

BOARD OF REGISTERED NURSING
Administrative Committee
Agenda Item Summary

AGENDA ITEM: 4.0
DATE: October 7, 2015

ACTION REQUESTED: Abortion by Aspiration Techniques-Regulation Proposals

- California Code of Regulations, Article 6, Section 1463.5, Abortion by Aspiration Techniques
- California Code of Regulations, Article 8, Section 1485.5, Abortion by Aspiration Techniques

REQUESTED BY: Michael Jackson, RN
President

BACKGROUND:

A regulation hearing was held for the proposed language on the Abortion by Aspiration Techniques regulations on September 21, 2015. Board members were sent a copy of the written comments, and staff provided a written summary of the comments at the meeting. Five people testified at the public hearing on the matter. Following are proposed responses to the comments, and the proposed modified regulatory language is attached.

GENERAL COMMENTS:

To support the Board's adoption of the Board-approved proposed regulatory language, which will provide California nurse practitioners and certified nurse-midwives a method by which to become competent in performing abortion by aspiration techniques, as authorized by statute.

Accept Proposed Response: At the April 2015 Board meeting, the Board approved proposed language that was erroneously not submitted to the Office of Administrative Law. Therefore, we accept the comments to change the language to the Board approved language from the April 2015 Board meeting.

SPECIFIC COMMENTS AND RESPONSES:

Amend Section 1463.5 and 1485.5 – Abortion by Aspiration Techniques.

Comments and Proposed Responses:

1. Concern that the placement and titles of proposed section 1463.5 and 1485.5 are somewhat unclear and misleading. Proposed modification to the section titles and placement are as follows:
Proposed Modification: Renumber and rename section 1463.5 to 1462.5 – Approved Training Standards for Abortion by Aspiration Techniques.
Renumber and rename section 1485.5 to 1484.5 – Approved Training Standards for Abortion by Aspiration Techniques. **Reject.**
Proposed Response: The numbering system of the Board approved language do not affect the education standards of the regulations in the Nursing Practice Act, it only deals with abortion by aspiration techniques. Therefore, the proposed modification is rejected.
2. Concerned that the proposed regulations, as drafted, might incorrectly imply that standardized procedures are no longer required for NPs and CNMs to perform abortion by aspiration, so long as one of the three educational/training requirements are met. Section 2725.4 of the Business and Professions Code (AB 154) states that in order to perform an abortion by aspiration techniques, an NP or CNM must "adhere to standardized procedures." **Reject.**
Proposed Response: The proposed regulations do not affect the standardized procedures that

are currently set in existing law. The NPs and CNMs would still have to abide by the standardized procedures because they are already in law. The proposed modification to the text is rejected.

3. Concerned that the language in the proposed regulations is far too generalized, and thus will not provide adequate guidelines for educational entities, including continuing education (CE) providers. It is crucially important that the educational standards effectively provide for patient safety. As such, we suggest adding more specificity with regard to the didactical and clinical requirements for adequate training. It may be wise to make specific reference to the competency based curriculum and training protocols established by the Health Workforce Pilot Project (HWPP) No. 171. **Accept.**

Proposed Response: The language set forth in the comments is accepted. BCP 2725.4 sets forth the requirement to perform abortion by aspiration techniques. In this section it states that the competency-based training protocol established by Health Work-force Pilot Project (HWPP) No. 171 shall be used. The HWPP 171 is the most current research in regards to competency-based curriculum and training plan for education for primary care clinicians in early abortion care. Therefore, the language is accepted as it is shown to be effective and it stands to be a good source of guidance in establishing adequate standards for training recognized by the Board.

4. For regulations implementing the law that which occurred as a result of the study, we ask that in order for results to continue to be as positive as they have been, that the regulations mirror the training as determined through the process of the study for patient safety and optimal results. The training as specified in the study was:

To be trained for competence in the provision of aspiration abortion an NP or CNM would need a minimum of 40 supervised procedures over at least 6 clinical days, with competence assessed by an authorized physician trainer. To be qualified for training, NPs or CNMs must have a California professional license, basic life support certification, and 12 months or more of clinical experience, including 3 months or more experience in medication abortion provision.

Accept in part.

Proposed Response: The training as specified in the comments reflects the HWPP No. 171 competency-based training protocol. The Board does believe that the language does need to set forth guidelines for educational entities. The comment is accepted in part as the Board will add the language that will incorporate the HWPP No. 171 by reference to make the requirements clearer and not generalized.

5. Disagree with the recommendation to add an additional reference to standardized procedures. **Accept.**

Proposed Response: Accept the comments as the reference to standardized procedures are redundant since the proposed regulations are not affecting existing law.

6. Disagree with the recommendation to add greater specificity to curriculum and training guidelines within the proposed regulations. Disagree with including the reference to procedural numbers or specific curriculum requirements within these regulations. **Reject.**

Proposed Response: The training guidelines that the HWPP No. 171 set forth are the most current research in regards to competency-based curriculum and training plan for education for primary care clinicians in early abortion care that are currently being used right now. Training guidelines that are equivalent to this training protocol should be accepted. The Board feels that the addition of incorporating the HWPP No. 171 by reference does not make the regulations too

specific. Therefore, this comment is rejected.

7. That educational providers may need guidance in the provision of abortion training program specifics. Any clinical education curriculum starts with the standard of care and evidence-based clinical guidelines followed by competencies which meet those guidelines. For example, the BRN could post FAQs that reference Abortion Clinical and Training Guidelines on the national guideline clearinghouse website and is updated annually (will send website) or core competencies for first trimester abortion care (will send website). There are also a number of professional organizations which use these clinical guidelines to offer early abortion training programs.

Proposed Response: This statement does not speak to the text of the proposed regulations. Therefore, it is an irrelevant comment.

Attachment: Proposed modified regulatory language.

NEXT STEPS:	Continue with the regulatory process.
FISCAL IMPLICATIONS, IF ANY:	None at this time.
PERSON TO CONTACT:	Ronnie Whitaker Legislative and Regulatory Analyst (916) 574-7600

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Specific Language of Proposed Changes

Proposed changes are designated by single underline and ~~strikeout~~.

1463.5 Abortion by aspiration techniques

For the purposes of Section 2725.4 of the Code, after January 1, 2016, certified nurse-midwives may ~~use these aspiration techniques during~~ perform an abortion by aspiration techniques in the first trimester of pregnancy if they have the requisite training in performing these procedures equivalent to the didactic curriculum and clinical training protocols of the HWPP No. 171 acquired in any of the following:

- (1) A Board-approved nurse-midwifery program or in a ~~post-graduate~~ course offered by an accredited nurse-midwifery program;
- (2) A course offered by a Board-approved continuing education provider that reflects evidence-based ~~national~~ curriculum and training guidelines or a course approved for Category I continuing medical education;
- (3) A course offered by a state or national health care professional or accreditation organization.

NOTE: Authority cited: Section 2715, Business and Professions Code. Reference: Section 2725.4, Business and Professions Code.

1485.5 Abortion by aspiration techniques

For the purposes of Section 2725.4 of the Code, after January 1, 2016, certified nurse practitioners may ~~use these aspiration techniques during~~ perform an abortion by aspiration techniques in the first trimester of pregnancy if they have the requisite training in performing these procedures equivalent to the didactic curriculum and clinical training protocols of the HWPP No. 171 acquired in any of the following:

- (1) A Board-approved nurse practitioner program or in a ~~post-graduate~~ course offered by an accredited nurse practitioner program;
- (2) A course offered by a Board-approved continuing education provider that reflects evidence-based ~~national~~ curriculum and training guidelines or a course approved for Category I continuing medical education;
- (3) A course offered by a state or national health care professional or accreditation organization.

NOTE: Authority cited: Section 2715, Business and Professions Code. Reference: Section 2725.4, Business and Professions Code.