



Agenda Item 7.2

**Discussion and Possible Action:
Regarding Public Comments Received on the Adopted
Regulatory Text to Modify California Code of
Regulations (CCR), Title 16, Section 1444.5 and the
Recommended Guidelines for Disciplinary Orders and
Conditions of Probation, and Further Proposed
Revisions to Regulatory Text**

BRN Board Meeting | March 26-27, 2026

BOARD OF REGISTERED NURSING
Agenda Item Summary

AGENDA ITEM: 7.2
DATE: March 26-27, 2026

- ACTION REQUESTED:** Discussion and possible action: Regarding public comments received on the adopted regulatory text to modify California Code of Regulations (CCR), title 16, section 1444.5 and the Recommended Guidelines for Disciplinary Orders and Conditions of Probation, and further proposed revisions to regulatory text
- REQUESTED BY:** Loretta Melby RN, MSN
Executive Officer, California Board of Registered Nursing
- BACKGROUND:** Statutory changes over the last several years have provided certain Advanced Practice Registered Nurses (APRNs), with the authority to practice without physician supervision and outside of typical group healthcare setting.
- Consequently, it was determined necessary to update Standard Probation Condition #8 in the Board of Registered Nursing (Board) [Recommended Guidelines for Disciplinary Orders and Conditions of Probation](#) to account for the new scenario in which an APRN who is practicing independently is placed on probation and required to have some level of supervision during their probationary period. Absent this update, these APRNS would be forced to cease practicing while on probation.
- In consultation with several APRN advisory committees, Board staff drafted proposed text updating Standard Probation Condition #8 to address respondents that are practicing in an independent setting when placed on probation. A detailed explanation of the proposed changes and associated rationale can be found in the [Initial Statement of Reasons](#).
- The Board approved a final version of the proposed text at their November 2024 Board Meeting and delegated authority to the Executive Officer to prepare the rulemaking file. The full rulemaking package is available

on the Board website: [Independent Practice Supervision in Disciplinary Guidelines.](#)

Following review and approval by the Director of the Department of Consumer Affairs and the Secretary of the Business, Consumer Services, and Housing Agency, the proposed regulations were submitted to the Office of Administrative Law and noticed on January 30, 2026, for a 45-Day public comment period that concluded on March 17, 2026.

The Board received 5 public comment submissions during the comment period. The Board did not receive any requests for a public hearing. Proposed responses to the individual public comments are included as an attachment for the Board's review.

Additionally, based on the public comments received, Board staff are recommending the proposed text be further modified and released for another 15-day public comment period in accordance with the Administrative Procedure Act. Proposed modified text is included as an attachment for the Board's review.

NEXT STEPS:

Approve the proposed responses to public comments and with any edits deemed necessary. Approve the proposed modified text for a 15-day public comment period.

Direct staff to take all steps necessary to complete the rulemaking process, authorize the Executive Officer to make any technical or non-substantive changes to the proposed regulations, and adopt the enclosed modified text either as described in the proposed modified text or with any potential amendments, if no relevant, adverse comments are received within a modified text comment period.

FISCAL IMPACT, IF ANY: Staff estimate that there will be no fiscal impact to the Board.

PERSON TO CONTACT: Marissa Clark
Chief of Legislative Affairs
California Board of Registered Nursing
Email: Marissa.Clark@dca.ca.gov

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. BOARD OF REGISTERED NURSING

MODIFIED PROPOSED TEXT
Independent Practitioner Supervision in Disciplinary Guidelines

Legend: Added text is indicated with an underline.
Omitted text is indicated by (* * * *)
Deleted text is indicated by ~~strikeout~~.

Modifications to the originally proposed
Regulatory language are shown double
underline for new text ~~and double~~
~~strike through~~ for deleted text.

Amend section 1444.5 of Division 14 of Title 16 of the California Code of Regulations to read as follows:

§ 1444.5. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the administrative adjudication provisions of the Administrative Procedure Act (Government Code Section 11400 et seq.), the board shall consider the disciplinary guidelines entitled: "Recommended Guidelines for Disciplinary Orders and Conditions of Probation" (~~10/02 Revised~~) (*OAL insert effective date here*), which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board, in its sole discretion, determines that the facts of the particular case warrant such a deviation--for example: the presence of mitigating factors; the age of the case; evidentiary problems.

(* * * *)

Note: Authority cited: Section 2715, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 726, 729, 2750, 2759, 2761 and 2762, Business and Professions Code; Section 44010, Education Code; and Sections 11425.50 and 11519, Government Code

The section below was pulled from page 21 of the [Recommended Guidelines For Disciplinary Orders and Conditions of Probation](#).

(8) SUPERVISION - Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse, ~~in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved~~ advanced practice registered nurse, physician, dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health and Safety Code that is in good standing [i.e. no disciplinary action within the last five (5) years] with the applicable professional state licensing agency and otherwise meets the requirements of this section.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.

(d) Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each workday. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each workday. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.

(e) Independent Practice Setting - If the Respondent is certified by the Board as an advanced practice registered nurse and has a scope of practice to provide patient care without standardized procedures in an independent practice setting, the Board shall require the respondent, during probation, to have a Board-approved advanced practice registered nurse, physician, dentist, podiatrist, or clinical psychologist who have agreed to provide supervision of the Respondent according to their plan(s) of supervision. The Respondent shall not resume practice until the Board provides written approval of the proposed supervisor(s)

and plan(s) of supervision in accordance with this subsection.

Within sixty (60) calendar days of the effective date of the Decision and Order, Respondent shall submit to the Board in writing by email to the address listed on this Board's website, for its prior approval, the name and qualifications of one or more proposed supervisors and a plan for each such supervisor by which Respondent would be supervised in accordance with this subsection. The plan for supervision shall describe how the supervisor(s) and supervisee will meet the requirements of this subsection, including duration, type of supervision and access to all patient records. The request shall include each proposed supervisor's license number and license type, and a description of how they meet the criteria for Board approval provided below.

The supervisor shall meet the following criteria to be approved:

1. Has not been subject to any disciplinary action by their licensing Board within the last five (5) years. For the purposes of this section "disciplinary action" shall mean revocation, suspension, probation, public reprimand or reproval or any other form of license restriction imposed on a license. An administrative citation and fine does not constitute discipline and, therefore, in and of itself is not a reason to deny an individual as a supervisor.
2. Does not have a current or prior financial, personal, or business, or professional relationship with Respondent.

The Board shall advise Respondent within thirty (30) calendar days whether the proposed supervisor and plan of supervision are approved. Respondent shall not practice nursing until receiving approval by the Board of Respondent's choice of a supervisor and plan of supervision.

The plan of supervision shall be either [(direct and require the physical presence of the supervising provider in the office during the time direct patient care is provided.)], or [(general and not require the physical presence of the supervising provider during the time direct patient care is provided but does require an occasional random check of the work performed on the patient as well as quarterly monitoring visits at the office or place of practice)]. Additionally, the supervisor shall have full and random access to all patient records of Respondent. The supervisor may evaluate all aspects of Respondent's practice regardless of Respondent's areas of deficiencies.

Each supervisor shall submit written reports to the Board, on the time frame established in the respondent's plan of supervision, that verify that supervision has taken place as required and include an evaluation of Respondent's performance. Respondent shall complete any required consent forms or Release of Information authorizing the supervisor to communicate with the Board. It shall be Respondent's responsibility to ensure that the required reports are filed in a timely manner as outlined in the Respondent's plan of supervision. Failure to file the required reports in a timely fashion within the time frames specified by the Board shall be a violation of probation.

If the supervisor is no longer available, Respondent shall notify the Board in writing by email within seventy-two (72) hours of the date the supervisor is no longer available. Within five (5) calendar days of the date the supervisor is no longer available, Respondent shall submit in writing by email to the Board or its designee for its prior approval, the name and qualifications of one or more proposed new supervisor(s) and a plan for supervision by each supervisor as specified in this subsection.

Respondent shall not practice until a new supervisor has been approved by the Board. If Respondent fails to submit a proposed new supervisor and plan for supervision as required or fails to cease practice in accordance with this section when there is no supervisor approved by the Board or its designee, this shall constitute a violation of probation.

All costs of the supervision shall be borne by Respondent.

RATIONALE: This allows the Board to require appropriate supervision and/or collaboration, to monitor the respondent's registered or advanced practice nursing competency and thus protect consumer safety. ~~The level of supervision or need for advanced practice collaboration will be determined by the Board at probation meetings.~~

COMMENTS RECEIVED Independent Practice – Supervision – Disciplinary Guidelines

Email received January 30, 2026, from Commenter 1

Comment 1

From: [REDACTED]
Sent: Friday, January 30, 2026 9:38 AM
To: BRN Regulations@DCA <BRN.Regulations@dca.ca.gov>
Subject: Fwd: BRN Regulations - Notice of Proposed Action

Hello ,

I just would like to confirm if this email just FYI for me and no further action is needed?

Thank you so much for your help.

[REDACTED]

Email received January 31, 2026, from Commenter 2

Comment 2

From: [REDACTED]
Sent: Saturday, January 31, 2026 1:19 PM
To: BRN Regulations@DCA <BRN.Regulations@dca.ca.gov>
Subject: PROPOSED REGULATORY LANGUAGE Independent Practitioner Supervision in Disciplinary Guidelines

Dear Board of Registered Nursing,

I am responding to the proposed regulatory language for Independent Practitioner Supervision in Disciplinary Guidelines to Board of Registered Nursing, section 1444.5 of division 14, title 16, of the California code of regulations.

Thank you for addressing the topic of advance practice nurses working with independent practice in a group setting.

I do have one disagreement with the proposed language, which occurs on p 3 of your recent handout [<https://rn.ca.gov/pdfs/regulations/proposedlang-1444-5.pdf>], as here:

"The supervisor shall meet the following criteria to be approved:

...

2. Does not have a current or prior financial, personal, business, or professional relationship with Respondent. "

In point #2, I suggest removing the word "professional" from the proposed language. It seems such a barrier to finding a supervisor that you would, unintentionally, be preventing the respondent from practicing at all, unless it is intended to create a cadre of paid supervisors. If I were looking for a supervisor who could legally review all my charts, and be permitted to do so by any employer, they would necessarily be an employee of the organization and thus have a professional relationship with me.

I therefore propose the following alternate language:

2. Does not have a current or prior financial, personal, business, ~~or professional~~ relationship with Respondent.

Again, thank you for updating regulations to reflect the current licensure and certification of advance practice RNs.

Respectfully submitted,



Email received February 19, 2026, from Commenter 3

Comment 3

From: [REDACTED]
Sent: Thursday, February 19, 2026 11:10 AM
To: BRN Regulations@DCA <BRN.Regulations@dca.ca.gov>
Subject: Re: BRN Regulations - Notice of Proposed Action

Good morning, Ms. Clark:

Thank you for including me in ongoing regulatory and proposed/amended policies at CABRN.

I fully accept and appreciate the proposals. I would like to suggest that, prior to licensed practitioner is mandated to obligatory actions, that the supervisor is required to be fully vetted by BRN to meet rigorous and exceptional professional characteristics consistent with those same protocols placed upon the suspendee. Thanks so much.

Be well and wondrous...

[REDACTED]

[REDACTED]

Email received February 21 & 24, 2026, from Commenter 4

Comment 4

From: [REDACTED]
Sent: Saturday, February 21, 2026 5:10 PM
To: Clark, Marissa@DCA <Marissa.Clark@dca.ca.gov>
Subject: Proposed CCR §1444.5 – Independent Practitioner Supervision in Disciplinary Guidelines

To the California Board of Registered Nursing:

I submit this comment as a lead clinician nurse practitioner in a federally qualified health center, where I oversee and supervise both nurse practitioners and physicians in team-based clinical practice.

I support the Board’s objective of ensuring public safety and meaningful remediation when an advanced practice registered nurse is placed on probation. However, the proposed requirement that an independently practicing NP obtain supervision exclusively from an individual with whom they have no prior or current personal, financial, or professional relationship may be difficult to operationalize and, in some settings, unnecessarily restrictive.

In FQHCs and other integrated care environments, clinical oversight, peer review, and quality assurance are embedded within established organizational structures. Requiring supervision only by an unrelated external clinician can disrupt continuity of care, complicate credentialing and access to records, and may function in practice as a de facto suspension rather than a proportionate remediation tool.

California already has a statutory framework for graduated NP practice authority. Allowing temporary reversion to a lower authority level during probation (e.g., independent practice to transition-to-practice, or transition-to-practice to collaborative practice) would rely on existing mechanisms familiar to employers, licensees, and the Board. This approach would be clearer, more administrable, and more consistent with team-based care models while still allowing the Board to impose conditions necessary to protect patients.

If conflict-free verification is needed, this could be addressed through targeted independent auditing or chart review requirements, rather than day-to-day clinical supervision by an unrelated provider.

The commenter respectfully requests that the Board consider whether temporary reversion to a lower statutory NP practice authority level, supplemented by independent auditing where appropriate, would achieve the Board’s safety objectives with greater clarity and administrative efficiency than the proposed external supervision requirement.

Respectfully submitted,

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██
████████████████████

Email received March 16, from Commenter 5

Comment 5



March 16, 2026

Marissa Clark and Ras Siddiqui
California Board of Registered Nursing
1747 North Market Blvd., Suite 150
Sacramento, CA 95834
brn.regulations@dca.ca.gov

Re: Independent Practitioner Supervision in Disciplinary Guidelines, Section 1444.5 of Title 16, California Code of Regulations

Dear Ms. Clark and Mr. Siddiqui:

I am submitting comments on behalf of the California Nurse-Midwives Association regarding the proposed amendments to Standard Probation Condition 8, Section 1444.5 of Title 16, California Code of Regulations. We are providing comment on proposed amendments #2, #3 and #5, as outlined in [Initial Statements of Reason \(ISOR\)](#). While we support the Board's efforts to ensure public safety and effective probationary oversight, we respectfully request clarification and revisions to ensure that supervisory requirements are consistent with statutory authority, safe practice standards, and professional scope of practice.

ISOR #2 – Amend Recommended Guidelines For Disciplinary Orders and Conditions of Probation, Standard Probation Condition 8

The proposed text allows probationary “supervision” by a registered nurse (RN) or, alternatively, by an APRN, *physician, dentist, podiatrist, or clinical psychologist*. The BRN provides rationale, including, “The identification of a physician, dentist, podiatrist, or clinical psychologist aligns with the professions that can legally supervise an RN as outlined in BPC Section 2725(b)(2).”¹

We raise the following concerns:

1. **RN independence and scope of supervision:** Contrary to statements made by the BRN within the “rationale” section of this ISOR statement, BPC Section 2725(b)(2) grants *delegation authority*, not supervision authority, to physicians, dentists, podiatrists, and clinical psychologists. RNs in California practice pursuant to their license, not under supervision of

5A

¹ BPC Section 2725(b) The practice of nursing within the meaning of this chapter means 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 the treatment thereof, and that require a substantial amount of scientific knowledge or technical skill, including all of the following: ...

(2) Direct and indirect patient care services, including, but not limited to, the administration of medications and therapeutic agents, necessary to implement a treatment, disease prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician, dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health and Safety Code.

other clinicians. A correction should be issued to avoid future misinterpretation of BPC Section 2725(b)(2).

2. **Scope of supervision during probation:** Supervision in the regulatory context of 1444.5, must be clearly defined as a probationary, evaluative or monitoring function, not a task-based oversight (i.e. delegation) or employment supervision. Regulation should be amended to include a definition of supervision specific to this context during probation. 5B
3. **Qualifications of supervisors:** Only a supervisor functioning within a probationary, evaluative, or monitoring role who has *expertise in the same field as the respondent can* accurately assess safe practice, compliance with the Nursing Practice Act, and remediation of disciplinary conduct. Physicians, dentists, podiatrists, and clinical psychologists do not have the nursing-specific competencies or statutory knowledge to comprehensively evaluate probationary compliance. As such, naming physicians, dentists, podiatrists, and/or psychologists as potential “supervisors” should also require that they have the knowledge to satisfactorily assess the elements for which the respondent is on probation, in addition to having expertise in the same field. 5C
4. **Responsibility and accountability:** The regulation should explicitly clarify whether “supervisors” assume any responsibility for the respondent’s actions. If not, this limitation should be stated within the regulation to avoid ambiguity. 5D

ISOR #3 – Amend Recommended Guidelines For Disciplinary Orders and Conditions of Probation, Standard Probation Condition 8 - Addition of Subsection e (Paragraph 1, Page 21), “Independent Practice Setting”

The proposed language regarding “independent practice setting” requires clarification:

1. **Definition of “independent practice setting”:** The independent practice of a nurse-midwife is not setting-specific (e.g., hospital versus home), nor is it model-specific (e.g., nurse-midwives may practice independently in both solo and group models, including groups with or without physicians). The term “independent practice setting” is therefore confusing as written and is undefined in the proposed regulations. Does this term refer to *any* setting where nurse-midwives practice? Or, does this term refer only to a “solo practice?” Additional definition and rationale should be provided to clarify exactly to which circumstances this amendment is relevant. 5E

ISOR #5 – Amend Recommended Guidelines For Disciplinary Orders and Conditions of Probation, Standard Probation Condition 8 - Addition of Subsection e (Paragraph 3, Page 22)

1. **Disciplinary history:** The proposed criteria regarding lack of disciplinary action are reasonable.
2. **Conflict-of-interest language:** The text stating “does not have a current or prior financial, personal, business, or professional relationship with Respondent” should be revised to read “...that could pose a conflict of interest,” to avoid overly broad restrictions and clarity of intent. For example, nurse-midwives working in a “maternity care desert” could feasibly have a pre-existing professional relationship with all other eligible supervising clinicians in the same field. Additionally, it should be explicitly stated in the Supervision section that APRNs who are in a group practice may be supervised by an individual within their group practice who does not present a conflict-of-interest. 5F

Additional Consideration – SB 1237 and Historical Context

The Notice of Proposed Regulatory Action and the Initial Statement of Reasons documents incorrectly characterize SB 1237 as removing the requirement for nurse-midwives to practice according to standardized procedures with a physician. Prior to SB 1237, nurse-midwives were provided a distinct statutory scope requiring physician supervision but not solely limited to standardized procedures. The legislative intent of SB 1237 was to remove that supervision requirement; the practice of midwifery was never characterized by law as a delegated medical function requiring standardized procedures, with the exception of furnishing, episiotomy repairs and procedural abortion. For the integrity of the rulemaking record, this distinction should be accurately reflected.

5G

Conclusion and Requested Revisions

The California Nurse-Midwives Association appreciates the Board's efforts to strengthen probation oversight. However, the proposed amendments introduce ambiguity regarding supervision, accountability, and statutory authority.

To ensure clarity and consistency with the Nursing Practice Act, we respectfully request that the Board:

1. Define "supervision" in Section 1444.5 as probationary, evaluative oversight—distinct from delegation or employment supervision.
2. Limit probationary supervisors to qualified RNs (or APRNs, where appropriate) with expertise in nursing standards and nursing scope of practice.
3. Clarify that physicians, dentists, podiatrists, and clinical psychologists are only eligible as supervisors when they have expertise in the same field as the respondent *and* have the knowledge to satisfactorily assess the elements for which the respondent is on probation.
4. Clarify the extent of supervisory accountability within the regulation.
5. Define "independent practice setting" to specify its intended application.
6. Revise the conflict-of-interest language to prohibit only relationships that could pose a conflict of interest.
7. Correct the rulemaking record to accurately reflect the statutory history and intent of SB 1237.

5H

We welcome continued dialogue with the Board to ensure that final regulations protect the public while remaining aligned with statutory authority and professional scope of practice.

Respectfully submitted,

A handwritten signature in black ink that reads "Amita Graham". The signature is written in a cursive, flowing style.

Amita Graham, MSN, MPH, CNM, WHNP, RN, IBCLC

President, CNMA - California Nurse-Midwives Association

415-516-5407

president@cnma.org

Title 16 Section 1444.5

Responses to Public Comments Received During the 45-day Comment Period

Email received January 30, 2026, from Commenter 1

Comment #1

Summary of Comment

The commentor wanted to know if the Notice of Proposed Action email notification they received was information only or if further action was required.

Response to Comment

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board appreciates the commentor's request for clarification. The Board does not require any action to be taken in response to the Notice of Proposed Action. Any responses submitted are voluntary.

Email received January 31, 2026, from Commenter 2

Comment #2

Summary of Comment

The commentor expressed disagreement with the proposed text that precludes a potential supervisor from having a professional relationship with the respondent. The commenter states that doing so could create a barrier by excluding other employees of the same organization that the respondent works for and unintentionally lead to the respondent having to cease practice.

Response to Comment

The Board has reviewed and considered the comment. The Board agrees with the commenter and will modify the proposed text to remove the word "professional" from the following provision "Does not have a current or prior financial, personal, or business, or ~~professional~~ relationship with Respondent." While the Initial Statement of Reasons (ISOR) outlines that this criterion is necessary to ensure there is no potential conflict of interest between the respondent and the proposed supervisor that could impact the supervisor's ability to provide fair and unbiased oversight, the Board recognizes that preventing a supervisor with any prior professional relationship may be too restrictive and the language still avoids conflicts of interest to protect consumers.

Email received February 19, 2026, from Commenter 3

Comment #3

Summary of Comment

The commentator expressed gratitude for being informed about the proposed changes. The commenter suggested that the supervisor be required to be vetted by the Board and that they meet rigorous and exceptional characteristics similar to those expected of the respondent.

Response to Comment

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The proposed text already requires a supervisor to have a license in good standing [i.e. no disciplinary action within the last five (5) years], not have certain preexisting relationships with the respondent, and be approved by the Board.

Email received February 21, 2026, from Commenter 4

Comment # 4

Summary of Comment

The commentator is a lead clinician nurse practitioner (NP) in a federally qualified health center (FQHC) and oversees and supervisors both NPs and physicians in a team based clinical practice, and supports the Board's objective of ensuring public safety and meaningful remediation when an advanced practice registered nurse (APRN) is placed on probation.

The commentator states that the proposed requirement that an independently practicing NP obtain supervision exclusively from an individual with whom they have no prior or current personal, financial, or professional relationship may be difficult to operationalize and, in some settings such as a FQHC, unnecessarily restrictive and potentially disruptive to continuity of care.

The commentator also states that California already has a statutory framework for graduated NP practice authority which allows temporary reversion to a lower authority level during probation. The commenter requests the Board consider whether temporary reversion to a lower statutory NP practice authority level, supplemented by independent auditing where appropriate, would achieve the Board's safety objectives with greater clarity and administrative efficiency than the proposed external supervision requirement.

Response to Comment

The Board has reviewed and considered the comment. The Board agrees that barring a supervisor from having a professional relationship with the respondent could be unnecessarily restrictive and will modify the text as addressed in Comment #2.

The Board does not agree with the commenter's suggestion to temporarily revert a NP to a lower practice authority level, supplemented by independent auditing, instead of requiring external supervision. As stated in the ISOR, this provision is for all APRNs, not

just NPs. APRNs practice in a wide variety of different settings and the proposed text must be written in a manner that is applicable to all of them. Additionally, requiring supervision of a licensee on probation is in alignment with the disciplinary guideline framework of the Board (and other healing arts boards) in its statutory mandate to protect the public in exercising its disciplinary functions.

Letter received March 16, 2026, from Commenter 5

Comment #5A

Summary of Comment

The commenter disagrees with a statement in the ISOR that says a physician, dentist, podiatrist, or clinical psychologist can supervise a registered nurse (RN). The commenter states that provision provides delegation authority, not supervision authority and that RNs practice pursuant to their license, not under the supervision of other clinicians. The commenter suggested correcting the rationale in the ISOR regarding BPC Section 2725(b)(2).

Response to Comment

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon. The rationale within the ISOR is supported by the fact that BPC 2725 outlines the scope of practice of RNs. RN scope of practice can be divided into categories that allow for certain functions to be independent, dependent and interdependent. Nursing functions that are dependent or interdependent require, at minimum, an order that is within the scope of licensure of a physician, dentist, podiatrist, or clinical psychologist. If this order is to be carried out through standardized procedure, then supervision and some level of oversight as described in the standardized procedure is required. Additionally, when a nurse is following or carrying out an order, they are performing those functions in alignment with their scope of practice but the regimen that was ordered and is being followed was directed by the provider who has that authority.

Furthermore, [Cal. Attorney General, Opinion No. 83-1007](#) found the following,

“We perceive its specific mention that nurses may administer medications 'necessary to implement a regimen ordered by a physician' to be indicative of a legislative intent that (1) a course of treatment involving medications be based on a physician's judgment in each individual case and (2) that that treatment be only as ordered by the physician. A physician must ascertain the relevant facts about a patient to enable him to make a diagnosis and provide a course of treatment, and this must be done on an individualized patient basis. A physician cannot delegate to a nurse his authority to diagnose and to direct a course of treatment that he deems appropriate although he may utilize the services of others to help him ascertain the facts and to carry out his ordered treatment.

In the performance of functions under 'standardized procedures' however, it is the registered nurse and not the physician who makes the assessment of the patient's

condition, discerns abnormalities and then takes action according to a protocol established by a 'standardized procedure.' Although the establishment of a protocol takes place through collaboration with physicians, we do not consider that participation to be tantamount to their 'ordering' a course of treatment involving medication within the meaning of subdivision (b). There is certainly no express or implied indication that a protocol should serve as such and its general nature is at odds with the notion of an order for medication, i.e., a prescription, expressed elsewhere in the Codes, involving as it does direction for medication given on an individualized patient basis."

The Board can add further clarification on this matter in the Final Statement of Reasons, however, updating the proposed regulatory text is not necessary as it would not alter the fundamental purpose or legal necessity of the proposed action. No text change is necessary.

Comment #5B

Summary of Comment

The commenter states that supervision for the purposes of 16 [California Code of Regulations (CCR) Section] 1444.5 must be clearly defined as a probationary, evaluative or monitoring function, not a task-based oversight (i.e. delegation) or employment supervision. Commenter states that regulation should be amended to include a definition of supervision specific to this context during probation.

Response to Comment

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The proposed text requires the level of supervision to be addressed in the respondent's individual plan of supervision as it will vary greatly based on the type and severity of the respondents' violations and reasons for being placed on probation. In some instances, the level of supervision may also be dictated by the administrative law judge who presided over the disciplinary hearing. Thus, defining supervision as a probationary, evaluative or monitoring function is not necessary, as each case requires flexibility considering various factors. The Board believes in its prior experience that reviewing each individual on the basis of multiple criteria is the better indicator whether individuals are rehabilitated and not a danger to the public's health, safety, and welfare.

Comment #5C

Summary of Comment

The commenter states that only a supervisor functioning within a probationary, evaluative, or monitoring role who has expertise in the same field as the respondent can accurately assess safe practice, compliance with the Nursing Practice Act, and remediation of disciplinary conduct.

The commenter states that physicians, dentists, podiatrists, and clinical psychologists do not have the nursing-specific competencies or statutory knowledge to comprehensively evaluate probationary compliance. The commenter states that naming physicians, dentists, podiatrists, and/or psychologists as potential “supervisors” should also require that they have the knowledge to satisfactorily assess the elements for which the respondent is on probation, in addition to having expertise in the same field.

Response to Comment

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The disciplinary guidelines already refer to physicians and, in some instances, physician assistants as supervisors. As stated in the ISOR, the Board expanded this language to be consistent with BPC 2725(b)(2) to include dentists, podiatrists and clinical psychologists. This will increase the options for supervisors and is more inclusive of with the various practice settings that APRNs may practice in independently (e.g. a Certified Registered Nurse Anesthetist providing anesthesia services in a dental office or a Psychiatric-Mental Health Nurse Practitioner working in a setting alongside a clinical psychologist).

The qualifications of the supervisor and the details of the plan of supervision must be individualized, based on the type/severity of the respondent’s violation, and approved by the Board. Consequently, the Board believes the language should be left broad.

Comment #5D

Summary of Comment

The commenter states that the regulation should explicitly clarify whether supervisors assume any responsibility for the respondent’s actions. The commenter states that if they do not assume responsibility, it should be stated within the regulation to avoid ambiguity.

Response to Comment

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The scope of practice of a nurse can be divided into categories that allow for certain functions to be independent, dependent and interdependent. Nursing functions that are dependent or interdependent require, at minimum, an order that is within the scope of licensure of a physician, dentist, podiatrist, or clinical psychologist. If this order is to be carried out through standardized procedures, then supervision and some level of oversight, as described in the standardized procedures, is required.

There are various types of supervision, such as direct supervision or general supervision, that are defined in federal regulations under [42 CFR 410.32\(b\)\(3\)](#). These are specific to the oversight of a physician and cannot be altered or changed by our

Board. As established in the federal regulation, supervisory responsibility is more than the capacity to respond to an emergency and includes the ability to take over performance of a procedure or provide additional order.

The term supervision in the context of the proposed text and elsewhere in the Board's Disciplinary Guidelines is that of a supportive model where the worksite monitor provides an agreed upon level of supervision to ensure that the person on probation behaves in an exemplary fashion. This aligns with the supervisory requirements that are undertaken in disciplinary proceedings such as in prison or while on probation or parole. As stated in the ISOR and existing rationale for Probation Condition #8, supervision allows for a person on probation to continue to practice nursing while being monitored thus protecting consumer safety. Consequently, the question of liability is not applicable.

Comment #5E

Summary of Comment

The commenter states that the independent practice of a nurse-midwife is not setting-specific, nor is it model-specific so the term "independent practice setting" is confusing. The commenter questions whether this term refers to any setting where nurse-midwives practice or if it only refers to solo practice. The commenter states that an additional definition and rationale should be provided to clarify when the proposed text is relevant.

Response to Comment

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

[BPC Section 2837.103\(a\)\(2\)](#) outlines the list of group settings in which a NP may practice with one or more physicians and surgeons without standardized procedures. Within the proposed text, the term "independent practice setting" is used to describe any setting outside of those specified group settings. However, because this text is aimed at all APRNs and not just NPs the term is deliberately broad and allows the Board to review the practice setting and develop a plan for supervision that can be tailored to the individual based on their violation and practice setting to mitigate risk to the public. Consequently, the Board believes the language should be left broad as to not narrow the regulations' applicability to all APRNs.

Comment #5F

Summary of Comment

The commenter states that the text precluding the supervisor from having a current or prior financial, personal, business, or professional relationship with respondent should be revised to add the phrase "that could pose a conflict of interest" to the end to avoid overly broad restrictions and clarify of intent. The commenter gives the example that nurse-midwives working in a "maternity care desert" could feasibly have a pre-existing professional relationship with all other eligible supervising clinicians in the same field. The commenter also states that it should be explicitly stated in the supervision section

that APRNs who are in a group practice may be supervised by an individual within their group practice who does not present a conflict-of-interest.

Response to Comment

The Board has reviewed and considered the comment. The Board agrees that barring a supervisor from having a professional relationship with the respondent could be unnecessarily restrictive and will modify the text as addressed in Comment #2.

The Board believes this modification could allow for an APRN that works in a group practice to be supervised by another individual in their group practice, and that additional explicatory text is unnecessary.

Comment #5G

Summary of Comment

The commenter states that the draft rulemaking package documents incorrectly characterize [Senate Bill] (SB) 1237 as removing the requirement for nurse-midwives to practice according to standardized procedures with a physician. The commenter states that prior to SB 1237, nurse-midwives were provided a distinct statutory scope requiring physician supervision but not solely limited to standardized procedures and the legislative intent of SB 1237 was to remove that supervision requirement. The commenter states that the practice of midwifery was never characterized by law as a delegated medical function requiring standardized procedures, with the exception of furnishing, episiotomy repairs and procedural abortion. The commenter requests this distinction to be accurately reflected.

Response to Comment

The commenter suggested correcting the rationale in the ISOR regarding SB 1237 (Dodd, Chapter 88, Statutes of 2020). The rationale within the ISOR is supported by [Senate Floor Analysis](#) of SB 1237 which makes multiple references to the fact that the bill, “removes the requirement for a certified nurse midwife to practice midwifery according to standardized procedures or protocols with a physician”.

Thus, the Board will not implement the suggested change, as it would not alter the fundamental purpose or legal necessity of the proposed action. No text change is necessary.

Comment #5H

Summary of Comment

The commenter requests that probationary supervisors be limited to qualified RNs (or APRNs, where appropriate) with expertise in nursing standards and nursing scope of practice.

Response to Comment

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The proposed text already allows for an APRN to serve in the supervisory role. However, as stated in the ISOR, the supervisor must have a scope of practice that is equal to or larger than the respondent on probation. Therefore, an APRN cannot be supervised by an RN while on probation as an APRN has a larger scope of practice than an RN.