



Board Meeting Packet

SUPPLEMENTAL MATERIALS TO BOARD MEETING AGENDA

BRN Board Meeting | August 4, 2020

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Agenda Item 2.0

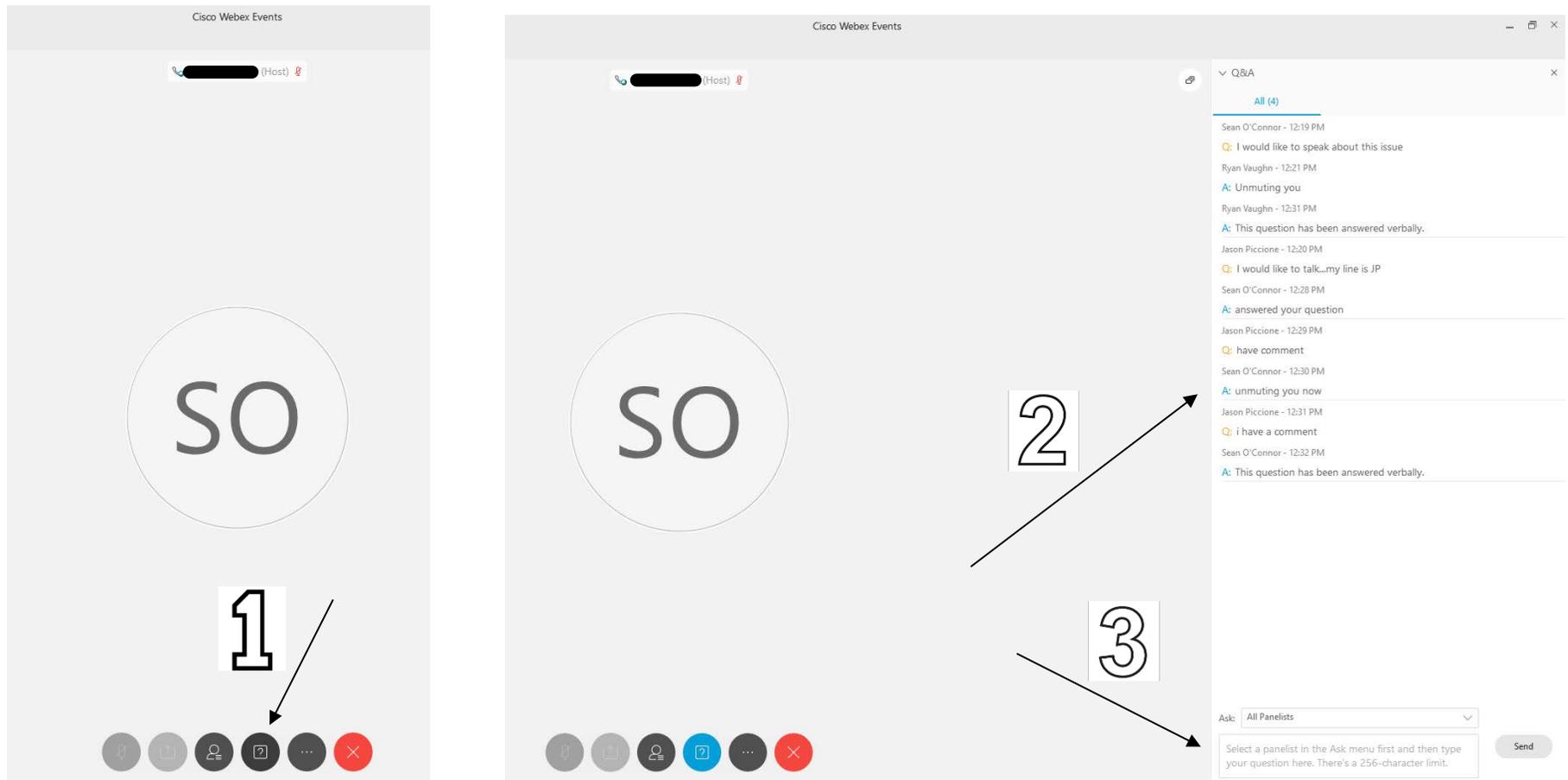
GENERAL INSTRUCTIONS FOR THE FORMAT OF A TELECONFERENCE CALL

BRN Board Meeting | August 4, 2020

Participating During a Public Comment Period

If you would like to make a public comment:

1. Click on the 'Q and A' button near the bottom, center of your WebEx session.



2. The 'Q and A' chat box will appear.

3. 'Send' a request to 'All Panelists' stating "Comment Time Requested". You will be identified by the name or moniker you used to join the WebEx session, your line will be opened, and you will have 2 minutes to provide comment.

NOTE: Please submit a new request for each topic on which you would like to comment.



Agenda Item 4.0

REPORT OF THE LEGISLATIVE COMMITTEE

Donna Gerber - Chairperson | August 4, 2020

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 4.1
DATE: August 4, 2020

ACTION REQUESTED: **Discussion of Bills of Interest to the Board of Registered Nursing (Board) and Possible Vote to Recommend that the Board Adopt or Modify Positions on Bills Introduced during the 2019-2020 Legislative Session, Including But Not Limited To the Following Bills:**

REQUESTED BY: Donna Gerber, Chair, Legislative Committee

BACKGROUND: Bills of interest for the 2019-2020 legislative session are listed on the attached tables.

Bold denotes a new bill for Committee or Board consideration, is one that has been amended since the last Committee or Board meeting, or is one about which the Board has taken a position and may wish to discuss further and restate or modify its position.

An analysis of and the bill text for these bills are included for further review.

NEXT STEPS: Present recommendations to the Board

FINANCIAL IMPLICATIONS, IF ANY: As reflected by the proposed legislation

PERSON TO CONTACT: Thelma Harris, RN, PHN, MSN
Chief of Legislation
(916) 574-7600

2020 TENTATIVE ASSEMBLY LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK

Revised 7-24-20

DEADLINES

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 6** Legislature reconvenes (J.R. 51(a)(4)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 17** Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house in the odd-numbered year (J.R. 61(b)(1)).
- Jan. 20** Martin Luther King, Jr. Day.
- Jan. 24** Last day for any committee to hear and report to the **floor** bills introduced in that house in the odd-numbered year. (J.R. 61(b)(2)). Last day to submit **bill requests** to the Office of Legislative Counsel.
- Jan. 31** Last day for each house to pass bills introduced in that house in the odd-numbered year (J.R. 61(b)(3)) (Art. IV, Sec. 10(c)).

JANUARY							
	S	M	T	W	TH	F	S
				1	2	3	4
Wk. 1	5	6	7	8	9	10	11
Wk. 2	12	13	14	15	16	17	18
Wk. 3	19	20	21	22	23	24	25
Wk. 4	26	27	28	29	30	31	

FEBRUARY							
	S	M	T	W	TH	F	S
Wk. 4							1
Wk. 1	2	3	4	5	6	7	8
Wk. 2	9	10	11	12	13	14	15
Wk. 3	16	17	18	19	20	21	22
Wk. 4	23	24	25	26	27	28	29

MARCH							
	S	M	T	W	TH	F	S
Wk. 1	1	2	3	4	5	6	7
Wk. 2	8	9	10	11	12	13	14
Wk. 3	15	16	17	18	19	20	21
Wk. 4	22	23	24	25	26	27	28
Wk. 1	29	30	31				

APRIL							
	S	M	T	W	TH	F	S
Wk. 1				1	2	3	4
Spring Recess	5	6	7	8	9	10	11
Wk. 2	12	13	14	15	16	17	18
Wk. 3	19	20	21	22	23	24	25
Wk. 4	26	27	28	29	30		

MAY							
	S	M	T	W	TH	F	S
Wk. 4						1	2
Wk. 1	3	4	5	6	7	8	9
Wk. 2	10	11	12	13	14	15	16
Wk. 3	17	18	19	20	21	22	23
Wk. 4	24	25	26	27	28	29	30
Wk. 1	31						

- Feb. 17** Presidents' Day.
- Feb. 21** Last day for bills to be **introduced** (J.R. 61(b)(4), J.R. 54(a)).
- Mar. 3** Primary Election.
- Mar. 20** Joint Recess begins upon adjournment (A.C.R. 189, Resolution Chapter 15, Statutes of 2020).
- Mar. 27** Cesar Chavez Day observed.
- May 4** Assembly reconvenes from Joint Recess (A.C.R. 189, Resolution Chapter 15, Statutes of 2020).
- May 22** Last day for **policy committees** to hear and report to fiscal committees **fiscal bills** introduced in the Assembly (J.R. 61(b)(5)).
- May 25** Memorial Day.
- May 29** Last day for **policy committees** to hear and report to the floor **nonfiscal** bills introduced in the Assembly (J.R. 61(b)(6)).

*Holiday schedule subject to final approval by Rules Committee.

2020 TENTATIVE ASSEMBLY LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK

Revised 7-24-20

JUNE							
	S	M	T	W	TH	F	S
Wk. 1		1	2	3	4	5	6
Wk. 2	7	8	9	10	11	12	13
No Hrgs.	14	15	16	17	18	19	20
Summer Recess	21	22	23	24	25	26	27
Summer Recess	28	29	30				

June 5 Last day for **fiscal committees** to hear and report to the **floor** bills introduced in the Assembly (J.R. 61 (b)(8)).

June 15 Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)).

June 15-19 Assembly Floor session only. No committee may meet for any purpose except for Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(10)).

June 19 Last day for the Assembly to pass bills introduced in that house (J.R. 61(b)(11)).

Summer Recess begins for the Assembly upon adjournment, provided Budget Bill has been passed (J.R. 51(b)(2)).

June 25 Last day for a legislative measure to qualify for the Nov. 3 General Election ballot (Elections Code Sec. 9040).

JULY							
	S	M	T	W	TH	F	S
Summer Recess				1	2	3	4
Summer Recess	5	6	7	8	9	10	11
Summer Recess	12	13	14	15	16	17	18
Summer Recess	19	20	21	22	23	24	25
Wk. 1	26	27	28	29	30	31	

July 3 Independence Day observed.

July 27 Legislature reconvenes from **Summer Recess** (J.R. 51(b)(2)).

AUGUST							
	S	M	T	W	TH	F	S
Wk. 1							1
Wk. 2	2	3	4	5	6	7	8
Wk. 3	9	10	11	12	13	14	15
Wk. 4	16	17	18	19	20	21	22
No Hrgs.	23	24	25	26	27	28	29
No Hrgs	30	31					

Aug. 14 Last day for **policy committees** to meet and report bills (J.R. 61(b)(14)).

Aug. 21 Last day for **fiscal committees** to meet and report bills (J.R. 61(b)(15)).

Aug. 24 Last day to **amend** bills on the floor (J.R. 61(b)(17)).

Aug. 24 – 31 Floor session only. No committee may meet for any purpose except Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(16)).

Aug. 31 Last day for each house to pass bills (Art. IV, Sec 10(c), J.R. 61(b)(18)).
Final Recess begins upon adjournment (J.R. 51(b)(3)).

IMPORTANT DATES OCCURRING DURING FINAL RECESS

2020

Sept. 30 Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec. 10(b)(2)).

Oct. 1 Bills enacted on or before this date take effect January 1, 2021. (Art. IV, Sec. 8(c)).

Nov. 3 General Election.

Nov. 30 Adjournment *sine die* at midnight (Art. IV, Sec. 3(a)).

Dec. 7 2021-22 Regular Session convenes for Organizational Session at 12 noon. (Art. IV, Sec. 3(a)).

2021

Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

*Holiday schedule subject to final approval by Rules Committee.

2020 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE
Revised May 6, 2020

DEADLINES

JANUARY						
S	M	T	W	TH	F	S
			<u>1</u>	2	3	4
5	<u>6</u>	7	8	9	<u>10</u>	11
12	13	14	15	16	<u>17</u>	18
19	<u>20</u>	21	22	23	<u>24</u>	25
26	27	28	29	30	<u>31</u>	

FEBRUARY						
S	M	T	W	TH	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	<u>17</u>	18	19	20	<u>21</u>	22
23	24	25	26	27	28	29

MARCH						
S	M	T	W	TH	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	<u>16</u>	17	18	19	20	21
22	23	24	25	26	<u>27</u>	28
29	30	31				

APRIL						
S	M	T	W	TH	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

MAY						
S	M	T	W	TH	F	S
					1	2
3	4	5	6	7	8	9
10	<u>11</u>	12	13	14	15	16
17	18	19	20	21	22	23
24	<u>25</u>	26	27	28	<u>29</u>	30
31						

- [Jan. 1](#) Statutes take effect (Art. IV, Sec. 8(c)).
- [Jan. 6](#) Legislature Reconvenes (J.R. 51(a)(4)).
- [Jan. 10](#) Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- [Jan. 17](#) Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house in the **odd-numbered year** (J.R. 61(b)(1)).
- [Jan. 20](#) Martin Luther King, Jr. Day.
- [Jan. 24](#) Last day for any committee to hear and report to the **floor** bills introduced in that house in the odd-numbered year (J.R. 61(b)(2)). Last day to **submit bill requests** to the Office of Legislative Counsel.
- [Jan. 31](#) Last day for each house to **pass bills introduced** in that house in the odd-numbered year (Art. IV, Sec. 10(c)), (J.R. 61(b)(3)).
- [Feb. 17](#) Presidents' Day.
- [Feb. 21](#) Last day for bills to be **introduced** (J.R. 61(b)(4)), (J.R. 54(a)).
- [Mar. 16](#) Legislature in recess, ACR 189, Resolution Chapter 15, Statutes of 2020
- [Mar. 27](#) Cesar Chavez Day observed
- [May 11](#) Senate Reconvenes
- [May 25](#) Memorial Day
- [May 29](#) Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house (J.R. 61(b)(5)).

*Holiday schedule subject to Senate Rules committee approval.

2020 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE
Revised May 6, 2020

JUNE						
S	M	T	W	TH	F	S
	1	2	3	4	<u>5</u>	6
7	8	9	10	11	12	13
14	<u>15</u>	16	17	18	<u>19</u>	20
21	<u>22</u>	<u>23</u>	<u>24</u>	<u>25</u>	<u>26</u>	27
28	29	30				

June 5 Last day for **policy committees** to hear and report to the floor non-fiscal bills introduced in their house (J.R. 61(b)(6)). Last day for policy committees to meet prior to June 8 (J.R. 61(b)(7)).

June 15 **Budget Bill** must be **passed** by **midnight** (Art. IV, Sec. 12(c)(3)).

June 19 Last day for **fiscal committees** to hear and report to the floor bills introduced in their house (J.R. 61(b)(8)). Last day for **fiscal committees** to meet prior to June 29 (J.R.61(b)(9)).

June 22-26 **Floor Session Only.** No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61(b)(10)).

June 25 Last day for a legislative measure to qualify for the November 3 General Election ballot (Election code Sec. 9040).

June 26 Last day for each house to pass bills introduced in that house (J.R. 61(b)(11)).

JULY						
S	M	T	W	TH	F	S
			1	<u>2</u>	<u>3</u>	4
5	6	7	8	9	10	11
12	<u>13</u>	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	<u>31</u>	

July 2 **Summer Recess** begins upon adjournment provided Budget Bill has been passed (J.R. 51(b)(2)).

July 3 Independence Day observed.

July 13 Legislature reconvenes from **Summer Recess** (J.R. 51(b)(2)).

July 31 Last day for **policy committees** to hear and report **fiscal bills** to fiscal committees (J.R. 61(b)(13)).

AUGUST						
S	M	T	W	TH	F	S
						1
2	3	4	5	6	<u>7</u>	8
9	10	11	12	13	<u>14</u>	15
16	<u>17</u>	<u>18</u>	<u>19</u>	<u>20</u>	<u>21</u>	22
23	<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	29
30	<u>31</u>					

August 7 Last day for **policy committees** to meet and report bills (J.R. 61(b)(14)).

Aug. 14 Last day for **fiscal committees** to meet and report bills (J.R. 61(b)(15)).

Aug. 17 – 31 **Floor Session only.** No committees, other than conference and Rules committees, may meet for any purpose (J.R. 61(b)(16)).

Aug. 21 Last day to **amend bills** on the Floor (J.R. 61(b)(17)).

Aug. 31 Last day for **each house to pass bills**, except bills that take effect Immediately or bills in Extraordinary Session (Art. IV, Sec. 10(c)), (J.R. 61(b)(18)). **Final recess** begins upon adjournment (J.R. 51(b)(3)).

*Holiday schedule subject to Senate Rules committee approval.

IMPORTANT DATES OCCURRING DURING FINAL RECESS

2020

Sept. 30

Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor’s possession on or after Sept. 1 (Art. IV, Sec. 10(b)(2)).

Nov. 3

General Election

Nov. 30

Adjournment *Sine Die* at midnight (Art. IV, Sec. 3(a)).

Dec. 7

12 m. convening of 2021-22 Regular Session (Art. IV, Sec. 3(a)).

2021

Jan. 1

Statutes take effect (Art. IV, Sec. 8(c)).

Jan. 4

Legislature reconvenes (JR 51(a)(1)).

BILL #	AUTHOR/ BILL SPONSOR	SUBJECT	COM POSITION/ date	BOARD POSITION/ date	BILL STATUS as of July 29, 2020
AB 329	Rodriguez/ CENA	Hospitals: assaults and batteries	Watch 3/14/19	Watch 4/11/19	Senate Public Safety-Hearing
AB 362	Eggman/ DPA; HRC	Controlled substances: overdose prevention program	Information 5/9/19	Watch 4/11/19	Senate Health-Hearing
AB 613	Low	Professions and vocations: regulatory fees	Watch 3/14/19	Watch 4/11/19	Senate BP&ED- Hearing postponed
AB 732	Bonta	County jails: prisons: incarcerated pregnant persons	Watch 3/14/19	Watch 4/11/19	Senate Public Safety
AB 890	Wood	Nurse practitioners: scope of practice: unsupervised practice	Oppose unless amended 01/09/19	Oppose unless amended 6/24/20	Senate B & P
AB 1145	Cristina Garcia	Child abuse: reportable conduct	Watch 3/14/19	Watch 4/11/19	Senate RLS
AB 1616	Low	Department of Consumer Affairs: boards: expunged convictions			Senate B & P
AB 1759	Salas	Health care workers: rural and underserved areas			Senate Judiciary
AB 1909	Gonzalez	Healing arts licensees: virginity examinations or tests			Assembly B & P
AB 1998	Low	Dental Practice Act: unprofessional conduct: patient of record			Senate RLS
AB 2028	Aguilar-Curry	State agencies: meetings	Oppose unless amended 03/12/20	Support as Amended June 24, 20	Senate G.O
AB 2113	Low	Refugees, asylees, and immigrants: professional licensing			Senate B & P
AB 2288	Low	Nursing Programs: Clinical hours	Support with Amendments 5/27/20	Support with Amendments 6/24/20	Senate B & P
AB 2549	Salas	Department of Consumer Affairs: temporary licenses	Watch	Watch 6/24/20	Senate B & P
AB 3016	Dahle	Board of Registered Nursing: online license verification	Oppose 03/12/20	Oppose 6/24/20	Senate B & P
AB 3045	Gray	Boards: veterans: military spouses: licenses			Senate RLS

BILL #	AUTHOR/ BILL SPONSOR	SUBJECT	COM POSITION/ date	BOARD POSITION/ date	BILL STATUS as of July 29, 2020
SB 878	Jones	Department of Consumer Affairs Licensing: applications: wait times			Senate B & P
SB 1237	Dodd	Nurse-Midwives: scope of practice	Support if amended 03/12/20	Support if amended 6/24/20	Assembly B & P 7/27/20

AMENDED IN SENATE JULY 23, 2020

AMENDED IN ASSEMBLY JANUARY 23, 2020

AMENDED IN ASSEMBLY APRIL 22, 2019

AMENDED IN ASSEMBLY APRIL 3, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 890

Introduced by Assembly Member Wood

**(Coauthors: Assembly Members Aguiar-Curry, *Berman*, *Eggman*,
Friedman, *Gallagher*, ~~and~~ *Gipson*, *Grayson*, *Levine*, *Quirk*,
Luz Rivas, *Robert Rivas*, *Santiago*, and *Wicks*)**

**(Coauthors: Senators *Allen*, *Caballero*, *Hill*, *Leyva*, *McGuire*, *Moorlach*,
and *Stone*)**

February 20, 2019

An act to amend Sections 650.01, 805, and 805.5 of, and to add Article 8.5 (commencing with Section 2837.100) to Chapter 6 of Division 2 of, and to repeal Section 2837.101 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 890, as amended, Wood. Nurse practitioners: scope of practice: practice without standardized procedures.

Existing law, the Nursing Practice Act, provides for the certification and regulation of nurse practitioners by the Board of Registered Nursing. Existing law authorizes the implementation of standardized procedures that authorize a nurse practitioner to perform certain acts that are in addition to other authorized practices, including certifying disability

after performing a physical examination and collaboration with a physician and surgeon. A violation of the act is a misdemeanor.

~~This bill, until January 1, 2026, bill would establish the Advanced Practice Registered Nursing Board within the Department of Consumer Affairs, which would consist of 9 members: Nurse Practitioner Advisory Committee to advise and give recommendations to the board on matters relating to nurse practitioners. The bill would require the board, by regulation, to define minimum standards for a nurse practitioner to transition to practice without the routine presence of a physician and surgeon: independently. The bill would authorize a nurse practitioner who meets certain education, experience, and certification requirements to perform, in certain settings or organizations, specified functions without standardized procedures, including ordering, performing, and interpreting diagnostic procedures, certifying disability, and prescribing, administering, dispensing, and furnishing controlled substances. The bill would also authorize a nurse practitioner to perform those functions without standardized procedures outside of specified settings or organizations in accordance with specified conditions and requirements if the nurse practitioner holds an active certification issued by the board. The bill would require the board to issue that certification to a nurse practitioner who meets additional specified education and experience requirements.~~

The bill would also require the board to request the department's Office of Professional Examination Services, or an equivalent organization, to perform an occupational analysis of nurse practitioners performing certain functions. The bill would require the board to take specified measures to identify and assess competencies. The bill would require the board to identify and develop a supplemental examination for licensees if needed based on the assessment, as provided.

Existing law makes it unlawful for specified healing arts practitioners, including physicians and surgeons, psychologists, and acupuncturists, to refer a person for certain services, including laboratory, diagnostic nuclear medicine, and physical therapy, if the physician and surgeon or their immediate family has a financial interest with the person or in the entity that receives the referral. A violation of those provisions is a misdemeanor and subject to specified civil penalties and disciplinary action.

This bill would make those provisions applicable to a nurse practitioner practicing pursuant to the bill's provisions.

Existing law requires certain peer review organizations responsible for reviewing the medical care provided by specified healing arts licentiates to file with the relevant agency an “805 report,” which is a report of certain adverse actions taken against a licentiate for a medical disciplinary cause or reason.

Existing law exempts a peer review body from the requirement to file an 805 report for an action taken as a result of a revocation or suspension, without stay, of a physician and surgeon’s license by the Medical Board of California or a licensing agency of another state. Existing law requires the licensing agency to disclose, among other things, a copy of any 805 report of a licensee upon a request made by specified institutions prior to granting or renewing staff privileges for the licentiate. Existing law specifies certain penalties for failing to file an 805 report, and requires the action or proceeding to be brought by the Medical Board of California if the person who failed to file an 805 report is a licensed physician and surgeon. Existing law defines “licentiate” for those purposes.

This bill would include as a licentiate a nurse practitioner practicing pursuant to the bill’s provisions, and make conforming changes. The bill would exempt a peer review body from the requirement to file an 805 report for an action taken as a result of a revocation or suspension, without stay, of a nurse practitioner’s license by the ~~Advanced Practice Board of Registered Nursing Board~~ or a licensing agency of another state. The bill would require the action or proceeding to be brought by the ~~Advanced Practice Board of Registered Nursing Board~~ if the person who failed to file an 805 report is a licensed nurse practitioner.

Because the bill would expand the scope of crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 650.01 of the Business and Professions
- 2 Code is amended to read:

1 650.01. (a) Notwithstanding Section 650, or any other
2 provision of law, it is unlawful for a licensee to refer a person for
3 laboratory, diagnostic nuclear medicine, radiation oncology,
4 physical therapy, physical rehabilitation, psychometric testing,
5 home infusion therapy, or diagnostic imaging goods or services if
6 the licensee or their immediate family has a financial interest with
7 the person or in the entity that receives the referral.

8 (b) For purposes of this section and Section 650.02, the
9 following shall apply:

10 (1) "Diagnostic imaging" includes, but is not limited to, all
11 X-ray, computed axial tomography, magnetic resonance imaging
12 nuclear medicine, positron emission tomography, mammography,
13 and ultrasound goods and services.

14 (2) A "financial interest" includes, but is not limited to, any
15 type of ownership interest, debt, loan, lease, compensation,
16 remuneration, discount, rebate, refund, dividend, distribution,
17 subsidy, or other form of direct or indirect payment, whether in
18 money or otherwise, between a licensee and a person or entity to
19 whom the licensee refers a person for a good or service specified
20 in subdivision (a). A financial interest also exists if there is an
21 indirect financial relationship between a licensee and the referral
22 recipient including, but not limited to, an arrangement whereby a
23 licensee has an ownership interest in an entity that leases property
24 to the referral recipient. Any financial interest transferred by a
25 licensee to any person or entity or otherwise established in any
26 person or entity for the purpose of avoiding the prohibition of this
27 section shall be deemed a financial interest of the licensee. For
28 purposes of this paragraph, "direct or indirect payment" shall not
29 include a royalty or consulting fee received by a physician and
30 surgeon who has completed a recognized residency training
31 program in orthopedics from a manufacturer or distributor as a
32 result of their research and development of medical devices and
33 techniques for that manufacturer or distributor. For purposes of
34 this paragraph, "consulting fees" means those fees paid by the
35 manufacturer or distributor to a physician and surgeon who has
36 completed a recognized residency training program in orthopedics
37 only for their ongoing services in making refinements to their
38 medical devices or techniques marketed or distributed by the
39 manufacturer or distributor, if the manufacturer or distributor does
40 not own or control the facility to which the physician is referring

1 the patient. A “financial interest” shall not include the receipt of
2 capitation payments or other fixed amounts that are prepaid in
3 exchange for a promise of a licensee to provide specified health
4 care services to specified beneficiaries. A “financial interest” shall
5 not include the receipt of remuneration by a medical director of a
6 hospice, as defined in Section 1746 of the Health and Safety Code,
7 for specified services if the arrangement is set out in writing, and
8 specifies all services to be provided by the medical director, the
9 term of the arrangement is for at least one year, and the
10 compensation to be paid over the term of the arrangement is set
11 in advance, does not exceed fair market value, and is not
12 determined in a manner that takes into account the volume or value
13 of any referrals or other business generated between parties.

14 (3) For the purposes of this section, “immediate family” includes
15 the spouse and children of the licensee, the parents of the licensee,
16 and the spouses of the children of the licensee.

17 (4) “Licensee” means a physician, as defined in Section 3209.3
18 of the Labor Code, or a nurse practitioner practicing pursuant to
19 Section ~~2837.104 or 2837.105~~. *2837.103 or 2837.104*.

20 (5) “Licensee’s office” means either of the following:

21 (A) An office of a licensee in solo practice.

22 (B) An office in which services or goods are personally provided
23 by the licensee or by employees in that office, or personally by
24 independent contractors in that office, in accordance with other
25 provisions of law. Employees and independent contractors shall
26 be licensed or certified when licensure or certification is required
27 by law.

28 (6) “Office of a group practice” means an office or offices in
29 which two or more licensees are legally organized as a partnership,
30 professional corporation, or not-for-profit corporation, licensed
31 pursuant to subdivision (a) of Section 1204 of the Health and Safety
32 Code, for which all of the following apply:

33 (A) Each licensee who is a member of the group provides
34 substantially the full range of services that the licensee routinely
35 provides, including medical care, consultation, diagnosis, or
36 treatment through the joint use of shared office space, facilities,
37 equipment, and personnel.

38 (B) Substantially all of the services of the licensees who are
39 members of the group are provided through the group and are
40 billed in the name of the group and amounts so received are treated

1 as receipts of the group, except in the case of a multispecialty
2 clinic, as defined in subdivision (l) of Section 1206 of the Health
3 and Safety Code, physician services are billed in the name of the
4 multispecialty clinic and amounts so received are treated as receipts
5 of the multispecialty clinic.

6 (C) The overhead expenses of, and the income from, the practice
7 are distributed in accordance with methods previously determined
8 by members of the group.

9 (c) It is unlawful for a licensee to enter into an arrangement or
10 scheme, such as a cross-referral arrangement, that the licensee
11 knows, or should know, has a principal purpose of ensuring
12 referrals by the licensee to a particular entity that, if the licensee
13 directly made referrals to that entity, would be in violation of this
14 section.

15 (d) No claim for payment shall be presented by an entity to any
16 individual, third party payer, or other entity for a good or service
17 furnished pursuant to a referral prohibited under this section.

18 (e) No insurer, self-insurer, or other payer shall pay a charge or
19 lien for any good or service resulting from a referral in violation
20 of this section.

21 (f) A licensee who refers a person to, or seeks consultation from,
22 an organization in which the licensee has a financial interest, other
23 than as prohibited by subdivision (a), shall disclose the financial
24 interest to the patient, or the parent or legal guardian of the patient,
25 in writing, at the time of the referral or request for consultation.

26 (1) If a referral, billing, or other solicitation is between one or
27 more licensees who contract with a multispecialty clinic pursuant
28 to subdivision (l) of Section 1206 of the Health and Safety Code
29 or who conduct their practice as members of the same professional
30 corporation or partnership, and the services are rendered on the
31 same physical premises, or under the same professional corporation
32 or partnership name, the requirements of this subdivision may be
33 met by posting a conspicuous disclosure statement at the
34 registration area or by providing a patient with a written disclosure
35 statement.

36 (2) If a licensee is under contract with the Department of
37 Corrections or the California Youth Authority, and the patient is
38 an inmate or parolee of either respective department, the
39 requirements of this subdivision shall be satisfied by disclosing

1 financial interests to either the Department of Corrections or the
2 California Youth Authority.

3 (g) A violation of subdivision (a) shall be a misdemeanor. The
4 Medical Board of California shall review the facts and
5 circumstances of any conviction pursuant to subdivision (a) and
6 take appropriate disciplinary action if the licensee has committed
7 unprofessional conduct. Violations of this section may also be
8 subject to civil penalties of up to five thousand dollars (\$5,000)
9 for each offense, which may be enforced by the Insurance
10 Commissioner, Attorney General, or a district attorney. A violation
11 of subdivision (c), (d), or (e) is a public offense and is punishable
12 upon conviction by a fine not exceeding fifteen thousand dollars
13 (\$15,000) for each violation and appropriate disciplinary action,
14 including revocation of professional licensure, by the Medical
15 Board of California or other appropriate governmental agency.

16 (h) This section shall not apply to referrals for services that are
17 described in and covered by Sections 139.3 and 139.31 of the
18 Labor Code.

19 (i) This section shall become operative on January 1, 1995.

20 SEC. 2. Section 805 of the Business and Professions Code is
21 amended to read:

22 805. (a) As used in this section, the following terms have the
23 following definitions:

24 (1) (A) "Peer review" means both of the following:

25 (i) A process in which a peer review body reviews the basic
26 qualifications, staff privileges, employment, medical outcomes,
27 or professional conduct of licentiates to make recommendations
28 for quality improvement and education, if necessary, in order to
29 do either or both of the following:

30 (I) Determine whether a licentiate may practice or continue to
31 practice in a health care facility, clinic, or other setting providing
32 medical services, and, if so, to determine the parameters of that
33 practice.

34 (II) Assess and improve the quality of care rendered in a health
35 care facility, clinic, or other setting providing medical services.

36 (ii) Any other activities of a peer review body as specified in
37 subparagraph (B).

38 (B) "Peer review body" includes:

39 (i) A medical or professional staff of any health care facility or
40 clinic licensed under Division 2 (commencing with Section 1200)

1 of the Health and Safety Code or of a facility certified to participate
2 in the federal Medicare program as an ambulatory surgical center.

3 (ii) A health care service plan licensed under Chapter 2.2
4 (commencing with Section 1340) of Division 2 of the Health and
5 Safety Code or a disability insurer that contracts with licentiates
6 to provide services at alternative rates of payment pursuant to
7 Section 10133 of the Insurance Code.

8 (iii) Any medical, psychological, marriage and family therapy,
9 social work, professional clinical counselor, dental, midwifery, or
10 podiatric professional society having as members at least 25 percent
11 of the eligible licentiates in the area in which it functions (which
12 must include at least one county), which is not organized for profit
13 and which has been determined to be exempt from taxes pursuant
14 to Section 23701 of the Revenue and Taxation Code.

15 (iv) A committee organized by any entity consisting of or
16 employing more than 25 licentiates of the same class that functions
17 for the purpose of reviewing the quality of professional care
18 provided by members or employees of that entity.

19 (2) "Licentiate" means a physician and surgeon, doctor of
20 podiatric medicine, clinical psychologist, marriage and family
21 therapist, clinical social worker, professional clinical counselor,
22 dentist, licensed midwife, physician assistant, or nurse practitioner
23 practicing pursuant to ~~Section 2837.104 or 2837.105~~; *2837.103 or*
24 *2837.104*. "Licentiate" also includes a person authorized to practice
25 medicine pursuant to Section 2113 or 2168.

26 (3) "Agency" means the relevant state licensing agency having
27 regulatory jurisdiction over the licentiates listed in paragraph (2).

28 (4) "Staff privileges" means any arrangement under which a
29 licentiate is allowed to practice in or provide care for patients in
30 a health facility. Those arrangements shall include, but are not
31 limited to, full staff privileges, active staff privileges, limited staff
32 privileges, auxiliary staff privileges, provisional staff privileges,
33 temporary staff privileges, courtesy staff privileges, locum tenens
34 arrangements, and contractual arrangements to provide professional
35 services, including, but not limited to, arrangements to provide
36 outpatient services.

37 (5) "Denial or termination of staff privileges, membership, or
38 employment" includes failure or refusal to renew a contract or to
39 renew, extend, or reestablish any staff privileges, if the action is
40 based on medical disciplinary cause or reason.

1 (6) "Medical disciplinary cause or reason" means that aspect
2 of a licentiate's competence or professional conduct that is
3 reasonably likely to be detrimental to patient safety or to the
4 delivery of patient care.

5 (7) "805 report" means the written report required under
6 subdivision (b).

7 (b) The chief of staff of a medical or professional staff or other
8 chief executive officer, medical director, or administrator of any
9 peer review body and the chief executive officer or administrator
10 of any licensed health care facility or clinic shall file an 805 report
11 with the relevant agency within 15 days after the effective date on
12 which any of the following occur as a result of an action of a peer
13 review body:

14 (1) A licentiate's application for staff privileges or membership
15 is denied or rejected for a medical disciplinary cause or reason.

16 (2) A licentiate's membership, staff privileges, or employment
17 is terminated or revoked for a medical disciplinary cause or reason.

18 (3) Restrictions are imposed, or voluntarily accepted, on staff
19 privileges, membership, or employment for a cumulative total of
20 30 days or more for any 12-month period, for a medical disciplinary
21 cause or reason.

22 (c) If a licentiate takes any action listed in paragraph (1), (2),
23 or (3) after receiving notice of a pending investigation initiated
24 for a medical disciplinary cause or reason or after receiving notice
25 that their application for membership or staff privileges is denied
26 or will be denied for a medical disciplinary cause or reason, the
27 chief of staff of a medical or professional staff or other chief
28 executive officer, medical director, or administrator of any peer
29 review body and the chief executive officer or administrator of
30 any licensed health care facility or clinic where the licentiate is
31 employed or has staff privileges or membership or where the
32 licentiate applied for staff privileges or membership, or sought the
33 renewal thereof, shall file an 805 report with the relevant agency
34 within 15 days after the licentiate takes the action.

35 (1) Resigns or takes a leave of absence from membership, staff
36 privileges, or employment.

37 (2) Withdraws or abandons their application for staff privileges
38 or membership.

39 (3) Withdraws or abandons their request for renewal of staff
40 privileges or membership.

1 (d) For purposes of filing an 805 report, the signature of at least
2 one of the individuals indicated in subdivision (b) or (c) on the
3 completed form shall constitute compliance with the requirement
4 to file the report.

5 (e) An 805 report shall also be filed within 15 days following
6 the imposition of summary suspension of staff privileges,
7 membership, or employment, if the summary suspension remains
8 in effect for a period in excess of 14 days.

9 (f) (1) A copy of the 805 report, and a notice advising the
10 licentiate of their right to submit additional statements or other
11 information, electronically or otherwise, pursuant to Section 800,
12 shall be sent by the peer review body to the licentiate named in
13 the report. The notice shall also advise the licentiate that
14 information submitted electronically will be publicly disclosed to
15 those who request the information.

16 (2) The information to be reported in an 805 report shall include
17 the name and license number of the licentiate involved, a
18 description of the facts and circumstances of the medical
19 disciplinary cause or reason, and any other relevant information
20 deemed appropriate by the reporter.

21 (3) A supplemental report shall also be made within 30 days
22 following the date the licentiate is deemed to have satisfied any
23 terms, conditions, or sanctions imposed as disciplinary action by
24 the reporting peer review body. In performing its dissemination
25 functions required by Section 805.5, the agency shall include a
26 copy of a supplemental report, if any, whenever it furnishes a copy
27 of the original 805 report.

28 (4) If another peer review body is required to file an 805 report,
29 a health care service plan is not required to file a separate report
30 with respect to action attributable to the same medical disciplinary
31 cause or reason. If the Medical Board of California or a licensing
32 agency of another state revokes or suspends, without a stay, the
33 license of a physician and surgeon, a peer review body is not
34 required to file an 805 report when it takes an action as a result of
35 the revocation or suspension. If the California Board of Podiatric
36 Medicine or a licensing agency of another state revokes or
37 suspends, without a stay, the license of a doctor of podiatric
38 medicine, a peer review body is not required to file an 805 report
39 when it takes an action as a result of the revocation or suspension.
40 If the ~~Advanced Practice Registered Nursing Board~~ *Board of*

1 *Registered Nursing* or a licensing agency of another state revokes
2 or suspends, without a stay, the license of a nurse practitioner, a
3 peer review body is not required to file an 805 report when it takes
4 an action as a result of the revocation or suspension.

5 (g) The reporting required by this section shall not act as a
6 waiver of confidentiality of medical records and committee reports.
7 The information reported or disclosed shall be kept confidential
8 except as provided in subdivision (c) of Section 800 and Sections
9 803.1 and 2027, provided that a copy of the report containing the
10 information required by this section may be disclosed as required
11 by Section 805.5 with respect to reports received on or after
12 January 1, 1976.

13 (h) The Medical Board of California, the California Board of
14 Podiatric Medicine, the Osteopathic Medical Board of California,
15 the Dental Board of California, and the ~~Advanced Practice~~
16 ~~Registered Nursing Board~~ *Board of Registered Nursing* shall
17 disclose reports as required by Section 805.5.

18 (i) An 805 report shall be maintained electronically by an agency
19 for dissemination purposes for a period of three years after receipt.

20 (j) No person shall incur any civil or criminal liability as the
21 result of making any report required by this section.

22 (k) A willful failure to file an 805 report by any person who is
23 designated or otherwise required by law to file an 805 report is
24 punishable by a fine not to exceed one hundred thousand dollars
25 (\$100,000) per violation. The fine may be imposed in any civil or
26 administrative action or proceeding brought by or on behalf of any
27 agency having regulatory jurisdiction over the person regarding
28 whom the report was or should have been filed. If the person who
29 is designated or otherwise required to file an 805 report is a
30 licensed physician and surgeon, the action or proceeding shall be
31 brought by the Medical Board of California. If the person who is
32 designated or otherwise required to file an 805 report is a licensed
33 doctor of podiatric medicine, the action or proceeding shall be
34 brought by the California Board of Podiatric Medicine. If the
35 person who is designated or otherwise required to file an 805 report
36 is a licensed nurse practitioner, the action or proceeding shall be
37 brought by the ~~Advanced Practice Registered Nursing Board~~
38 *Board of Registered Nursing*. The fine shall be paid to that agency
39 but not expended until appropriated by the Legislature. A violation
40 of this subdivision may constitute unprofessional conduct by the

1 licentiate. A person who is alleged to have violated this subdivision
2 may assert any defense available at law. As used in this
3 subdivision, “willful” means a voluntary and intentional violation
4 of a known legal duty.

5 (l) Except as otherwise provided in subdivision (k), any failure
6 by the administrator of any peer review body, the chief executive
7 officer or administrator of any health care facility, or any person
8 who is designated or otherwise required by law to file an 805
9 report, shall be punishable by a fine that under no circumstances
10 shall exceed fifty thousand dollars (\$50,000) per violation. The
11 fine may be imposed in any civil or administrative action or
12 proceeding brought by or on behalf of any agency having
13 regulatory jurisdiction over the person regarding whom the report
14 was or should have been filed. If the person who is designated or
15 otherwise required to file an 805 report is a licensed physician and
16 surgeon, the action or proceeding shall be brought by the Medical
17 Board of California. If the person who is designated or otherwise
18 required to file an 805 report is a licensed doctor of podiatric
19 medicine, the action or proceeding shall be brought by the
20 California Board of Podiatric Medicine. If the person who is
21 designated or otherwise required to file an 805 report is a licensed
22 nurse practitioner, the action or proceeding shall be brought by
23 the ~~Advanced Practice Registered Nursing Board~~. *Board of*
24 *Registered Nursing*. The fine shall be paid to that agency but not
25 expended until appropriated by the Legislature. The amount of the
26 fine imposed, not exceeding fifty thousand dollars (\$50,000) per
27 violation, shall be proportional to the severity of the failure to
28 report and shall differ based upon written findings, including
29 whether the failure to file caused harm to a patient or created a
30 risk to patient safety; whether the administrator of any peer review
31 body, the chief executive officer or administrator of any health
32 care facility, or any person who is designated or otherwise required
33 by law to file an 805 report exercised due diligence despite the
34 failure to file or whether they knew or should have known that an
35 805 report would not be filed; and whether there has been a prior
36 failure to file an 805 report. The amount of the fine imposed may
37 also differ based on whether a health care facility is a small or
38 rural hospital as defined in Section 124840 of the Health and Safety
39 Code.

1 (m) A health care service plan licensed under Chapter 2.2
2 (commencing with Section 1340) of Division 2 of the Health and
3 Safety Code or a disability insurer that negotiates and enters into
4 a contract with licentiates to provide services at alternative rates
5 of payment pursuant to Section 10133 of the Insurance Code, when
6 determining participation with the plan or insurer, shall evaluate,
7 on a case-by-case basis, licentiates who are the subject of an 805
8 report, and not automatically exclude or deselect these licentiates.

9 SEC. 3. Section 805.5 of the Business and Professions Code
10 is amended to read:

11 805.5. (a) Prior to granting or renewing staff privileges for
12 any physician and surgeon, psychologist, podiatrist, dentist, or
13 nurse practitioner, any health facility licensed pursuant to Division
14 2 (commencing with Section 1200) of the Health and Safety Code,
15 any health care service plan or medical care foundation, the medical
16 staff of the institution, a facility certified to participate in the federal
17 Medicare Program as an ambulatory surgical center, or an
18 outpatient setting accredited pursuant to Section 1248.1 of the
19 Health and Safety Code shall request a report from the Medical
20 Board of California, the Board of Psychology, the California Board
21 of Podiatric Medicine, the Osteopathic Medical Board of
22 California, the Dental Board of California, or the ~~Advanced~~
23 ~~Practice Registered Nursing~~ Board of *Registered Nursing* to
24 determine if any report has been made pursuant to Section 805
25 indicating that the applying physician and surgeon, psychologist,
26 podiatrist, dentist, or nurse practitioner, has been denied staff
27 privileges, been removed from a medical staff, or had their staff
28 privileges restricted as provided in Section 805. The request shall
29 include the name and California license number of the physician
30 and surgeon, psychologist, podiatrist, dentist, or nurse practitioner.
31 Furnishing of a copy of the 805 report shall not cause the 805
32 report to be a public record.

33 (b) Upon a request made by, or on behalf of, an institution
34 described in subdivision (a) or its medical ~~staff~~ *staff*, the board
35 shall furnish a copy of any report made pursuant to Section 805
36 as well as any additional exculpatory or explanatory information
37 submitted electronically to the board by the licensee pursuant to
38 subdivision (f) of that section. However, the board shall not send
39 a copy of a report (1) if the denial, removal, or restriction was
40 imposed solely because of the failure to complete medical records,

1 (2) if the board has found the information reported is without merit,
 2 (3) if a court finds, in a final judgment, that the peer review, as
 3 defined in Section 805, resulting in the report was conducted in
 4 bad faith and the licensee who is the subject of the report notifies
 5 the board of that finding, or (4) if a period of three years has
 6 elapsed since the report was submitted. This three-year period shall
 7 be tolled during any period the licensee has obtained a judicial
 8 order precluding disclosure of the report, unless the board is finally
 9 and permanently precluded by judicial order from disclosing the
 10 report. If a request is received by the board while the board is
 11 subject to a judicial order limiting or precluding disclosure, the
 12 board shall provide a disclosure to any qualified requesting party
 13 as soon as practicable after the judicial order is no longer in force.

14 If the board fails to advise the institution within 30 working days
 15 following its request for a report required by this section, the
 16 institution may grant or renew staff privileges for the physician
 17 and surgeon, psychologist, podiatrist, dentist, or nurse practitioner.

18 (c) Any institution described in subdivision (a) or its medical
 19 staff that violates subdivision (a) is guilty of a misdemeanor and
 20 shall be punished by a fine of not less than two hundred dollars
 21 (\$200) nor more than one thousand two hundred dollars (\$1,200).

22 SEC. 4. Article 8.5 (commencing with Section 2837.100) is
 23 added to Chapter 6 of Division 2 of the Business and Professions
 24 Code, to read:

25

26 Article 8.5. Advanced Practice Registered Nurses

27

28 2837.100. It is the intent of the Legislature that the requirements
 29 under this article shall not be *an* undue or unnecessary burden to
 30 licensure or practice. The requirements are intended to ensure the
 31 new category of licensed nurse practitioners ~~have~~ *has* the least
 32 restrictive amount of education, training, and testing necessary to
 33 ensure competent practice.

34 ~~2837.101. (a) There is in the Department of Consumer Affairs~~
 35 ~~the Advanced Practice Registered Nursing Board consisting of~~
 36 ~~nine members.~~

37 ~~(b) —~~

38 2837.101. For purposes of this article, the following terms have
 39 the following meanings:

1 (1) ~~“Board” means the Advanced Practice Registered Nursing~~
 2 ~~Board.~~

3 (a) *“Committee” means the Nurse Practitioner Advisory*
 4 *Committee.*

5 (2)

6 (b) *“Standardized procedures” has the same meaning as that*
 7 *term is defined in Section 2725.*

8 (3)

9 (c) *“Transition to practice” means additional clinical experience*
 10 *and mentorship provided to prepare a nurse practitioner to practice*
 11 *without the routine presence of a physician and surgeon.*
 12 *independently. The board shall, by regulation, define minimum*
 13 *standards for transition to practice. Clinical experience may include*
 14 *experience obtained before January 1, 2021, if the experience*
 15 *meets the requirements established by the board.*

16 (e) ~~This section shall remain in effect only until January 1,~~
 17 ~~2026, and as of that date is repealed.~~

18 ~~2837.102. Notwithstanding any other law, the repeal of Section~~
 19 ~~2837.101 renders the board or its successor subject to review by~~
 20 ~~the appropriate policy committees of the Legislature.~~

21 ~~2837.103. (a) (1) Until January 1, 2026, four members of the~~
 22 ~~board shall be licensed registered nurses who shall be certified as~~
 23 ~~a nurse practitioner and shall be active in the practice of their~~
 24 ~~profession engaged primarily in direct patient care with at least~~
 25 ~~five continuous years of experience.~~

26 (2) ~~Commencing January 1, 2026, four members of the board~~
 27 ~~shall be nurse practitioners licensed under this chapter.~~

28 (b) ~~Three members of the board shall be physicians and surgeons~~
 29 ~~licensed by the Medical Board of California or the Osteopathic~~
 30 ~~Medical Board of California. At least one of the physician and~~
 31 ~~surgeon members shall work closely with a nurse practitioner. The~~
 32 ~~remaining physician and surgeon members shall focus on primary~~
 33 ~~care in their practice.~~

34 (e) ~~Two members of the board shall represent the public at large~~
 35 ~~and shall not be licensed under any board under this division or~~
 36 ~~any board referred to in Section 1000 or 3600.~~

37 ~~2837.102. (a) The board shall establish a Nurse Practitioner~~
 38 ~~Advisory Committee to advise and make recommendations to the~~
 39 ~~board on all matters relating to nurse practitioners, including, but~~

1 *not limited to, education, appropriate standard of care, and other*
 2 *matters specified by the board.*

3 *(b) A majority of the members of the committee shall be nurse*
 4 *practitioners and the committee shall include physicians and*
 5 *surgeons with demonstrated experience working with nurse*
 6 *practitioners.*

7 ~~2837.104.~~

8 2837.103. (a) (1) Notwithstanding any other law, a nurse
 9 practitioner may perform the functions specified in subdivision
 10 (c) pursuant to that subdivision, in a setting or organization
 11 specified in paragraph (2) pursuant to that paragraph, if the nurse
 12 practitioner has successfully satisfied the following requirements:

13 (A) Passed a national nurse practitioner board certification
 14 examination and, if applicable, any supplemental examination
 15 developed pursuant to paragraph (3) of subdivision (a) of Section
 16 ~~2837.106.~~ 2837.105.

17 (B) Holds a certification as a nurse practitioner from a national
 18 certifying body recognized by the board.

19 (C) Provides documentation that educational training was
 20 consistent with standards established by the board pursuant to
 21 Section 2836 and any applicable regulations as they specifically
 22 relate to requirements for clinical practice hours. Online educational
 23 programs that do not include mandatory clinical hours shall not
 24 meet this requirement.

25 (D) Has completed a transition to practice in California of a
 26 minimum of three full-time equivalent years of practice or 4600
 27 hours.

28 (2) A nurse practitioner who meets all of the requirements of
 29 paragraph (1) may practice, including, but not limited to,
 30 performing the functions authorized pursuant to subdivision (c),
 31 in one of the following settings or organizations in which one or
 32 more physicians and surgeons practice with the nurse practitioner
 33 without standardized procedures:

34 (A) A clinic, as defined in Section 1200 of the Health and Safety
 35 Code.

36 (B) A health facility, as defined in Section 1250 of the Health
 37 and Safety ~~Code.~~ *Code, except for a correctional treatment center,*
 38 *as defined in paragraph (1) of subdivision (j) of Section 1250 of*
 39 *the Health and Safety Code, or a state hospital, as specified in*
 40 *Section 4100 of the Welfare and Institutions Code.*

1 (C) A facility described in Chapter 2.5 (commencing with
2 Section 1440) of Division 2 of the Health and Safety Code.

3 (D) A medical group practice, including a professional medical
4 corporation, as defined in Section 2406, another form of
5 corporation controlled by physicians and surgeons, a medical
6 partnership, a medical foundation exempt from licensure, or another
7 lawfully organized group of physicians and surgeons that provides
8 health care services.

9 (E) *A home health agency, as defined in Section 1727 of the*
10 *Health and Safety Code.*

11 (F) *A hospice facility licensed pursuant to Chapter 8.5*
12 *(commencing with Section 1745) of Division 2 of the Health and*
13 *Safety Code.*

14 (3) In health care agencies that have governing bodies, as
15 defined in Division 5 of Title 22 of the California Code of
16 Regulations, including, but not limited to, Sections 70701 and
17 70703 of Title 22 of the California Code of Regulations, the
18 following apply:

19 (A) A nurse practitioner shall adhere to all applicable bylaws.

20 (B) A nurse practitioner shall be eligible to serve on medical
21 staff and hospital committees.

22 (C) A nurse practitioner shall be eligible to attend meetings of
23 the department to which the nurse practitioner is assigned. A nurse
24 practitioner shall not vote at department, division, or other meetings
25 unless the vote is regarding *the determination of nurse practitioner*
26 *privileges with the organization, peer review of nurse practitioner*
27 *clinical practice*, whether a licensee's employment is in the best
28 interest of the communities served by a hospital pursuant to Section
29 ~~2401~~ 2041, or the vote is otherwise allowed by the applicable
30 bylaws.

31 (b) An entity described in subparagraphs (A) to ~~(D)~~; (F),
32 inclusive, of paragraph (2) of subdivision (a) shall not interfere
33 with, control, or otherwise direct the professional judgment of a
34 nurse practitioner functioning pursuant to this section in a manner
35 prohibited by Section 2400 or any other law.

36 (c) In addition to any other practices authorized by law, a nurse
37 practitioner who meets the requirements of paragraph (1) of
38 subdivision (a) may perform the following functions without
39 standardized procedures in accordance with their education and
40 training:

- 1 (1) Conduct an advanced assessment.
- 2 (2) Order, perform, and interpret diagnostic procedures.
- 3 *Diagnostic procedures involving imaging refers to x-rays,*
- 4 *mammography, and ultrasounds.*
- 5 (3) Establish primary and differential diagnoses.
- 6 (4) Prescribe, order, administer, dispense, and furnish therapeutic
- 7 measures, including, but not limited to, the following:
- 8 (A) Diagnose, prescribe, and institute therapy or referrals of
- 9 patients to health care agencies, health care providers, and
- 10 community resources.
- 11 (B) Prescribe, administer, dispense, and furnish pharmacological
- 12 agents, including over-the-counter, legend, and controlled
- 13 substances.
- 14 (C) Plan and initiate a therapeutic regimen that includes ordering
- 15 and prescribing nonpharmacological interventions, including, but
- 16 not limited to, durable medical equipment, medical devices,
- 17 nutrition, blood and blood products, and diagnostic and supportive
- 18 services, including, but not limited to, home health care, hospice,
- 19 and physical and occupational therapy.
- 20 (5) After performing a physical examination, certify disability
- 21 pursuant to Section 2708 of the Unemployment Insurance Code.
- 22 (6) Delegate tasks to a medical assistant pursuant to Sections
- 23 1206.5, 2069, 2070, and 2071, and Article 2 (commencing with
- 24 Section 1366) of Chapter 3 of Division 13 of Title 16 of the
- 25 California Code of Regulations.
- 26 (d) A nurse practitioner shall inform all new patients in a
- 27 language understandable to the patient that a nurse practitioner is
- 28 not a physician and surgeon. For purposes of Spanish language
- 29 speakers, the nurse practitioner shall use the standardized phrase
- 30 “enfermera especializada.”
- 31 (e) A nurse practitioner shall refer a patient to a physician and
- 32 surgeon or other licensed health care provider if a situation or
- 33 condition of a patient is beyond the scope of the education and
- 34 training of the nurse practitioner.
- 35 (f) A nurse practitioner practicing under this section shall
- 36 ~~maintain~~ have professional liability insurance appropriate for the
- 37 practice setting.

1 ~~2837.105.~~

2 2837.104. (a) Notwithstanding any other law, the following
3 apply to a nurse practitioner who holds an active certification
4 issued by the board pursuant to subdivision (b):

5 (1) The nurse practitioner may perform the functions specified
6 in subdivision (c) of Section ~~2837.104~~ 2837.103 pursuant to that
7 subdivision outside of the settings or organizations specified under
8 subparagraphs (A) to ~~(D)~~; (F), inclusive, of paragraph (2) of
9 subdivision (a) of Section ~~2837.104~~ 2837.103.

10 (2) Subject to subdivision (f) and any applicable conflict of
11 interest policies of the bylaws, the nurse practitioner shall be
12 eligible for membership of an organized medical staff.

13 (3) Subject to subdivision (f) and any applicable conflict of
14 interest policies of the bylaws, a nurse practitioner member may
15 vote at meetings of the department to which nurse practitioners
16 are assigned.

17 (b) The board shall issue a certificate to perform the functions
18 specified in subdivision (c) of Section ~~2837.104~~ 2837.103 pursuant
19 to that subdivision outside of the settings and organizations
20 specified under subparagraphs (A) to ~~(D)~~; (F), inclusive, of
21 paragraph (2) of subdivision (a) of Section ~~2837.104~~ 2837.103. if
22 the nurse practitioner satisfies all of the following requirements:

23 (1) The nurse practitioner meets all of the requirements specified
24 in paragraph (1) of subdivision (a) of Section ~~2837.104~~ 2837.103.

25 (2) Holds a ~~Master of Science degree in Nursing (MSN) or a~~
26 ~~Doctorate of Nursing Practice degree (DNP);~~ *valid and active*
27 *license as a registered nurse in California and a master's degree*
28 *in nursing or in a clinical field related to nursing or a doctoral*
29 *degree in nursing.*

30 (3) Has practiced as a nurse practitioner in good standing for at
31 least three years, not inclusive of the transition to practice required
32 pursuant to subparagraph (D) of paragraph (1) of subdivision (a)
33 of Section ~~2837.104~~ 2837.103. The board may, at its discretion,
34 lower this requirement for a nurse practitioner holding a Doctorate
35 of Nursing Practice degree (DNP) based on practice experience
36 gained in the course of doctoral education experience.

37 (c) A nurse practitioner authorized to practice pursuant to this
38 section shall comply with all of the following:

39 (1) The nurse practitioner, consistent with applicable standards
40 of care, shall *not* practice ~~within~~ *beyond* the scope of their clinical

1 and professional education and ~~training~~ and *training, including*
2 *specific areas of concentration during their transition to practice,*
3 *and shall only practice* within the limits of their knowledge and
4 experience.

5 (2) The nurse practitioner shall consult and collaborate with
6 other healing arts providers based on the clinical condition of the
7 patient to whom health care is provided.

8 (3) The nurse practitioner shall establish a plan for referral of
9 complex medical cases and emergencies to a physician and surgeon
10 or other appropriate healing arts providers.

11 (d) A nurse practitioner shall inform all new patients in a
12 language understandable to the patient that a nurse practitioner is
13 not a physician and surgeon. For purposes of Spanish language
14 speakers, the nurse practitioner shall use the standardized phrase
15 “enfermera especializada.”

16 (e) A nurse practitioner practicing pursuant to this section shall
17 maintain professional liability insurance appropriate for the practice
18 setting.

19 (f) For purposes of this section, corporations and other artificial
20 legal entities shall have no professional rights, privileges, or
21 powers.

22 (g) Subdivision (f) shall not apply to a nurse practitioner if either
23 of the following apply:

24 (1) The certificate issued pursuant to this section is inactive,
25 surrendered, revoked, or otherwise restricted by the board.

26 (2) The nurse practitioner is employed pursuant to the
27 exemptions under Section 2401.

28 ~~2837.106.~~

29 2837.105. (a) (1) The board shall request the department’s
30 Office of Professional Examination Services, or an equivalent
31 organization, to perform an occupational analysis of nurse
32 practitioners performing the functions specified in subdivision (c)
33 of Section ~~2837.104~~ 2837.103 pursuant to that subdivision.

34 (2) The board, together with the Office of Professional
35 Examination Services, shall assess the alignment of the
36 competencies tested in the national nurse practitioner certification
37 examination required by subparagraph (A) of paragraph (1) of
38 subdivision (a) of Section ~~2837.104~~ 2837.103 with the occupational
39 analysis performed according to paragraph (1).

1 (3) If the assessment performed according to paragraph (2)
2 identifies additional competencies necessary to perform the
3 functions specified in subdivision (c) of Section ~~2837.104~~ 2837.103
4 pursuant to that subdivision that are not sufficiently validated by
5 the national nurse practitioner board certification examination
6 required by subparagraph (A) of paragraph (1) of subdivision (a)
7 of Section ~~2837.104~~, 2837.103, the board shall identify and develop
8 a supplemental exam that properly validates identified
9 competencies.

10 (b) The examination process shall be regularly reviewed
11 pursuant to Section 139.

12 SEC. 5. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.



July 9, 2020

Senator Steven Glazer, Chair
Senate Standing Committee on Business, Professions and Economic Development
California State Capitol, Room 2053
Sacramento, CA 95814

RE: AB 890

Dear Chairman Glazer and Members:

The Board of Registered Nursing (Board) wishes to respectfully **Oppose Unless Amended** AB 890.

The Board voted to oppose unless amended AB 890 because the bill establishes a separate Advanced Practice Registered Nursing Board. Creation of a separate board for Advanced Practice Registered Nurses creates practical problems for the licensing and discipline of Advanced Practice Registered Nurses (APRNs). Currently, APRNs are licensed registered nurses who possess an additional advanced practice certificate. The Board licenses over 450,000 registered nurses in the state, and of these, approximately 26,000 are certified as APRNs, or NPs. Creation of a second board would create a duplicative discipline process whereby the Board of Registered Nursing would discipline the license and the APRN board would discipline the certificate. Currently, the license and certificate are investigated and disciplined by Board of Registered Nursing at the same time in the same process, which is a more efficient use of taxpayer dollars and less expensive for an APRN than two duplicative processes.

Further, this bill would require a duplication of Board regulations as NPs are licensed registered nurses whose practices are regulated by the Nursing Practice Act. The bill language refers to Nurse Practitioners (NPs) and furnishing NPs (NPFs),¹ but the new Board name is APRN, which is confusing to licensees and consumers. The Board currently recognizes as APRNs the following certificate holders: Nurse Practitioners, Certified Registered Nurse Anesthetists, Clinical Nurse Specialists and Certified Nurse Midwives. It is unclear if **all** of these APRNs will be included under the proposed APRN Board.

¹ About 22,000 NPs also have furnishing numbers issued by the Board (NPFs). A furnishing number allows NPFs to order or furnish controlled drugs and devices to patients using approved standardized procedures. To qualify as an NPF, the NP must have completed an advanced pharmacology course. Physician supervision is also required for NPFs and the physician must be available while the NP examines the patient. An NPF may obtain a Drug Enforcement Administration (DEA) registration number to order controlled substances as needed for patient care.

Senator Steven Glazer
July 9, 2020
Page 2

Lastly, AB 890 will cause a significant fiscal impact to the Board. Of the total APRN revenue, NPs/NPFs comprise 87%.

The Board fully supports independent practice for Nurse Practitioners (NPs) who hold an active certification issued by the Board to practice without supervision by a physician and surgeon outside of specified settings or organizations in accordance with specified conditions and requirements if the nurse practitioner meets specified education and other requirements, including completion of a transition to practice, as defined by the bill.

It is for these reasons that the Board of Registered Nursing opposes unless amended AB 890.

Should you have any additional questions, please contact me at (916) 574-7466. Thank you for your consideration.

Sincerely,



Thelma Harris, RN, PHN, MSN
Chief of Legislation
California Board of Registered Nursing

cc: Members, Senate Standing Committee on Business, Professions and Economic
Development
Assemblymember Wood

AMENDED IN SENATE JULY 8, 2020

AMENDED IN ASSEMBLY JUNE 4, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2028

**Introduced by Assembly Member Aguiar-Curry
(Coauthor: Assembly Member Gonzalez)**

January 30, 2020

An act to amend Sections 11125 and 11125.7 of the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 2028, as amended, Aguiar-Curry. State agencies: meetings.

Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would, except for closed sessions, require that this notice include all writings or materials provided for the noticed meeting to a member of the state body by staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting. *The bill would prescribe requirements to be satisfied in order for these writings or materials to be distributed or discussed.* The bill would generally require *that* these writings and materials ~~to~~ be made available

on the *body's* internet website, and to people who so request in writing, ~~on the same day as website no later than the first business day after~~ they are provided to members of the state body or at least 48 hours in advance of the meeting, whichever is ~~earlier~~ *earlier*, and to be provided *immediately upon written request*. If the writings or materials are provided to the members of the state body by another state body after this 48-hour deadline, the bill would require that they be posted on the *body's* internet website no later than the first business day, but prior to the meeting of the state body, following the dissemination of the writings and materials to the members of the state body, and made available immediately upon written request. The bill would ~~provide that a state body may only distribute or discuss these writings or materials at a meeting of the state body if it has complied with these requirements. The bill would except writings or materials relating to matters to be discussed in a closed session and state financial materials, as defined, that put the Treasurer at a competitive disadvantage in financial transactions from its requirements and requirements. The bill would authorize a state body to post and provide additional time-sensitive materials related to certain active legislation, as specified, and changing financial market conditions as they become available, after the prescribed deadlines. The bill would specify that its provisions do not authorize a state body to remove writings and materials from an internet website. as specified. Upon receipt of a written request, the bill would require that these writings or materials be provided immediately.~~

Existing law requires that a state body provide an opportunity for members of the public to directly address the body on each agenda item. Existing law exempts from this requirement, among other things, an agenda item that has already been considered by a committee composed exclusively of members of the state body at a public meeting where members of the public were afforded an opportunity to address the committee on the item.

This bill would delete this exception, thereby making the requirement to provide an opportunity to address the state body applicable to an agenda item for which the public had an opportunity to address it at a public meeting of a committee of the state body.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the following:

2 (a) The Bagley-Keene Open Meeting Act (Article 9
3 (commencing with Section 11120) of Chapter 1 of Part 1 of
4 Division 3 of Title 2 of the Government Code) (hereafter
5 “Bagley-Keene”) was intended to implement Section 3 of Article
6 I of the California Constitution, which states in part, “The people
7 have the right of access to information concerning the conduct of
8 the people’s business, and, therefore, the meetings of public bodies
9 and the writings of public officials and agencies shall be open to
10 public scrutiny.”

11 (b) Bagley-Keene was written to protect public meetings and
12 public notice and to ensure the transparency of actions taken by
13 state agencies, boards, and commissions.

14 (c) Californians have the right to participate in state body
15 deliberations. This includes the public’s ability to comment on all
16 agenda items discussed at a meeting of the state body, regardless
17 of whether an item has been discussed previously in a committee
18 of the state body.

19 (d) The purpose of public notice is so that state bodies give the
20 public adequate time for review of the substance of a state body
21 meeting and for comment.

22 (e) Public notice must also include any writings or materials
23 provided by a state body’s staff or by a member of the state body
24 to other members of the state body for a noticed meeting of the
25 ~~body held at least 10 days prior to the meeting.~~ *body.*

26 (f) Bagley-Keene affirms these rights by stating in Section 11120
27 of the Government Code, “The people of this state do not yield
28 their sovereignty to the agencies which serve them. The people,
29 in delegating authority, do not give their public servants the right
30 to decide what is good for the people to know and what is not good
31 for them to know. The people insist on remaining informed so that
32 they may retain control over the instruments they have created.”

33 SEC. 2. Section 11125 of the Government Code is amended
34 to read:

35 11125. (a) The state body shall provide notice of its meeting
36 to any person who requests that notice in writing. Notice shall be
37 given and also made available on the internet website at least 10
38 days in advance of the meeting, and shall include the name,

1 address, and telephone number of any person who can provide
2 further information prior to the meeting, but need not include a
3 list of witnesses expected to appear at the meeting. The written
4 notice shall additionally include the address of the internet website
5 where notices required by this article are made available.

6 (b) The notice of a meeting of a body that is a state body shall
7 include a specific agenda for the meeting, containing a brief
8 description of the items of business to be transacted or discussed
9 in either open or closed session. A brief general description of an
10 item generally need not exceed 20 words. A description of an item
11 to be transacted or discussed in closed session shall include a
12 citation of the specific statutory authority under which a closed
13 session is being held. No item shall be added to the agenda
14 subsequent to the provision of this notice, unless otherwise
15 permitted by this article.

16 (c) (1) ~~Except as otherwise provided in paragraph (4), any~~ Any
17 notice provided pursuant to subdivision (a) shall include all
18 writings or materials provided for the noticed meeting to a member
19 of the state body by the staff of ~~a~~ that state agency, board, or
20 commission, or another member of the state body, that are in
21 connection with a matter subject to discussion or consideration at
22 the meeting. *A state body may distribute or discuss writings or*
23 *materials only to the extent that it has complied with the applicable*
24 *requirements of this subdivision.*

25 (2) (A) ~~The writings or materials described in paragraph (1) to~~
26 *be considered at a noticed meeting and provided to members of*
27 *the state body in advance of the meeting shall be made available*
28 *on the body's internet website, and to any person who requests the*
29 ~~writings or materials in writing, on the same day as the~~
30 ~~dissemination of the writings and materials to members of the state~~
31 ~~body,~~ *website no later than the first business day following the*
32 *dissemination of the writings and materials to members of the state*
33 *body or at least 48 hours in advance of the meeting, whichever is*
34 *earlier. Upon receipt of a written request for writings or materials*
35 *provided to members of the state body in advance of the meeting,*
36 *a state body shall provide them immediately.*

37 (B) *Any writings or materials provided to the members of the*
38 *state body by another state body after the time periods described*
39 *in subparagraph (A) have passed shall be posted on the body's*
40 *internet website no later than the first business day, but prior to*

1 *the meeting of the state body, following the dissemination of the*
 2 *writings and materials to the members of the state body. Upon*
 3 *receipt of a written request, these writings or materials shall be*
 4 *provided immediately. A state body that satisfies the requirements*
 5 *of this subparagraph may discuss these writings and materials at*
 6 *an otherwise properly noticed meeting.*

7 ~~(3) A state body may distribute or discuss writings or materials~~
 8 ~~described in paragraph (1) at a meeting of the state body only if it~~
 9 ~~has complied with this subdivision.~~

10 (4)

11 (3) (A) This subdivision does not apply to writings or materials
 12 prepared for a matter to be discussed in a closed session of the
 13 state body. ~~body or state financial materials that put the Treasurer~~
 14 ~~at a competitive disadvantage in financial transactions.~~

15 (B) For purposes of this paragraph, “financial materials” mean
 16 documents related to bonds, loans, and grants.

17 (5)

18 (4) If the writings or materials described in paragraph (1) on an
 19 agenda for discussion at a meeting of the state body are related to
 20 legislation that is before the Legislature in a current legislative
 21 session, ~~session or are related to changing financial market~~
 22 ~~conditions, a state body is entitled to post online, and shall provide~~
 23 ~~upon request, additional shall satisfy the requirements of this~~
 24 ~~subdivision by posting on its internet website the writings and~~
 25 ~~materials related to that active the legislation with additional~~
 26 ~~time-sensitive information as it becomes or the changing market~~
 27 ~~conditions as they become available after the deadlines in this~~
 28 ~~subdivision. time periods described in paragraph (2). Upon receipt~~
 29 ~~of a written request, these writings or materials shall be provided~~
 30 ~~immediately. The state body shall make clear what date the new~~
 31 ~~or changed writings or materials are posted and, when applicable,~~
 32 ~~what changes have been made in materials already posted. the~~
 33 ~~writings or materials.~~

34 (6) ~~This subdivision does not authorize state bodies to remove~~
 35 ~~any of the writings or materials described in paragraph (1) from~~
 36 ~~the internet website.~~

37 (d) Notice of a meeting of a state body that complies with this
 38 section shall also constitute notice of a meeting of an advisory
 39 body of that state body, provided that the business to be discussed
 40 by the advisory body is covered by the notice of the meeting of

1 the state body, provided that the specific time and place of the
2 advisory body's meeting is announced during the open and public
3 state body's meeting, and provided that the advisory body's
4 meeting is conducted within a reasonable time of, and nearby, the
5 meeting of the state body.

6 (e) A person may request, and shall be provided, notice pursuant
7 to subdivision (a) for all meetings of a state body or for a specific
8 meeting or meetings. In addition, at the state body's discretion, a
9 person may request, and may be provided, notice of only those
10 meetings of a state body at which a particular subject or subjects
11 specified in the request will be discussed.

12 (f) A request for notice of more than one meeting of a state body
13 shall be subject to the provisions of Section 14911.

14 (g) The notice shall be made available in appropriate alternative
15 formats, as required by Section 202 of the Americans with
16 Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal
17 rules and regulations adopted in implementation thereof, upon
18 request by any person with a disability. The notice shall include
19 information regarding how, to whom, and by when a request for
20 any disability-related modification or accommodation, including
21 auxiliary aids or services may be made by a person with a disability
22 who requires these aids or services in order to participate in the
23 public meeting.

24 SEC. 3. Section 11125.7 of the Government Code is amended
25 to read:

26 11125.7. (a) Except as otherwise provided in this section, the
27 state body shall provide an opportunity for members of the public
28 to directly address the state body on each agenda item before or
29 during the state body's discussion or consideration of the item.
30 Every notice for a special meeting at which action is proposed to
31 be taken on an item shall provide an opportunity for members of
32 the public to directly address the state body concerning that item
33 prior to action on the item. In addition, the notice requirement of
34 Section 11125 shall not preclude the acceptance of testimony at
35 meetings, other than emergency meetings, from members of the
36 public if no action is taken by the state body at the same meeting
37 on matters brought before the body by members of the public.

38 (b) The state body may adopt reasonable regulations to ensure
39 that the intent of subdivision (a) is carried out, including, but not
40 limited to, regulations limiting the total amount of time allocated

1 for public comment on particular issues and for each individual
2 speaker.

3 (c) (1) Notwithstanding subdivision (b), when a state body
4 limits time for public comment the state body shall provide at least
5 twice the allotted time to a member of the public who utilizes a
6 translator to ensure that non-English speakers receive the same
7 opportunity to directly address the state body.

8 (2) Paragraph (1) shall not apply if the state body utilizes
9 simultaneous translation equipment in a manner that allows the
10 state body to hear the translated public testimony simultaneously.

11 (d) The state body shall not prohibit public criticism of the
12 policies, programs, or services of the state body, or of the acts or
13 omissions of the state body. Nothing in this subdivision shall confer
14 any privilege or protection for expression beyond that otherwise
15 provided by law.

16 (e) This section is not applicable to any of the following:

17 (1) Closed sessions held pursuant to Section 11126.

18 (2) Decisions regarding proceedings held pursuant to Chapter
19 5 (commencing with Section 11500), relating to administrative
20 adjudication, or to the conduct of those proceedings.

21 (3) Hearings conducted by the California Victim Compensation
22 Board pursuant to Sections 13963 and 13963.1.

23 (4) Agenda items that involve decisions of the Public Utilities
24 Commission regarding adjudicatory hearings held pursuant to
25 Chapter 9 (commencing with Section 1701) of Part 1 of Division
26 1 of the Public Utilities Code. For all other agenda items, the
27 commission shall provide members of the public, other than those
28 who have already participated in the proceedings underlying the
29 agenda item, an opportunity to directly address the commission
30 before or during the commission's consideration of the item.

July 9, 2020

Senator Bill Dodd, Chair
Senate Governmental Organization Committee
1020 N Street, Room 584
Sacramento, CA 95814

RE: AB 2028 (Aguilar-Curry)- Support as Amended

Dear Chairman Dodd and Members:

The Board of Registered Nursing (BRN or Board) licenses and regulates over 530,000 RN licenses and approves and regulates approximately 147 public and private prelicensure nursing programs in California in keeping with its mission of consumer protection. On June 24, 2020, the Board reviewed, discussed and took a “support as amended” position on AB 2028 during a public hearing.

The Board of Registered Nursing protects and advocates for the health and safety of the public by ensuring the highest quality registered nurses in the state of California. The Board of Registered Nursing complies to the Bagley-Keene Act of 1967 which requires state agencies, boards and commissions to post their agendas publicly online ten days prior to a meeting.

This bill requires writings or materials be made available online at least 10 days in advance of a meeting for them to be discussed. The BRN provides materials online to the public for discussion within 5 days of a meeting. We provide the most up to date and relevant information to assist Board members when making informed decisions on issues impacting the health and safety of the public. This has been the process which the BRN operates and found to be most effective and efficient. Materials provided too early are often outdated during the fast-changing pace of issues in the world today.

It is for these reasons the Board of Registered Nursing does support as amended Assembly Bill 2028. Should you have any questions regarding our position on the bill, please do not hesitate to contact me at (916) 574-7466.

Thank you for your consideration.

Sincerely,



Thelma Harris, RN, PHN, MSN
Chief of Legislation
Board of Registered Nursing

cc: Members, Senate Governmental Organization Committee
Assemblymember Aguilar-Curry

AMENDED IN SENATE JULY 22, 2020

AMENDED IN SENATE JULY 2, 2020

AMENDED IN ASSEMBLY MAY 18, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2288

Introduced by Assembly Member Low
(Coauthors: Assembly Members Arambula, Chiu, Fong, Gallagher,
Grayson, Irwin, Obernolte, and Smith)
(Coauthor: Senator Caballero)

February 14, 2020

An act to add Section 2786.3 to the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2288, as amended, Low. Nursing programs: state of emergency.

Existing law, the Nursing Practice Act, provides for the licensure and regulation of the practice of nursing by the Board of Registered Nursing and requires an applicant for licensure to have completed a nursing program at a school of nursing that is approved by the board. Existing regulatory law sets forth curriculum requirements for nursing programs, including preceptorships and clinical practice hours, and also requirements for clinical facilities that may be used for clinical experience.

~~This bill would authorize the director of an approved nursing program to use a clinical setting without meeting specified requirements, including approval by the board, when the Governor declares a state of emergency in the county in which the facility is located. The bill would~~

~~also authorize the director to use preceptorships without having to maintain written policies on specified matters that would otherwise be required, and to request that the approved nursing program be allowed to substitute up to an additional 25% of clinical practice hours in a course not in direct patient care, subject to specified conditions and requirements. The bill would make those provisions subject to approval by a board nurse education consultant and would require the board nurse education consultant to use a uniform standard for granting approvals.~~

This bill would authorize an approved nursing program to submit a request to a board nursing education consultant to revise certain clinical experience requirements, including reducing the required direct patient hours and using preceptorships without maintaining specified written policies, for enrolled students until the end of the 2020–21 academic year and whenever the Governor declares a state of emergency in the county where an agency or facility used by the approved nursing program is located. The bill would require the board nursing education consultant to approve the request if specified conditions are satisfied and to reject the request if the approved nursing program fails to meet the conditions or fails to submit information satisfactory to the board. The bill would require the board to notify the appropriate policy committees of the Legislature if a board nursing education consultant denies a request.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *It is the intent of the Legislature that the*
2 *provisions of this bill be used solely for the purpose of progressing*
3 *nursing students who are displaced from clinical experiences*
4 *during the COVID-19 pandemic and future state of emergencies*
5 *and not for purposes of increasing student enrollment.*

6 SECTION 1.

7 SEC. 2. Section 2786.3 is added to the Business and Professions
8 Code, to read:

9 2786.3. (a) ~~When~~ *Until the end of the 2020–21 academic year,*
10 *and whenever the Governor declares a state of emergency for the*
11 *a county in which an agency or facility that is used by an approved*

1 nursing program for direct patient care clinical practice is ~~located,~~
 2 *located and is no longer available due to the conditions giving*
 3 *rise to the state of emergency*, the director of the approved nursing
 4 program may ~~do the following~~: *submit to a board nursing*
 5 *education consultant requests to do any of the following for the*
 6 *existing number of enrolled students:*

7 (1) Utilize a clinical setting *during the state of emergency*
 8 ~~without the following, if approved by a board nurse education~~
 9 ~~consultant~~: *following:*

10 (A) Approval by the board.

11 (B) Written agreements with the clinical facility.

12 (C) Submitting evidence of compliance with ~~board regulations,~~
 13 *regulations relating to the utilization of clinical settings*, except
 14 as necessary for a board ~~nurse nursing~~ education consultant to
 15 ensure course objectives *and faculty responsibilities* will be met.

16 (2) Utilize preceptorships during the state of emergency without
 17 having to maintain written policies relating to the following:

18 (A) Identification of criteria used for preceptor selection.

19 (B) Provision for a preceptor orientation program that covers
 20 the policies of the preceptorship and preceptor, student, and faculty
 21 responsibilities.

22 (C) Identification of preceptor qualifications for both the primary
 23 and the relief preceptor.

24 (D) Description of responsibilities of the faculty, preceptor, and
 25 student for the learning experiences and evaluation during
 26 preceptorship.

27 (E) Maintenance of preceptor records that includes names of
 28 all current preceptors, registered nurse licenses, and dates of
 29 preceptorships.

30 (F) Plan for an ongoing evaluation regarding the continued use
 31 of preceptors.

32 (3) ~~(A) Request that the approved nursing program be allowed~~
 33 ~~to substitute up to an additional 25 percent of clinical practice~~
 34 ~~hours required by the board in a course not in direct patient care~~
 35 ~~for clinical practice hours in a course in direct patient care~~ *reduce*
 36 *the required number of direct patient care hours to 50 percent* if
 37 all of the following conditions are met:

38 (i) ~~The agency or facility being used by the approved nursing~~
 39 ~~program for direct patient care clinical practice is no longer~~

1 available for use by the approved nursing program due to the
2 conditions giving rise to the state of emergency.

3 (ii)

4 (A) No alternative agency or facility located within 25 miles of
5 the impacted approved nursing program, campus, or location, as
6 applicable, *is has open placements that are available and accessible*
7 to the approved nursing program for direct patient care clinical
8 practice hours in the same subject matter area. *An approved nursing*
9 *program shall not be required to contact a clinical facility that*
10 *the program has previously contacted.*

11 (iii)

12 (B) The substitute clinical practice hours not in direct patient
13 care provide a learning experience, as defined by the board
14 consistent with Section 2708.1, that is at least equivalent to the
15 learning experience provided by the direct patient care clinical
16 practice hours.

17 ~~(iv) Substitute clinical practice hours not in direct patient care~~
18 ~~shall cease as soon as practicable once the applicable state of~~
19 ~~emergency is lifted.~~

20 ~~(B) If the conditions in subparagraph (A) are met, a board nurse~~
21 ~~education consultant shall approve the request. If an approved~~
22 ~~nursing program fails to submit information satisfactory to the~~
23 ~~board, or fails to meet the conditions specified in subparagraph~~
24 ~~(A), a board nurse education consultant shall deny the request. If~~
25 ~~the request is not approved or denied on or before 5:00 p.m. on~~
26 ~~the date seven business days after receipt of the request, the request~~
27 ~~shall be deemed approved.~~

28 ~~(b) A board nurse education consultant shall use a uniform~~
29 ~~standard consistent with Section 2708.1 for granting approvals~~
30 ~~under this section.~~

31 (C) *Once the applicable state of emergency is lifted, clinical*
32 *practice hours not in direct patient care shall cease as soon as*
33 *practicable or by the end of the academic year, whichever is*
34 *sooner.*

35 (D) *The simulation experiences are based on the best practices*
36 *published by the International Nursing Association for Clinical*
37 *Simulation and Learning, the National Council of State Boards of*
38 *Nursing, the Society for Simulation in Healthcare, or equivalent*
39 *standards approved by the board, except those relating to the*
40 *number of direct patient care hours.*

1 (E) A minimum of 25 percent of the remaining direct patient
2 care hours are completed in an in-person setting.

3 (4) Request that the approved nursing program be allowed to
4 reduce the required number of direct patient care hours to 25
5 percent for students in their graduating quarter or semester if all
6 of the following conditions are met:

7 (A) The approved program meets the requirements of paragraph
8 (3).

9 (B) The number of placements available at agencies or facilities
10 being used by the approved nursing program for direct patient
11 care are insufficient to meet the 50 percent direct patient care
12 requirement.

13 (C) The approved program has maintained a minimum first-time
14 pass rate of 80 percent for the licensing examination under this
15 chapter for the last two consecutive academic years.

16 (5) Request that the approved nursing program allow theory to
17 precede clinical practice for purposes of placing students in the
18 remaining clinical placement settings if all of the following
19 conditions are met:

20 (A) No alternative agency or facility located within 25 miles of
21 the impacted approved nursing program, campus, or location, as
22 applicable, has open placements that are available and accessible
23 to the approved nursing program for direct patient care clinical
24 practice hours in the same subject matter area. An approved
25 program shall not be required to contact a clinical facility that
26 the program has previously contacted.

27 (B) Clinical practice takes place in the quarter or semester
28 immediately following theory.

29 (C) Theory is taught concurrently with nondirect patient care
30 clinical experiences if no direct patient care experiences are
31 available.

32 (b) If the conditions in paragraphs (1), (2), (3), (4), or (5) of
33 subdivision (a), as applicable to the request, are met, a board
34 nursing education consultant shall approve the request. If an
35 approved nursing program fails to submit information satisfactory
36 to the board nursing education consultant, or fails to meet the
37 conditions specified, the board nursing education consultant shall
38 deny the request. If the request is not approved or denied on or
39 before 5:00 p.m. on the date seven business days after receipt of
40 the request, the request shall be deemed approved.

1 (c) A board nursing education consultant shall use a uniform
2 method consistent with all other board nursing education
3 consultants for granting approvals under this section.

4 (d) If a board nursing education consultant denies a request
5 under this section, the board shall notify the appropriate policy
6 committees of each house of the Legislature. The notice shall be
7 delivered electronically within seven calendar days and include
8 the reason for the denial.

9 ~~SEC. 2.~~

10 SEC. 3. This act is an urgency statute necessary for the
11 immediate preservation of the public peace, health, or safety within
12 the meaning of Article IV of the California Constitution and shall
13 go into immediate effect. The facts constituting the necessity are:

14 In order to preserve the future health care workforce by providing
15 flexibility in the way nursing students obtain clinical experience
16 during the COVID-19 pandemic as soon as possible, it is necessary
17 that this act take effect immediately.

July 25, 2020

Senator Steven Glazer, Chair
Committee on Business, Professions and Economic Development
California State Capitol, Room 2053
Sacramento, CA 95814

RE: AB 2288 (Low) Support if Amended

Dear Senator Glazer:

The Board of Registered Nursing (BRN or Board) took the position of Support if Amended at the June 24, 2020 Board Meeting. Two substantive amendments were made in the Senate after the bill's passage in the Assembly. In May and June, the Legislative Committee of the Board, and the full Board, reviewed the legislation and supported Assembly Bill (AB) 2288 with amendments, largely because it was consistent with an existing waiver issued by the Department of Consumer Affairs (DCA), and it also mirrored a BRN-proposed emergency regulation package. One of the areas the Legislative Committee members discussed was the request to prohibit direct patient care hours from going below 50%. Unfortunately, the new amendments proposed after the bill passed the Assembly render the bill inconsistent with the position of the BRN because of drastic reduction of direct patient clinical training from existing 75% to 25%. An added amendment was the change in current regulation with separation of theory from clinical training (concurrency). The Legislative Committee and the Board have not had an opportunity to meet to discuss this updated version. With the timing and importance of this bill I want to provide information on these two substantive amendments. The Board has supported the spirit of this bill, as it contains provisions that may allow nursing students who are displaced from clinical training experiences during the COVID-19 pandemic to progress in their education; but consumer protection requires that standards of nursing education not fall below a reasonable threshold.

Following hospital reductions of patient care clinicals, DCA provided relief to nursing programs with a waiver providing reduction of direct patient care clinical training from 75% (21 shifts per year) to 50% (12 shifts per year); BRN has supported this change during a declared state of emergency. But the newly proposed amendment with a reduction of direct patient care clinical training from 50% (12 shifts per year) to 25% (3 shifts per year) does not provide new graduate RNs with adequate preparation, and risks consumer protection. The second amendment that risks consumer protection is the elimination of the requirement that theoretical education and clinical training be concurrent. It is important to have the theory and clinical education delivered concurrently so that the learner can use their clinical experience to reinforce and build

on the information shared in theory and then bring questions and experiences from clinical back to the theory component for additional clarification and expansion of their knowledge base. Clinical builds on theory and theory builds on clinical, it is a specific symbiotic structure used in nursing education, as nursing is both a science and an art. Without having concurrency of theory and clinical, the nursing student is set up for an increased risk of errors, including but not limited to, medication and patient care errors. Additionally, the nursing student may not successfully complete their educational journey due to already established academic policies related to safety and dismissal from their nursing program.

For clarification, BRN's mission is consumer protection; to that end, BRN regulates pre-licensure nursing schools in California to facilitate a competent and prepared RN workforce. We fully recognize that the pandemic and its effects have put acute care hospitals and nursing homes under unprecedented pressure. We are committed to helping nursing schools and students navigate the challenges of this pandemic as well as encouraging health care facilities to provide clinical training and utilize RN students for the benefit of all; but reducing the standard of direct patient clinical training to 3 shifts per year is the wrong solution for both consumers and future RNs. We need to stay focused on the preparation and not just the progression of inadequately prepared RN students.

The BRN is not opposed to simulation clinical training when done well and as an adjunct to direct patient care training. However, there are no existing regulations on simulation; nor have adequate studies been completed which could be used as a road map to implement in California. Simulation can be an excellent extender of direct patient clinical training; but substitution of direct patient clinical training, especially in pre-licensure education, does not meet a minimum standard necessary for preparing nursing students to become newly licensed RNs. The BRN enforces regulation of minimum standards on nursing schools to protect patients and students. The 75% direct care clinical training requirement in regulation, requiring 21 shifts per year, is a **minimum standard**. Increasing simulation hours from 25% to 50% during the pandemic or any other state of emergency in the future is not ideal but may meet the minimum training to prepare graduates. However, increasing simulated clinical training to 75% and leaving only 3 shifts per year for direct patient care clinical preparation is not appropriate and will graduate RN students that are not adequately trained, putting consumers at great risk.

Furthermore:

1. **The Existing DCA waiver reducing *direct patient clinical training regulation from 75% (approximately 21-12 hour shifts per year) to 50% (approximately 12 shifts per year) was what “stakeholders” asked for in March 2020. The waiver has been effective thus far.*** In March, advocates from nursing schools,

including faculty and students, as well as the California Hospital Association, presented public testimony and written letters requesting that the Board reduce the *direct patient* care clinical requirement in regulation from 75% (allowing 25% simulation/labs) to 50% (allowing 50% simulation/lab) due to hospitals' cancellation of clinical training for students following Governor Newsom's Executive Order on COVID 19. The President and Vice President of the BRN immediately worked with counsel to draft an emergency regulation that would provide the relief as requested. On a simultaneous track, by the end of March, through authority from the Governor, the DCA Director worked with BRN's then Acting Executive Officer and ultimately granted a waiver that achieved the action, and said waiver (50%) was immediately implemented by the BRN. BRN staff continue to work with each school to assist them in using the waiver as well as other existing regulations that allow nursing schools to use alternate sites, telehealth, volunteer opportunities, and reduce their clinical unit requirements to the BRN minimum. As a result, by June most students graduated (including a student from Los Medanos Community College Nursing School who filed a writ of mandate against the BRN initially, and then withdrew the writ once she graduated).

- 2. The proposed amendment to allow schools to reduce direct patient care clinical lower to 25% (3 shifts per year) is a drastic, ill-advised reduction especially now that simulation is becoming “virtual.”** Allowing only 50% (12 shifts per year) of direct patient clinical training has very limited data supporting it; however, there is not a shred of evidence that a reduction to 25% (3 shifts per year) is adequate to prepare students to properly care for and manage patients. Additionally, the studies cited in support of this reduction of direct patient clinical training to 25% used in-person simulation which in the current COVID 19 pandemic may not be an option. We are now seeing an increased use or even a complete replacement of in-person simulation with virtual (computer-based, remote) simulation. The proposed amendments use three criteria to justify reduction to 25% direct patient clinical training. One of those criteria is accreditation. Accreditors are private companies that charge a fee for accreditation. Most California public nursing schools are not accredited (75%); while many private schools gain accreditation only to assist marketing and to gain access to Title IV student loan funding. *We note that this criterion has been eliminated in the latest amendments and we agree with this change. It is important to note that only 55% of all approved prelicensure schools have current accreditation.*

3. **The action of the Governor, authorizing the DCA Director to review and determine appropriate waivers of regulation has worked well. A more drastic change in policy from 75% (21 shifts per year) to 25% (3 shifts per year) requires a more deliberative process than available under the current, restricted, legislative session.** It's argued that a bill with a more drastic policy change is necessary because the legislature will be in recess between September and January and therefore pre-emptive action must be taken now. However, the DCA Director will still have the ability to approve waivers if conditions warrant during the state of emergency, and the Board's Nursing Education Consultants will continue to monitor all schools and work with them to assist with graduating prepared students to join the RN workforce.
4. **Many schools haven't taken advantage of existing flexibility to reduce their clinical hours to the BRN minimum.** See the attached list of schools for each member of the Committee. It illustrates that most of these schools could reduce significant hours from their existing clinical requirement which is over the BRN minimum. By reducing their own clinical hour requirements to align with the BRN minimum, nursing schools would help their students and create needed clinical training spots in the geographical area for other nursing program students. This flexibility is available under current regulation and should be considered before reducing clinical standards further. *Example: Los Medanos could reduce their required clinical hours by 384 hours eliminating 32 12-hour shifts for each student enrolled.*
5. **Concurrency of theory education with clinical training should not be weakened as proposed as it has a significant effect on ultimate competency of new RN graduates and patient safety. The synergistic interplay between theory and hands on clinical cannot be minimized even for a semester.** Nursing is a practice-oriented discipline. Education not only involves theoretical content discussed in classrooms but also requires sufficient clinical placements to allow for skills development and the application of theoretical content to practice. This can only be achieved by ensuring that nursing students apply what they have learned in the classroom and simulation labs to real-world situations. The "theory-practice gap" has been cited as a contributory factor in medication errors and reduced use of physical assessment skills among nurses influencing quality of nursing care and patient outcomes. In California, nursing schools whose NCLEX passage rates fall below the 75% requirement often have a problem in clinical and with concurrency. BRN Nurse

Education Consultants help the nursing programs raise their passage rates by correcting this concurrency deficiency.

6. **Waiving a concurrency regulation will have a larger effect, with unintended consequences that could open up the BRN to issues with previously unqualified nursing applicants from some international and US schools.** BRN currently denies licensure to Excelsior Nursing School and international schools for lack of concurrency. BRN was recently able to identify international transcripts that were deemed fraudulent due to concurrency issues and to be a homeland security issue. Eliminating the concurrency requirement could increase the fraudulent activities, thereby decreasing consumer protection.
7. **Waiving concurrency isn't needed because BRN Nursing Education Consultants work with specific emergencies and individual schools.** For example, during a recent devastating wildfire, a nursing program requested special consideration where Nursing Education Consultants approved clinicals completed within 4 weeks of the end of the semester. This can be done on an ongoing basis within our current legislative and regulatory framework and is not specific to the COVID 19 pandemic.
8. **Students who graduate without adequate direct clinical experience may be set up for failure as newly graduated RNs in the workplace and could be vulnerable to having their license disciplined, including but not limited to revocation.** Once licensed, RNs who have only 3 shifts in a year of direct patient clinical training may find themselves facing discipline by the BRN if they make errors in patient care or patient assessment. BRN Disciplinary Guidelines do not allow for a defense based upon inadequate clinical training – not to mention the harm to the patient, family, community, their coworkers, healthcare system, and the shame and guilt they will experience when these errors are made.
9. **Business and Professions Code Section 2786.3 (a) "existing number of enrolled students"** One of the amendments is substituting the existing number of enrolled students over the existing number of "approved students," with the rationale that the author didn't want to impact pending litigation by a school regarding BRN enrollment authority. The litigating school has unilaterally increased its enrollments to over 4,000, making it the largest school in the State with 25% of the State's nursing student population. By using "existing number of

students” the author creates an unintended consequence of rewarding and institutionalizing that action.

Additionally, the following technical issues have been identified:

- **2786.3(a)(1)(C): “course objectives and faculty responsibilities”** leaves out “*faculty qualifications*” in current regulation.
- **2786.3(a)(3)(E): “A minimum of 25% of the remaining direct patient care is completed in an in-person setting”** – as we mentioned, the exact meaning of this language and relationship to the rest of the statutory changes isn’t clear.

For your reference, below is a chart in which the Bureau of State Audits, during its recent Pre-Licensure Nursing Program Audit, determined minimum clinical requirement for licensing using a 16-week semester for hour calculation:

	Minimum Clinical hours required for licensure	16 CCR 1426 <u>75%</u> Direct Patient Care requirement	COVID19 WAIVER <u>50%</u> Direct Patient Care (*if criteria is met)	AB 2288 Proposed <u>25%</u> Direct Patient Care
Nursing Licensure CA	864 hours 72 - 12 hour shifts over 2 academic years (36/yr)	648 hours 216 hours sim = 25% 54 - 12 hour shifts over 2 academic years (27/yr)	432 hours 432 hours sim = 50% 36 – 12 hour shifts over 2 academic years (18/yr)	216 hours 648 hours sim= 75% 18 – 12 hour shifts over 2 academic years (9/yr)
Fundamentals 2-unit semester clinical		(-96 hours) 552 hours 312 hours sim = 36% 46 – 12 hour shifts over 2 academic years (23/yr)	(-96 hours) 336 hours 528 hours sim = 61% 30.5 – 12 hour shifts over 2 academic years (15.25/yr)	(-96 hours) 120 hours 744 hours sim = 86% 10 – 12 hour shifts over 2 academic years (5/yr)

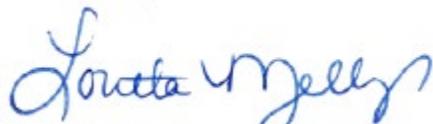
Fundamentals 3-unit semester clinical		(-144 hours) 504 hours 360 hours sim = 42% 42 – 12 hour shifts over 2 academic years (21/yr)	(-144 hours) 288 hours 576 hours sim = 67% 24 – 12 hour shifts over 2 academic years (12/yr)	(-144 hours) 72 hours 792 hours sim = 92% 6 – 12 hour shifts over 2 academic years (3/yr)
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*[16 CCR 1426](#) (g)(2) allows the “initial nursing course that teaches basic nursing skills in a skills lab” to not have any direct patient care requirement. These clinical hours can be completed in a skills lab.

Please consider the above information when reviewing the current version of Assembly Bill 2288. Should you have any questions, please do not hesitate to contact me.

Thank you for your consideration.

Sincerely, _



*Loretta Melby, Executive Officer for
Donna Gerber, Chair
Board of Registered Nursing Legislative Committee*

cc: Members, Committee on Business, Professions and Economic Development

July 15, 2020

Senator Steven M. Glazer, Chair,

Senate Business and Professions Economic Development Committee

Dear Senator Glazer,

As a Registered Nurse for over 50 years, a former Director of Nurses for a heart hospital in the Central San Joaquin Valley, a Dean of a nursing school in Chula Vista, and a former member of the California Board of Registered Nursing, I wanted to write and express my opposition to AB 2288. This bill would allow an approved nursing program to reduce the required number of direct patient care hours to 25% from the current 50%. While I understand that this change is being requested due to the current pandemic, I believe this is the wrong move and would negatively impact nursing care for Californians.

While simulation is a very good learning tool and I definitely support the move to allow up to 50% of the nursing curriculum to be in simulation, I believe that allowing a nursing program to only have their students complete 25% of their curriculum in direct patient care is wrong and poses a threat to patient care. As a nurse administrator for many years, I have seen first-hand the difficulty that new nurses have when they are hired as new graduates and have not had sufficient clinical time caring for patients. As a graduate of a diploma school where we spent five days a week in the hospital taking care of patients, I felt that upon graduation, we were ready to take on the responsibilities of being a registered nurse caring for a group of patients. The graduates of today who spend only one to two days a week in the hospital or clinical facility are just not ready to take on a full assignment when they begin their new job. They need additional orientation and transition time which costs the hospital money and can affect patient care. Decreasing the required actual "hands on" time to 25% would only make this problem worse.

Patients deserve to have a registered nurse caring for them who has had sufficient hands on experience in caring for actual patients who have different and unique healthcare needs that must be met. We would not consider allowing a new medical doctor to have less than the required clinical hours under their belt before placing them in a situation requiring special skills and we should require no less from nurses. Ask yourself the question, if you were a patient lying in a hospital bed requiring hospitalization and specialized care, would you feel comfortable being cared for by a nurse who only had 25% time caring for actual patients? Would you not want your nurse to have had sufficient direct patient care experience and knowledge caring for you or your loved one?

Hospitalized patients of today present with more complicated healthcare needs and problems which require the registered nurse to be able to think critically, react with a good solid knowledge base and experience. Watering down their actual clinical experience with live

patients does not allow for the basic nursing foundation to be developed and help the nurse to feel confident in their novice skills.

For these reasons, I urge you to vote NO on AB 2288.

Sincerely,

Pilar De La Cruz Samoulian, MSN, BSN, RN

Senate B&PE Committee Pre-licensure Schools data

(enrollment # Nov/2019, 18 clinical units= BRN minimum,
hours calculated if over minimum
“No 50%” =waiver not requested by school)

Senator Steven Glazer, CHAIR

Los Medanos College (ADN) 72 enrolled, 21 units theory, 26 units clinical (384 hours excess of BRN min), 50% waiver

Senator Ling Ling Chang, Vice Chair

CSU Fullerton (BSN) 187 enrolled, 35 units theory, 24 units clinical (**270** hours in excess of BRN min), 50% waiver

Mt. San Antonio (ADN) 225 enrolled, 22.5 units theory, 21 units clinical (**144** hours in excess of BRN min), 50% waiver

Mt. San Jacinto (ADN) 82 enrolled, 21 units theory, 21 units clinical (**162** in excess of BRN min), 50%

Cypress College (ADN) 186 enrolled, 21 units theory, 19 clinical units (**48** hours in excess of BRN minimum; 50% waiver

Senator Bob Archuleta

Biola University (BSN) 143 enrolled, 27 units theory, 24.5 units clinical (**292.5** hours in excess of BRN min), **No 50%**

Cerritos College (ADN) 154 enrolled, 22.5 units theory, 23 units clinical (**270** hours in excess of BRN min) 50% waiver

Rio Honda College (ADN) 152 enrolled, 20 units theory, 20 units clinical (**96** in excess of BRN min), 50% waiver

Senator Bill Dodd

Pacific Union College (ADN) 188, 32 units theory, 30 units clinical (**90** in excess of BRN min), **No 50%**

Solano Comm College (ADN) 95 enrolled, 28 units theory, 23 units clinical (**262.5** in excess of BRN min), 50% waiver

Sonoma State Univ (BSN) 48 enrolled, 25 units theory, 19 units clinical (**48** hours in excess of BRN min), 50% waiver

Senator Cathleen Galgiani

Modesto College (ADN) 225 enrolled, 18 units theory, 18 units clinical, 50%
San Joaquin Delta (ADN) 191 enrolled, 18 units theory, 18.5 units clinical (**27**
hours in excess of BRN min), 50% waiver

Senator Jerry Hill

College San Mateo (ADN) 101 enrolled, 19 units theory, 22.5 units clinical (**216**
hours in excess of BRN min), 50% waiver

Senator Connie Leyva

San Bernadino Valley (ADN) 31 enrolled, 18 units theory, 18 units clinical, 50%
Western U Health Sci (ELM) 143 enrolled, 31 units theory, 32 units clinical (**630**
hours in excess of BRN min) 50% waiver

Senator Richard Pan

American River (ADN) 162 enrolled, 21 units theory, 20 units clinical (**432** hours
in excess of BRN min), 50% waiver

Carrington College (ADN) 47 enrolled, 18.5 units theory, 19 units clinical (**48**
hours in excess of BRN min), 50% waiver

CSU Sacramento (BSN) 313 enrolled, 18 units theory, 23 units clinical (**225**
hours in excess of BRN min), **No 50%**

Sac City College (ADN) 127 enrolled, 24 units theory, 24 units clinical (**324** hours
in excess of BRN min), **No 50%**

UC Davis (ELM) 96 enrolled, 32 units theory, 27 units clinical, **No 50%**

Senator Scott Wilk

Antelope Valley College (ADN) 22 enrolled, 18 units theory, 18 units clinical, 50%
Career Care Institute (ADN) 0 enrolled, 24 units theory, 19 clinical units (**48** hours
in excess of BRN min), 50% waiver

Victor Valley Coll (ADN) 146 enrolled, 21 units theory, 21 units clinical (**144** hours
in excess of BRN min), **No 50%**

AMENDED IN ASSEMBLY MAY 18, 2020

AMENDED IN ASSEMBLY MARCH 12, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2549

Introduced by Assembly Member Salas
(Coauthor: Assembly Member Gonzalez)

February 19, 2020

An act to amend Sections 115.6 and 5132 of the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2549, as amended, Salas. Department of Consumer Affairs: temporary licenses.

Under existing law, the Department of Consumer Affairs, which is under the control of the Director of Consumer Affairs, is comprised of various boards, as defined, that license and regulate various professions and vocations. Existing law requires a board within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and the applicant holds a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the

board. Existing law authorizes a board to adopt regulations necessary to administer these provisions.

This bill would expand that requirement to issue temporary licenses to include licenses issued by the Veterinary Medical Board, the Dental Board of California, the Dental Hygiene Board of California, the California State Board of Pharmacy, the State Board of Barbering and Cosmetology, the Board of Psychology, the California Board of Occupational Therapy, the Physical Therapy Board of California, and the California Board of Accountancy. The bill would require a board to issue a temporary license within 30 days of receiving the required documentation. The bill would specifically direct revenues from fees for temporary licenses issued by the California Board of Accountancy to be credited to the Accountancy Fund, a continuously appropriated fund. By establishing a new source of revenue for a continuously appropriated fund, the bill would make an appropriation. ~~The bill would require a temporary license to be converted to a standard license if, within 12 months of issuance, the applicant demonstrates having met all of the requirements for a standard license or submits documents demonstrating that the requirements to obtain the out-of-state license were substantially equivalent to the requirements for a standard license as determined by the board in order to protect the public.~~ The bill would require a board to ~~adopt~~ *submit to the department for approval draft regulations necessary to administer these provisions and to publish regulations on its internet website and in application materials* by January 1, 2022. *The bill would exempt from these provisions a board that has a process in place by which an out-of-state licensed applicant in good standing who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States is able to receive expedited, temporary authorization to practice while meeting state-specific requirements for a period of at least one year.*

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 115.6 of the Business and Professions
- 2 Code is amended to read:
- 3 115.6. (a) ~~A~~*Except as provided in subdivision (h), a board*
- 4 *within the department shall, after appropriate investigation, issue*

1 the following eligible temporary licenses to an applicant within
2 30 days of receiving the required documentation pursuant to
3 meeting the requirements set forth in subdivision (c):

4 (1) Registered nurse license by the Board of Registered Nursing.

5 (2) Vocational nurse license issued by the Board of Vocational
6 Nursing and Psychiatric Technicians of the State of California.

7 (3) Psychiatric technician license issued by the Board of
8 Vocational Nursing and Psychiatric Technicians of the State of
9 California.

10 (4) Speech-language pathologist license issued by the
11 Speech-Language Pathology and Audiology and Hearing Aid
12 Dispensers Board.

13 (5) Audiologist license issued by the Speech-Language
14 Pathology and Audiology and Hearing Aid Dispensers Board.

15 (6) All licenses issued by the Veterinary Medical Board.

16 (7) All licenses issued by the Board for Professional Engineers,
17 Land Surveyors, and Geologists.

18 (8) All licenses issued by the Medical Board of California.

19 (9) All licenses issued by the Podiatric Medical Board of
20 California.

21 (10) All licenses issued by the Dental Board of California.

22 (11) All licenses issued by the Dental Hygiene Board of
23 California.

24 (12) All licenses issued by the California State Board of
25 Pharmacy.

26 (13) All licenses issued by the State Board of Barbering and
27 Cosmetology.

28 (14) All licenses issued by the Board of Psychology.

29 (15) All licenses issued by the California Board of Occupational
30 Therapy.

31 (16) All licenses issued by the Physical Therapy Board of
32 California.

33 (17) All licenses issued by the California Board of Accountancy.
34 Revenues from fees for temporary licenses issued under this
35 paragraph shall be credited to the Accountancy Fund in accordance
36 with Section 5132.

37 (b) The board may conduct an investigation of an applicant for
38 purposes of denying or revoking a temporary license issued
39 pursuant to this section. This investigation may include a criminal
40 background check.

1 (c) An applicant seeking a temporary license pursuant to this
2 section shall meet the following requirements:

3 (1) The applicant shall supply evidence satisfactory to the board
4 that the applicant is married to, or in a domestic partnership or
5 other legal union with, an active duty member of the Armed Forces
6 of the United States who is assigned to a duty station in this state
7 under official active duty military orders.

8 (2) The applicant shall hold a current, active, and unrestricted
9 license that confers upon the applicant the authority to practice,
10 in another state, district, or territory of the United States, the
11 profession or vocation for which the applicant seeks a temporary
12 license from the board.

13 (3) The applicant shall submit an application to the board that
14 shall include a signed affidavit attesting to the fact that the
15 applicant meets all of the requirements for the temporary license
16 and that the information submitted in the application is accurate,
17 to the best of the applicant's knowledge. The application shall also
18 include written verification from the applicant's original licensing
19 jurisdiction stating that the applicant's license is in good standing
20 in that jurisdiction.

21 (4) The applicant shall not have committed an act in any
22 jurisdiction that would have constituted grounds for denial,
23 suspension, or revocation of the license under this code at the time
24 the act was committed. A violation of this paragraph may be
25 grounds for the denial or revocation of a temporary license issued
26 by the board.

27 (5) The applicant shall not have been disciplined by a licensing
28 entity in another jurisdiction and shall not be the subject of an
29 unresolved complaint, review procedure, or disciplinary proceeding
30 conducted by a licensing entity in another jurisdiction.

31 (6) The applicant shall, upon request by a board, furnish a full
32 set of fingerprints for purposes of conducting a criminal
33 background check.

34 (d) A temporary license issued pursuant to this section may be
35 immediately terminated upon a finding that the temporary
36 licenseholder failed to meet any of the requirements described in
37 subdivision (c) or provided substantively inaccurate information
38 that would affect the person's eligibility for temporary licensure.
39 Upon termination of the temporary license, the board shall issue
40 a notice of termination that shall require the temporary

1 licenseholder to immediately cease the practice of the licensed
2 profession upon receipt.

3 (e) An applicant seeking a temporary license as a civil engineer,
4 geotechnical engineer, structural engineer, land surveyor,
5 professional geologist, professional geophysicist, certified
6 engineering geologist, or certified hydrogeologist pursuant to this
7 section shall successfully pass the appropriate California-specific
8 examination or examinations required for licensure in those
9 respective professions by the Board for Professional Engineers,
10 Land Surveyors, and Geologists.

11 (f) A temporary license issued pursuant to this section shall
12 expire 12 months after issuance, upon issuance of an expedited
13 license pursuant to Section 115.5, a license by endorsement, or
14 upon denial of the application for expedited licensure by the board,
15 whichever occurs first.

16 ~~(g) A temporary license issued pursuant to this section shall be
17 converted to a standard license if, within 12 months of issuance,
18 the applicant demonstrates having met all of the requirements for
19 a standard license or submits documents demonstrating that the
20 requirements to obtain the out-of-state license were substantially
21 equivalent to the requirements for a standard license as determined
22 by the board in order to protect the public.~~

23 ~~(h)~~

24 (g) A board shall ~~adopt~~ *submit to the department for approval*
25 *draft* regulations necessary to administer this section ~~and shall~~
26 ~~publish these regulations on its internet website and in application~~
27 ~~materials~~ by January 1, 2022. *These regulations shall be adopted*
28 *pursuant to the Administrative Procedure Act (Chapter 3.5*
29 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
30 *2 of the Government Code).*

31 (h) *This section shall not apply to a board that has a process*
32 *in place by which an out-of-state licensed applicant in good*
33 *standing who is married to, or in a domestic partnership or other*
34 *legal union with, an active duty member of the Armed Forces of*
35 *the United States is able to receive expedited, temporary*
36 *authorization to practice while meeting state-specific requirements*
37 *for a period of at least one year.*

38 SEC. 2. Section 5132 of the Business and Professions Code is
39 amended to read:

1 5132. (a) All moneys received by the board under this chapter
2 from any source and for any purpose and from a temporary license
3 issued under Section 115.6 shall be accounted for and reported
4 monthly by the board to the Controller and at the same time the
5 moneys shall be remitted to the State Treasury to the credit of the
6 Accountancy Fund.

7 (b) The secretary-treasurer of the board shall, from time to time,
8 but not less than once each fiscal year, prepare or have prepared
9 on their behalf, a financial report of the Accountancy Fund that
10 contains information that the board determines is necessary for
11 the purposes for which the board was established.

12 (c) The report of the Accountancy Fund, which shall be
13 published pursuant to Section 5008, shall include the revenues and
14 the related costs from examination, initial licensing, license
15 renewal, citation and fine authority, and cost recovery from
16 enforcement actions and case settlements.

17
18 _____
19 **REVISIONS:**
20 **Heading—Line 2.**
21 _____

AMENDED IN SENATE JULY 16, 2020

AMENDED IN ASSEMBLY MAY 13, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 3016

Introduced by Assembly Member Megan Dahle

(~~Coauthor: Assembly Member Gipson~~)

**(Coauthors: Assembly Members Diep, Gallagher, Gipson, Mathis,
and Wood)**

(Coauthors: Senators Dahle, Grove, Hurtado, and Moorlach)

February 21, 2020

An act to add Section 2718 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 3016, as amended, Megan Dahle. Board of Registered Nursing: online license verification.

The Nursing Practice Act provides for the licensure and regulation of nurses by the Board of Registered Nursing within the Department of Consumer Affairs. Existing law also requires the board to issue temporary or expedited licenses to specified applicants who hold a current, active, and unrestricted license in another state, district, or territory of the United States, in the profession or vocation for which the applicant seeks a license from the board.

This bill would require the board to consult with the department no later than July 1, 2021, and develop recommendations for the implementation of the Nursys online license verification system for verifying the licenses of California nurses seeking to practice outside

the state. The bill would require the board to implement those recommendations within a reasonable period.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2718 is added to the Business and
2 Professions Code, to read:
3 2718. (a) The board shall consult with the department no later
4 than July 1, 2021, and shall develop recommendations for the
5 implementation of the Nursys online license verification system
6 for verifying the licenses of California nurses seeking to practice
7 outside the state.
8 (b) The board shall implement the recommendations *developed*
9 *pursuant to subdivision (a)* within a reasonable period upon
10 completion of the development of those recommendations.



July 9, 2020

Senator Steven Glazer, Chair
Senate Standing Committee on Business, Professions and Economic Development
California State Capitol, Room 2053
Sacramento, CA 95814

RE: AB 3016 (Dahle)- OPPOSITION

Dear Chairman Glazer and Members:

The Board of Registered Nursing (BRN or Board) licenses and regulates over 530,000 RN licenses and approves and regulates approximately 147 public and private prelicensure nursing programs in California in keeping with its mission of consumer protection. On May 28, 2020, the Board reviewed, discussed and took a position to respectfully **oppose Assembly Bill 3016** (Dahle) during a public hearing.

This bill would require the Board of Registered Nursing to consult with the Department of Consumer Affairs no later than July 2021 and develop recommendations for the implementation of the Nursys online license verification system for verifying the licenses of California nurses seeking to practice outside the state.

The Board of Registered Nursing protects and advocates for the health and safety of the public by ensuring the highest quality registered nurses in the state of California. California Registered Nurses are 20% of the national workforce. The BRN processes on average 13,000 verifications per year. **Approximately \$2 million dollars** in revenue would be lost from contracting the business of the state to a private entity. This revenue supports other areas within the BRN such as enforcement and discipline which maintains public safety.

The BRN identified inefficiencies regarding the license verification process over a year ago, but respectfully disagrees with the proposed legislation as the proper solution. We do agree, however, that licensees deserve better service. As a result of our commitment to keep this business in the state of California, we commit to the following resolutions:

- An online application and payment abilities through the DCA Breeze portal where all licensees already have an account. This will simplify the process for licensees and shorten the process time to 5 business days or less. This was previously implemented; however, due to unexpected issues the BRN was forced to discontinue this feature. We are working with DCA to make the adjustments in Breeze.
- Contract to convert microfilm data to electronic files for easier access and viewing.

Senator Steven Glazer
July 9, 2020
Page 2

- Continue to cross train staff and apply continuous quality improvement efforts. Beginning in 2020, the BRN had approximately 3,000 pending transactions and as of mid-May, there were less than 400 pending transactions. Our past three-year data shows an average of 1,100 license verification requests per month.
- As a result of the Budget Change Proposal passed by the legislature effective July 2019, the BRN has increased staffing for this process from ½ staff to 1.5 staff.
- The fee difference of \$30 for a Nursys verification versus the \$100 the BRN charges is an issue that we would not object to statutory revisions lowering the fee. Our fees are outlined in statute and regulation.
- These resolutions can be done by end of year 2020 barring any unforeseen delays.

The BRN needs more time to continue our efforts to resolving this issue and is already improving the service provided to our RNs. It is for these reasons the Board of Registered Nursing is opposed to Assembly Bill 3016. Should you have any questions regarding our position on the bill, please do not hesitate to contact me at (916) 574-7466.

Thank you for your consideration.

Sincerely,



Thelma Harris, RN, PHN, MSN
Chief of Legislation
Board of Registered Nursing

cc: Members, Senate Standing Committee on Business, Professions and Economic
Development
Assemblymember Dahle

AMENDED IN ASSEMBLY JULY 27, 2020

AMENDED IN SENATE JUNE 18, 2020

AMENDED IN SENATE MAY 19, 2020

AMENDED IN SENATE MAY 13, 2020

SENATE BILL

No. 1237

Introduced by Senator Dodd

(Coauthor: Senator Mitchell)

(Principal coauthor: Assembly Member Burke)

February 20, 2020

An act to amend Sections 650.01, 2746.2, 2746.5, 2746.51, and 2746.52 of, and to add Sections 2746.54 and 2746.55 to, the Business and Professions Code, *and to amend Section 102415 of the Health and Safety Code*, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1237, as amended, Dodd. Nurse-midwives: scope of practice.

(1) Existing law, the Nursing Practice Act, establishes the Board of Registered Nursing within the Department of Consumer Affairs for the licensure and regulation of the practice of nursing. A violation of the act is a crime. Existing law requires the board to issue a certificate to practice nurse-midwifery to a person who, among other qualifications, meets educational standards established by the board or the equivalent of those educational standards. Existing law authorizes a certified nurse-midwife, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother, and immediate care for the newborn. Existing law defines the practice of nurse-midwifery as the furthering or undertaking by a

certified person, under the supervision of licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal. Existing law requires all complications to be referred to a physician immediately. Existing law excludes the assisting of childbirth by any artificial, forcible, or mechanical means, and the performance of any version from the definition of the practice of nurse-midwifery.

This bill would delete the above-described provisions defining the practice of nurse-midwifery, would delete the condition that a certified nurse-midwife practice under the supervision of a physician and surgeon, and would instead authorize a certified nurse-midwife to attend cases of low-risk pregnancy, as defined, and childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning services, interconception care, and immediate care of the newborn, consistent with standards adopted by a specified professional organization, or its successor, as approved by the board. The bill would authorize a certified nurse-midwife to practice with a physician and surgeon under mutually agreed-upon policies and protocols that delineate the parameters for consultation, collaboration, referral, and transfer of a patient's care, signed by both the certified nurse-midwife and a physician and surgeon to provide a patient with specified services. ~~The bill~~ *bill, except as specified*, would require the patient to be transferred to the care of a physician and surgeon to provide those services if the nurse-midwife does not have those mutually agreed-upon policies and protocols in place, and would authorize the return of that patient to the care of the nurse-midwife after the physician and surgeon has determined that the condition or circumstance that required, or would require, the transfer is resolved. The bill would authorize a certified nurse-midwife to continue to attend the birth of the newborn and participate in physical care, counseling, guidance, teaching, and support, if a physician and surgeon assumes care of the patient, as indicated by the mutually agreed-upon policies and protocols. The bill would authorize a certified nurse-midwife, after referring a patient to a physician and surgeon, to continue care of a patient the patient during a reasonable interval between the referral and the initial appointment with the physician and surgeon. The bill would authorize a certified nurse-midwife to attend pregnancy and childbirth in an out-of-hospital setting if consistent with the above-described provisions. Under the bill, a certified nurse-midwife would not be authorized to assist childbirth by vacuum or forceps extraction, or to perform any external cephalic version. The bill would

require a certified nurse-midwife to refer all emergencies to a physician and surgeon immediately, and would authorize a certified nurse-midwife to provide emergency care until the assistance of a physician and surgeon is obtained.

This bill would require a certified nurse-midwife who is not under the supervision of a physician and surgeon to provide oral and written disclosure to a patient and obtain a patient's written consent, as specified. By expanding the scope of a crime, the bill would impose a state-mandated local program.

(2) Existing law authorizes the board to appoint a committee of qualified physicians and nurses, including, but not limited to, obstetricians and nurse-midwives, to develop the necessary standards relating to educational requirements, ratios of nurse-midwives to supervising physicians, and associated matters. Existing law, additionally, authorizes the committee to include family physicians.

~~This bill would specify the name of the committee as bill, instead, would require the board to appoint a committee of qualified physicians and surgeons and nurses called the Nurse-Midwifery Advisory Committee. The bill would require the committee to consist of 4 qualified nurse-midwives, 2 qualified physicians and surgeons, including, but not limited to, obstetricians or family physicians, and one public member.~~ The bill would delete the provision including ratios of nurse-midwives to supervising physicians and associated matters in the standards developed by the committee, and would instead require the committee to make recommendations to the board on all matters related to midwifery practice, education, appropriate standard of care, and other matters as specified by the board. ~~The bill would authorize~~ *require* the committee to ~~make recommendations on disciplinary actions at the request of the board. The bill would require a majority of the members of the committee to be nurse-midwives and at least 40% of the members of the committee to be physicians and surgeons.~~ *provide recommendations or guidance on care when the board is considering disciplinary action against a certified nurse-midwife.* The bill would ~~require~~ *authorize* the committee to continue to make the recommendations ~~described above~~ if the board, despite good faith efforts, is unable to solicit and appoint ~~to the committee members pursuant to these provisions:~~ *4 qualified nurse-midwives, 2 qualified physicians and surgeons, including, but not limited to, obstetricians or family physicians, and one public member.*

(3) Existing law authorizes a certified nurse-midwife to furnish drugs or devices, including controlled substances, in specified circumstances, including if drugs or devices are furnished or ordered incidentally to the provision of care in specified settings, including certain licensed health care facilities, birth centers, and maternity hospitals provided that the furnishing or ordering of drugs or devices occur under physician and surgeon supervision. Existing law requires the drugs or devices to be furnished in accordance with standardized procedures or protocols, and defines standardized procedure to mean a document, including protocols, developed and approved by specified persons, including a facility administrator. Existing law requires Schedule II or III controlled substances furnished or ordered by a certified nurse-midwife to be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician and surgeon. Existing law requires a certified nurse-midwife who is authorized to furnish or issue a drug order for a controlled substance to register with the United States Drug Enforcement Administration.

This bill would delete the condition that the furnishing or ordering of drugs or devices occur under physician and surgeon supervision, and would authorize a certified nurse-midwife to furnish drugs or devices incidentally to the provision of care and services allowed by a certificate to practice nurse-midwifery as provided by the bill and when care is rendered in an out-of-hospital setting, as specified. The bill would limit the requirement that the furnishing or ordering of drugs or devices by a certified nurse-midwife be in accordance with the standardized procedures or protocols to the furnishing or ordering of drugs or devices for services that do not fall within the scope of services specified by the bill, ~~bill and the furnishing of~~ Schedule IV or V controlled substances by a nurse-midwife for any condition. The bill would require Schedule II or III controlled substances furnished or ordered by a certified nurse-midwife for any condition to be furnished or ordered in accordance with a patient-specific protocol approved by a physician and surgeon. The bill would revise the definition of standardized procedure to mean a document, including protocols, developed in collaboration with, and approved by, a physician and surgeon and the certified nurse-midwife. The bill would require a certified nurse-midwife who is authorized to furnish or issue a drug order for a controlled substance to additionally register with the Controlled Substance Utilization Review and Enforcement System (CURES). The bill would authorize a certified nurse-midwife to procure supplies and devices, obtain and administer

diagnostic tests, obtain and administer nonscheduled drugs consistent with the provision of services that fall within the scope of services specified by the bill, order laboratory and diagnostic testing, and receive reports, as specified. The bill would make it a misdemeanor for a certified nurse-midwife to refer a person for specified laboratory and diagnostic testing, home infusion therapy, and imaging goods or services if the certified nurse-midwife or their immediate family member has a financial interest with the person receiving a referral. By expanding the scope of a crime, the bill would impose a state-mandated local program.

(4) Existing law authorizes a certified nurse-midwife to perform and repair episiotomies and repair lacerations of the perineum in specified health care facilities only if specified conditions are met, including that the protocols and procedures ensure that all complications are referred to a physician and surgeon immediately, and that immediate care of patients who are in need of care beyond the scope of practice of the certified nurse-midwife, or emergency care for times when the supervising physician and surgeon is not on the premises.

This bill would delete those conditions, and instead would require a certified nurse-midwife performing and repairing lacerations of the perineum to ensure that all complications are referred to a physician and surgeon immediately, and that immediate care of patients who are in need of care beyond the scope of practice of the certified nurse-midwife, or emergency care when a physician and surgeon is not on the premises.

(5) *Existing law requires each live birth to be registered with the local registrar of births and deaths for the district in which the birth occurred within 10 days following the date of the event. Existing law makes the professionally licensed midwife in attendance at a live birth that occurs outside of a hospital or outside of a state-licensed alternative birth center responsible for entering the information on the birth certificate, securing the required signatures, and for registering the certificate with the local registrar.*

This bill instead would make the professionally licensed midwife or the certified nurse-midwife in attendance responsible for those duties.

(6) *Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.*

This bill would make legislative findings to that effect.

(5)

(7) Existing law, the Health Data and Advisory Council Consolidation Act, requires certain health facilities to make and file with the Office of Statewide Health Planning and Development specified reports containing various financial and patient data. Existing law requires a licensed midwife who assists, or supervises a student midwife in assisting, in childbirth that occurs in an out-of-hospital setting to annually report specified information to the Office of Statewide Health Planning and Development.

This bill would require a certified nurse-midwife to report the outcome of a birth in an out-of-hospital setting to ensure consistent reporting of birth outcomes in all settings, consistent with the information currently reported by hospitals to the Office of Statewide Health Planning and Development. who provides labor and delivery services that occurs in an out-of-hospital setting to report patient-level data within 90 days of the birth to the State Department of Public Health, as specified. The bill would require the Board of Registered Nursing to specify the final form of the data submission. The bill would require the department to maintain the confidentiality of that information, and would prohibit the department from permitting any law enforcement or regulatory agency to inspect or have copies made of the contents of the submitted reports for any purpose. The bill would require the department to report to the board by April 30, those licensees who have met the reporting requirement. The bill would prohibit the board from renewing the license of a certified nurse-midwife who has failed to comply with the reporting requirement unless the certified nurse-midwife submits to the department the missing data. The bill would require, for those cases that involve a hospital transfer, the Office of Statewide Health Planning and Development to coordinate the linkage of the data submitted by the certified nurse-midwife with the vital records data and patient discharge data that reflects the hospitalization. The bill would require the department to report the aggregate information collected pursuant to these provisions to the board by July 30 of each year. The bill would require the board to include this information in its annual report to the Legislature.

(6)

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares the
2 following:

3 (a) *It is the intent of the Legislature to ensure the preservation*
4 *of nurse-midwifery care in both the hospital and out-of-hospital*
5 *setting by delineating the scope of practice for certified*
6 *nurse-midwives.*

7 ~~(a)~~

8 (b) There is a maternity care workforce crisis in California. At
9 least nine counties have no obstetrician at all, and many more
10 counties fall below the national average for obstetricians.
11 Nurse-midwives and physicians and surgeons can work together
12 to innovatively address this issue and fill gaps in care, before
13 California reaches the point of a critical provider shortage.

14 ~~(b)~~

15 (c) California has made great strides in reducing maternal
16 mortality. Nonetheless, there remains a large disparity for Black
17 and indigenous birthing people, and other birthing people of color.
18 The maternal mortality rate for Black women in California is still
19 three to four times higher than White women. Within an integrated
20 model of care, physicians and surgeons and nurse-midwives can
21 work together with patients and community leaders to eradicate
22 this disparity. This measure will set the foundation for that work.

23 ~~(c)~~

24 (d) Structural, systemic, and interpersonal racism, and the
25 resulting economic and social inequities and racial disparities in
26 health care are complex problems requiring multiple, innovative
27 strategies in order to turn the tide. Expansion of care teams,
28 working together in a patient-centered approach, is one of these
29 innovative strategies.

30 ~~(d)~~

31 (e) State studies show that successful physician-midwifery
32 integration enhances well-being and maternal and neonatal
33 outcomes.

1 ~~(e)~~
2 (f) Nurse-midwives attend 50,000 births a year in California
3 and are currently underutilized.

4 ~~(f)~~
5 (g) Supporting vaginal birth could improve health outcomes
6 and save millions in annual health care costs in California.

7 ~~(g)~~
8 (h) California is the only western state that still requires
9 nurse-midwives to be supervised by a physician and surgeon and
10 one of only four states in the nation that still requires this. Forty-six
11 other states have removed the requirement for physician and
12 surgeon supervision.

13 ~~(h)~~
14 (i) Bodily autonomy including the choice of health care provider
15 and the personalized, shared involvement in health care decisions
16 is fundamental to reproductive rights.

17 ~~(i)~~
18 (j) Every person is entitled to access dignified, person-centered
19 childbirth and health care, regardless of race, gender, age, class,
20 sexual orientation, gender identity, ability, language proficiency,
21 nationality, immigration status, gender expression, religion,
22 insurance status, or geographic location.

23 ~~(j)~~
24 (k) The core philosophy of nurse-midwifery is to provide
25 patient-centered, culturally sensitive, holistic care in collaboration
26 with physicians and surgeons and other health care providers, all
27 of which are key to reducing disparities in maternal health care.

28 SEC. 2. Section 650.01 of the Business and Professions Code
29 is amended to read:

30 650.01. (a) Notwithstanding Section 650, or any other
31 provision of law, it is unlawful for a licensee to refer a person for
32 laboratory, diagnostic nuclear medicine, radiation oncology,
33 physical therapy, physical rehabilitation, psychometric testing,
34 home infusion therapy, or diagnostic imaging goods or services if
35 the licensee or their immediate family has a financial interest with
36 the person or in the entity that receives the referral.

37 (b) For purposes of this section and Section 650.02, the
38 following shall apply:

39 (1) "Diagnostic imaging" includes, but is not limited to, all
40 X-ray, computed axial tomography, magnetic resonance imaging

1 nuclear medicine, positron emission tomography, mammography,
2 and ultrasound goods and services.

3 (2) A “financial interest” includes, but is not limited to, any
4 type of ownership interest, debt, loan, lease, compensation,
5 remuneration, discount, rebate, refund, dividend, distribution,
6 subsidy, or other form of direct or indirect payment, whether in
7 money or otherwise, between a licensee and a person or entity to
8 whom the licensee refers a person for a good or service specified
9 in subdivision (a). A financial interest also exists if there is an
10 indirect financial relationship between a licensee and the referral
11 recipient including, but not limited to, an arrangement whereby a
12 licensee has an ownership interest in an entity that leases property
13 to the referral recipient. Any financial interest transferred by a
14 licensee to any person or entity or otherwise established in any
15 person or entity for the purpose of avoiding the prohibition of this
16 section shall be deemed a financial interest of the licensee. For
17 purposes of this paragraph, “direct or indirect payment” shall not
18 include a royalty or consulting fee received by a physician and
19 surgeon who has completed a recognized residency training
20 program in orthopedics from a manufacturer or distributor as a
21 result of their research and development of medical devices and
22 techniques for that manufacturer or distributor. For purposes of
23 this paragraph, “consulting fees” means those fees paid by the
24 manufacturer or distributor to a physician and surgeon who has
25 completed a recognized residency training program in orthopedics
26 only for their ongoing services in making refinements to their
27 medical devices or techniques marketed or distributed by the
28 manufacturer or distributor, if the manufacturer or distributor does
29 not own or control the facility to which the physician is referring
30 the patient. A “financial interest” shall not include the receipt of
31 capitation payments or other fixed amounts that are prepaid in
32 exchange for a promise of a licensee to provide specified health
33 care services to specified beneficiaries. A “financial interest” shall
34 not include the receipt of remuneration by a medical director of a
35 hospice, as defined in Section 1746 of the Health and Safety Code,
36 for specified services if the arrangement is set out in writing, and
37 specifies all services to be provided by the medical director, the
38 term of the arrangement is for at least one year, and the
39 compensation to be paid over the term of the arrangement is set
40 in advance, does not exceed fair market value, and is not

1 determined in a manner that takes into account the volume or value
2 of any referrals or other business generated between parties.

3 (3) For the purposes of this section, “immediate family” includes
4 the spouse and children of the licensee, the parents of the licensee,
5 and the spouses of the children of the licensee.

6 (4) “Licensee” means a physician as defined in Section 3209.3
7 of the Labor Code or a certified nurse-midwife as described in
8 Article 2.5 (commencing with Section 2746) of Chapter 6, acting
9 within their scope of practice.

10 (5) “Licensee’s office” means either of the following:

11 (A) An office of a licensee in solo practice.

12 (B) An office in which services or goods are personally provided
13 by the licensee or by employees in that office, or personally by
14 independent contractors in that office, in accordance with other
15 provisions of law. Employees and independent contractors shall
16 be licensed or certified when licensure or certification is required
17 by law.

18 (6) “Office of a group practice” means an office or offices in
19 which two or more licensees are legally organized as a partnership,
20 professional corporation, or not-for-profit corporation, licensed
21 pursuant to subdivision (a) of Section 1204 of the Health and Safety
22 Code, for which all of the following apply:

23 (A) Each licensee who is a member of the group provides
24 substantially the full range of services that the licensee routinely
25 provides, including medical care, consultation, diagnosis, or
26 treatment through the joint use of shared office space, facilities,
27 equipment, and personnel.

28 (B) Substantially all of the services of the licensees who are
29 members of the group are provided through the group and are
30 billed in the name of the group and amounts so received are treated
31 as receipts of the group, except in the case of a multispecialty
32 clinic, as defined in subdivision (l) of Section 1206 of the Health
33 and Safety Code, physician services are billed in the name of the
34 multispecialty clinic and amounts so received are treated as receipts
35 of the multispecialty clinic.

36 (C) The overhead expenses of, and the income from, the practice
37 are distributed in accordance with methods previously determined
38 by members of the group.

39 (c) It is unlawful for a licensee to enter into an arrangement or
40 scheme, such as a cross-referral arrangement, that the licensee

1 knows, or should know, has a principal purpose of ensuring
2 referrals by the licensee to a particular entity that, if the licensee
3 directly made referrals to that entity, would be in violation of this
4 section.

5 (d) No claim for payment shall be presented by an entity to any
6 individual, third party payer, or other entity for a good or service
7 furnished pursuant to a referral prohibited under this section.

8 (e) No insurer, self-insurer, or other payer shall pay a charge or
9 lien for any good or service resulting from a referral in violation
10 of this section.

11 (f) A licensee who refers a person to, or seeks consultation from,
12 an organization in which the licensee has a financial interest, other
13 than as prohibited by subdivision (a), shall disclose the financial
14 interest to the patient, or the parent or legal guardian of the patient,
15 in writing, at the time of the referral or request for consultation.

16 (1) If a referral, billing, or other solicitation is between one or
17 more licensees who contract with a multispecialty clinic pursuant
18 to subdivision (l) of Section 1206 of the Health and Safety Code
19 or who conduct their practice as members of the same professional
20 corporation or partnership, and the services are rendered on the
21 same physical premises, or under the same professional corporation
22 or partnership name, the requirements of this subdivision may be
23 met by posting a conspicuous disclosure statement at the
24 registration area or by providing a patient with a written disclosure
25 statement.

26 (2) If a licensee is under contract with the Department of
27 Corrections or the California Youth Authority, and the patient is
28 an inmate or parolee of either respective department, the
29 requirements of this subdivision shall be satisfied by disclosing
30 financial interests to either the Department of Corrections or the
31 California Youth Authority.

32 (g) A violation of subdivision (a) shall be a misdemeanor. In
33 the case of a licensee who is a physician and surgeon, the Medical
34 Board of California shall review the facts and circumstances of
35 any conviction pursuant to subdivision (a) and take appropriate
36 disciplinary action if the licensee has committed unprofessional
37 conduct. In the case of a licensee who is a certified nurse-midwife,
38 the Board of Registered Nursing shall review the facts and
39 circumstances of any conviction pursuant to subdivision (a) and
40 take appropriate disciplinary action if the licensee has committed

1 unprofessional conduct. Violations of this section may also be
 2 subject to civil penalties of up to five thousand dollars (\$5,000)
 3 for each offense, which may be enforced by the Insurance
 4 Commissioner, Attorney General, or a district attorney. A violation
 5 of subdivision (c), (d), or (e) is a public offense and is punishable
 6 upon conviction by a fine not exceeding fifteen thousand dollars
 7 (\$15,000) for each violation and appropriate disciplinary action,
 8 including revocation of professional licensure, by the Medical
 9 Board of California, the Board of Registered Nursing, or other
 10 appropriate governmental agency.

11 (h) This section shall not apply to referrals for services that are
 12 described in and covered by Sections 139.3 and 139.31 of the
 13 Labor Code.

14 (i) This section shall become operative on January 1, 1995.

15 SEC. 3. Section 2746.2 of the Business and Professions Code
 16 is amended to read:

17 2746.2. (a) An applicant shall show by evidence satisfactory
 18 to the board that they have met the educational standards
 19 established by the board or have at least the equivalent thereof.

20 (b) (1) The board ~~may~~ *shall* appoint a committee of qualified
 21 physicians and surgeons and nurses called the Nurse-Midwifery
 22 Advisory Committee.

23 (2) The committee shall make recommendations to the board
 24 on all matters related to midwifery practice, education, appropriate
 25 standard of care, and other matters as specified by the board. ~~At~~
 26 ~~the request of the board, the committee may make~~
 27 ~~recommendations on disciplinary actions. *The committee shall*~~
 28 ~~*provide recommendations or guidance on care when the board is*~~
 29 ~~*considering disciplinary action against a certified nurse-midwife.*~~

30 (3) ~~(A) The committee shall include, but not be limited to,~~
 31 ~~qualified nurses and consist of four qualified nurse-midwives, two~~
 32 qualified physicians and surgeons, including, but not limited to,
 33 obstetricians or family ~~physicians.~~ *physicians, and one public*
 34 *member.*

35 ~~(B) A majority of the members of the committee shall be~~
 36 ~~nurse-midwives.~~

37 ~~(C) At least 40 percent of the members of the committee shall~~
 38 ~~be physicians and surgeons.~~

39 (4) If the board is unable, despite good faith efforts, to solicit
 40 and appoint committee members pursuant to the specifications in

1 ~~subparagraph (B) or (C)~~ of paragraph (3), the committee ~~shall~~ *may*
 2 continue to make recommendations pursuant to paragraph (2).

3 SEC. 4. Section 2746.5 of the Business and Professions Code
 4 is amended to read:

5 2746.5. (a) The certificate to practice nurse-midwifery
 6 authorizes the holder to attend cases of low-risk pregnancy and
 7 childbirth and to provide prenatal, intrapartum, and postpartum
 8 care, including ~~family-planning services~~, interconception care,
 9 *family planning care*, and immediate care for the newborn,
 10 consistent with the Core Competencies for Basic Midwifery
 11 Practice adopted by the American College of Nurse-Midwives, or
 12 its successor national professional organization, as approved by
 13 the board. For purposes of this subdivision, “low-risk pregnancy”
 14 means a pregnancy in which all of the following conditions are
 15 met:

16 (1) There is a single fetus.

17 (2) There is a cephalic presentation at onset of labor.

18 (3) The gestational age of the fetus is greater than or equal to
 19 37 weeks and zero days and less than or equal to 42 weeks and
 20 zero days at the time of delivery.

21 (4) Labor is spontaneous or induced.

22 (5) The patient has no preexisting disease or condition, whether
 23 arising out of the pregnancy or otherwise, that adversely affects
 24 the pregnancy and that the certified nurse-midwife is not qualified
 25 to independently address ~~pursuant to~~ *consistent with* this section.

26 (b) (1) The certificate to practice nurse-midwifery authorizes
 27 the holder to practice with a physician and surgeon under mutually
 28 agreed-upon policies and protocols that delineate the parameters
 29 for consultation, collaboration, referral, and transfer of a patient’s
 30 care, signed by both the certified nurse-midwife and a physician
 31 and surgeon to do either of the following:

32 (A) Provide a patient with care that falls outside the scope of
 33 services specified in subdivision (a).

34 (B) Provide intrapartum care to a patient who has had a prior
 35 cesarean section or surgery that interrupts the myometrium.

36 (2) If a physician and surgeon assumes care of the patient, the
 37 certified nurse-midwife may continue to attend the birth of the
 38 newborn and participate in physical care, counseling, guidance,
 39 teaching, and support, as indicated by the mutually agreed-upon

1 policies and protocols signed by both the certified nurse-midwife
2 and a physician and surgeon.

3 (3) After a certified nurse-midwife refers a patient to a physician
4 and surgeon, the certified nurse-midwife may continue care of the
5 patient during a reasonable interval between the referral and the
6 initial appointment with the physician and surgeon.

7 (c) (1) If a nurse-midwife does not have in place mutually
8 agreed-upon policies and protocols that delineate the parameters
9 for consultation, collaboration, referral, and transfer of a patient's
10 care, signed by both the certified nurse-midwife and a physician
11 and surgeon pursuant to paragraph (1) of subdivision (b), the
12 patient shall be transferred to the care of a physician and surgeon
13 to do either *or both* of the following:

14 (A) Provide a patient with care that falls outside the scope of
15 services specified in subdivision (a).

16 (B) Provide intrapartum care to a patient who has had a prior
17 cesarean section or surgery that interrupts the myometrium.

18 (2) *After the certified nurse-midwife initiates the process of*
19 *transfer pursuant to paragraph (1), for a patient who otherwise*
20 *meets the definition of a low-risk pregnancy but no longer meets*
21 *the criteria specified in paragraph (3) of subdivision (a) because*
22 *the gestational age of the fetus is greater than 42 weeks and zero*
23 *days, if there is inadequate time to effect safe transfer to a hospital*
24 *prior to delivery or transfer may pose a threat to the health and*
25 *safety of the patient or the unborn child, the certified nurse-midwife*
26 *may continue care of the patient consistent with the transfer plan*
27 *described in subdivision (a) of Section 2746.54.*

28 ~~(2)~~

29 (3) A patient who has been transferred from the care of a
30 certified nurse-midwife to that of a physician and surgeon may
31 return to the care of the certified nurse-midwife after the physician
32 and surgeon has determined that the condition or circumstance
33 that required, or would require, the transfer from the care of the
34 nurse-midwife pursuant to paragraph (1) is resolved.

35 (d) The certificate to practice nurse-midwifery authorizes the
36 holder to attend pregnancy and childbirth in an out-of-hospital
37 setting if consistent with subdivisions (a), (b), and (c).

38 (e) This section shall not be interpreted to deny a patient's right
39 to self-determination or informed decisionmaking with regard to
40 choice of provider or birth setting.

1 (f) The certificate to practice nurse-midwifery does not authorize
2 the holder of the certificate to assist childbirth by vacuum or
3 forceps extraction, or to perform any external cephalic version.

4 (g) A certified nurse-midwife shall document all consultations,
5 referrals, and transfers in the patient record.

6 (h) (1) A certified nurse-midwife shall refer all emergencies to
7 a physician and surgeon immediately.

8 (2) A certified nurse-midwife may provide emergency care until
9 the assistance of a physician and surgeon is obtained.

10 (i) This chapter does not authorize a nurse-midwife to practice
11 medicine or surgery.

12 (j) This section shall not be construed to require a physician and
13 surgeon to sign protocols and procedures for a nurse-midwife or
14 to permit any action that violates Section 2052 or 2400.

15 *(k) This section shall not be construed to require a*
16 *nurse-midwife to have mutually agreed-upon, signed policies and*
17 *protocols for the provision of services described in subdivision*
18 *(a).*

19 SEC. 5. Section 2746.51 of the Business and Professions Code
20 is amended to read:

21 2746.51. (a) Neither this chapter nor any other law shall be
22 construed to prohibit a certified nurse-midwife from furnishing or
23 ordering drugs or devices, including controlled substances
24 classified in Schedule II, III, IV, or V under the California Uniform
25 Controlled Substances Act (Division 10 (commencing with Section
26 11000) of the Health and Safety Code), when all of the following
27 apply:

28 (1) The drugs or devices are furnished or ordered incidentally
29 to the provision of any of the following:

30 (A) The care and services described in Section 2746.5.

31 (B) Care rendered, consistent with the certified nurse-midwife's
32 educational preparation or for which clinical competency has been
33 established and maintained, to persons within a facility specified
34 in subdivision (a), (b), (c), (d), (i), or (j) of Section 1206 of the
35 Health and Safety Code, a clinic as specified in Section 1204 of
36 the Health and Safety Code, a general acute care hospital as defined
37 in subdivision (a) of Section 1250 of the Health and Safety Code,
38 a licensed birth center as defined in Section 1204.3 of the Health
39 and Safety Code, or a special hospital specified as a maternity

1 hospital in subdivision (f) of Section 1250 of the Health and Safety
2 Code.

3 (C) Care rendered in an out-of-hospital setting pursuant to
4 subdivision (d) of Section 2746.5.

5 (2) The furnishing or ordering of drugs or devices by a certified
6 nurse-midwife for services that do not fall within the scope of
7 services specified in subdivision (a) of Section 2746.5, and ~~the~~
8 ~~furnishing of~~ Schedule IV or V controlled substances by a
9 nurse-midwife for any condition, including, but not limited to, ~~the~~
10 ~~furnishing of~~ Schedule IV or V controlled substances for services
11 that fall within the scope of services specified in subdivision (a)
12 of Section 2746.5, are in accordance with the standardized
13 procedures or protocols. For purposes of this section, standardized
14 procedure means a document, including protocols, developed in
15 collaboration with, and approved by, a physician and surgeon and
16 the certified nurse-midwife. The standardized procedure covering
17 the furnishing or ordering of drugs or devices shall specify all of
18 the following:

19 (A) Which certified nurse-midwife may furnish or order drugs
20 or devices.

21 (B) Which drugs or devices may be furnished or ordered and
22 under what circumstances.

23 (C) The method of periodic review of the certified
24 nurse-midwife's competence, including peer review, and review
25 of the provisions of the standardized procedure.

26 (3) If Schedule II or III controlled substances, as defined in
27 Sections 11055 and 11056 of the Health and Safety Code, are
28 furnished or ordered by a certified nurse-midwife for any condition,
29 including, but not limited to, ~~the furnishing of~~ Schedule II or III
30 controlled substances for services that fall within the scope of
31 services specified in subdivision (a) of Section 2746.5, the
32 controlled substances shall be furnished or ordered in accordance
33 with a patient-specific protocol approved by a physician and
34 surgeon. For Schedule II controlled substance protocols, the
35 provision for furnishing the Schedule II controlled substance shall
36 address the diagnosis of the illness, injury, or condition for which
37 the Schedule II controlled substance is to be furnished.

38 (b) (1) The furnishing or ordering of drugs or devices by a
39 certified nurse-midwife is conditional on the issuance by the board
40 of a number to the applicant who has successfully completed the

1 requirements of paragraph (2). The number shall be included on
2 all transmittals of orders for drugs or devices by the certified
3 nurse-midwife. The board shall maintain a list of the certified
4 nurse-midwives that it has certified pursuant to this paragraph and
5 the number it has issued to each one. The board shall make the list
6 available to the California State Board of Pharmacy upon its
7 request. Every certified nurse-midwife who is authorized pursuant
8 to this section to furnish or issue a drug order for a controlled
9 substance shall register with the United States Drug Enforcement
10 Administration and the Controlled Substance Utilization Review
11 and Enforcement System (CURES) pursuant to Section 11165.1
12 of the Health and Safety Code.

13 (2) The board has certified in accordance with paragraph (1)
14 that the certified nurse-midwife has satisfactorily completed a
15 course in pharmacology covering the drugs or devices to be
16 furnished or ordered under this section, including the risks of
17 addiction and neonatal abstinence syndrome associated with the
18 use of opioids. The board shall establish the requirements for
19 satisfactory completion of this paragraph.

20 (3) A copy of the standardized procedure or protocol relating
21 to the furnishing or ordering of controlled substances by a certified
22 nurse-midwife shall be provided upon request to any licensed
23 pharmacist who is uncertain of the authority of the certified
24 nurse-midwife to perform these functions.

25 (4) Certified nurse-midwives who are certified by the board and
26 hold an active furnishing number, who are currently authorized
27 through standardized procedures or protocols to furnish Schedule
28 II controlled substances, and who are registered with the United
29 States Drug Enforcement Administration shall provide
30 documentation of continuing education specific to the use of
31 Schedule II controlled substances in settings other than a hospital
32 based on standards developed by the board.

33 (c) Drugs or devices furnished or ordered by a certified
34 nurse-midwife may include Schedule II controlled substances
35 under the California Uniform Controlled Substances Act (Division
36 10 (commencing with Section 11000) of the Health and Safety
37 Code) under the following conditions:

38 (1) The drugs and devices are furnished or ordered in accordance
39 with requirements referenced in subdivisions (a) and (b).

1 (2) When Schedule II controlled substances, as defined in
2 Section 11055 of the Health and Safety Code, are furnished or
3 ordered by a certified nurse-midwife, the controlled substances
4 shall be furnished or ordered in accordance with a patient-specific
5 protocol approved by a physician and surgeon.

6 (d) Furnishing of drugs or devices by a certified nurse-midwife
7 means the act of making a pharmaceutical agent or agents available
8 to the patient. Use of the term “furnishing” in this section shall
9 include the following:

10 (1) The ordering of a nonscheduled drug or device for services
11 that fall within the scope of services specified in subdivision (a)
12 of Section 2746.5.

13 (2) The ordering of a nonscheduled drug or device for services
14 that fall outside the scope of services specified in subdivision (a)
15 of Section 2746.5 in accordance with standardized procedures or
16 protocols pursuant to paragraph (2) of subdivision (a).

17 (3) The ordering of a Schedule IV or V drug for any condition,
18 including, but not limited to, ~~the furnishing of Schedule IV or V~~
19 ~~controlled substances for services that fall for care that falls~~ within
20 the scope of services specified in subdivision (a) of Section 2746.5,
21 in accordance with standardized procedures or protocols pursuant
22 to paragraph (2) of subdivision (a).

23 (4) The ordering of a Schedule II or III drug in accordance with
24 a patient-specific protocol approved by a physician and surgeon
25 pursuant to paragraph (3) of subdivision (a).

26 (5) Transmitting an order of a physician and surgeon.

27 (e) “Drug order” or “order” for purposes of this section means
28 an order for medication or for a drug or device that is dispensed
29 to or for an ultimate user, issued by a certified nurse-midwife as
30 an individual practitioner, within the meaning of Section 1306.03
31 of Title 21 of the Code of Federal Regulations. Notwithstanding
32 any other provision of law, (1) a drug order issued pursuant to this
33 section shall be treated in the same manner as a prescription of the
34 supervising physician; (2) all references to “prescription” in this
35 code and the Health and Safety Code shall include drug orders
36 issued by certified nurse-midwives; and (3) the signature of a
37 certified nurse-midwife on a drug order issued in accordance with
38 this section shall be deemed to be the signature of a prescriber for
39 purposes of this code and the Health and Safety Code.

1 (f) Notwithstanding any other law, a certified nurse-midwife
2 may directly procure supplies and devices, obtain and administer
3 diagnostic tests, directly obtain and administer nonscheduled drugs
4 consistent with the provision of services that fall within the scope
5 of services specified in subdivision (a) of Section 2746.5, order
6 laboratory and diagnostic testing, and receive reports that are
7 necessary to their practice as a certified nurse-midwife within their
8 scope of ~~practice~~: *practice, consistent with Section 2746.5.*

9 SEC. 6. Section 2746.52 of the Business and Professions Code
10 is amended to read:

11 2746.52. (a) Notwithstanding Section 2746.5, the certificate
12 to practice nurse-midwifery authorizes the holder to perform and
13 repair episiotomies, and to repair first-degree and second-degree
14 lacerations of the perineum.

15 (b) A certified nurse-midwife performing and repairing
16 first-degree and second-degree lacerations of the perineum shall
17 do both of the following:

18 (1) Ensure that all complications are referred to a physician and
19 surgeon immediately.

20 (2) Ensure immediate care of patients who are in need of care
21 beyond the scope of practice of the certified nurse-midwife, or
22 emergency care for times when a physician and surgeon is not on
23 the premises.

24 SEC. 7. Section 2746.54 is added to the Business and
25 Professions Code, to read:

26 2746.54. (a) A certified nurse-midwife shall disclose in oral
27 and written form to a prospective patient as part of a patient care
28 plan, and obtain informed consent for, all of the following:

29 (1) The patient is retaining a certified nurse-midwife and the
30 certified nurse-midwife is not supervised by a physician and
31 surgeon.

32 (2) The certified nurse-midwife's current licensure status and
33 license number.

34 (3) The practice settings in which the certified nurse-midwife
35 practices.

36 (4) If the certified nurse-midwife does not have liability
37 coverage for the practice of midwifery, the certified nurse-midwife
38 shall disclose that fact.

1 (5) There are conditions that are outside of the scope of practice
2 of a certified nurse-midwife that will result in a referral for a
3 consultation from, or transfer of care to, a physician and surgeon.

4 (6) The specific arrangements for the referral of complications
5 to a physician and surgeon for consultation. The certified
6 nurse-midwife shall not be required to identify a specific physician
7 and surgeon.

8 (7) The specific arrangements for the transfer of care during the
9 prenatal period, hospital transfer during the intrapartum and
10 postpartum periods, and access to appropriate emergency medical
11 services for mother and baby if necessary, and recommendations
12 for preregistration at a hospital that has obstetric emergency
13 services and is most likely to receive the transfer.

14 (8) If, during the course of care, the patient is informed that the
15 patient has or may have a condition indicating the need for a
16 mandatory transfer, the certified nurse-midwife shall initiate the
17 transfer.

18 (9) The availability of the text of laws regulating certified
19 nurse-midwifery practices and the procedure for reporting
20 complaints to the Board of Registered Nursing, which may be
21 found on the Board of Registered Nursing's internet website.

22 (10) Consultation with a physician and surgeon does not alone
23 create a physician-patient relationship or any other relationship
24 with the physician and surgeon. The certified nurse-midwife shall
25 inform the patient that certified nurse-midwife is independently
26 licensed and practicing midwifery and in that regard is solely
27 responsible for the services the certified nurse-midwife provides.

28 (b) The disclosure and consent shall be signed by both the
29 certified nurse-midwife and the patient and a copy of the disclosure
30 and consent shall be placed in the patient's medical record.

31 (c) The Nurse-Midwifery Advisory Committee, in consultation
32 with the board, may recommend to the board the form for the
33 written disclosure and informed consent statement required to be
34 used by a certified nurse-midwife under this section.

35 (d) This section shall not apply when the intended site of birth
36 is the hospital setting.

37 SEC. 8. Section 2746.55 is added to the Business and
38 Professions Code, to read:

39 ~~2746.55. To ensure consistent reporting of birth outcomes in~~
40 ~~all settings, consistent with the information currently reported by~~

1 ~~hospitals to the Office of Statewide Health Planning and~~
2 ~~Development, a certified nurse-midwife shall report the outcome~~
3 ~~of a birth in an out-of-hospital setting.~~

4 2746.55. (a) *Each certified nurse-midwife who provides labor*
5 *and delivery services that occurs in an out-of-hospital setting,*
6 *including facilitating transfer of labor and delivery services to a*
7 *hospital setting, shall report patient-level data within 90 days of*
8 *the birth to the State Department of Public Health. The final form*
9 *of the data submission shall be specified by the board but shall*
10 *represent patient-level data for all patients whose intended place*
11 *of birth at the onset of labor was an out-of-hospital setting. The*
12 *data shall include all of the following:*

- 13 (1) *The certified nurse-midwife's name.*
- 14 (2) *The certified nurse-midwife's license number.*
- 15 (3) *The newborn's date of birth.*
- 16 (4) *The place of birth.*
- 17 (5) *The county in which the place of birth is located.*
- 18 (6) *The ZIP Code of the place of birth.*
- 19 (7) *The date of birth of the parent giving birth.*
- 20 (8) *The ZIP Code of the residence of the parent giving birth.*
- 21 (9) *The county in which the residence of the parent giving birth*
22 *is located.*
- 23 (10) *The weight of the parent giving birth.*
- 24 (11) *The height of the parent giving birth.*
- 25 (12) *The Activity, Pulse, Grimace, Appearance, and Respiration*
26 *(APGAR) score.*
- 27 (13) *The obstetric estimate of gestational age.*
- 28 (14) *The total number of prior live births given by the parent*
29 *giving birth.*
- 30 (15) *The principal source of payment for delivery.*
- 31 (16) *The birthweight of the newborn.*
- 32 (17) *The method of delivery.*
- 33 (18) *Any complications and procedures of pregnancy and*
34 *concurrent illnesses.*
- 35 (19) *Any complications and procedures of labor and delivery.*
- 36 (20) *Any abnormal conditions and clinical procedures related*
37 *to the newborn.*
- 38 (21) *Presentation, defined by which anatomical part of the fetus*
39 *is closest to the pelvic inlet of the birth canal at the time of delivery.*

1 (22) *Plurality, defined as the number of fetuses delivered live*
2 *or dead at any time in the pregnancy.*

3 (23) *Whether the birth was both vaginal and given by a parent*
4 *who has had a prior cesarian section.*

5 (24) *The intended place of birth at the onset of labor, including,*
6 *but not limited to, home, freestanding birth center, hospital, clinic,*
7 *doctor's office, or other location.*

8 (25) *Whether there was a maternal death.*

9 (26) *Whether there was a fetal death.*

10 (27) *Whether there was a hospital transfer during the*
11 *intrapartum or postpartum period, and, if there was a transfer,*
12 *the following:*

13 (A) *Whether the mother, the newborn or newborns, or a*
14 *combination thereof was transferred.*

15 (B) *The reason for the transfer.*

16 (C) *The outcome of the transfer.*

17 (D) *The name of the hospital to which the patient or patients*
18 *were transferred.*

19 (28) *The name and title of the delivery provider.*

20 (29) *Any other information prescribed by the board in*
21 *regulations.*

22 (b) *For those cases that involve a hospital transfer, the Office*
23 *of Statewide Health Planning and Development shall coordinate*
24 *the linkage of the data submitted by the nurse-midwife with the*
25 *vital records data and patient discharge data that reflects the*
26 *hospitalization so that additional data reflecting the outcome can*
27 *be incorporated into the aggregated reports provided pursuant to*
28 *subdivision (f).*

29 (c) *The State Department of Public Health shall maintain the*
30 *confidentiality of the information submitted pursuant to this section,*
31 *and shall not permit any law enforcement or regulatory agency to*
32 *inspect or have copies made of the contents of any reports*
33 *submitted pursuant to subdivision (a) for any purpose, including,*
34 *but not limited to, investigations for licensing, certification, or*
35 *regulatory purposes.*

36 (d) *The State Department of Public Health shall report to the*
37 *board, by April 30, those licensees who have met the requirements*
38 *of subdivision (a) for that year.*

39 (e) *The board shall send a written notice of noncompliance to*
40 *each licensee who fails to meet the reporting requirement of*

1 subdivision (a). The board shall not renew the certificate of a
2 certified nurse-midwife who has failed to comply with subdivision
3 (a) unless the certified nurse-midwife submits to the department
4 the missing data.

5 (f) The State Department of Public Health shall report the
6 aggregate information, including, but not limited to, birth outcomes
7 of patients under the care of a certified nurse-midwife, collected
8 pursuant to this section to the board by July 30 of each year. The
9 board shall include this information in its annual report to the
10 Legislature. The report shall be submitted in compliance with
11 Section 9795 of the Government Code.

12 *SEC. 9. Section 102415 of the Health and Safety Code is*
13 *amended to read:*

14 102415. For live births that occur outside of a hospital or
15 outside of a state-licensed alternative birth center, as defined in
16 paragraph (4) of subdivision (b) of Section 1204, the physician in
17 attendance at the birth or, in the absence of a physician, the
18 professionally licensed midwife *or the certified nurse-midwife* in
19 attendance at the birth or, in the absence of a physician or midwife,
20 either one of the parents shall be responsible for entering the
21 information on the certificate, securing the required signatures,
22 and for registering the certificate with the local registrar.

23 *SEC. 10. The Legislature finds and declares that Section 8 of*
24 *this act, which adds Section 2746.55 of the Business and*
25 *Professions Code, imposes a limitation on the public's right of*
26 *access to the meetings of public bodies or the writings of public*
27 *officials and agencies within the meaning of Section 3 of Article*
28 *I of the California Constitution. Pursuant to that constitutional*
29 *provision, the Legislature makes the following findings to*
30 *demonstrate the interest protected by this limitation and the need*
31 *for protecting that interest:*

32 *This act is necessary to protect sensitive material from public*
33 *disclosure.*

34 ~~SEC. 9.~~

35 *SEC. 11.* No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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July 9, 2020

Assemblymember Low, Chair
Assembly Business and Professions Committee
Legislative Office Building
1020 N Street, Room 379
Sacramento CA 95814

RE: SB 1237 (Dodd)- Support if Amended

Chairman Low and Committee Members:

The Board of Registered Nursing (BRN or Board) licenses and regulates over 530,000 RN licenses and approves and regulates approximately 147 public and private prelicensure nursing programs in California in keeping with its mission of consumer protection. On June 24, 2020, the Board reviewed, discussed and took a “support if amended” position on SB 1237 during a public hearing.

Certified Nurse-Midwives (CNMs) are registered nurses with a master’s level training in midwifery and who are qualified to attend deliveries in settings ranging from the home to the hospital. The American College of Nurse-Midwives states that an **independent practice authority** best enables Nurse-Midwives to use their skills and judgment in helping patients. In an independent practice state, CNMs can practice with full autonomy and prescriptive authority.

Senate Bill 1237, includes but is not limited to, the following:

- deletes the condition that a certified nurse-midwife practice under the supervision of a physician and surgeon and would instead authorize a certified nurse-midwife to attend cases of normal pregnancy and childbirth consistent with standards adopted by a specified professional organization, or its successor, as approved by the board;
- specifies the committee name as the Nurse-Midwifery Advisory Committee and delete the provision including obstetricians on the committee and would require a majority of members of the committee to be nurse-midwives;
- deletes the condition that the furnishing or ordering of drugs or devices occur under physician and surgeon supervision, and would authorize a certified nurse-midwife to furnish drugs or devices *incidentally to the provision of care and services allowed by a certificate to practice nurse-midwifery as provided by the bill* and when care is rendered in an out-of-hospital setting;

- *removes the requirement that the standardized procedures be developed and approved by a facility administrator;*
- authorizes a certified nurse-midwife to procure supplies and devices, obtain and administer diagnostic tests, order laboratory and diagnostic testing, and receive reports, as specified; and
- requires a certified nurse-midwife performing and repairing lacerations of the perineum to ensure that all complications are referred to a physician and surgeon immediately, and that immediate care of patients who need care beyond the scope of practice of the certified nurse midwife, or emergency care when a physician and surgeon is not on the premises.

As it relates to the Nurse-Midwifery Committee, Business and Professions Code 2746.2 states: “The board may appoint a committee of qualified physicians and nurses, including, but not limited to, obstetricians and nurse midwives to develop the necessary standards relating to educational requirements, ratios of nurse-midwives to supervising physicians and associated matters. The committee may include family physicians.” The BRN promulgated California Code of Regulations, title 16, section 1461 to appoint a committee. Currently the Nurse-Midwifery Committee has one obstetrician, at least one certified nurse midwife, one physician, one public member and may include such other members as deemed appropriate. The current language in *SB 1237 states that the Nurse-Midwifery Advisory Committee is to be comprised of at least 40 percent physician and surgeons but authorizes the committee to meet if the 40 percent cannot be achieved despite good faith efforts.* **We suggest that this amendment be removed as the committee’s current structure is meeting the requirements in statute and regulations.**

The SB 1237 requires the committee to make recommendations to the Board on all matters related to midwifery practice, education, appropriate standard of care, and other matters as specified by the Board. Additionally, SB 1237 authorizes the Committee to make recommendations on disciplinary actions at the request of the Board. **The Board of Registered Nursing does not receive recommendations from other licensees when determining discipline matters. The Enforcement Division of the BRN provides information to Board members for their consideration in disciplinary matters. The BRN respectfully requests this language regarding recommendations on disciplinary matters be removed.**

This bill would require a certified nurse-midwife to report the outcome of a birth in an out-of-hospital setting to ensure consistent reporting of birth outcomes in all settings, consistent with the information currently reported by hospitals to the Office of Statewide Health Planning and Development. The Board of Registered Nursing is not willing to be enforcement of OSHPED. **We request this language be removed as our role as regulators to enforce compliance of OSHPED is an unnecessary added function.**

The acceptance of these requests to delete specific bill language as outlined above to the current bill will enable the Board to support SB 1237. Should you have any questions regarding our position on the bill, please do not hesitate to contact me at (916) 574-7466.

Thank you for your consideration.

Sincerely,



Thelma Harris, RN, PHN, MSN
Chief of Legislation
Board of Registered Nursing

cc: Members, Assembly Business and
Professions Committee
Senator Dodd

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1. [“CNM/CM-attended Birth Statistics in the United States \(PDF, 72 KB\),” External link](#) American College of Nurse-Midwives, March 2016. Accessed September 21, 2018.[↑]