

Assembly Bill No. 1532

Passed the Assembly September 8, 2021

Chief Clerk of the Assembly

Passed the Senate September 7, 2021

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2021, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 2701, 2702, 2708, 2727, 2733, and 2786.3 of, and to add Section 2701.5 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL’S DIGEST

AB 1532, Committee on Business and Professions. Nursing.

(1) 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. Under existing law, the repeal of the provision establishing the board renders the board subject to review by the appropriate policy committees of the Legislature. The act, on January 1, 2022, repeals the provisions establishing the board and the executive officer position.

This bill would revise and recast those provisions and would extend the repeal dates of the board and the executive officer position to January 1, 2023.

(2) Existing law provides that a person, regardless of citizenship or immigration status, is eligible to hold an appointed civil office if the person is 18 years of age and a resident of the state. The act requires a member of the board to be a citizen of the United States and a resident of the state.

This bill would provide that a member of the board is required to be a resident of the state.

(3) Existing law provides that the act does not prohibit various services that may otherwise constitute nursing under specified circumstances, including the incidental care of the sick by domestic servants and nursing services in an emergency, and defines emergency to include an epidemic or public disaster.

This bill would refer to domestic workers instead of domestic servants, specify that emergency also includes a pandemic, and make other nonsubstantive changes.

(4) Existing law authorizes the board, upon approval of an application and payment of a prescribed fee, to issue temporary licenses or certificates to practice professional nursing, or as a

certified public health nurse, certified clinical nurse specialist, certified nurse-midwife, certified nurse anesthetist, or certified nurse practitioner, for a period of 6 months from the date of issuance, as specified.

This bill would require the board to prominently display on the front page of its website the availability of temporary licenses and certificates pursuant to this authority.

(5) Existing law, until the end of the 2020–21 academic year, and whenever the Governor declares a state of emergency for a county, as provided, requires a board nursing education consultant to approve a request from an approved nursing program to revise certain clinical experience requirements, provided the request meets specified conditions.

This bill would extend the application of the above-described provisions to the 2021–22 academic year. The bill would also correct an erroneous cross-reference in those provisions.

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

SECTION 1. Section 2701 of the Business and Professions Code is amended to read:

2701. (a) There is in the Department of Consumer Affairs the Board of Registered Nursing consisting of nine members.

(b) For purposes of this chapter, “board,” or “the board,” refers to the Board of Registered Nursing. Any reference in state law to the Board of Nurse Examiners of the State of California or the California Board of Nursing Education and Nurse Registration shall be construed to refer to the Board of Registered Nursing.

(c) The board shall have all authority vested in the previous board under this chapter. The board may enforce all disciplinary actions undertaken by the previous board.

(d) This section shall remain in effect only until January 1, 2023, and as of that date, is repealed, unless a later enacted statute that is enacted before January 1, 2023, deletes or extends that date.

SEC. 2. Section 2701.5 is added to the Business and Professions Code, to read:

2701.5. Notwithstanding any other law, the repeal of Section 2701 renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 3. Section 2702 of the Business and Professions Code is amended to read:

2702. (a) Each member of the board shall be a resident of the state.

(b) Four members shall represent the public at large, and shall not be licensed under any board under this division or any board referred to in Section 1000 or 3600 and shall have no pecuniary interests in the provision of health care services.

(c) Two members shall be licensed registered nurses under the provisions of this chapter, each of whom shall be active in the practice of their profession engaged primarily in direct patient care with at least five continuous years of experience, and who shall not be engaged as an educator or administrator of a nursing education program under the provisions of this chapter.

(d) One member shall be a licensed registered nurse who shall be active as an advanced practice registered nurse as defined in Section 2725.5.

(e) One member shall be a licensed registered nurse under the provisions of this chapter who shall be active as an educator or administrator in an approved program to train registered nurses.

(f) One member shall be a licensed registered nurse who is an administrator of a nursing service with at least five continuous years of experience.

SEC. 4. Section 2708 of the Business and Professions Code is amended to read:

2708. (a) The board shall appoint an executive officer who shall perform the duties delegated by the board and be responsible to the board for the accomplishment of those duties.

(b) The executive officer shall be a nurse currently licensed under this chapter and shall possess other qualifications as determined by the board.

(c) The executive officer shall not be a member of the board.

(d) The executive officer is authorized to adopt a decision entered by default and a stipulation for surrender of a license.

(e) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date.

SEC. 5. Section 2727 of the Business and Professions Code is amended to read:

2727. This chapter does not prohibit:

(a) Gratuitous nursing of the sick by friends or members of the family.

(b) Incidental care of the sick by domestic workers or by persons primarily employed as housekeepers as long as they do not practice nursing within the meaning of this chapter.

(c) Domestic administration of family remedies by any person.

(d) Nursing services in case of an emergency. "Emergency," as used in this subdivision includes an epidemic, pandemic, or other public disaster.

(e) The performance by a person of the duties required in the physical care of a patient or carrying out medical orders prescribed by a licensed physician, provided the person shall not in any way assume to practice as a professional, registered, graduate, or trained nurse.

SEC. 6. Section 2733 of the Business and Professions Code is amended to read:

2733. (a) (1) (A) Upon approval of an application filed pursuant to subdivision (b) of Section 2732.1, and upon the payment of the fee prescribed by subdivision (k) of Section 2815, the board may issue a temporary license to practice professional nursing, and a temporary certificate to practice as a certified public health nurse for a period of six months from the date of issuance.

(B) Upon approval of an application filed pursuant to subdivision (b) of Section 2732.1, and upon the payment of the fee prescribed by subdivision (d) of Section 2838.2, the board may issue a temporary certificate to practice as a certified clinical nurse specialist for a period of six months from the date of issuance.

(C) Upon approval of an application filed pursuant to subdivision (b) of Section 2732.1, and upon the payment of the fee prescribed by subdivision (e) of Section 2815.5, the board may issue a temporary certificate to practice as a certified nurse-midwife for a period of six months from the date of issuance.

(D) Upon approval of an application filed pursuant to subdivision (b) of Section 2732.1, and upon the payment of the fee prescribed by subdivision (d) of Section 2830.7, the board may issue a temporary certificate to practice as a certified nurse anesthetist for a period of six months from the date of issuance.

(E) Upon approval of an application filed pursuant to subdivision (b) of Section 2732.1, and upon the payment of the fee prescribed by subdivision (p) of Section 2815, the board may issue a

temporary certificate to practice as a certified nurse practitioner for a period of six months from the date of issuance.

(2) A temporary license or temporary certificate shall terminate upon notice thereof by certified mail, return receipt requested, if it is issued by mistake or if the application for permanent licensure is denied.

(b) Upon written application, the board may reissue a temporary license or temporary certificate to any person who has applied for a regular renewable license pursuant to subdivision (b) of Section 2732.1 and who, in the judgment of the board has been excusably delayed in completing their application for or the minimum requirements for a regular renewable license, but the board may not reissue a temporary license or temporary certificate more than twice to any one person.

(c) The board shall prominently display on the front page of its website the availability of temporary licenses and certificates pursuant to this section.

SEC. 7. Section 2786.3 of the Business and Professions Code is amended to read:

2786.3. (a) Until the end of the 2021–22 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), or (4) 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.

Approved _____, 2021

Governor