

Date of Hearing: April 27, 2021

ASSEMBLY COMMITTEE ON HEALTH
Jim Wood, Chair
AB 1407 (Burke) – As Amended March 18, 2021

SUBJECT: Nurses: implicit bias courses.

SUMMARY: Requires an approved school of nursing, or nursing program, to include implicit bias coursework in its curriculum; requires a nurse renewing their license to complete one hour of direct participation in an implicit bias course; and, requires a hospital to implement an evidence-based implicit bias program as part of its new graduate training program that hires and trains new nursing program graduates. Specifically, **this bill:**

- 1) Requires an approved school of nursing, or an approved nursing program, to include in its curriculum implicit bias coursework which includes all of 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) Requires the Board of Registered Nursing (BRN) to update regulations to implement the requirements in 1) above.
- 3) Requires a nurse renewing their license within the first two years immediately following their initial licensure to complete one hour of direct participation in an implicit bias course.
- 4) Requires a hospital, as defined, to implement an evidence based implicit bias program, as part of its new graduate training program that hires and trains new nursing program graduates.

EXISTING LAW:

- 1) Establishes the BRN which regulates the practice of nursing under the Nursing Practice Act.

- 2) Requires the BRN to approve schools of nursing and nursing programs that offer a course of instruction leading to licensure as a registered nurse (RN), and prohibits the operation of a school of nursing unless approved by the BRN.
- 3) Requires the BRN to determine by regulation the required subjects of instruction to be completed in a nursing school or program and include the minimum units of theory and clinical experience necessary to achieve essential clinical competency at the entry-level of the RN.
- 4) Requires in regulation, the curriculum of a nursing school or programs to include, at a minimum, the following instructional content: critical thinking, personal hygiene, patient protection and safety, pain management, human sexuality, client abuse, cultural diversity, nutrition, pharmacology, patient advocacy, legal, social and ethical aspects of nursing, and nursing leadership and management.
- 5) Requires licensed RNs to complete, every two years, 30 hours of continuing education (CE) that informs of the developments in the RN field or any other special area of practice engaged in by RNs identified by the BRN.
- 6) 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, and requires nursing CE providers, beginning January 1, 2023, to ensure compliance with implicit bias requirements beginning January 1, 2023.
- 7) Provides that a nursing CE course dedicated solely to research or other issues that does not include a direct patient care component is not required to contain a curriculum that includes implicit bias in the practice of nursing.
- 8) Requires that CE courses address at least one of: a) examples of how implicit bias affects perceptions and treatment decisions of licensees, leading to disparities in health outcomes; or, b) 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.
- 9) Requires an RN whether in an active or inactive status, to apply for a renewal of their license and pay the biennial renewal fee required on or before the last day of the month following the month in which their birthday occurs, beginning with the second birthday following the date on which the license was issued.
- 10) Enacts the California Dignity in Pregnancy and Childbirth Act (the Act) which requires a hospital, as defined, that provides perinatal care, and an alternative birth center or primary care clinic to implement an evidence-based implicit bias program for all health care providers involved in the perinatal care of patients within those facilities.
- 11) Defines a hospital for purposes of the Act as follows:
 - a) As a “general acute care hospital,” (GACH) which means, a health facility having a duly constituted governing body with overall administrative and professional responsibility

and an organized medical staff that provides 24-hour inpatient care, including the following basic services: medical; nursing; surgical; anesthesia; laboratory; radiology; pharmacy; and, dietary services. Includes in the definition of a GACH, a rural GACH, which is not required to provide surgery and anesthesia services; and,

- b) As a “special hospital,” which means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient care in dentistry or maternity.

12) Requires an implicit bias program implemented pursuant to 10) above to include all of 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, and, identity, cultural, and provider-community relations issues in the community; and,
- j) Information on reproductive justice.

13) Requires a health care provider, upon completion of the initial basic training, to complete a refresher course under the implicit bias program every two years thereafter, or on a more frequent basis if deemed necessary by the facility, in order to keep current with changing racial, identity, and cultural trends and best practices in decreasing interpersonal and institutional implicit bias.

14) Requires facilities subject to the provisions of the Act to provide a certificate of training completion to another facility or a training attendee upon request. Authorizes a facility to accept a certificate of completion from another facility to satisfy the training requirement from a health care provider who works in more than one facility. Specifies that if a physician involved in the perinatal care of patients is not directly employed by a facility, the facility must offer the training to the physician.

FISCAL EFFECT: Unknown. This bill has not been analyzed by a fiscal committee.

COMMENTS:

- 1) **PURPOSE OF THIS BILL.** According to the author, the prevalence of implicit bias in the health care setting must be addressed so that its negative impacts are mitigated to the greatest extent possible. Hospitals, health care facilities, and health care educators can do more

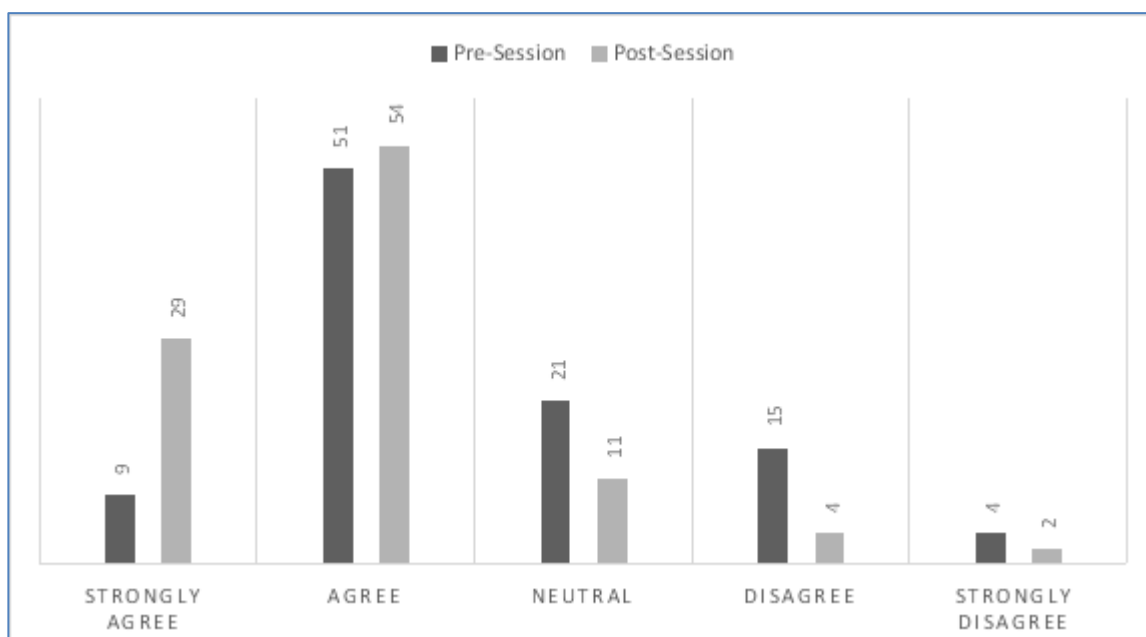
towards this effort by providing additional tools to nurses that bring awareness to this problem in an effort to prevent this bias from manifesting itself in a clinical setting. Health care facilities and educators must continue to demonstrate their commitment to ending racial health disparities and working toward health equity by aggressively pursuing strategies that eliminate implicit bias within the health care system and in doing so will make strides toward addressing the health needs of our state's many diverse populations. The author concludes that this bill will help those in the health care system fulfill that commitment.

2) BACKGROUND.

- a) **California Health Care Foundation (CHCF) report.** As the most racially diverse state in the country, California has a critical stake in addressing health disparities experienced by people of color. The CHCF report, "Health Disparities by Race and Ethnicity: The California Landscape," shows that people of color face barriers to accessing health care, often receive suboptimal treatment, and are most likely to experience poor outcomes in the health care system. All Californians should have access to the high-quality health care they need to lead a long and healthy life. Achieving this requires reducing disparities in health and the social determinants that affect historically excluded or marginalized groups. Disparities occur across many dimensions, including race/ ethnicity, socioeconomic status, age, place of residence, gender, disability status, and sexual orientation. The report notes an emerging consensus focuses on structural racism, or the effects of persistent discriminatory beliefs and historical decisions around the allocation of resources that negatively affect certain groups today. The role of implicit bias, which is a set of automatic and unconscious stereotypes and prejudices that affect everyone, including health care providers, must also be acknowledged. Key findings of the CHCF report include:
- i) **Life expectancy at birth in California was 80.8 years.** It was lowest for Blacks, at 75.1 years, and highest for Asians, at 86.3 years, an 11-year gap;
 - ii) **Latinos were more likely to report being in fair/poor health,** to have incomes below the federal poverty level, and to be uninsured. About one in five Latinos did not have a usual source of care, and one in six Latinos reported difficulty finding a specialist;
 - iii) **Blacks had the highest rates of new prostate, colorectal, and lung cancer cases,** and the highest death rates for breast, colorectal, lung, and prostate cancer;
 - iv) **About one in five multiracial, Black, and white adults reported being told they have depression** compared to about one in 10 Asian adults; and,
 - v) **Blacks fare worse on maternal/childbirth measures,** with higher rates of low-risk, first-birth cesareans, preterm births, low-birthweight births, infant mortality, and maternal mortality.
- b) **Implicit bias training.** According to the University of San Francisco's (UCSF) Office of Outreach and Diversity, bias is a prejudice in favor of or against one thing, person, or group compared with another usually in a way that is considered to be unfair. Biases may be held by an individual, group, or institution and can have negative or positive consequences. There are types of biases: Conscious bias (also known as explicit bias) and Unconscious bias (also known as implicit bias). Biases, conscious or unconscious, are not limited to ethnicity and race. Though racial bias and discrimination are well documented, biases may exist toward any social group. Age, gender, gender identity, physical abilities,

religion, sexual orientation, weight, and many other characteristics are subject to bias. Unconscious, or implicit biases are social stereotypes about certain groups of people that individuals form outside their own conscious awareness. Unconscious bias is far more prevalent than conscious prejudice and often incompatible with one's conscious values.

UCSF currently provides implicit bias training for faculty, staff, and students. UCSF notes that implicit bias training must be done in person, is best done in a group setting, and be interactive. UCSF contracts with People of Color, mostly Black, led organizations to design and run the trainings. The chart below shows pre- and post-training session data collected from participants in the racism and equity training sessions, in response to the following question: Do you feel confident in identifying issues of racism and equity for your patients?



Since 1997, more than 30 studies have been published relevant to unconscious bias and clinical decision-making. Racial bias is prevalent among healthcare providers and it appears that race influences the medical decision making of healthcare providers.

- 3) **SUPPORT.** The California Nurses Association (CNA) is the sponsor of this bill and states that, 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. Even structural characteristics such as an institution's physical space project how welcoming an institution might be to minority patients. 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. CNA states that this bill recognizes that awareness and education is the first step towards eliminating implicit bias. Educating the future health care workforce so that they are cognitive about the impact of implicit bias to the patients they serve is paramount to bringing this phenomenon to an end.

- 4) **RELATED LEGISLATION.** AB 1204 (Wicks) establishes the Medical Equity Disclosure Act which requires hospitals or medical groups (providers) to prepare and annually submit an equity report to the Office of Statewide Health Planning and Development, and, expands the definition of “vulnerable populations” related to community benefit plans and reports. AB 1204 is currently pending in the Assembly Appropriations Committee.
- 5) **PREVIOUS LEGISLATION.**
- a) AB 241 (Kamlager-Dove), Chapter 241, Statutes of 2019, requires, on and after January 1, 2022, all continuing medical education courses, all continuing education for RNs, and all continuing education for physician assistants, to contain a curriculum that includes the understanding of implicit bias and the promotion of bias-reducing 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, socioeconomic status, or other characteristics.
- b) SB 464 (Mitchell), Chapter 533, Statutes of 2019, enacts the California Dignity in Pregnancy and Childbirth Act, which 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. Requires the Department of Public Health to track data on pregnancy related deaths and severe maternal morbidity and, requires death certificates to include additional information regarding the pregnancy status of the decedent consistent with the United States Standard Certificate of Death.
- 6) **DOUBLE REFERRAL.** This bill was double referred. It passed the Assembly Committee on Business and Professions with a vote of 15-0 on April 7, 2021.
- 7) **POLICY COMMENT.** As currently drafted this bill creates duplicative requirements for implicit bias training. In 2023, a newly graduated RN (who has received implicit bias training in school) and who joins a new graduate residency program and provides perinatal care would need to take two additional implicit bias training courses. As this bill moves forward, the author may wish to streamline the requirements for RNs providing perinatal care.

REGISTERED SUPPORT / OPPOSITION:

Support

California Nurses Association (sponsor)
 California Professional Firefighters
 Consumer Attorneys of California
 County Health Executives Association of California
 United Food and Commercial Workers, Western States Council

Opposition

None on file.

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