



# California

## LEGISLATIVE INFORMATION

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### **AB-241 Implicit bias: continuing education: requirements.** (2019-2020)

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## **Assembly Bill No. 241**

### CHAPTER 417

An act to amend Sections 2190.1 and 3524.5 of, and to add Section 2736.5 to, the Business and Professions Code, relating to healing arts.

[ Approved by Governor October 02, 2019. Filed with Secretary of State October 02, 2019. ]

### LEGISLATIVE COUNSEL'S DIGEST

AB 241, Kamlager-Dove. Implicit bias: continuing education: requirements.

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under the act, a physician and surgeon is required to demonstrate satisfaction of

continuing education requirements, including cultural and linguistic competency in the practice of medicine, as specified.

This bill, by January 1, 2022, would require all continuing education courses for a physician and surgeon to contain curriculum that includes specified instruction in the understanding of implicit bias in medical treatment. The bill, by January 1, 2022, would require associations that accredit these continuing education courses to develop standards to comply with these provisions.

Existing law, the Nursing Practice Act, regulates the practice of nursing by the Board of Registered Nursing. The act requires persons licensed by the board to complete specified courses of instruction, including instruction regarding alcoholism and substance dependency and spousal abuse.

This bill would require the Board of Registered Nursing, by January 1, 2022, to adopt regulations requiring all continuing education courses for its licensees to contain curriculum that includes specified instruction in the understanding of implicit bias in treatment. Beginning January 1, 2023, the bill would require continuing education providers to comply with these provisions and would require the board to audit education providers for compliance with these provisions, as specified.

Existing law, the Physician Assistant Practice Act, authorizes the Physician Assistant Board to require a licensee to complete not more than 50 hours of continuing education every two years as a condition of license renewal.

This bill would require the Physician Assistant Board, by January 1, 2022, to adopt regulations requiring all continuing education courses for its licensees to contain curriculum that includes specified instruction in the understanding of implicit bias in treatment. Beginning January 1, 2023, the bill would require continuing education providers to comply with these provisions and would require the board to audit continuing education providers for compliance with these provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

**SECTION 1.** The Legislature finds and declares all of the following:

(a) Implicit bias, meaning the attitudes or internalized stereotypes that affect our perceptions, actions, and decisions in an unconscious manner, exists, and often contributes to unequal treatment of people based on race, ethnicity, gender identity, sexual orientation, age, disability, and other characteristics.

(b) Implicit bias contributes to health disparities by affecting the behavior of physicians and surgeons, nurses, physician assistants, and other healing arts licensees.

(c) Evidence of racial and ethnic disparities in health care is remarkably consistent across a range of illnesses and health care services. Racial and ethnic disparities remain even after adjusting for socioeconomic differences, insurance status, and other factors influencing access to health care.

(d) African American women are three to four times more likely than white women to die from pregnancy-related causes nationwide. African American patients often are prescribed less pain medication than white patients who present the same complaints, and African American patients with signs of heart problems are not referred for advanced cardiovascular procedures as often as white patients with the same symptoms.

(e) Implicit gender bias also impacts treatment decisions and outcomes. Women are less likely to survive a heart attack when they are treated by a male physician and surgeon. LGBTQ and gender-nonconforming patients are less likely to seek timely medical care because they experience disrespect and discrimination from health care staff, with one out of five transgender patients nationwide reporting that they were outright denied medical care due to bias.

(f) The Legislature intends to provide specified healing arts licensees with strategies for understanding and reducing the impact of their biases in order to reduce disparate outcomes and ensure that all patients receive fair treatment and quality health care.

**SEC. 2.** Section 2190.1 of the Business and Professions Code is amended to read:

**2190.1.** (a) The continuing medical education standards of Section 2190 may be met by educational activities that meet the standards of the board and that serve to maintain, develop, or increase the knowledge, skills, and professional performance that a physician and surgeon uses to provide care, or to improve the quality of care provided to patients. These may include, but are not limited to, educational activities that meet any of the following criteria:

(1) Have a scientific or clinical content with a direct bearing on the quality or cost-effective provision of patient care, community or public health, or preventive medicine.

(2) Concern quality assurance or improvement, risk management, health facility standards, or the legal aspects of clinical medicine.

(3) Concern bioethics or professional ethics.

(4) Are designed to improve the physician-patient relationship.

(b) (1) On and after July 1, 2006, all continuing medical education courses shall contain curriculum that includes cultural and linguistic competency in the practice of medicine.

(2) Notwithstanding the provisions of paragraph (1), a continuing medical education course dedicated solely to research or other issues that does not include a direct patient care component or a course offered by a continuing medical education provider that is not located in this state is not required to contain curriculum that includes cultural and linguistic competency in the practice of medicine.

(3) Associations that accredit continuing medical education courses shall develop standards before July 1, 2006, for compliance with the requirements of paragraph (1). The associations may update these standards, as needed, in conjunction with an advisory group that has expertise in cultural and linguistic competency issues.

(4) A physician and surgeon who completes a continuing education course meeting the standards developed pursuant to paragraph (3) satisfies the continuing education requirement for cultural and linguistic competency.

(c) In order to satisfy the requirements of subdivision (b), continuing medical education courses shall address at least one or a combination of the following:

(1) Cultural competency. For the purposes of this section, "cultural competency" means a set of integrated attitudes, knowledge, and skills that enables a health care professional or organization to care effectively for patients from diverse cultures, groups, and communities. At a minimum, cultural competency is recommended to include the following:

(A) Applying linguistic skills to communicate effectively with the target population.

(B) Utilizing cultural information to establish therapeutic relationships.

(C) Eliciting and incorporating pertinent cultural data in diagnosis and treatment.

(D) Understanding and applying cultural and ethnic data to the process of clinical care, including, as appropriate, information pertinent to the appropriate treatment of, and provision of care to, the lesbian, gay, bisexual, transgender, and intersex communities.

(2) Linguistic competency. For the purposes of this section, "linguistic competency" means the ability of a physician and surgeon to provide patients who do not speak English or who have limited ability to speak English, direct communication in the patient's primary language.

(3) A review and explanation of relevant federal and state laws and regulations regarding linguistic access, including, but not limited to, the federal Civil Rights Act (42 U.S.C. Sec. 1981 et seq.), Executive Order 13166 of August 11, 2000, of the President of the United States, and the Dymally-Alatorre Bilingual Services Act (Chapter 17.5 (commencing with Section 7290) of Division 7 of Title 1 of the Government Code).

(d) (1) On and after January 1, 2022, all continuing medical education courses shall contain curriculum that includes the understanding of implicit bias.

(2) Notwithstanding the provisions of paragraph (1), a continuing medical education course dedicated solely to research or other issues that does not include a direct patient care component or a course offered by a continuing medical education provider that is not located in this state is not required to contain curriculum that includes implicit bias in the practice of medicine.

(3) Associations that accredit continuing medical education courses shall develop standards before January 1, 2022, for compliance with the requirements of paragraph (1). The associations may update these standards, as needed, in conjunction with an advisory group established by the association that has expertise in the understanding of implicit bias.

(e) In order to satisfy the requirements of subdivision (d), continuing medical education courses shall address at least one or a combination of the following:

(1) Examples of how implicit bias affects perceptions and treatment decisions of physicians and surgeons, leading to disparities in health outcomes.

(2) Strategies to address how unintended biases in decisionmaking 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.

(f) Notwithstanding subdivision (a), educational activities that are not directed toward the practice of medicine, or are directed primarily toward the business aspects of medical practice, including, but not limited to, medical office management, billing and coding, and marketing shall not be deemed to meet the continuing medical education standards for licensed physicians and surgeons.

(g) Educational activities that meet the content standards set forth in this section and are accredited by the California Medical Association or the Accreditation Council for Continuing Medical Education may be deemed by the Division of Licensing to meet its continuing medical education standards.

**SEC. 3.** Section 2736.5 is added to the Business and Professions Code, to read:

**2736.5.** (a) (1) The board shall adopt regulations to require that, on and after January 1, 2022, all continuing education courses for licensees under this chapter contain curriculum that includes the understanding of implicit bias.

(2) Beginning January 1, 2023, continuing education providers shall ensure compliance with paragraph (1). Beginning January 1, 2023, the board shall audit continuing education providers, pursuant to Section 2811.5.

(b) Notwithstanding the provisions of subdivision (a), a continuing education course dedicated solely to research or other issues that does not include a direct patient care component is not required to contain curriculum that includes implicit bias in the practice of nursing.

(c) In order to satisfy the requirements of subdivision (a), continuing education courses shall address at least one or a combination of the following:

(1) Examples of how implicit bias affects perceptions and treatment decisions of licensees, leading to disparities in health outcomes.

(2) Strategies to address how unintended biases in decisionmaking 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.

**SEC. 4.** Section 3524.5 of the Business and Professions Code is amended to read:

**3524.5.** (a) The board may require a licensee to complete continuing education as a condition of license renewal under Section 3523 or 3524. The board shall not require more than 50 hours of continuing education every two years. The board shall, as it deems appropriate, accept certification by the National Commission on Certification of Physician Assistants (NCCPA), or another qualified certifying body, as determined by the board, as evidence of compliance with continuing education requirements.

(b) (1) The board shall adopt regulations to require that, on and after January 1, 2022, all continuing education courses for licensees under this chapter contain curriculum that includes the understanding of implicit bias.

(2) Beginning January 1, 2023, continuing education providers shall ensure compliance with paragraph (1).

(3) Beginning January 1, 2023, the board shall audit continuing education providers at least once every five years to ensure adherence to regulatory requirements, and shall withhold or rescind approval from any provider that is in violation of the regulatory requirements.

(c) Notwithstanding the provisions of subdivision (b), a continuing education course dedicated solely to research or other issues that does not include a direct patient care component is not required to contain curriculum that includes implicit bias in the practice of physician assistants.

(d) In order to satisfy the requirements of subdivision (a), continuing education courses shall address at least one or a combination of the following:

(1) Examples of how implicit bias affects perceptions and treatment decisions of physician assistants, leading to disparities in health outcomes.

(2) Strategies to address how unintended biases in decisionmaking 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.