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**AB-2288 Nursing programs: state of emergency.** (2019-2020)

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**Assembly Bill No. 2288**

**CHAPTER 282**

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.

[ Approved by Governor September 29, 2020. Filed with Secretary of State September 29, 2020. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2288, 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. 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, 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'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: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** It is the intent of the Legislature that the provisions of this bill be used solely for the purpose of progressing nursing students who are displaced from clinical experiences during the COVID-19 pandemic and future state of emergencies and not for purposes of increasing student enrollment. This bill is not intended to change any requirements related to student enrollment.

**SEC. 2.** Section 2786.3 is added to the Business and Professions Code, to read:

**2786.3.** (a) Until the end of the 2020–21 academic year, and whenever the Governor declares a state of emergency for a county in which an agency or facility used by an approved nursing program for direct patient care clinical practice is located and is no

longer available due to the conditions giving rise to the state of emergency, the director of the approved nursing program may submit to a board nursing education consultant requests to do any of the following:

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

(A) Approval by the board.

(B) Written agreements with the clinical facility.

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

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

(A) Identification of criteria used for preceptor selection.

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

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

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

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

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

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

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

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

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

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

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

(v) The date of contact or attempted contact.

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

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

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

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

(C) Once the applicable state of emergency has terminated pursuant to Section 8629 of the Government Code, the temporary reduction provided in paragraph (3) shall cease as soon as practicable or by the end of the academic term, whichever is sooner.

(D) The substitute clinical practice hours not in direct patient care that are simulation experiences are based on the best practices published by the International Nursing Association for Clinical Simulation and Learning, the National Council of State Boards of Nursing, the Society for Simulation in Healthcare, or equivalent standards approved by the board.

(E) A maximum of 25 percent of the direct patient care hours specified in paragraph (3) in geriatrics and medical-surgical may be completed via telehealth.

(4) Request that the approved nursing program allow theory to precede clinical practice if all of the following conditions are met:

(A) No alternative agency or facility located within 25 miles of the impacted approved nursing program, campus, or location, as applicable, has a sufficient number of open placements that are available and accessible to the approved nursing program for direct patient care clinical practice hours in the same subject matter area. An approved program shall not be required to submit more than required under subparagraph (A) of paragraph (3.)

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

(C) Theory is taught concurrently with clinical practice not in direct patient care if no direct patient care experiences are available.

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

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

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

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

**SEC. 3.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect public health and preserve the future health care workforce by providing flexibility in the way nursing students obtain clinical experience during the COVID-19 pandemic as soon as possible, it is necessary that this act take effect immediately.