRN has no authority in this bill to take any action or deny student placements in a clinical facility.

*Displacement of current students.* Clinical experience is the bedrock of nursing education. Although this bill attempts to ensure that current California students are not displaced, this bill does not provide a measurable system to determine if clinical displacement occurs. Today, when considering school approval or program expansion, analysis occurs to the availability of clinical placements and where the program is located. Schools residing outside of California, but accepting distance education students, likely do not investigate or determine whether clinical space is available prior to acceptance. The location of school enrollees at out-of-state schools is not required to be shared with the BRN. As recently amended, this bill would only permit students enrolled in out of state programs to obtain clinical placements in nonacute care settings (facilities that are not hospitals), under the assumption that hospitals are the most clinically impacted. Currently, facilities are not required to report clinical placement information to the BRN, so it would be challenging for the BRN to know if any violation occurs, and nothing would prevent a hospital from permitting a student to obtain clinical education.

*BRN-Approval and Cost Recovery.* BPC § 2786.5 provides the BRN fee authority to recoup the costs for approving, inspecting and taking appropriate enforcement action against nursing schools and programs who violate the nurse practice act. However, schools located outside of California do not pay a fee to the BRN for any programmatic review. As currently drafted, this bill limits a student enrolled in an out-of-state distance education program from obtaining clinical education in California, unless the distance education nursing program meets the requirements for licensure, under the nurse practice act in California. Because the BRN only approves schools which have sought approval and ensures those programs meet the education and clinical standards under California's nurse practice act, the BRN does not review schools located outside of California that have not requested board-approval. As currently drafted, this bill would likely require the BRN to do some form of curriculum or education approval of an out-of-state distance education provider to comply with the requirement proposed by this bill that the "program qualifies the student for licensure" under the nurse practice act. This review would likely cost the BRN significant resources and increase the need of Nurse Education Consultants. While this bill requires the school to provide \$100 per student, that amount may not be sufficient to cover the BRN's cost.

*Overly Broad.* Although this bill is sponsored by one institution, which serves California residents enrolled in an out-of-state program; this bill would be applicable to any distance education-nursing program located outside of California. This could lead to additional clinical impaction issues. Additionally, the recent amendments require any out-of-state distance education provider to report annually and before initial placement of students. However, it is not clear what the BRN is supposed to do with the reported information. If a compliance check is the goal, the bill lacks

sufficient enforcement authority for the BRN to take action against an institution for not reporting on time or for violating any of the prohibitions. Additionally, as this bill is applicable to all distant education providers, the BRN could have a significant number of reports to review.

**SUPPORT AND OPPOSITION:**

Support:

Nightingale Education Group (source)  
California Kidney Care Alliance  
Fresenius Medical Care North America  
Generations Healthcare

Opposition:

Board of Registered Nursing  
California Association of Colleges of Nursing  
California Baptist University College of Nursing  
California Labor Federation  
California Nurses Association  
California Organization of Associate Degree Nursing Programs

**-- END --**

## **BOARD OF REGISTERED NURSING BILL ANALYSIS**

**BILL NUMBER:** [Assembly Bill 3119](#)  
**AUTHOR:** Assemblymember Low  
**BILL DATE:** June 10, 2024 – Amended  
**SUBJECT:** Physicians and surgeons, nurse practitioners, and physician assistants: continuing medical education: infection-associated chronic conditions.

### **SUMMARY**

This bill requires various health professional licensing boards to consider including a course in infection-associated chronic conditions in their continuing education requirements (CE).

### **BACKGROUND**

The Board of Registered Nursing (Board) requires all Registered Nurses (RN) to complete 30 contact hours of continuing education every two years to maintain an active license. Continuing education courses must have been completed during the preceding renewal period (when renewing), or during the preceding two years (when renewing a delinquent or lapsed license or going from an inactive to active license).

All courses must be taken through a continuing education provider that is recognized by the Board. Learning experiences are expected to enhance the knowledge of the RN at a level above that required for licensure. Courses must be related to the scientific knowledge and/or technical skills required for the practice of nursing or be related to direct and/or indirect patient/client care.

### **REASON FOR THE BILL**

According to the author, although the COVID-19 pandemic has waned, a staggering 17.5 million Americans grapple with the lingering effects of long COVID. This condition knows no bounds, affecting individuals of all ages and backgrounds, yet its underlying causes remain elusive. Long COVID occurs when patients still have symptoms at least four weeks after they have cleared the infection. In some cases, symptoms can be experienced for months or years. Symptoms vary and can include fatigue, difficulty breathing, headaches, brain fog, joint and muscle pain and continued loss of taste and smell, according to the Centers for Disease Control and Prevention. In some cases, long COVID can be extremely debilitating thus long COVID was recognized as a disability under the Americans with Disabilities Act.

The author goes on to state that last year, President Biden issued the Presidential Memorandum and Fact Sheet directing the Secretary of Health and Human Services to coordinate a whole-of-government response to the longer-term effects of COVID-19, including long COVID. There is now an Office of Long COVID within HHS. While strides have been made to understand long COVID, there is still much to unravel. This bill will ensure our medical professionals are educated on how to adequately diagnose long

COVID-19 and how to provide appropriate care to people experiencing long COVID—especially those communities hardest-hit by COVID-19.

**ANALYSIS**

This bill would require the Medical Board of California, Osteopathic Medical Board of California, Board of Registered Nursing, and Physician Assistant Board, in determining CE requirements, to consider including a course in infection-associated chronic conditions, including, but not limited to, post-COVID conditions, as defined by the United States Department of Health and Human Services, myalgic encephalomyelitis, and dysautonomia.

**FISCAL IMPACT**

None.

**SUPPORT**

None on File.

**OPPOSITION**

None on File.

**BOARD POSITION**

To Be Determined.