

Item: **Workforce Development - AB 2105** (*Statutes of 2016*)
Information only

Board Action:

1. President calls the agenda item and it is presented by or as directed by the President.
2. Item is opened up for discussion/Request for public comment

Summary

Both of the following bills aim(ed) to eliminate barriers to allow people to enter the practice of an allied health profession, including respiratory care, more easily. AB 387 identified the failure to financially compensate students that are completing their clinical education training as a “barrier,” preventing people from entering into this field. The Department of Consumer Affairs is now charged with removing barriers by 2020.

AB 387 (Introduced 2/9/17; Died on Inactive file 2/1/18)

Bill would have required health care employers to pay allied health students minimum wage for time spent in clinical or experiential training that is required for state licensure.

AB 2105 (Statutes of 2016)

The California Workforce Development Board is required to prepare and submit to the Legislature a report on the board’s findings and recommendations regarding expanding job training and employment for allied health professions.

AB 2105 requires the Department of Consumer Affairs, by January 1, 2020, to engage in a stakeholder process to update policies and remove barriers to facilitate the development of earn and learn training programs in the allied health professions, including barriers identified in the report described above, as specified.

Legislative Support and Opposition

Support for the “earn and learn” concept provide:

“More individuals from underrepresented communities will be able to complete the required clinical training requirements for allied health professions thereby increasing the overall numbers and diversity of the students in the pipeline.”

Opposition to the “earn and learn” concept provide:

\$2.5-\$4 million additional costs for the Department of State Hospitals

Increased costs to the State General Fund to reimburse skilled nursing facilities

Increased costs to State University and Community College athletic programs

\$1-\$2.5 million increased costs to UC medical centers

\$250-\$300 million increased costs to the Medi-Cal program

\$500k- \$1million increased costs to each facility providing training to respiratory therapists (additional costs associated with other allied health professions)

Statewide cost of this proposed requirement is “hundreds of millions of dollars” annually.

“Students are not employees. They are engaged in classroom and clinical activities to become qualified for licensure, certification and employment. Students in radiologic technologist programs, for example, can only perform procedures if a qualified licensed individual is physically present to observe, verify and correct as needed the student’s use of the equipment. Therefore, these students are in learning mode and not lawfully allowed to deliver care except within strict laws governing supervision requirements. Hospitals are not legally allowed to bill for the services of unlicensed students without a trainer present. ”

“Students are not employees, and the cost of treating them as such will have the adverse consequence of reducing students’ opportunities to benefit from hospital-provided training and clinical experience.”

“Hospitals are struggling to provide appropriate mentors/clinical instructors and education for credentialed staff. If enacted, this bill would have a devastating impact on the future of the respiratory

care professional workforce covered by this bill. It would result in a significant decrease in the number of healthcare providers who partner with schools in the state to train its allied health workforce and make it virtually impossible for schools to secure clinical sites throughout the healthcare spectrum.”

There is a “myriad [of] state and federal laws [that] prohibit students from providing unsupervised care.”

“Accreditation of these quality programs [will be put] at risk, leading to the elimination of the allied health programs. Many allied health program accreditation standards, for example in radiological technology, physical and respiratory therapy, prohibit students from being employed or earning a wage connected to clinical hours.”

“Because of the extreme inability of state schools to find those institutions willing to pay for clinical rotations as part of the respiratory therapist’s course work and the additional burden it places on them, this inadvisable bill and lack of support from the institutions required to bear the cost would lead to reductions in the number of respiratory therapists who are critical to the care and well-being of their patients, resulting in a profound adverse influence on patient outcomes. Over time, this outcome can result in significant unintended costs to the California hospital system due to increased emergency room visits and hospital readmissions.”

Respiratory Care Board Education Statute

Business and Professions Code, Section 3740

(a) Except as otherwise provided in this chapter, all applicants for licensure under this chapter shall have completed an education program for respiratory care that is accredited by the Commission on Accreditation for Respiratory Care or its successor and been awarded a minimum of an associate degree from an institution or university accredited by a regional accreditation agency or association recognized by the United States Department of Education. ...

Commission on Accreditation for Respiratory Care (CoARC)

Two of the Commission on Accreditation for Respiratory’s standards expressly prohibit students from being reimbursed:

5.09 Students must be appropriately supervised at all times during their clinical education coursework and experiences. Students must not be used to substitute for clinical, instructional, or administrative staff. Students shall not receive any form of remuneration in exchange for work they perform during programmatic clinical coursework.

Commission on Accreditation for Respiratory Care (CoARC) -continued

Evidence of Compliance:

- Results of student course evaluations;
- Work study contracts;
- Program policies and procedures;
- Affiliate contracts/agreements.

5.10 Students must not complete clinical coursework while in an employee status at a clinical affiliate.

Evidence of Compliance:

- Program's policies and procedures.

Interpretive Guideline:

The intent of this Standard is that students cannot be paid for any activities during educational clinical hours. There must be clear differentiation between clinical time as a student and paid employment.

Current Status

On or about January 26, 2018, the United Healthcare Workers West Service Employees International Union, CLS (SEIU-UHW) made a request to CoARC to add the phrase "unless they are participating in an apprenticeship program" to both standards 5.09 and 5.10.

The Department of Consumer Affairs also inquired about the possibility of making this change.

Respiratory Care Board staff contacted CoARC on or about 2/26/18 and found that CoARC will review the SEIU-UHW's request during their next routine review of its standards which is estimated to begin toward the end of 2018.

Reference

AB 2105/Section 14017 of the Unemployment Insurance Code reads:

14017. (a) In efforts to expand job training and employment for allied health professions, the California Workforce Development Board, in consultation with the Division of Apprenticeship Standards, shall do the following:

(1) Identify opportunities for “earn and learn” job training opportunities that meet the industry’s workforce demands and that are in high-wage, high-demand jobs.

(2) Identify and develop specific requirements and qualifications for entry into “earn and learn” job training models.

(3) Establish standards for “earn and learn” job training programs that are outcome oriented and accountable. The standards shall measure the results from program participation, including a measurement of how many complete the program with an industry-recognized credential that certifies that the individual is ready to enter the specific allied health profession for which he or she has been trained.

(4) Develop means to identify, assess, and prepare a pool of qualified candidates seeking to enter “earn and learn” job training models.

(b) (1) The board, on or before December 1, 2015, shall prepare and submit to the appropriate policy committees of the Legislature a report on the findings and recommendations of the board.

(2) The requirement for submitting a report imposed pursuant to this subdivision is inoperative on January 1, 2019, pursuant to Section 10231.5 of the Government Code.

(c) (1) The Department of Consumer Affairs shall engage in a stakeholder process to update policies and remove barriers to facilitate the development of earn and learn training programs in the allied health professions, including barriers identified in the report prepared by the board pursuant to subdivision (b), entitled Expanding Earn and Learn Models in the California Health Care Industry. The stakeholder process shall include all of the following:

(A) The department convening allied health workforce stakeholders, which shall include, but are not limited to, the department’s relevant licensure boards, the Division of Apprenticeship Standards, representatives appointed by the board of governors from the California community college system, the California Workforce Development Board, and the State Department of Public Health, and which may include other relevant entities such as the Office of Statewide Health Planning and Development, employer and worker representatives, and community-based organizations.

(B) Addressing issues that include, but are not limited to, prelicensure classifications in allied health occupations that would allow students, in a supervised setting, to gain experience in their chosen field before obtaining licensure, and the payment of wages while in a workplace-based training program.