
SENATE COMMITTEE ON HEALTH

Senator Dr. Richard Pan, Chair

BILL NO: AB 1407
AUTHOR: Burke
VERSION: March 18, 2021
HEARING DATE: July 14, 2021
CONSULTANT: Kimberly Chen

SUBJECT: Nurses: implicit bias courses

SUMMARY: Requires graduation requirements for an approved school of nursing or nursing program to include one hour of direct participation in implicit bias training. Requires hospitals to implement an evidence-based implicit bias program, as specified, as part of its new graduate training program that hires and trains new nurses.

Existing law:

- 1) Establishes the Board of Registered Nursing (BRN) to license and regulate the practice of nursing. States that protection of the public is the highest priority for the BRN, as specified. [BPC § 2700, et seq.]
- 2) 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, as specified. [BPC § 2725(b)]
- 3) 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]
- 4) 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)]
- 5) 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)]
- 6) 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)]
- 7) 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)]
- 8) Requires an RN to completed continuing education (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)]

- 9) 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)]
- 10) Requires nursing CE providers, beginning January 1, 2023, to ensure compliance with implicit bias requirements beginning January 1, 2023. [BPC § 2736.5(a)(2)]
- 11) Requires that CE courses address at least:
 - 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. [BPC § 2736.5(c)]
- 12) 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. [HSC § 123630.3]
- 13) Requires the health care 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) Requires graduation requirements for an approved school of nursing or nursing program to include one hour of direct participation in implicit bias training. Requires the training 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, identity, cultural, and provider-community relations issues in the community; and,
 - j) Information on reproductive justice.

- 2) Prohibits the graduation requirements of this bill from doing any of the following:
 - a) Affecting the requirements of licensure;
 - b) Require a curriculum revision; and,
 - c) Affect licensure by endorsement.
- 3) Requires hospitals to implement an evidence-based implicit bias program, as specified, as part of its new graduate training program that hires and trains new nurses.
- 4) Requires, beginning January 1, 2023, RNs to complete one hour of direct participation in an implicit bias course offered by a CE provided approved by the BRN during the first two years immediately following initial licensure.

FISCAL EFFECT: According to the Assembly Appropriations Committee, minor one-time costs to BRN to update regulations (Registered Nursing Fund) and \$60,000 ongoing annually to the BRN to audit licensees for their participation in implicit bias courses (Registered Nursing Fund).

PRIOR VOTES:

Assembly Floor:	66 - 0
Assembly Appropriations Committee:	13 - 0
Assembly Business and Professions Committee:	15 - 0

COMMENTS:

- 1) *Author’s statement.* 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 diverse population. This bill will help those in the health care system fulfill that commitment
- 2) *Implicit bias in health care.* According to a 2017 study entitled “Implicit bias in healthcare professionals: a systematic review,” implicit biases involve associations outside conscious awareness that lead to a negative evaluation of a person on the basis of irrelevant characteristics such as race or gender. Implicit biases occur between a group or category attribute, such as being black, and a negative evaluation (implicit prejudice) or another category attribute, such as being violent (implicit stereotype). In addition to affecting judgements, implicit biases manifest in non-verbal behavior towards others, such as frequency of eye contact and physical proximity. Implicit biases explain a potential dissociation between what a person explicitly believes and wants to do (e.g. treat everyone equally) and the hidden influence of negative implicit associations on their thoughts and action (e.g. perceiving a black patient as less competent and thus deciding not to prescribe the patient a medication). The study reviewed 42 peer-reviewed articles related to implicit bias. According to the study, evidence indicates that health care professionals exhibit the same levels of implicit bias as the wider population. While the influence of implicit bias is

complex and has variable impact depending on the patient characteristics, the study finds that evidence indicates that biases are likely to influence diagnosis and treatment decisions and levels of care in some circumstances and need to be further investigated. The study concludes that the findings indicate a need for health care professionals to address the role of implicit biases in disparities in health care.

In 2017, National Public Radio (NPR) reported a story on the death of Shalon Irving, an African-American epidemiologist at the Centers for Disease Control and Prevention (CDC) who died after giving birth. According to the story, in the more than 200 stories of African-American mothers that ProPublica and NPR have collected over a year, the feeling of being devalued and disrespected by medical providers was a constant theme. There was the new mother in Nebraska with a history of hypertension who could not get her doctors to believe she was having a heart attack until she had another one. A young pregnant woman from Florida whose breathing problems were blamed on obesity when in fact her lungs were filling with fluid and her heart was failing. An Arizona mother's anesthesiologist assumed she smoked marijuana because of the way she did her hair. Finally, a Chicago-area businesswoman with a high-risk pregnancy was so upset at her doctor's attitude that she changed OB/GYNs in her seventh month, only to suffer a fatal postpartum stroke.

3) *Health disparities in California.* According to a 2018 California Health Care Foundation (CHCF) report, California is the most racially diverse state in the country. Over the last 20 years, California's population has grown more diverse, as Latinos have grown from 32% to 40% of the population and Asians from 12% to 14% while whites have declined from 48% to 37%. Between 2019 and 2040, California's population is expected to increase by 6.5 million. People of color represent 93%, or 6 million, of the expected increase. People of color continue to face barriers to accessing health care, often receive suboptimal treatment, and are most likely to experience poor outcomes in the health care system. The following findings that illustrate the disparate health outcomes by race and ethnicity:

- 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.
- 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.
- 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.
- About one in five multiracial, Black, and white adults reported being told they have depression compared to about one in ten Asian adults.
- 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.

- 4) *Double referral.* This bill was heard in the Senate Business, Professions and Economic Develop Committee on June 30, 2021, and passed on a 12-1 vote.
- 5) *Related legislation.* SB 17 (Pan) establishes in state government an Office of Racial Equity (ORE), as an independent public entity not affiliated with an agency or department, as specified; and, tasks the ORE with, among other things, coordinating, analyzing, developing, evaluating, and recommending strategies for advancing racial equity across state agencies, departments, and the Office of the Governor, as specified. *SB 17 is pending in the Assembly Appropriations Committee.*

AB 1204 (Wicks) requires hospitals to prepare an annual equity report that includes an analysis of health status and access to care disparities for patients, as specified. Requires the Office of Statewide Health Planning and Development (OSHPD) to convene a stakeholder group to make recommendations on specific measures hospitals should include in their annual equity reports. Requires OSHPD to make all equity reports available on their website and annually prepare a report that includes a list of all hospitals that failed to submit equity reports. *AB 1204 passed this Committee by a vote of 8-1 on July 7, 2021.*

- 6) *Prior legislation.* 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

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

- 7) *Support.* This bill is sponsored by the California Nurses Association. They state that 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. They argue 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 cognizant about the impact of implicit bias to the patients they serve is paramount to bringing this phenomenon to an end.

This bill is also supported by the County Health Executives Association of California. They write that according to the National Academy of Sciences, Engineering, and Medicine (NASEM), racial and ethnic minorities tend to receive a lower quality of health care than non-minorities and often experience inappropriate or inadequate health services. One of the contributing factors in disparate health care experiences, according to NASEM, is health care personnel bias toward patients of racial, ethnic, or cultural minorities. A wealth of research has demonstrated that implicit biases among health care personnel are associated with negative impacts on patient care, including inadequate patient assessments, inappropriate diagnoses and treatment decisions, less time involved in patient care, and patient discharges with insufficient follow-up. They state that to ensure positive health outcomes among patients, implicit bias and racial discrimination in health and health care should be better understood, assessed, and corrected. They conclude that fostering the development of implicit bias reducing skills, such as perspective-taking, emotional regulation, and partnership building, among health care personnel has the potential to reduce the effect of biases on the quality of patient care provided.

- 8) *Policy comments.* The author may wish to address potential duplicative trainings this bill would require RNs to complete.
- a) *Hospital implicit bias training.* Existing law requires hospitals that provide perinatal care to implement an implicit bias program for all health care provider involved in perinatal care in the hospital. This bill requires hospitals to implement an implicit bias program as part of hiring and training new RN graduates. *The author may wish to include an amendment to streamline these potentially duplicative requirements.*
 - b) *Graduation and initial CE requirement.* This bill requires implicit bias training to be a graduation requirement for nursing programs. It also requires all RNs, beginning in 2023, to complete one-hour implicit bias CE course within the first two years of initial licensure. *The author may wish to include an amendment to exempt those nurses, who have to complete implicit bias training as a graduation requirement, from the requirement to take a one-hour implicit bias CE course within the first two years of initial licensure.*

SUPPORT AND OPPOSITION:

Support: California Nurses Association (sponsor)
 Black Leadership Council
 California Hawaii State Conference NAACP
 California Labor Federation
 California Professional Firefighters
 Consumer Attorneys of California
 County Health Executives Association of California
 National Nurses United
 SEIU California
 United Food and Commercial Workers Union, Western States Council
 Worksafe

Oppose: None received