

Study N-300

April 12, 2000

First Supplement to Memorandum 2000-34**AB 1822 - Administrative Rulemaking (Comment
of California Nurses Association)**

Assembly Bill 1822 (Wayne) was heard in the Assembly Consumer Protection, Governmental Efficiency, and Economic Development Committee on April 11, 2000. It was placed on the committee's consent calendar, and approved. Shortly after the hearing, Assembly Member Wayne received a copy of a letter to the chair of the committee indicating opposition to the bill unless amended. A copy of that letter, from the California Nurses Association, is attached.

The California Nurses Association objects to the proposed extension of the effective period of an emergency regulation, from 120 to 180 days.

If an agency intends to make an emergency regulation permanent, it must adopt it under the regular procedure. Ideally, it does so in the 120-day effective period of the emergency regulation. However, the Commission has been informed that 120 days is often insufficient time to adopt a regulation under the regular procedure. Where this is true, an agency may readopt the emergency regulation for another 120-day period. To do so, it must follow the same procedures it used to adopt the emergency regulation in the first place and must have the approval of the director of the Office of Administrative Law. Such approval is granted routinely.

In practice, emergency regulations are often readopted, resulting in an effective period of 240 days or more and requiring the agency and the Office of Administrative Law to go through the same emergency rulemaking procedure two or more times. The proposed increase in the effective period, to 180 days, was intended to provide sufficient time for the permanent adoption of most emergency regulations, without the need for the inefficiency and prolonged effect that results from readoption.

Respectfully submitted,

Brian Hebert
Staff Counsel



CALIFORNIA
NURSES
ASSOCIATION

Shaping Tomorrow's Health Care
www.calnurse.org

APR 11 2000

April 7, 2000

The Honorable Susan Davis, Chair
Assembly Committee On Consumer Protection
State Capitol
Sacramento, California 95814

RE: AB 1822 (Wayne) - OPPOSE

Dear Assemblymember Davis:

The California Nurses Association regrets to inform you that we must oppose **AB 1822 (Wayne)**, regarding the Administrative Procedure Act, unless it is amended to remove the provisions extending the period for which emergency regulations may remain in effect.

In general, CNA supports the efforts of the California Law Revision Commission to clarify and update the Administrative Procedure Act. However, we do not believe a change in the time period for which emergency regulations may remain in effect is warranted. Procedures for the promulgation of emergency regulations allow agencies to put regulations into effect quickly, with little or no opportunity for comment from affected constituencies. While we understand that such expedited procedures may be necessary in some instances, the failure to get public input may result in the implementation of regulations that fail to address important issues. The longer such a regulation is allowed to remain in effect without the agency going through the normal process for regulatory change, the more difficult it may be for necessary changes to be made.

We appreciate the opportunity to offer our comments on this bill. Please call me if you have any questions regarding our position.

Sincerely,

Kathy Sher
Regulatory Policy Specialist

Cc: Members, Assembly Consumer Protection
Consultant
Assemblymember Wayne

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