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**SENATE COMMITTEE ON  
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**  
Senator Richard Roth, Chair  
2021 - 2022 Regular

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<b>Bill No:</b>	AB 1407	<b>Hearing Date:</b>	June 30, 2021
<b>Author:</b>	Burke		
<b>Version:</b>	June 15, 2021		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Elissa Silva		

**Subject:** Nurses: implicit bias courses

**NOTE:** *Double-referral to Health Committee, Second*

**SUMMARY:** Requires approved schools of nursing to include one hour of direct participation in an implicit bias training, as defined, as part of a graduation requirement and requires licensees to complete one hour of direct participation in an implicit bias course, as specified.

**Existing law:**

- 1) Establishes the Board of Registered Nursing (BRN) to license and regulate the practice of nursing. (Business and Professions Code (BPC) §§ 2700 et seq.)
- 2) States that protection of the public is the highest priority for the BRN, as specified. (BPC § 2708.1)
- 3) Defines the practice of nursing to mean those functions including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or treatments that require a substantial amount of scientific knowledge or technical skill, including all of the following:
  - a) Direct and indirect patient care services that ensure the safety, comfort, personal hygiene, and protection of patients; and the performance of disease prevention and restorative measures;
  - b) Direct and indirect patient care including, but not limited to, the administration of medications and therapeutic agents, necessary to implement a treatment, disease prevention, or rehabilitative regimen program, ordered by and within the scope of licensure of a physician, dentist, podiatrist, or clinical psychologist;
  - c) Performance of skin tests, immunization techniques, and the withdrawal of human blood from veins and arteries;
  - d) Observations of signs and symptoms of illness, reactions to treatment, general behavior, or general physical condition, and determination as to whether those exhibited abnormal characteristics, and implementation, based on observed abnormalities of appropriate reporting or referral or standardized procedures, or changes in treatment regimen in accordance with standardized procedures, or

the initiation of emergency procedures. (BPC § 2725(b))

- 4) Requires the BRN to prepare and maintain a list of approved California-schools of nursing whose graduates, having met specified requirements, are eligible to apply for a license to practice nursing in California. (BPC § 2785)
- 5) 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 less than two academic years, is affiliated or conducted in connection with one or more hospitals and is an institution of higher education, as defined. (BPC § 2786(a))
- 6) Requires the BRN to determine through regulations, the required subjects of instruction, which must be completed for licensure as a RN, and must include the minimum units of theory and clinical experience necessary to achieve essential clinical competency at the entry level of RNs. (BPC 2786(c))
- 7) Requires the BRN’s regulations to be designed to require all school to provide clinical instruction in all phases of the educational process, except as necessary to accommodate military experience. (BPC § 2786(c))
- 8) Requires the BRN to have an analysis completed of the practice of the RN, at least every five years, and results of the analysis must be utilized to assist in the determination of the required subjects of instruction, validation of the licensing examinations, and assessment of the current practice of nursing. (BPC § 2786(d))
- 9) Requires an RN to completed CE that has been informed of the developments in the RN field or in any special area of practice engaged in by the licensee, occurring since the last renewal either by pursuing a course or courses of CE in the field relevant to practice of nursing and approved by the BRN. (BPC § 2811.5(a))
- 10) Requires the BRN to adopt regulations requiring that, on and after January 1, 2022, all CE courses for RN licensees contain a curriculum that includes the understanding of implicit bias. (BPC § 2736.5(a)(1))
- 11) Requires nursing CE providers, beginning January 1, 2023, to ensure compliance with implicit bias requirements beginning January 1, 2023. (BPC § 2736.5(a)(2))
- 12) Requires that CE courses address at least one of 1) examples of how implicit bias affects perceptions and treatment decisions of licensees, leading to disparities in health outcomes or 2) strategies to address how unintended biases in decision-making may contribute to health care disparities by shaping behavior and producing differences in medical treatment along lines of race, ethnicity, gender identity, sexual orientation, age, socioeconomic status, or other characteristics. (BPC § 2736.5(c))
- 13) Requires each licensee to complete 30 hours of continuing education approved by the BRN (Title 14, California Code of Regulations (CCR) § 1451)
- 14) Exempts licensees from the CE requirements during the first two years immediately following initial licensure. (14, CCR § 1452)

- 15) Requires a general acute care hospital or a special hospital that provides perinatal care, and a licensed alternative birth center or a primary care clinic that provides alternative birth center services, to implement a mandatory implicit bias program for all health care providers involved in the perinatal care of patients within those facilities. (Health and Safety Code (HSC) § 123630.3)
- 16) Requires the healthcare providers in perinatal care settings, upon completion of the initial basic implicit bias training, to complete a refresher course every two years, or on a more frequent basis if deemed necessary by the facility, to keep current with changing racial, identity, and cultural trends and best practices in decreasing interpersonal and institutional implicit bias. (HSC § 123630.3(c)(2))

**This bill:**

- 1) Adds a graduation requirement for an approved school of nursing to include a one hour of direct participation in an implicit bias training, as specified.

Requires the implicit bias training to include the following:

- a) Identification of previous or current unconscious biases and misinformation;
  - b) Identification of personal, interpersonal, institutional, structural, and cultural barriers to inclusion;
  - c) Corrective measures to decrease implicit bias at the interpersonal and institutional levels, including ongoing policies and practices for that purpose;
  - d) Information on the effects, including, but not limited to, ongoing personal effects of historical and contemporary exclusion and oppression of minority communities;
  - e) Information about cultural identity across racial or ethnic groups;
  - f) Information about communicating more effectively across identities, including racial, ethnic, religious, and gender identities;
  - g) Discussion on power dynamics and organizational decision-making;
  - h) Discussion on health inequities within the perinatal care field, including information on how implicit bias impacts maternal and infant health outcomes;
  - i) Perspectives of diverse, local constituency groups and experts on particular racial, identity, cultural, and provider-community relations issues in the community; and,
  - j) Information on reproductive justice.
- 2) States that the graduation requirement is not intended to affect the requirements for licensure, require a curriculum revision, or affect licensure by endorsement.

- 3) Requires, beginning January 1, 2023, a licensee to complete one hour of direct participation in an implicit bias course offered by a CE provider approved by the BRN.
- 4) Requires a hospital to implement an evidence-based implicit bias program, as specified, as part of its new graduate training program that hires and trains new nurses.

**FISCAL EFFECT:** This bill is keyed fiscal by Legislative Counsel. According to the Assembly Committee on Appropriations, it will result in minor one-time costs to BRN to update regulations and \$60,000 ongoing annually to the BRN to audit licensees for their participation in implicit bias courses.

**COMMENTS:**

1. **Purpose.** The California Nurses Association is the sponsor of this bill. As noted by the author, “The evidence shows that disparities in the quality of health care do indeed exist and that the presence of implicit bias can contribute to these disparities. Addressing the issue of implicit bias early on in a career can help ensure that patients are not harmed once a nurse is in the field. In spite of this, current law does not require nursing programs to include in its curriculum implicit bias coursework nor does it require hospitals to include an evidence-based implicit bias program as part of their new graduate training programs. Current law only requires that implicit bias education be provided to nurses through continuing education courses.”

2. **Background.**

*Board of Registered Nursing and RNs.* RNs in California are licensed and regulated by the BRN. To be eligible for licensure in California, an individual must complete an education program approved by the BRN. RN programs are required to be at least two academic years and affiliated with a hospital. Today, approved RN programs are offered at various academic institutions throughout California including Community Colleges, California State Universities, California Universities, and private for profit institutions regulated by the Bureau of Private Postsecondary Education. All programs are required to meet the BRN’s regulatory requirements for approved programs and curriculum and the BRN must determine the areas of course work required for each program through regulations.

16, CCR § 1426 provides the current curriculum requirements for programs which includes the following specified course areas: (1) Art and science of nursing, 36 semester units or 54 quarter units, of which 18 semester or 27 quarter units will be in theory and 18 semester or 27 quarter units will be in clinical practice. (2) Communication skills, 6 semester or 9 quarter units; and, (3) related natural sciences (anatomy, physiology, and microbiology courses with labs), behavioral and social sciences, 16 semester or 24 quarter units.

In addition, RN programs are required to integrate the following throughout the entire nursing curriculum:

- The nursing process;

- Basic intervention skills in preventive, remedial, supportive, and rehabilitative nursing;
- Physical, behavioral, and social aspects of human development from birth through all age levels;
- Knowledge and skills required to develop collegial relationships with health care providers from other disciplines;
- Communication skills including principles of oral, written, and group communications;
- Natural science, including human anatomy, physiology, and microbiology;
- Related behavioral and social sciences with emphasis on societal and cultural patterns, human development, and behavior relevant to health-illness.

There is no current requirement in statute or regulations for an individual in an RN program to take coursework in implicit bias, however, there is nothing that would prevent an RN program from incorporating some type of coursework that includes implicit bias either. This bill would mandate that RN academic programs require a one hour of direct participation in an implicit bias training as a requirement for graduation. However, this provision would not apply to graduates from outside of California, as the BRN does not approve review graduations requirements, only ensures that coursework meets California requirements.

RN licenses must be renewed every two years. As part of the renewal process, as specified in 14 CCR § 1451, after the first two years of licensure, RNs must complete 30 hours of CE every two years. However, CE is not required during the licensee's first two-year licensure period. This bill would change that requirement beginning January 1, 2023, and require licensees to complete only one hour of direct participation in an implicit bias course offered by a CE provider. Because of AB 241 (Kamlager-Dove, Chapter 417, Statutes of 2019), the BRN must adopt regulations by January 1, 2022, requiring all RN CE courses to contain a curriculum that includes the understanding of implicit bias in treatment, meaning each course taken to meet the 30-hour CE requirement must contain implicit bias training. By January 1, 2023, all CE providers must comply with the BRN's regulations. This bill would make new licensees obtain only 1 hour of CE during the first initial 2-year licensure period and continue to meet the additional CE requirements for implicit bias education. The BRN would likely need to alter existing renewal forms and requirements for those initial two-year licensees, as they are exempt from current CE requirements.

In addition, all health care providers that provide perinatal care in specified settings, including RNs, must complete an evidence-based implicit bias program. After the completion of the initial implicit bias, the providers must complete a refresher course every two years, unless the perinatal care facility determines a higher level of frequency is necessary.

*Implicit Bias. Implicit Bias and Professions.* In December 2015, the American Journal of Public Health published a systematic review titled *Implicit Racial/Ethnic Bias Among Health Care Professionals and Its Influence on Health Care Outcomes*. The review concluded, "Most health care providers appear to have implicit bias in

terms of positive attitudes toward whites and negative attitudes toward people of color.” Additional studies have been published suggesting that implicit bias in regards to gender, sexual orientation and identity, and other characteristic has resulted in inconsistent diagnoses and courses of treatment being provided to patients based on their demographic. These trends take into account not only the characteristics of the person being treated, but also those of the licensed professional in correlation to that patient. Although licenses RNs must complete CE in implicit bias beginning in January 1, 2022, this bill seeks to ensure that new licensees have some education in implicit bias prior to licensure and continue to take CE every two years on the topic.

3. **Related Legislation.** SB 263 (Rubio of 2021) requires the Department of Real Estate to include an interactive participatory component within its three-hour course in fair housing, as part of its requirement for licensees to complete 45 hours of CE. Requires a licensee, as part of the licensee’s necessary 45 hours of CE, to successfully complete a two-hour course in implicit bias training.

AB 948 (Holden of 2021) makes various reforms to laws governing real estate appraisers to safeguard against discrimination during the appraisal process of a real estate transaction; and, requires the Bureau of Real Estate Appraisers to collect demographic information regarding complaints and provide a report to the Legislature

SB 464 (Mitchell, Chapter 533, Statutes of 2019) requires hospitals and alternative birth centers or primary care clinics that provide perinatal care to implement an implicit bias program for all health care providers involved in perinatal care of patients.

AB 242 (Kamlager-Dove, Chapter 418, Statutes of 2019) requires implicit bias training for all judges, judicial officers, and attorneys.

AB 243 (Kamlager-Dove) would have required peace officers to undergo training that includes and examines evidence-based patterns, practices, and protocols that make up racial and identity profiling, including implicit bias. (*Status: This bill was held under submission in the Senate Committee on Appropriations*)

AB 2626 (Jones-Sawyer) of 2016 would have required the Commission on Peace Officer Standards and Training to develop and disseminate training on procedural justice and implicit bias for all peace officers, and to incorporate procedural justice and implicit bias training into its basic training by no later than June 1, 2018. (*Status: This bill was held under submission in the Assembly Committee on Appropriations*)

4. **Arguments in Support.** California Nurses Association, Black Leadership Council, CA State NAACP, California Hawaii State Conference of the NAACP, California Labor Federation, California Professional Firefighters, California State Council of Service Employees International Union, United Food and Commercial Workers Union, Western States Council, Consumer Attorneys of California, and Worksafe write in support and note, “The prevalence of implicit bias in the health care setting is reflective of inadequacies within the health care system and structure. Hospitals,

health care facilities, and health care educators offer very little, if anything, to bring awareness to or address this phenomenon and problem. Too often, facilities fail to look at the communities they serve, those communities' needs, and the resources facilities need to tap to fill those needs.”

County Health Executives Association of California writes in support and note, “Taken together, unsatisfactory care received by racial, ethnic, and cultural minorities can result in continued and costly health inequities, lack of engagement in health care, and worsening health statuses. To ensure positive health outcomes among patients, implicit bias and racial discrimination in health and health care should be better understood, assessed, and corrected.”

## 5. Policy Considerations.

*Out of state applicants.* As currently drafted, this bill sets graduation requirements for only those schools approved in California. However, graduates from outside of California would not be required to abide by the same graduation requirements for a one-hour implicit bias program prescribed by this bill.

*CE for newly licensed.* Current BRN regulations exempt individuals in their first two-years of licensure from taking CE. This bill would add a one-hour requirement in during the first two-years of a license, making this the only CE requirement during an initial licensure cycle.

## SUPPORT AND OPPOSITION:

### Support:

California Nurses Association (sponsor)  
 Black Leadership Council  
 CA State NAACP  
 California Hawaii State Conference of the NAACP  
 California Labor Federation  
 California Professional Firefighters  
 California State Council of Service Employees International Union  
 Consumer Attorneys of California  
 County Health Executives Association of California  
 United Food and Commercial Workers Union, Western States Council  
 Worksafe

### Opposition:

None received

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