

AMENDED IN SENATE AUGUST 20, 2020

AMENDED IN SENATE AUGUST 4, 2020

AMENDED IN SENATE JULY 22, 2020

AMENDED IN SENATE JULY 2, 2020

AMENDED IN ASSEMBLY MAY 18, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

## ASSEMBLY BILL

**No. 2288**

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**Introduced by Assembly Member Low**  
**(Coauthors: Assembly Members Arambula, Chiu, Fong, *Gabriel*,**  
**Gallagher, Grayson, Irwin, Obernolte, and Smith)**  
**(Coauthor: Senator Caballero)**

February 14, 2020

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An act to add Section 2786.3 to the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2288, as amended, Low. Nursing programs: state of emergency.

Existing law, the Nursing Practice Act, provides for the licensure and regulation of the practice of nursing by the Board of Registered ~~Nursing~~ *and Nursing*. *Existing law requires the board to appoint an executive officer to perform duties delegated by the board. Existing law* requires an applicant for licensure to have completed a nursing program at a school of nursing that is approved by the board. Existing regulatory law sets forth curriculum requirements for nursing programs, including

preceptorships and clinical practice hours, and also requirements for clinical facilities that may be used for clinical experience.

This bill would authorize an approved nursing program to submit a request to a board nursing education consultant to revise certain clinical experience requirements, including reducing the required direct patient hours and using preceptorships without maintaining specified written policies, for enrolled students until the end of the 2020–21 academic year and whenever the Governor declares a state of emergency in the county where an agency or facility used by the approved nursing program is ~~located~~. *located, subject to specified requirements.* The bill would require the board nursing education consultant to approve the request if specified conditions are satisfied and to reject the request if the approved nursing program fails to meet the conditions or fails to submit information satisfactory to the board. ~~The bill would require the board to notify the appropriate policy committees of the Legislature if a board nursing education consultant denies a request. The bill would require the board's executive officer to develop a uniform method for evaluating requests and granting approvals and would require the nursing education consultants to use the uniform method.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. It is the intent of the Legislature that the
- 2 provisions of this bill be used solely for the purpose of progressing
- 3 nursing students who are displaced from clinical experiences during
- 4 the COVID-19 pandemic and future state of emergencies and not
- 5 for purposes of increasing student enrollment. *This bill is not*
- 6 *intended to change any requirements related to student enrollment.*
- 7 SEC. 2. Section 2786.3 is added to the Business and Professions
- 8 Code, to read:
- 9 2786.3. (a) Until the end of the 2020–21 academic year, and
- 10 whenever the Governor declares a state of emergency for a county
- 11 in which an agency or facility used by an approved nursing
- 12 program for direct patient care clinical practice is located and is
- 13 no longer available due to the conditions giving rise to the state
- 14 of emergency, the director of the approved nursing program may

1 submit to a board nursing education consultant requests to do any  
2 of the following for no more than the existing number of enrolled  
3 students: *following:*

4 (1) Utilize a clinical setting during the state of emergency or  
5 until the end of the academic term without the following:

6 (A) Approval by the board.

7 (B) Written agreements with the clinical facility.

8 (C) Submitting evidence of compliance with board regulations  
9 relating to the utilization of clinical settings, except as necessary  
10 for a board nursing education consultant to ensure course objectives  
11 and faculty responsibilities will be met.

12 (2) Utilize preceptorships during the state of emergency or until  
13 the end of the academic term without having to maintain written  
14 policies relating to the following:

15 (A) Identification of criteria used for preceptor selection.

16 (B) Provision for a preceptor orientation program that covers  
17 the policies of the preceptorship and preceptor, student, and faculty  
18 responsibilities.

19 (C) Identification of preceptor qualifications for both the primary  
20 and the relief preceptor.

21 (D) Description of responsibilities of the faculty, preceptor, and  
22 student for the learning experiences and evaluation during  
23 preceptorship.

24 (E) Maintenance of preceptor records that includes names of  
25 all current preceptors, registered nurse licenses, and dates of  
26 preceptorships.

27 (F) Plan for an ongoing evaluation regarding the continued use  
28 of preceptors.

29 (3) Request that the approved nursing program be allowed to  
30 reduce the required number of direct patient care hours to 50  
31 percent in geriatrics and medical-surgical and 25 percent in mental  
32 health-psychiatric nursing, obstetrics, and pediatrics if all of the  
33 following conditions are met:

34 (A) No alternative agency or facility has a sufficient number of  
35 open placements that are available and accessible ~~to~~ *within 25*  
36 *miles of* the approved nursing program for direct patient care  
37 clinical practice hours in the same subject matter area. An approved  
38 nursing program shall submit, and not be required to provide more  
39 than, the following:

1 (i) The list of alternative agencies or facilities listed within 25  
2 miles of the impacted approved nursing program, campus, or  
3 location, as applicable, using the facility finder on the Office of  
4 Statewide Health Planning and Development's website.

5 (ii) The list of courses impacted by the loss of clinical  
6 placements due to the state of emergency and the academic term  
7 the courses are offered.

8 (iii) Whether each of the listed alternative agencies or facilities  
9 would meet the course objectives for the courses requiring  
10 placements.

11 (iv) Whether the approved nursing program has contacted each  
12 of the listed alternative agencies or facilities about the availability  
13 of clinical placements. The approved nursing program shall not  
14 be required to contact a clinical facility that would not meet course  
15 objectives.

16 (v) The date of contact or attempted contact.

17 (vi) The number of open placements at each of the listed  
18 alternative agencies or facilities that are available for the academic  
19 term for each course. If an alternative agency or facility does not  
20 respond within 48 hours, the approved nursing program may list  
21 the alternative agency or facility as unavailable. If the alternative  
22 agency or facility subsequently responds prior to the submission  
23 of the request to a board nursing education consultant, the approved  
24 nursing program shall update the list to reflect the response.

25 (vii) Whether the open and available placements are accessible  
26 to the students and faculty. An open and available placement is  
27 accessible if there are no barriers that otherwise prohibit a student  
28 from entering the facility, including, but not limited to, the lack  
29 of personal protective equipment or cost-prohibitive infectious  
30 disease testing. An individual's personal unwillingness to enter an  
31 alternative agency or facility does not make a placement  
32 inaccessible.

33 (viii) The total number of open and available placements that  
34 are accessible to the students and faculty compared to the total  
35 number of placements needed.

36 (B) The substitute clinical practice hours not in direct patient  
37 care provide a learning experience, as defined by the board  
38 consistent with Section 2708.1, that is at least equivalent to the  
39 learning experience provided by the direct patient care clinical  
40 practice hours.

1     ~~(C) Clinical practice hours not in direct patient care shall cease~~  
2     ~~as soon as a sufficient number of clinical placements are available~~  
3     ~~and accessible, once~~ *Once* the applicable state of emergency has  
4     terminated pursuant to Section 8629 of the Government Code, *the*  
5     *temporary reduction provided in paragraph (3) shall cease as*  
6     *soon as practicable* or by the end of the academic term, whichever  
7     is sooner.

8     (D) *The substitute clinical practice hours not in direct patient*  
9     ~~care that are~~ simulation experiences are based on the best practices  
10    published by the International Nursing Association for Clinical  
11    Simulation and Learning, the National Council of State Boards of  
12    Nursing, the Society for Simulation in Healthcare, or equivalent  
13    standards approved by the ~~board, except those relating to the~~  
14    ~~number of direct patient care hours.~~ *board.*

15    (E) ~~A minimum~~ *maximum* of 25 percent of the ~~remaining~~ direct  
16    patient care hours ~~are completed in an in-person setting.~~ *specified*  
17    *in paragraph (3) in geriatrics and medical-surgical may be*  
18    *completed via telehealth.*

19    ~~(4) Request that the approved nursing program be allowed to~~  
20    ~~reduce the required number of direct patient care hours to 25~~  
21    ~~percent for students in their graduating academic term if all of the~~  
22    ~~following conditions are met:~~

23    (A) ~~The approved program meets the requirements of paragraph~~  
24    ~~(3).~~

25    (B) ~~All courses in the students' earlier terms met a minimum~~  
26    ~~of 50 percent direct patient care hours.~~

27    (C) ~~The number of placements available at agencies or facilities~~  
28    ~~being used by the approved nursing program for direct patient care~~  
29    ~~are insufficient to meet the 50 percent direct patient care~~  
30    ~~requirement.~~

31    (D) ~~The approved program has maintained a minimum first-time~~  
32    ~~pass rate of 80 percent for the licensing examination under this~~  
33    ~~chapter for the last two consecutive academic years.~~

34    ~~(5)~~

35    (4) Request that the approved nursing program allow theory to  
36    precede clinical practice ~~for purposes of placing students in the~~  
37    ~~remaining clinical placement settings~~ if all of the following  
38    conditions are met:

39    (A) No alternative agency or facility located within 25 miles of  
40    the impacted approved nursing program, campus, or location, as

1 applicable, has a sufficient number of open placements that are  
2 available and accessible to the approved nursing program for direct  
3 patient care clinical practice hours in the same subject matter area.  
4 An approved program shall not be required to submit more than  
5 required under subparagraph (A) of paragraph (3.)

6 (B) Clinical practice takes place in the academic term  
7 immediately following theory.

8 (C) Theory is taught concurrently with ~~nondirect clinical~~  
9 *practice not in direct* patient care ~~clinical experiences~~ if no direct  
10 patient care experiences are available.

11 (b) If the conditions in paragraphs (1), (2), (3), (4), or (5) of  
12 subdivision (a), as applicable to the request, are met, a board  
13 nursing education consultant shall approve the request. If an  
14 approved nursing program fails to submit information satisfactory  
15 to the board nursing education consultant, or fails to meet the  
16 conditions specified, the board nursing education consultant shall  
17 deny the request. If the request is not approved or denied on or  
18 before 5:00 p.m. on the date seven business days after receipt of  
19 the request, the request shall be deemed approved.

20 ~~(c) A board nursing education consultant shall use a uniform~~  
21 ~~method consistent with all other board nursing education~~  
22 ~~consultants for granting approvals under this section.~~

23 ~~(d) If a board nursing education consultant denies a request~~  
24 ~~under this section, the board shall notify the appropriate policy~~  
25 ~~committees of each house of the Legislature. The notice shall be~~  
26 ~~delivered electronically within seven calendar days and include~~  
27 ~~the reason for the denial.~~

28 (c) (1) *Within 30 days of the effective date of this section, the*  
29 *board's executive officer shall develop a uniform method for*  
30 *evaluating requests and granting approvals pursuant to this*  
31 *section.*

32 (2) *The executive officer may revise the uniform method*  
33 *developed pursuant to this subdivision from time to time, as*  
34 *necessary. The development or revision of the uniform method*  
35 *shall be exempt from the requirements of the Administrative*  
36 *Procedure Act (Chapter 3.5 (commencing with Section 11340) of*  
37 *Part 1 of Title 2 of the Government Code).*

38 (3) *The board's nursing education consultants shall use the*  
39 *uniform method to evaluate requests and grant approvals pursuant*  
40 *to this section.*

1     SEC. 3. This act is an urgency statute necessary for the  
2 immediate preservation of the public peace, health, or safety within  
3 the meaning of Article IV of the California Constitution and shall  
4 go into immediate effect. The facts constituting the necessity are:  
5     In order to protect public health and preserve the future health  
6 care workforce by providing flexibility in the way nursing students  
7 obtain clinical experience during the COVID-19 pandemic as soon  
8 as possible, it is necessary that this act take effect immediately.

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