



BOARD MEETING AGENDA

PUBLIC TELECONFERENCE MEETING

May 27 - 29, 2020

NOTE: Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-29-20, dated March 17, 2020, a physical meeting location is not being provided.

Important Notice to the Public: The Board of Registered Nursing will hold a public meeting via a teleconference platform.

INSTRUCTIONS FOR PARTICIPATION:

For all those who wish to participate or observe the meeting on Wednesday, May 27, 2020, please log on to this website: <https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=e264444aefe8f39067d2b035e5e87e912>

For all those who wish to participate or observe the meeting on Thursday, May 28, 2020, please log on to this website: <https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=ef3e35f3414688b95004b09f672b139b1>

For all those who wish to participate or observe the meeting on Friday, May 29, 2020, please log on to this website: <https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=e4e5f21c1efad277fbdc43aa13d1c699e>

Members of the public may but are not obligated to provide their names or personal information as a condition of observing or participating in the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will be required to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment; participants who choose not to provide their email address may utilize a fictitious email address in the following sample format: XXXXX@mailinator.com.

As an alternative, members of the public who wish to observe the public portion of the Board meeting without making public comment can do so (provided no unforeseen technical difficulties) at: <https://thedcapage.wordpress.com/webcasts/>

Public comments will be limited to two minutes unless, in the discretion of the Board, circumstances require a shorter period; members of the public will not be permitted to "yield" their allotted time to other members of the public to make comments.

Wednesday, May 27, 2020 – 8:00 am – 5:00 pm Board Meeting

Notice: This portion of the meeting will be Webcast, provided there are no unforeseen technical difficulties or limitations. To view the Webcast, please visit <https://thedcapage.wordpress.com/webcasts/>

1.0 8:00 am Call to Order, Roll Call, and Establishment of a Quorum

Members: Michael Jackson, RN, MSN, President
Donna Gerber, Vice President
Elizabeth A. Woods, MSN, FNP, RN
Trande Phillips, RN
Imelda Ceja-Butkiewicz, Public Member
Kenneth Malbrough, Public Member
Dolores Trujillo, RN
Karen Skelton, Public Member

Acting Executive Officer: Loretta Melby, RN, MSN

2.0 General Instructions for the Format of a Teleconference Call

3.0 Closed Session

3.1 Personnel

The Board will convene in closed session pursuant to Government Code section 11126, subdivision (a)(1) to consider the appointment of a permanent Executive Officer.

3.2 Disciplinary Matters

The Board will convene in closed session pursuant to Government Code section 11126, subdivision (c)(3) to deliberate on disciplinary matters, including stipulations and proposed decisions.

3.3 Pending Litigation

The Board will convene in closed session pursuant to Government Code section 11126, subdivisions (e)(1) and (2)(A) to confer with and receive advice from legal counsel regarding the following matters:

- *American Career College v. The California Board of Registered Nursing*, Los Angeles Superior Court Case No. 19STCP01383;
- *The People of the State of California v. Purdue Pharma, L.P.*, Orange County Superior Court Case No. 2014-00725287; and
- *Heather Gautier v. California Department of Consumer Affairs, California Board of Registered Nursing*, San Francisco County Superior Court (case no. unavailable).

3.4 Bureau of State Audits

The Board will convene in closed session pursuant to Government Code section 11126.2, subdivision (a) to discuss its response to the confidential final draft audit report from the Bureau of State Audits in audit 2019-120 (Oversight of Pre-Licensure Nursing School Programs).

4.0 Reconvene in Open Session

5.0 Regulation – AB 2138

Consideration of adopting amendments to California Code of Regulations (CCR), title 16, sections 1444 and 1445 - Substantial Relationship Criteria and Criteria for Rehabilitation; and review, consideration, and approval of responses to comments received regarding rulemaking package to amend CCR, title 16, sections 1441, 1444, 1444.5, and 1445.

6.0 Report of the Legislative Committee

Donna Gerber, Chairperson

6.1 Discussion of Bills of Interest to the Board of Registered Nursing (Board) and Possible Action Regarding Adoption or Modification of Positions on Bills Introduced During the 2019-2020 Legislative Session:

- [AB 329](#) (Rodriguez) Hospitals: assaults and batteries
- [AB 362](#) (Eggman) Controlled substances: overdose prevention program
- [AB 613](#) (Low) Professions and vocations: regulatory fees
- [AB 732](#) (Bonta) County jails: pregnant inmates
- [AB 890](#) (Wood) Nurse practitioners
- [AB 1145](#) (Cristina Garcia) Child abuse: reportable conduct
- [AB 1544](#) (Gipson) Community Paramedicine or Triage to Alternate Destination Act
- [AB 1616](#) (Low) Department of Consumer Affairs: boards: expunged convictions
- [AB 1759](#) (Salas) Health care workers: rural and underserved areas
- [AB 1909](#) (Gonzalez) Healing arts licensees: virginity examinations or tests
- [AB 1917](#) (Ting) Budget Act of 2020
- [AB 1928](#) (Kiley/Melendez) Employment standards: independent contractors and employees
- [AB 1998](#) (Low) Dental Practice Act: unprofessional conduct: patient of record
- [AB 2028](#) (Aguiar-Curry) State agencies: meetings
- [AB 2185](#) (Patterson/Gallagher) Professions and vocations: applicants licensed in other states: reciprocity
- [AB 2549](#) (Salas) Department of Consumer Affairs: temporary licenses
- [AB 2635](#) (Gallagher) Nursing programs: clinical hours
- [SB 3](#) (Allen/Glazer) Office of Higher Education Coordination, Accountability, and performance
- [AB 2704](#) (Ting) Healing Arts: licenses: data collection
- [AB 3016](#) (Dahle) Board of Registered Nursing: Online License Verification
- [SB 808](#) (Mitchell) Budget Act of 2020
- [SB 878](#) (Jones) Department of Consumer Affairs Licensing: applications: wait times
- [SB 1053](#) (Moorlach) Licensed registered nurses and licensed vocational

- nurses: Nurse Licensure Compact
- [SB 1237](#) (Dodd) Nurse-Midwives: scope of practice

7.0 Report of the Intervention/Discipline Committee

Imelda Ceja-Butkiewicz, Chairperson

- 7.1 **Information Only:** Complaint Intake and Intervention/Cite & Fine/Legal Support Update
- 7.2 **Information Only:** Investigations Update
- 7.3 **Information Only:** Discipline and Probation Program Update
- 7.4 **Information Only:** Enforcement and Intervention Statistics

8.0 Public Comment for Items Not on the Agenda; Items for Future Agenda

Public comments will be limited to two minutes or less per comment.

Note: The Board may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting. (Gov. Code, §§ 11125 & 11125.7, subd. (a).)

9.0 Recess to May 28, 2020 at 8:00 am

Thursday, May 28, 2020 – 8:00 am – 5:00 pm Board Meeting

1.0 8:00 am Call to Order, Roll Call, and Establishment of a Quorum

Members: Michael Jackson, RN, MSN, President
Donna Gerber, Vice President
Elizabeth A. Woods, MSN, FNP, RN
Trande Phillips, RN
Imelda Ceja-Butkiewicz, Public Member
Kenneth Malbrough, Public Member
Dolores Trujillo, RN
Karen Skelton, Public Member

Acting Executive Officer: Loretta Melby, RN, MSN

2.0 General Instructions for the Format of a Teleconference Call

3.0 Closed Session, if necessary

4.0 Reconvene in Open Session

5.0 Continue with unfinished agenda items from May 27, 2020, if necessary

6.0 Committee Meetings

7.0 The Education and Licensing Committee is scheduled to meet on May 28, 2020, pursuant to separately posted agenda.

- 8.0 The Legislative Committee is scheduled to meet on May 28, 2020, pursuant to separately posted agenda.**
- 9.0 Enforcement Intervention Committee is scheduled to meet on May 28, 2020, pursuant to separately posted agenda.**
- 10.0 Recess to May 29, 2020 at 8:00 am**

Friday, May 29, 2020 – 8:00 am – 12:00 pm Board Meeting, if necessary

1.0 8:00 am Call to Order, Roll Call, and Establishment of a Quorum

Members: Michael Jackson, RN, MSN, President
Donna Gerber, Vice President
Elizabeth A. Woods, MSN, FNP, RN
Trande Phillips, RN
Imelda Ceja-Butkiewicz, Public Member
Kenneth Malbrough, Public Member
Dolores Trujillo, RN
Karen Skelton, Public Member

Acting Executive Officer: Loretta Melby, RN, MSN

- 2.0 General Instructions for the Format of a Teleconference Call**
- 3.0 Closed Session, if necessary**
- 4.0 Continue with unfinished agenda items from May 27th and/or 28th, if necessary**
- 5.0 Adjournment**

NOTICE:

All times are approximate and subject to change. Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. The meeting may be canceled without notice. For verification of the meeting, call (916) 574-7600 or access the Board's Web Site at <http://www.rn.ca.gov>. Action may be taken on any item listed on this agenda, including information only items.

Public comments will be taken on agenda items at the time the item is heard. Total time allocated for public comment may be limited.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Administration Unit at (916) 574-7600 or email webmasterbrn@dca.ca.gov or send a written request to the Board of Registered Nursing Office at 1747 North Market Blvd., Suite 150, Sacramento, CA 95834. (Hearing impaired: California Relay Service: TDD phone # (800) 326-2297). Providing your request at least five (5) business days before the meeting will help to ensure the availability of the requested accommodation.

HOW TO – Join – DCA WebEx Event



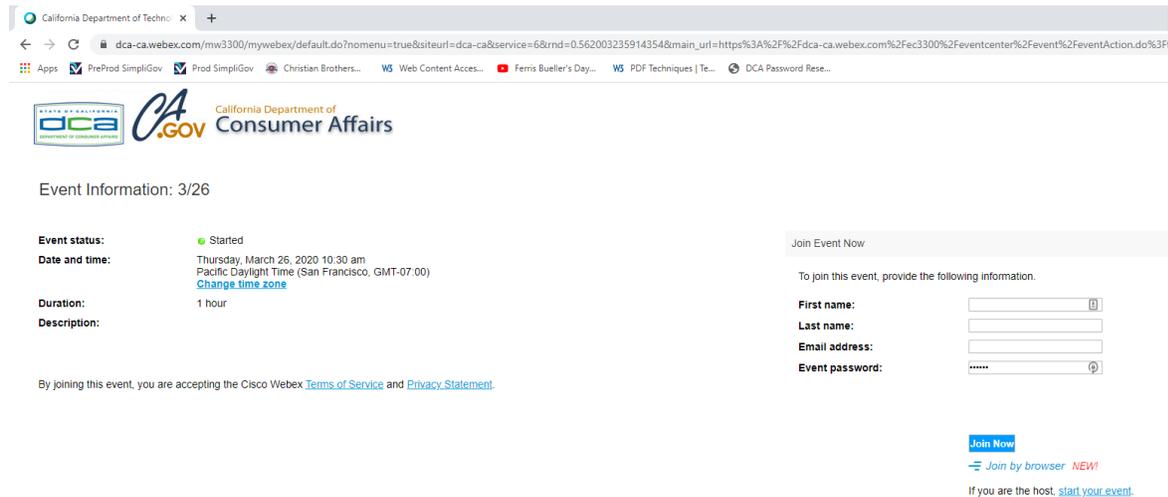
The following contains instructions to join a WebEx event hosted by the Department of Consumer Affairs (DCA).

NOTE: The preferred audio connection to our event is via telephone conference and not the microphone and speakers on your computer. Further guidance relevant to the audio connection will be outlined below.

1. Navigate to the WebEx event link provided by the DCA entity (an example link is provided below for reference) via an internet browser.

Example link:

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>



2. The details of the event are presented on the left of the screen and the required information for you to complete is on the right.
NOTE: If there is a potential that you will participate in this event during a Public Comment period, you must identify yourself in a manner that the event Host can then identify your line and unmute it so the event participants can hear your public comment. The 'First name', 'Last name' and 'Email address' fields do not need to reflect your identity. The department will use the name or moniker you provide here to identify your communication line should you participate during public comment.

HOW TO – Join – DCA WebEx Event

Event Information: 3/26

Event status: Started
Date and time: Thursday, March 26, 2020 10:30 am
Pacific Daylight Time (San Francisco, GMT-07:00)
[Change time zone](#)
Duration: 1 hour
Description:

By joining this event, you are accepting the Cisco Webex [Terms of Service](#) and [Privacy Statement](#).

Join Event Now

To join this event, provide the following information.

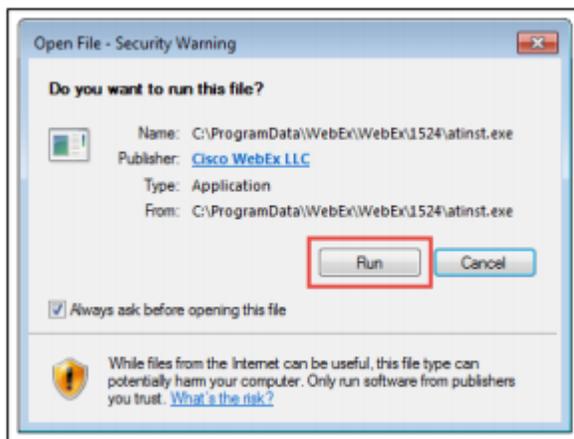
First name: Jason
Last name: Piccione
Email address: jason.piccione@dca.ca.gov
Event password:

Join Now
[Join by browser](#) **NEW!**
If you are the host, [start your event](#)

3. Click the 'Join Now' button.

NOTE: The event password will be entered automatically. If you alter the password by accident, close the browser and click the event link provided again.

4. If you do not have the WebEx applet installed for your browser, a new window may open, so make sure your pop-up blocker is disabled. You may see a window asking you to open or run new software. Click 'Run'.



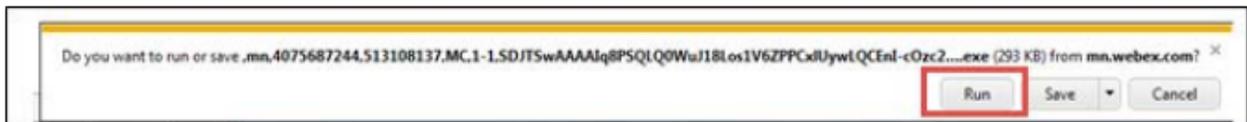
Depending on your computer's settings, you may be blocked from running the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

Starting Webex...



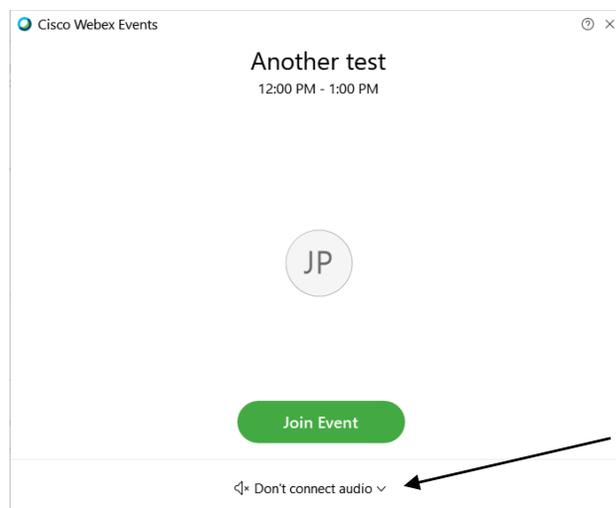
Still having trouble? [Run a temporary application](#) to join this meeting immediately.

5. To bypass step 4, click 'Run a temporary application'.
6. A dialog box will appear at the bottom of the page, click 'Run'.



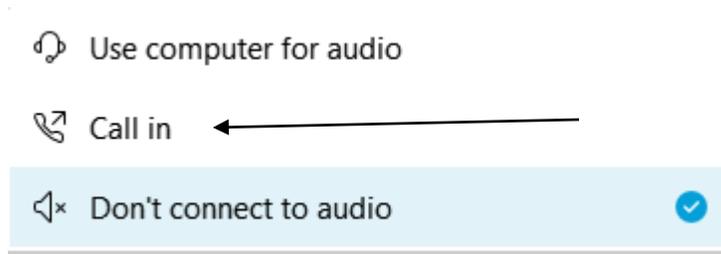
The temporary software will run, and the meeting window will open.

7. Click the audio menu below the green 'Join Event' button.

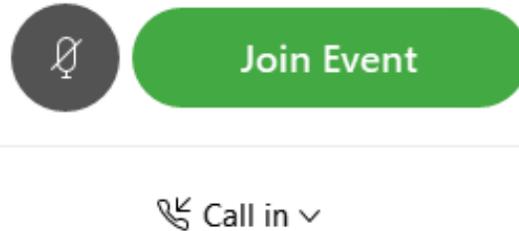


HOW TO – Join – DCA WebEx Event

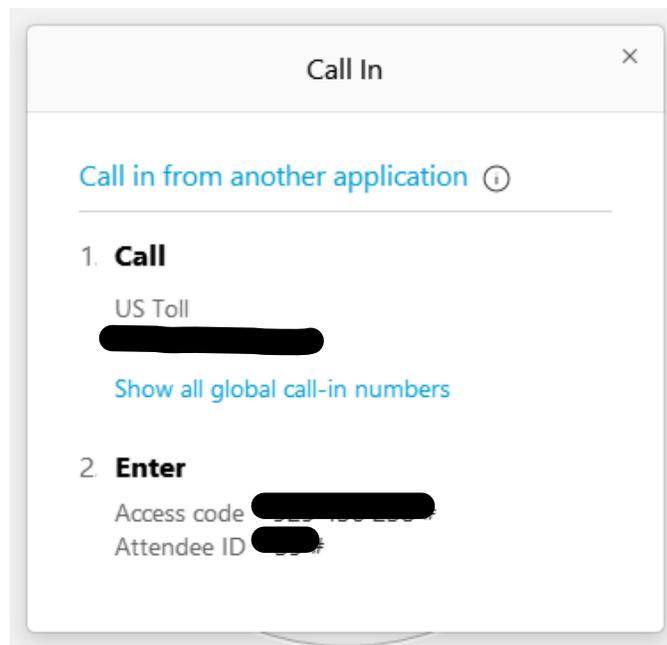
8. When the audio menu appears click 'Call in'.



9. Click 'Join Event'. The audio conference call in information will be available after you join the Event.



10. Call into the audio conference with the details provided.

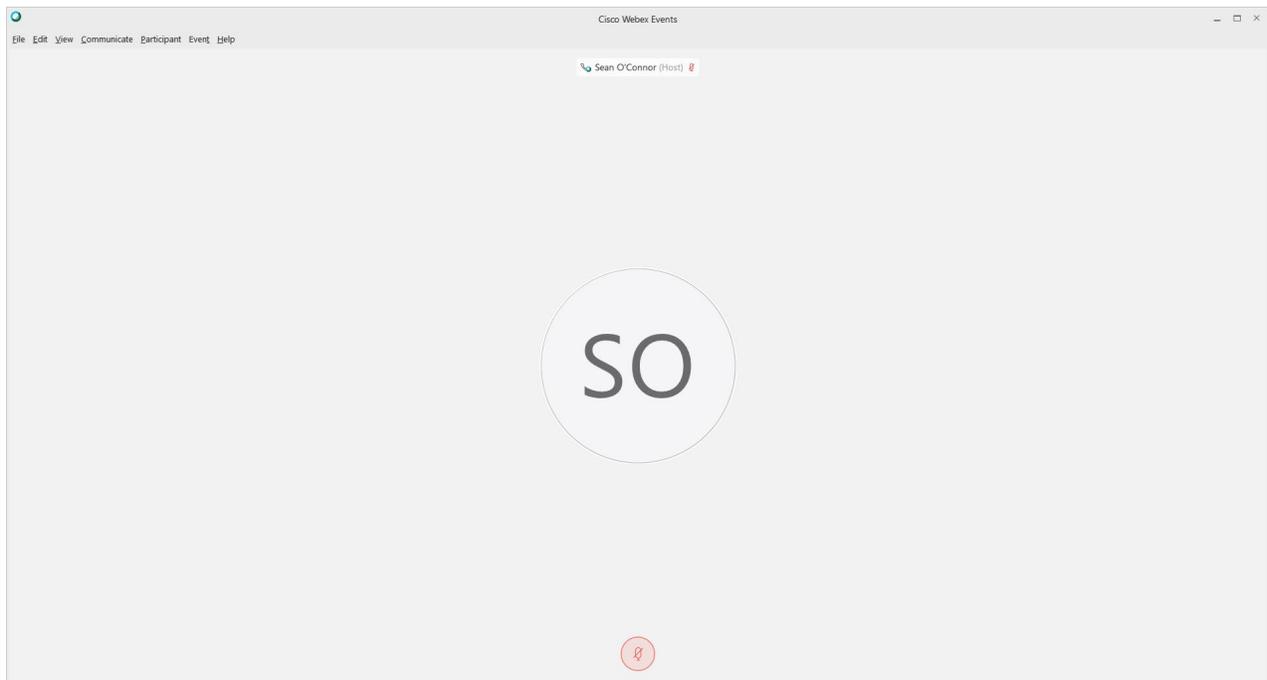


HOW TO – Join – DCA WebEx Event

NOTE: The audio conference is the preferred method. Using your computer's microphone and speakers is not recommended.

Once you successfully call into the audio conference with the information provided, your screen will look like the screen below and you have joined the event.

Congratulations!

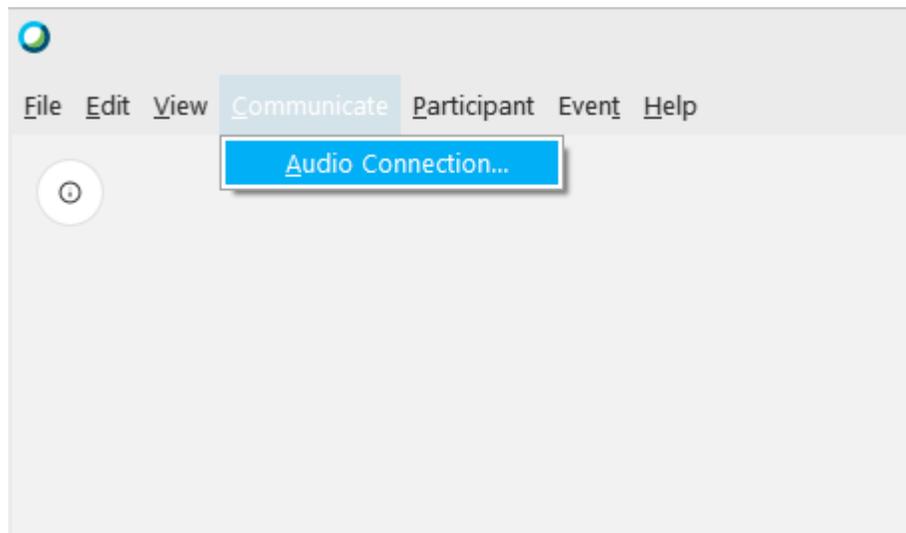


NOTE: Your audio line is muted and can only be unmuted by the event host.

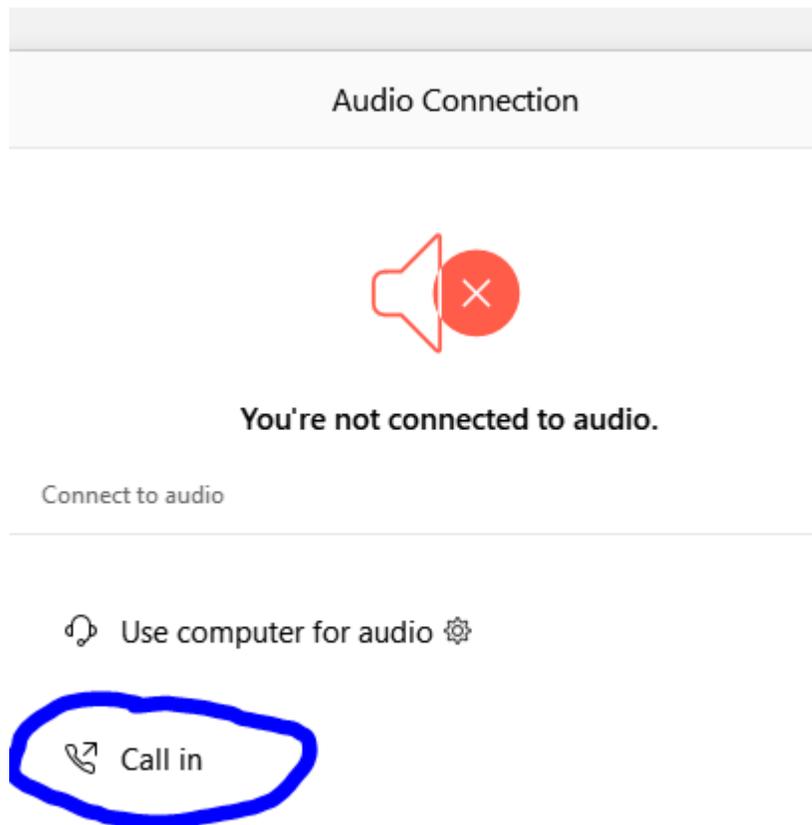
If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

Select 'Communicate' and 'Audio Connection' from top left of your screen.

HOW TO – Join – DCA WebEx Event



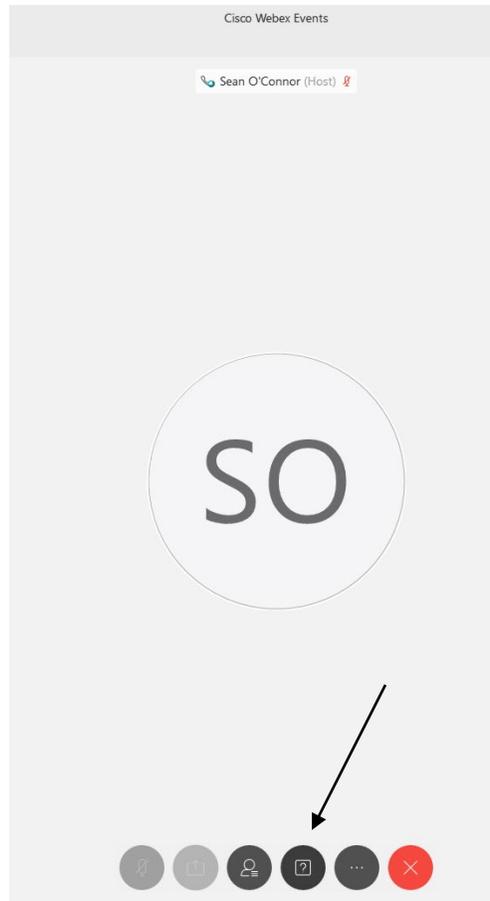
The 'Call In' information can be displayed by selecting 'Call in' then 'View'



You will then be presented the dial in information for you to call in from any phone.

Participating During a Public Comment Period

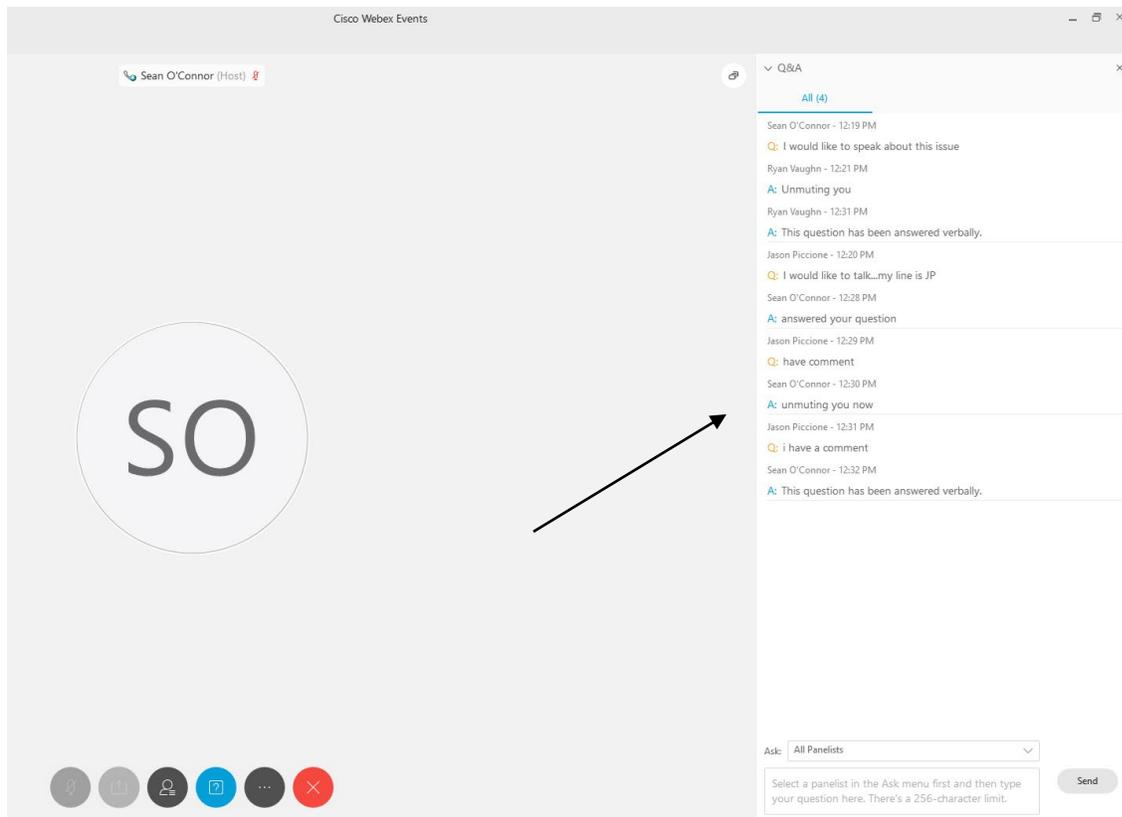
At certain times during the event, the facilitator may call for public comment. If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



This will bring up the 'Q and A' chat box.

NOTE: The 'Q and A' button will only be available when the event host opens it during a public comment period.

HOW TO – Join – DCA WebEx Event



To request time to speak during a public comment period, make sure the 'Ask' menu is set to 'All panelists' and type 'I would like to make a public comment'.

Attendee lines will be unmuted in the order the requests were received, and you will be allowed to present public comment.

NOTE: Your line will be muted at the end of the allotted public comment duration. You will be notified when you have 10 seconds remaining.

BOARD OF REGISTERED NURSING
Board Meeting
Agenda Item Summary

AGENDA ITEM: 5.0

DATE: May 27, 2020

ACTION REQUESTED: Regulation – AB 2138

REQUESTED BY: Danielle Rogers, Attorney III

BACKGROUND: Consideration of adopting amendments to California Code of Regulations (CCR), title 16, sections 1444 and 1445 - Substantial Relationship Criteria and Criteria for Rehabilitation; and review, consideration, and approval of responses to comments received regarding rulemaking package to amend CCR, title 16, sections 1441, 1444, 1444.5, and 1445.

NEXT STEP: Place on Board agenda.

PERSON TO CONTACT: Danielle Rogers, Attorney III
Regulations Attorney
Department of Consumer Affairs

TITLE 16. BOARD OF REGISTERED NURSING

MODIFIED TEXT

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Modifications to the proposed regulatory language are shown in double underline for new text and ~~double strikethrough~~ for deleted text.

To Amend Sections 1441, 1444, 1444.5, and 1445 in Article 4 of Division 14 of the California Code of Regulations to read as follows:

§ 1441. Unprofessional Conduct.

In addition to the conduct described in Section 2761 (a) of the Code, “unprofessional conduct” also includes, but is not limited to, the following:

(a) As a licensee, fFailure to provide to the board, as directed, lawfully requested copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the documents within this time period for good cause, including but not limited to, physical inability to access the records in the time allowed due to illness or travel. This subsection shall not apply to a licensee who does not have access to, and control over, the documents.

(b) Failure to cooperate and participate in any board investigation pending against the licensee. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

(c) Failure to report to the board, within 30 days, any of the following:

(1) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.

(2) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(d) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

Note: Authority cited: Section 2715, Business and Professions Code. Reference: Sections 2761 and 2765, Business and Professions Code.

§ 1444. Substantial Relationship Criteria.

(a) For the purposes of denial, suspension, or revocation of a license or certificate pursuant to section 141, ~~or~~ Division 1.5 (commencing with section 475), or Sections 2761 or 2765 of the code, a crime, professional misconduct, ~~A conviction~~ or act shall be considered to be substantially related to the qualifications, functions or duties of a ~~registered nurse person holding a license or certification under the Nursing Practice Act (Chapter 6 of Division 2 of the code)~~, if to a substantial degree it evidences the present or potential unfitness of a person holding a license or certificate to perform the functions authorized and/or mandated by the license or certificate, or ~~registered nurse to practice~~ in a manner consistent with the public health, safety, or welfare. ~~Such convictions or acts shall include but not be limited to the following:~~

~~(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.~~

~~(b) Failure to comply with any mandatory reporting requirements.~~

~~(c) Theft, dishonesty, fraud, or deceit.~~

~~(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.~~

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of a registered nurse, or the license or certificate type sought or held by the person.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

(1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of the Nursing Practice Act and its implementing regulations.

(2) Theft, dishonesty, fraud, deceit, or unprofessional conduct listed in section 2762 of the code.

(3) Child, elder, or dependent adult abuse.

(4) Sex offenses requiring a person to register as a sex offender pursuant to section 290 of the Penal Code.

(5) Lewd conduct or sexual misconduct.

(6) Assault, battery, or other violence including, but not limited to, those violations listed in subdivision (d) of Penal Code section 11160.

(7) Use of drugs or alcohol to an extent or in a manner dangerous to the individual or the public.

(8) Harassment, trespass, or stalking.

(9) Failure to comply with any mandatory reporting requirements.

Note: Authority cited: Sections 481 and 2715, Business and Professions Code.
Reference: Sections 141, 480, 481, 490, 493, 2736, 2761, ~~and~~ 2762, and 2765,
Business and Professions Code; Sections 290 and 11160, Penal Code.

§ 1444.5. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the administrative adjudication provisions of the Administrative Procedure Act (Government Code Section 11400 et seq.), the board shall consider the disciplinary guidelines entitled: “Recommended

Guidelines for Disciplinary Orders and Conditions of Probation” (10/02), which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board, in its sole discretion, determines that the facts of the particular case warrant such a deviation -for example: the presence of mitigating factors; the age of the case; evidentiary problems.

Notwithstanding the disciplinary guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any acts of sexual contact, as defined in subdivision (c) of Section 729 of the Business and Professions Code, with a patient, or has committed an act or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

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

§ 1445. Criteria for Rehabilitation.

(a) Denial of a license or certificate.

~~(a1)~~ When considering the denial of a license under Section 480 of the code on the ground that the applicant ~~was~~ has been convicted of a crime, the board, in evaluating shall consider whether the applicant has made a showing of rehabilitation of the applicant and his/her has established present eligibility fitness for a license or certification if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall~~will~~ consider the following criteria:

~~(1A)~~ The nature and ~~severity~~ gravity of the act(s) or crime(s). ~~under consideration as grounds for denial.~~

~~(2B)~~ Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the code. The reason for granting probation and the length of the applicable parole or probation period(s).

(3C) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2) extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4D) The extent to which the applicant has complied with any terms or conditions of parole, or probation, restitution, or any other sanctions lawfully imposed against the applicant and the extent to which they bear on the applicant's rehabilitation.

(5E) Evidence, if any, of rehabilitation submitted by the applicant The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b2) If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the denial is based on professional misconduct, or the denial is based on one or more of the grounds specified in Sections 2761 or 2762 of the code, If subdivision (a) is inapplicable for considering the denial of a license under Section 480, or When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the board shall apply consider the following criteria in evaluating an applicant's rehabilitation. The board shall find that the applicant made a showing of rehabilitation and is presently fit for a license if, after considering the following criteria, the board finds that the applicant is rehabilitated:

(4A) The nNature and severity gravity of the act(s), professional misconduct, or offensecrime(s) under consideration as grounds for denial.

(2B) Total criminal recordEvidence of any act(s), professional misconduct, or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial under Section 480 of the code.

(3C) The time that has elapsed since commission of the act(s) or offensecrime(s) referred to in subdivisions (4A) and (2B).

(4D) Whether the applicant licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant licensee.

~~(5E)~~ The criteria in subdivisions (a)(1)(A) through (5E), as applicable. If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

~~(6F)~~ Evidence, if any, of rehabilitation submitted by the applicant.

(b) Suspension or revocation of a license or certificate.

(e1) When considering the suspension or revocation of a license or certificate on the ground that the person holding a license or certificate under the Nursing Practice Act (Chapter 6 of Division 2 of the code) has been convicted of a crime, the board shall consider whether the licensee made a showing of rehabilitation and is presently fit for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria:

(4A) The nature and gravity of the crime(s).

(2B) The reason for granting probation and the length(s) of the applicable parole or probation period(s).

(3C) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4D) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.

(5E) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for the modification.

(d2) If the licensee or certificate holder has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the licensee or certificate holder did not make the showing of rehabilitation based on the criteria in subdivision (b)(1), the suspension or revocation is based on a disciplinary action as described in Section 141 of the code, or the suspension or revocation is based on one or more of the grounds specified in Sections 2761 or 2762 of the code. ~~If subdivision (e) is inapplicable for considering the suspension or revocation of a license or certificate, or the board determines that the licensee or certificate holder did not make the showing of rehabilitation based on the criteria in subdivision (e), the board shall apply the following criteria in evaluating a licensee or certificate holder's rehabilitation. The board shall find that the licensee or certificate holder made a showing of rehabilitation and is presently~~

~~fit for a license or certificate if, after considering the following criteria, the board finds that the person is rehabilitated:~~

~~(4A) The nature and gravity of the acts(s), disciplinary action(s), or crime(s).~~

~~(2B) The total criminal record.~~

~~(3C) The time that has elapsed since commission of the act(s), disciplinary action(s), or crime(s).~~

~~(4D) Whether the licensee and/or certificate holder has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against such person.~~

~~(5E) The criteria in subdivisions (e)(1)(A) -through (5E), as applicable.~~

~~(6F) If applicable, evidence of dismissal pursuant to Penal Code section 1203.4.~~

~~(7G) Evidence, if any, of rehabilitation submitted by the licensee or certificate holder.~~

Note: Authority cited: Sections 482 and 2715, Business and Professions Code.
Reference: Sections 480, ~~483-482~~, 2736, 2761 and 2762, Business and Professions Code.

Objections or Recommendations/Responses

On April 28, 2020, the Board received a joint letter from A New Way of Life Reentry Project, Californians for Safety and Justice, Center for Employment Opportunities, Center for Living and Learning, Community Legal Services in East Palo Alto, Criminal Justice Clinic, UC Irvine School of Law, East Bay Community Law Center, Legal Aid at Work, Legal Services for Prisoners with Children, All of Us or None, Los Angeles Regional Reentry Project, National Association of Social Workers, California Chapter, REDF, The Record Clearance Project, San Jose State University, Root and Rebound, Rubicon Programs, and Underground Scholars Initiative on the Board's proposed regulations implementing Assembly Bill (AB) 2138. Below are the Board's responses to the comments made therein.

Comment 1

Comment Summary:

This comment states that the proposed regulations leave some gaps in the regulatory scheme pursuant to the changes to Business and Professions Code (BPC) section 480, 481, 482, and 493 as modified by AB 2138. The comment states that the proposed regulations fail to meet and implement these statutes and are not valid. Additionally, the comment states that the proposed regulations fall short of the intent of the bill, which includes combating discrimination against people with records who have demonstrated rehabilitation and seek to establish themselves professionally.

Response:

The Board rejects this comment.

The purpose of the proposed regulations is to clarify substantial relationship criteria and criteria for rehabilitation, as required by AB 2138. (BPC, § 481.) Consistent with the requirements enacted by AB 2138, these regulations would adopt all of the following criteria, which would assist the Board in implementing a balanced approach to evaluating an applicant's eligibility for licensure:

1. The nature and gravity of the offense.
2. The number of years elapsed since the date of the offense.
3. The nature and duties of a registered nurse, or the license or certificate type sought or held by the person.

Clarifying how to determine whether a crime is substantially related and clarifying the factors that will be considered when evaluating rehabilitation should assist applicants and licensees with demonstrating their rehabilitation.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

Comment 2

Comment Summary:

The proposed regulations do not comply with AB 2138 because section 1444(c) lists certain acts or convictions and defines them as substantially related regardless of the time that has passed or the nature and gravity of the offense in contravention of BPC section 481.

Moreover, section 1444(c) fails to note that criminal history that resulted in the applicant obtaining a certificate of rehabilitation, pardon, dismissal per Penal Code section 1203.4 et seq., or an arrest that resulted in a disposition other than a conviction shall not result in the denial of a license.

Response:

The Board rejects this comment.

As explained below, the inclusion of each of these categories of conduct reflects a Board determination that they evidence the present or potential unfitness of a person holding a license or certificate to perform the functions authorized and/or mandated by the license or certificate. Passage of time does not lessen the qualitative nexus between a crime and a substantial relationship to the functions of a profession. While courts have looked to the type of work performed by a licentiate in determining whether or not a nexus exists, they have not created time limits for when a crime becomes “no longer” related.

- (1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of the Nursing Practice Act and its implementing regulations.

The inclusion of this conduct is necessary because the requirements of registered nursing law are directly related to the duties of licensure. This conduct also constitutes cause for discipline under BPC section 2761(d). Therefore, to the extent a licensee violates these requirements, it evidences the unfitness of a person holding a license to perform the functions authorized and/or mandated by the license.

- (2) Theft, dishonesty, fraud, deceit, or unprofessional conduct listed in section 2762 of the code.

Nurses often work in offices that receive federal funding and/or deal with insurance companies on a regular basis. Reporting of accurate services is a duty required by licentiates. Conduct involving fiscal dishonesty erodes trust that the services will be

accurately billed to the appropriate parties. To enhance trust in the profession, theft, dishonesty, fraud, or deceit are deemed substantially related to the duties of licensure. For instance, a conviction for tax evasion / income tax fraud was considered related to the practice of medicine in *Windham v. Bd. of Med. Quality Assurance* (1980) 104 Cal. App. 3d 461; Medi-Cal fraud by a dentist was upheld as cause for revocation in *Hanna v. Dental Bd. of California* (2012) 212 Cal. App. 4th 759, 765, citing a previous medical board action:

Convictions for Medi-Cal fraud are substantially related to a professional's fitness or capacity to practice her profession. (*Matanky v. Board of Medical Examiners* (1978) 79 Cal.App.3d 293, 305–306, 144 Cal.Rptr. 826 (*Matanky*) [“Intentional dishonesty ... demonstrates a lack of moral character and satisfies a finding of unfitness to practice medicine”].)

BPC section 2762 enumerates instances of unprofessional conduct relating to controlled substances or drugs. This statute reflects a Legislative determination that the enumerated acts pose a danger to the public and are sufficiently related to the duties, qualifications, and functions of a registered nurse to impose discipline.

(3) Child, elder, or dependent adult abuse.

Nursing services may be performed on vulnerable populations including children, dependent adults, and elderly individuals. A registered nurse occupies a position of trust over these individuals, and touches patients to perform nursing services. These categories of patients are particularly susceptible based on their ages and dependency. In addition, elder or dependent abuse includes financial abuse. (Welf. & Instns. Code, § 15610.30, subd. (a).) Nurses have access to property of others, including property of vulnerable patients. (*Moustafa v. Board of Registered Nursing*, supra, at p. 1140.) Given these circumstances, the Board has determined that any conviction or act of child, elder, or dependent adult abuse should be considered to be substantially related to the qualifications, functions, or duties involved in registered nursing.

(4) Sex offenses requiring a person to register as a sex offender pursuant to section 290 of the Penal Code.

Within the general provisions of the Healing Arts Division of the Business and Professions Code, section 726 was amended by AB 179 (Chapter 510, Statutes of 2015), to read: “(a) The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division or under any initiative act referred to in this division.” Nursing is a chapter in the Healing Arts Division, and so the article on Unprofessional Conduct applies.

For instance, in *Green v. Board of Dental Examiners* (1996), 47 Cal.App.4th 786, 800-01, a dentist’s sexual conduct with patients was substantially related to his functions and duties as a dentist and thus warranted disciplinary action.

The disciplinary action against Green was premised on Section 726 which provided that “ [t]he commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer which is substantially related to the qualifications, functions, or duties of the occupation for which a license was issued constitutes unprofessional conduct and grounds for disciplinary action....’ ” (*Gromis v. Medical Board* (1992) 8 Cal.App.4th 589, 594, 10 Cal.Rptr.2d 452.) “ [S]ection 726, which is a licensing provision, allows the licensing authority to discipline a [dentist] who engages in sexual acts with a patient only if it is “substantially related to the qualifications, functions, or duties of the occupation for which a license was issued....” [Citation.] [Citation.]” (*Id.* at p. 597, 10 Cal.Rptr.2d 452.)

“[T]he statute does not bar all sexual relations with a patient—only activity which is ‘substantially related to the qualifications, functions, or duties of the occupation.’ ” (*Gromis* at p. 594, 10 Cal.Rptr.2d 452.) “Of course, nonconsensual sexual advances or touching has been upheld as a ground for discipline. [Citation.] Consensual sexual activity, too, has been found a legitimate basis for discipline when the sexual activity occurred under guise of treatment, as part of a physical examination, during psychiatric treatment or in exchange for drugs.” (*Id.* at p. 595, 10 Cal.Rptr.2d 452.)

Nursing is often performed in a private room, where the consumer may be in some state of undress. A nurse is trusted to touch the consumer to administer care. Therefore, given the position of trust in which licentiates are held, the Board has determined that sex offenses which require a licentiate to register as a sex offender are substantially related to the nature and duties involved in being a registered nurse. These acts void trust, and licentiates must be trustworthy.

(5) Lewd conduct or sexual misconduct.

16 CCR Section 1444.5 provides that certain acts of sexual contact and certain acts or convictions of sex offenses shall result in the revocation of a license. Therefore, the Board deems such acts to be directly related to the duties of licensure.

Furthermore, as discussed above, under BPC section 726(a), “[t]he commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division or under any initiative act referred to in this division.”

Nursing is a chapter in the Healing Arts Division, and so the article on Unprofessional Conduct applies.

In addition, a court of appeal has held that a dentist’s sexual conduct with patients was substantially related to his functions and duties as a dentist and warranted disciplinary action. (*Green v. Board of Dental Examiners* (1996) 47 Cal.App.4th 786, 800-01 [“During the times he found the women most vulnerable, Green incorporated erotic and

manipulative touching of intimate parts of their bodies into the treatments. He then violated the patients' trust and exceeded the scope of their consent for treatment by seducing them into a sexual relationship.”].)

Similarly, nursing can be performed in a private room or a patient's home, where the consumer entrusts the nurse with certain types of examination with intimate parts of his or her body. Given these circumstances, the Board has determined that any conviction or act of lewd conduct or sexual misconduct should be considered to be substantially related to the qualifications, functions, or duties involved in registered nursing.

(6) Assault, battery, or other violence including, but not limited to, those violations listed in subdivision (d) of Penal Code section 11160.”

As a healing art, governed in principle by the Hippocratic Oath to do no harm and trained in prevention, detection, intervention and treatment of addiction, client abuse, and family violence, the Board has determined that any conviction or act involving assault, battery, or other violence, or furnishing of dangerous drugs or devices, is substantially related to the covenant not to harm fellow persons.

(7) Use of drugs or alcohol to an extent or in a manner dangerous to the individual or the public.

This conduct, as a matter of law, is directly related to the duties of licensure. Under BPC Section 2762, the Legislature has determined that unprofessional conduct includes the use of alcoholic beverages in a manner dangerous or injurious to himself or herself. (Bus. & Prof. Code, § 2762, subd. (b).) In *Sulla v. Board of Registered Nursing* (2012) 205 Cal.App.4th 1195, for example, the court of appeal held that a nurse's conviction of driving with a blood alcohol of .08 or higher related to the practice of his profession and demonstrated an unfitness to practice that profession. The court held that “there is a nexus or logical relationship between the professional fitness of a registered nurse and the alcohol-related misconduct defined by section 2762, subdivisions (b) and (c). In light of this nexus, section 2762 comports with due process and supplies a basis for discipline even in the absence of a finding of professional unfitness in a particular case. The ALJ's finding that Sulla's conduct was not substantially related to his professional qualifications for purposes of the allegations under sections 490 and 2761, subdivision (f) cannot be used to circumvent the conclusive presumption that the conduct described by section 2762 amounts to unprofessional conduct.” (*Id.*, pp. 1204-05; see also, *Watson v. Superior Court* (2009) 176 Cal.App.4th 1407, 1421 [“[W]hile there must be a nexus or ‘logical connection’ between the type of misconduct that forms the basis for physician discipline and the ability of the physician to practice medicine, that nexus is established for constitutional purposes if the conduct enumerated, here the use of alcohol to the extent, or in such manner as to be dangerous or injurious to the licensee, or to any other person or to the public, is logically connected to a physician's fitness to practice medicine.”]; *Krain v. Med. Bd.* (1999) 71 Cal.App.4th 1416, 1424 [whether a conviction is “substantially related” to professional qualifications is question of law, not fact].)

(8) Harassment, trespass, or stalking.

Nursing may be performed in intimate environments such as patients' residences. These types of patient examinations may place licensees in situations where they may have unmonitored access to patients and their living areas. This access may facilitate harassment, trespassing, or stalking. Given these circumstances, the Board has determined that any conviction or act of harassment, trespass, or stalking should be considered to be substantially related to the qualifications, functions, or duties involved in registered nursing because of these nurses' access to patients in these potentially unguarded situations.

Additionally, under BPC Section 822, the Board may revoke, suspend, place a licensee on probation, or take other appropriate action if the board "determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill. ..." (Bus. & Prof. Code, § 820.) As acts of harassment, trespassing, or stalking can evidence mental illness, the Board has determined that any conviction or act of harassment, trespass, or stalking would be substantially related to the qualifications, functions, or duties involved in registered nursing.

(9) Failure to comply with any mandatory reporting requirements.

Under Penal Code section 11165.7, each person licensed by the Board is a "mandated reporter" for child abuse or neglect purposes. Prior to commencing his or her employment, and as a prerequisite to that employment, all mandated reporters must sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of section 11166 and will comply with those provisions. California Penal Code Section 11166 requires that all mandated reporters make a report to an agency specified in Penal Code Section 11165.9 [generally law enforcement agencies] whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter must make a report to the agency immediately or as soon as is practicably possible by telephone, and the mandated reporter must prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. Because protection of the public is the Board's highest priority, the failure to report abuse and neglect is substantially related to the qualifications, functions, or duties involved in registered nursing. (Bus. & Prof. Code, § 2708.1.)

Passage of time, instead, would be reflected as a factor in rehabilitation. The Board incorporates herein by reference its response to Comment 8. As for the comment in the second paragraph, please see response to Comment 5.

Accordingly, the Board is making no changes to the regulations in response to this comment.

Comment 3:

Comment Summary:

Section 1445, as written, relies too heavily on law enforcement's reports and determination of the applicant's progress. Rehabilitation can and does take many forms that the current language does not fully embrace. The comment refers the reader to Comment 8 for examples of rehabilitation to expand the proposed regulations.

Response:

The Board incorporates herein by reference its response to Comment 8.

Comment 4:

Comment Summary:

This comment requests the proposed language include a "7-year washout period" for consideration of convictions or discipline which are not statutorily considered serious felonies under Penal Code section 1192.7. (BPC, § 480, subd. (a)(1), effective July 1, 2020.)

Response:

The Board rejects this comment. Regulations should not indiscriminately incorporate statutory language. (Gov. Code, § 11349, subd. (f).)

The seven-year period during which a board can deny a license for a conviction or formal discipline is fully described in BPC section 480(a)(1)(A) and (B), effective July 1, 2020. As this is already included in statute, adding this provision is duplicative of section 480(a)(1). Therefore, it is not necessary to repeat it in the regulations.

Accordingly, the Board is making no changes to the regulations in response to this comment.

Comment 5

Comment Summary:

This comment states that the regulations should provide that a person with a criminal history shall not be denied a license if the applicant has obtained a certificate of rehabilitation, dismissal per Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42, or an arrest which led to an infraction/citation or a disposition other than a conviction, or juvenile adjudication. (BPC, § 480, subds. (b)-(d).)

Response:

The Board rejects this comment. Regulations should not indiscriminately incorporate statutory language. (Gov. Code, § 11349, subd. (f).) BPC section 480(c), effective July 1, 2020, already states that a license may not be denied based on a conviction, or on the basis of the underlying acts, if it has been dismissed pursuant to Penal Code sections 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425, or otherwise dismissed or expunged. In addition, BPC section 480(b), effective July 1, 2020, prohibits license denial if the applicant has obtained a certificate of rehabilitation, was granted clemency or a pardon, or has made a showing of rehabilitation per BPC section 482. BPC section 480(d), effective July 1, 2020, prohibits license denial based on an arrest that resulted in something other than a conviction, such as an infraction, citation, or juvenile adjudication. Since these provisions are already specifically addressed in statute, adding them again in regulation would be duplicative.

Accordingly, the Board is making no changes to the regulations in response to this comment.

Comment 6**Comment Summary:**

This comment states that the regulations fail to state that the Board shall not require an applicant to disclose any information or documentation regarding the applicant's criminal history. (BPC, § 480, subd. (f)(2).)

Response:

The Board rejects this comment. Section 480(f)(2), effective July 1, 2020, provides that a board cannot require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. As this is already provided by statute, adding this provision is duplicative of section 480(f)(2). Therefore, it is not necessary to repeat it in the regulations.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

Comment 7**Comment Summary:**

This comment states that the proposed language fails to include that the board must notify the applicant in writing if the applicant is denied a license or is disqualified from licensure. The comment states that the Board must provide procedures describing the process for an applicant to challenge a decision or request consideration, a procedure

stating that the applicant has a right to appeal the Board's decision, and provide a process for requesting a complete conviction history. (BPC, § 480, subd. (f)(3).)

Response:

The Board rejects this comment.

BPC sections 480(f)(3), 485 through 487, and the Administrative Procedure Act, at Government Code section 11500, *et seq.*, already contain these requirements, including requirements for providing the legal and factual basis for the denial, service of the denial on the applicant, and notice to the applicant regarding the opportunity to request a hearing to challenge the decision. Restating these requirements would be duplicative of the statutes. (Gov. Code, § 11349, subd. (f).)

Accordingly, the Board is making no changes to the regulations in response to this comment.

Comment 8

Comment Summary:

This comment states that the intent of AB 2138 was not to incorporate mere probation or parole reports into the occupational licensing determinations. The letter states that rehabilitation can and does take many forms that extend beyond law enforcement supervision. Therefore, the letter recommends that the Board consider adding the following rehabilitation criteria:

- Volunteer service;
- Successful employment in a related field;
- A history of work experience in an employment social enterprise;
- Unpaid work in the community;
- Furthered education;
- Abstinence from controlled substances and/or alcohol;
- Stability of family life, fulfillment of parental and familial responsibilities;
- New and different social and business relationships from those which existed at the time of the underlying charges at issue;
- Change in attitude of the applicant as evidenced by:
 - Personal testimony,
 - Evidence of rehabilitation submitted by the applicant,
 - Evidence from family, friends, and/or other persons familiar with the applicant's previous behavior patterns and subsequent attitude and behavioral changes; and
- Other markers of rehabilitation.

Response:

The Board rejects this comment.

BPC section 482, effective July 1, 2020, requires boards to develop criteria to evaluate rehabilitation and to consider whether an applicant or licensee has made a showing of rehabilitation if either the criminal sentence has been completed without violation of probation or parole, or if the board otherwise finds the applicant rehabilitated.

The final text for proposed section 1445 articulates a two-step process for evaluating rehabilitation:

1. First, the Board must determine if the completion of the criminal sentence with no violations constitutes rehabilitation. Consistent with the direction in AB 2138, to consider rehabilitation if an applicant completes the criminal sentence at issue without a violation of parole or probation, specific criteria are being added to section 1445 to help the Board determine whether sentence completion demonstrates rehabilitation. Criteria include the nature and gravity of the crime(s), the reason for granting probation and the length of the applicable parole or probation period(s), the extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified, the terms and conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation, and the extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification. If the Board finds rehabilitation, no further information needs to be provided.
2. The second step, if rehabilitation is not demonstrated based on sentence completion, requires the Board consider certain other criteria to evaluate rehabilitation. A general category permitting submission of any rehabilitation evidence allows an applicant to offer evidence relating to the proposed categories suggested above. As the Board can and already does give serious consideration to these factors when considering whether an individual is rehabilitated, the Board believes that the proposed language is consistent with legislative intent.

Accordingly, the Board is making no changes to the regulations in response to this comment.

Comment 9**Comment Summary:**

The comment states that the proposed regulations fail to state the requirements set forth in BPC section 480(g)(2), effective July 1, 2020, including, that a board retain the number of applicants with a criminal record who received notice of denial or disqualification of licensure, the number of applicants with a criminal record who

provided evidence of mitigation or rehabilitation, and the final disposition and demographic information.

Response:

The Board rejects this comment. These requirements are already set forth in statute. (BPC, § 480, subd. (g)(2), effective July 1, 2020.) Stating them in regulation would be duplicative of the statute. (Gov. Code, § 11349, subd. (f).)

Accordingly, the Board is making no changes to the regulations in response to this comment.

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.1

DATE: April 16, 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 LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 10-18-19

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
No Hrgs.	24	25	26	27	28	29	30
Wk. 4	31						

- Feb. 17** Presidents' Day.
- Feb. 21** Last day for bills to be **introduced** (J.R. 61(b)(4), J.R. 54(a)).

Mar. 27 Cesar Chavez Day observed.

- Apr. 2** **Spring Recess** begins upon adjournment (J.R. 51(b)(1)).
- Apr. 13** Legislature reconvenes from Spring Recess (J.R. 51(b)(1)).
- Apr. 24** Last day for **policy committees** to hear and report to fiscal committees **fiscal bills** introduced in their house (J.R. 61(b)(5)).
- May 1** Last day for **policy committees** to hear and report to the floor **nonfiscal** bills introduced in their house (J.R. 61(b)(6)).
- May 8** Last day for **policy committees** to meet prior to June 1 (J.R. 61(b)(7)).
- May 15** 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 1 (J.R. 61 (b)(9)).
- May 25** Memorial Day.
- May 26-29** **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)).
- May 29** Last day for each house to pass bills introduced in that house (J.R. 61(b)(11)).

*Holiday schedule subject to final approval by Rules Committee.

2020 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 10-18-19

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

June 1 Committee meetings may resume (J.R. 61(b)(12)).

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

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

June 26 Last day for **policy committees** to hear and report **fiscal bills** to fiscal committees (J.R. 61(b)(13)).

JULY							
	S	M	T	W	TH	F	S
Wk. 4				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
Summer Recess	26	27	28	29	30	31	

July 2 Last day for **policy committees** to meet and report bills (J.R. 61(b)(14)).
Summer Recess begins upon adjournment, provided Budget Bill has been passed (J.R. 51(b)(2)).

July 3 Independence Day observed.

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

Aug. 3 Legislature reconvenes from **Summer Recess** (J.R. 51(b)(2)).

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

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

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.

BOARD OF REGISTERED NURSING
Assembly Bills 2019-2020
Status Update
April 16, 2020

BILL #	AUTHOR/ BILL SPONSOR	SUBJECT	COM POSITION/ date	BOARD POSITION/ date	BILL STATUS as of March 12, 2020
AB 329	Rodriguez/ CENA	Hospitals: assaults and batteries	Watch 3/14/19	Watch 4/11/19	Senate PubSafety
AB 362	Eggman/ DPA; HRC	Controlled substances: overdose prevention program	Information 5/9/19	Watch 4/11/19	Senate Health
AB 613	Low	Professions and vocations: regulatory fees	Watch 3/14/19	Watch 4/11/19	Senate BP&ED
AB 732	Bonta	County jails: prisons: incarcerated pregnant persons	Watch 3/14/19	Watch 4/11/19	Assembly APPR
AB 890	Wood	Nurse practitioners: scope of practice: unsupervised practice	Oppose unless amended 01/09/2019	Oppose unless amended 6/13/19	Assembly APPR
AB 1145	Cristina Garcia	Child abuse: reportable conduct	Watch 3/14/19	Watch 4/11/19	Assembly APPR
AB 1544	Gipson	Community Paramedicine or Triage to Alternate Destination Act	Oppose 8/15/19	Oppose	Senate Rules
AB 1616	Low	Department of Consumer Affairs: boards: expunged convictions			Senate
AB 1759	Salas	Health care workers: rural and underserved areas			
AB 1909	Gonzalez	Healing arts licensees: virginity examinations or tests			
AB 1917	Ting	Budget Act of 2020			
AB 1928	Kiley/Melendez	Employment standards: independent contractors and employees			
AB 1998	Low	Dental Practice Act: unprofessional conduct: patient of record			
AB 2028	Aguilar-Curry	State agencies: meetings	Oppose unless amended 03/12/20		
AB 2185	Patterson/Gallag her	Professions and vocations: applicants licensed in other states: reciprocity	Oppose 03/12/20		
AB 2549	Salas	Department of Consumer Affairs: temporary licenses			

BOARD OF REGISTERED NURSING
Assembly Bills 2019-2020
Status Update
April 16, 2020

<u>AB 2704</u>	Ting	Healing Arts: licenses: data collection			
<u>AB 3016</u>	Dahle	Board of Registered Nursing: online license verification	Oppose 03/12/20		

BOARD OF REGISTERED NURSING
Assembly Bills 2019-2020
Status Update
April 16, 2020

BILL #	AUTHOR/ BILL SPONSOR	SUBJECT	COM POSITION/ date	BOARD POSITION/ date	BILL STATUS as of March 12, 2020
<u>SB 3</u>	Allen/Glazer	Office of Higher Education Coordination, Accountability, and performance			
<u>SB 808</u>	Mitchell	Budget Act of 2020			
<u>SB 878</u>	Jones	Department of Consumer Affairs Licensing: applications: wait times			
<u>SB 1053</u>	Moorlach	Licensed registered nurses and licensed vocational nurses: Nurse Licensure Compact	Oppose 03/12/20		Hearing postponed
<u>SB 1237</u>	Dodd	Nurse-Midwives: scope of practice	Support 03/12/20		Hearing postponed

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, Eggman, Friedman,
Gallagher, and Gipson)
(Coauthors: Senators Caballero, Hill, Leyva, and Stone)

February 20, 2019

An act to amend Sections 650.01 and 805 of, and to add ~~Sections 2837.1 and 2837.2 to,~~ *Article 8.5 (commencing with Section 2837.100) to Chapter 6 of Division 2 of,* the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 890, as amended, Wood. Nurse practitioners: scope of practice: unsupervised practice.

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 would *establish the Advanced Practice Registered Nursing Board within the Department of Consumer Affairs, which would consist of 9 members. The bill would authorize a nurse practitioner who holds a certification as a nurse practitioner from a national certifying body*

recognized by the board who practices in certain settings *or organizations* to perform specified functions without supervision by a physician and surgeon, including ordering and interpreting diagnostic procedures, certifying disability, and prescribing, administering, dispensing, and administering controlled substances.

The bill would also authorize a nurse practitioner who holds ~~a~~ *an active certification as a nurse practitioner from a national certifying body recognized* 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 ~~has successfully completed~~ *meets specified education and other requirements, including completion of a transition to practice program, practice, as defined by the bill, and a supervising physician and surgeon at the facility at which the nurse practitioner completed the transition to practice program attests to the board that the nurse practitioner is proficient in competencies established by the board by regulation.* *bill. The bill would authorize the board, upon application, to issue an inactive certificate.*

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 provides for the professional review of specified healing arts licentiates through a peer review process and defines "licentiate" for those purposes.

This bill would include as a licentiate a nurse practitioner practicing pursuant to the bill's provisions.

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:
3 650.01. (a) Notwithstanding Section 650, or any other
4 provision of law, it is unlawful for a licensee to refer a person for
5 laboratory, diagnostic nuclear medicine, radiation oncology,
6 physical therapy, physical rehabilitation, psychometric testing,
7 home infusion therapy, or diagnostic imaging goods or services if
8 the licensee or their immediate family has a financial interest with
9 the person or in the entity that receives the referral.
10 (b) For purposes of this section and Section 650.02, the
11 following shall apply:
12 (1) “Diagnostic imaging” includes, but is not limited to, all
13 X-ray, computed axial tomography, magnetic resonance imaging
14 nuclear medicine, positron emission tomography, mammography,
15 and ultrasound goods and services.
16 (2) A “financial interest” includes, but is not limited to, any
17 type of ownership interest, debt, loan, lease, compensation,
18 remuneration, discount, rebate, refund, dividend, distribution,
19 subsidy, or other form of direct or indirect payment, whether in
20 money or otherwise, between a licensee and a person or entity to
21 whom the licensee refers a person for a good or service specified
22 in subdivision (a). A financial interest also exists if there is an
23 indirect financial relationship between a licensee and the referral
24 recipient including, but not limited to, an arrangement whereby a
25 licensee has an ownership interest in an entity that leases property
26 to the referral recipient. Any financial interest transferred by a
27 licensee to any person or entity or otherwise established in any
28 person or entity for the purpose of avoiding the prohibition of this
29 section shall be deemed a financial interest of the licensee. For
30 purposes of this paragraph, “direct or indirect payment” shall not
31 include a royalty or consulting fee received by a physician and
32 surgeon who has completed a recognized residency training
33 program in orthopedics from a manufacturer or distributor as a
34 result of their research and development of medical devices and
35 techniques for that manufacturer or distributor. For purposes of

1 this paragraph, “consulting fees” means those fees paid by the
2 manufacturer or distributor to a physician and surgeon who has
3 completed a recognized residency training program in orthopedics
4 only for their ongoing services in making refinements to their
5 medical devices or techniques marketed or distributed by the
6 manufacturer or distributor, if the manufacturer or distributor does
7 not own or control the facility to which the physician is referring
8 the patient. A “financial interest” shall not include the receipt of
9 capitation payments or other fixed amounts that are prepaid in
10 exchange for a promise of a licensee to provide specified health
11 care services to specified beneficiaries. A “financial interest” shall
12 not include the receipt of remuneration by a medical director of a
13 hospice, as defined in Section 1746 of the Health and Safety Code,
14 for specified services if the arrangement is set out in writing, and
15 specifies all services to be provided by the medical director, the
16 term of the arrangement is for at least one year, and the
17 compensation to be paid over the term of the arrangement is set
18 in advance, does not exceed fair market value, and is not
19 determined in a manner that takes into account the volume or value
20 of any referrals or other business generated between parties.

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

24 (4) “Licensee” means a physician, as defined in Section 3209.3
25 of the Labor Code, or a nurse practitioner practicing pursuant to
26 Section ~~2837.1 or 2837.2~~ *2837.104 or 2837.105*.

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

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

29 (B) An office in which services or goods are personally provided
30 by the licensee or by employees in that office, or personally by
31 independent contractors in that office, in accordance with other
32 provisions of law. Employees and independent contractors shall
33 be licensed or certified when licensure or certification is required
34 by law.

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

1 (A) Each licensee who is a member of the group provides
2 substantially the full range of services that the licensee routinely
3 provides, including medical care, consultation, diagnosis, or
4 treatment through the joint use of shared office space, facilities,
5 equipment, and personnel.

6 (B) Substantially all of the services of the licensees who are
7 members of the group are provided through the group and are
8 billed in the name of the group and amounts so received are treated
9 as receipts of the group, except in the case of a multispecialty
10 clinic, as defined in subdivision (l) of Section 1206 of the Health
11 and Safety Code, physician services are billed in the name of the
12 multispecialty clinic and amounts so received are treated as receipts
13 of the multispecialty clinic.

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

17 (c) It is unlawful for a licensee to enter into an arrangement or
18 scheme, such as a cross-referral arrangement, that the licensee
19 knows, or should know, has a principal purpose of ensuring
20 referrals by the licensee to a particular entity that, if the licensee
21 directly made referrals to that entity, would be in violation of this
22 section.

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

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

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

34 (1) If a referral, billing, or other solicitation is between one or
35 more licensees who contract with a multispecialty clinic pursuant
36 to subdivision (l) of Section 1206 of the Health and Safety Code
37 or who conduct their practice as members of the same professional
38 corporation or partnership, and the services are rendered on the
39 same physical premises, or under the same professional corporation
40 or partnership name, the requirements of this subdivision may be

1 met by posting a conspicuous disclosure statement at the
2 registration area or by providing a patient with a written disclosure
3 statement.

4 (2) If a licensee is under contract with the Department of
5 Corrections or the California Youth Authority, and the patient is
6 an inmate or parolee of either respective department, the
7 requirements of this subdivision shall be satisfied by disclosing
8 financial interests to either the Department of Corrections or the
9 California Youth Authority.

10 (g) A violation of subdivision (a) shall be a misdemeanor. The
11 Medical Board of California shall review the facts and
12 circumstances of any conviction pursuant to subdivision (a) and
13 take appropriate disciplinary action if the licensee has committed
14 unprofessional conduct. Violations of this section may also be
15 subject to civil penalties of up to five thousand dollars (\$5,000)
16 for each offense, which may be enforced by the Insurance
17 Commissioner, Attorney General, or a district attorney. A violation
18 of subdivision (c), (d), or (e) is a public offense and is punishable
19 upon conviction by a fine not exceeding fifteen thousand dollars
20 (\$15,000) for each violation and appropriate disciplinary action,
21 including revocation of professional licensure, by the Medical
22 Board of California or other appropriate governmental agency.

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

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

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

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

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

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

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

- 1 (II) Assess and improve the quality of care rendered in a health
2 care facility, clinic, or other setting providing medical services.
- 3 (ii) Any other activities of a peer review body as specified in
4 subparagraph (B).
- 5 (B) “Peer review body” includes:
- 6 (i) A medical or professional staff of any health care facility or
7 clinic licensed under Division 2 (commencing with Section 1200)
8 of the Health and Safety Code or of a facility certified to participate
9 in the federal Medicare program as an ambulatory surgical center.
- 10 (ii) A health care service plan licensed under Chapter 2.2
11 (commencing with Section 1340) of Division 2 of the Health and
12 Safety Code or a disability insurer that contracts with licentiates
13 to provide services at alternative rates of payment pursuant to
14 Section 10133 of the Insurance Code.
- 15 (iii) Any medical, psychological, marriage and family therapy,
16 social work, professional clinical counselor, dental, midwifery, or
17 podiatric professional society having as members at least 25 percent
18 of the eligible licentiates in the area in which it functions (which
19 must include at least one county), which is not organized for profit
20 and which has been determined to be exempt from taxes pursuant
21 to Section 23701 of the Revenue and Taxation Code.
- 22 (iv) A committee organized by any entity consisting of or
23 employing more than 25 licentiates of the same class that functions
24 for the purpose of reviewing the quality of professional care
25 provided by members or employees of that entity.
- 26 (2) “Licentiate” means a physician and surgeon, doctor of
27 podiatric medicine, clinical psychologist, marriage and family
28 therapist, clinical social worker, professional clinical counselor,
29 dentist, licensed midwife, physician assistant, or nurse practitioner
30 practicing pursuant to ~~Section 2837.1 or 2837.2.~~ *2837.104 or*
31 *2837.105.* “Licentiate” also includes a person authorized to practice
32 medicine pursuant to Section 2113 or 2168.
- 33 (3) “Agency” means the relevant state licensing agency having
34 regulatory jurisdiction over the licentiates listed in paragraph (2).
- 35 (4) “Staff privileges” means any arrangement under which a
36 licentiate is allowed to practice in or provide care for patients in
37 a health facility. Those arrangements shall include, but are not
38 limited to, full staff privileges, active staff privileges, limited staff
39 privileges, auxiliary staff privileges, provisional staff privileges,
40 temporary staff privileges, courtesy staff privileges, locum tenens

1 arrangements, and contractual arrangements to provide professional
2 services, including, but not limited to, arrangements to provide
3 outpatient services.

4 (5) “Denial or termination of staff privileges, membership, or
5 employment” includes failure or refusal to renew a contract or to
6 renew, extend, or reestablish any staff privileges, if the action is
7 based on medical disciplinary cause or reason.

8 (6) “Medical disciplinary cause or reason” means that aspect
9 of a licentiate’s competence or professional conduct that is
10 reasonably likely to be detrimental to patient safety or to the
11 delivery of patient care.

12 (7) “805 report” means the written report required under
13 subdivision (b).

14 (b) The chief of staff of a medical or professional staff or other
15 chief executive officer, medical director, or administrator of any
16 peer review body and the chief executive officer or administrator
17 of any licensed health care facility or clinic shall file an 805 report
18 with the relevant agency within 15 days after the effective date on
19 which any of the following occur as a result of an action of a peer
20 review body:

21 (1) A licentiate’s application for staff privileges or membership
22 is denied or rejected for a medical disciplinary cause or reason.

23 (2) A licentiate’s membership, staff privileges, or employment
24 is terminated or revoked for a medical disciplinary cause or reason.

25 (3) Restrictions are imposed, or voluntarily accepted, on staff
26 privileges, membership, or employment for a cumulative total of
27 30 days or more for any 12-month period, for a medical disciplinary
28 cause or reason.

29 (c) If a licentiate takes any action listed in paragraph (1), (2),
30 or (3) after receiving notice of a pending investigation initiated
31 for a medical disciplinary cause or reason or after receiving notice
32 that their application for membership or staff privileges is denied
33 or will be denied for a medical disciplinary cause or reason, the
34 chief of staff of a medical or professional staff or other chief
35 executive officer, medical director, or administrator of any peer
36 review body and the chief executive officer or administrator of
37 any licensed health care facility or clinic where the licentiate is
38 employed or has staff privileges or membership or where the
39 licentiate applied for staff privileges or membership, or sought the

1 renewal thereof, shall file an 805 report with the relevant agency
2 within 15 days after the licentiate takes the action.

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

5 (2) Withdraws or abandons their application for staff privileges
6 or membership.

7 (3) Withdraws or abandons their request for renewal of staff
8 privileges or membership.

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

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

17 (f) A copy of the 805 report, and a notice advising the licentiate
18 of their right to submit additional statements or other information,
19 electronically or otherwise, pursuant to Section 800, shall be sent
20 by the peer review body to the licentiate named in the report. The
21 notice shall also advise the licentiate that information submitted
22 electronically will be publicly disclosed to those who request the
23 information.

24 The information to be reported in an 805 report shall include the
25 name and license number of the licentiate involved, a description
26 of the facts and circumstances of the medical disciplinary cause
27 or reason, and any other relevant information deemed appropriate
28 by the reporter.

29 A supplemental report shall also be made within 30 days
30 following the date the licentiate is deemed to have satisfied any
31 terms, conditions, or sanctions imposed as disciplinary action by
32 the reporting peer review body. In performing its dissemination
33 functions required by Section 805.5, the agency shall include a
34 copy of a supplemental report, if any, whenever it furnishes a copy
35 of the original 805 report.

36 If another peer review body is required to file an 805 report, a
37 health care service plan is not required to file a separate report
38 with respect to action attributable to the same medical disciplinary
39 cause or reason. If the Medical Board of California or a licensing
40 agency of another state revokes or suspends, without a stay, the

1 license of a physician and surgeon, a peer review body is not
2 required to file an 805 report when it takes an action as a result of
3 the revocation or suspension. If the California Board of Podiatric
4 Medicine or a licensing agency of another state revokes or
5 suspends, without a stay, the license of a doctor of podiatric
6 medicine, a peer review body is not required to file an 805 report
7 when it takes an action as a result of the revocation or suspension.

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

16 (h) The Medical Board of California, the California Board of
17 Podiatric Medicine, the Osteopathic Medical Board of California,
18 and the Dental Board of California shall disclose reports as required
19 by Section 805.5.

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

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

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

1 at law. As used in this subdivision, “willful” means a voluntary
2 and intentional violation of a known legal duty.

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

34 (m) A health care service plan licensed under Chapter 2.2
35 (commencing with Section 1340) of Division 2 of the Health and
36 Safety Code or a disability insurer that negotiates and enters into
37 a contract with licentiates to provide services at alternative rates
38 of payment pursuant to Section 10133 of the Insurance Code, when
39 determining participation with the plan or insurer, shall evaluate,

1 on a case-by-case basis, licentiates who are the subject of an 805
2 report, and not automatically exclude or deselect these licentiates.

3 ~~SEC. 3. Section 2837.1 is added to the Business and Professions
4 Code, to read:~~

5 ~~2837.1. (a) Notwithstanding any other law, a nurse practitioner
6 who holds a certification as a nurse practitioner from a national
7 certifying body recognized by the board may perform the functions
8 specified in subdivision (c) without supervision by a physician
9 and surgeon if the nurse practitioner meets all of the requirements
10 of this article and practices in one of the following settings in which
11 one or more physicians and surgeons are concurrently practicing
12 with the nurse practitioner:~~

13 ~~(1) A clinic, as defined in Section 1200 of the Health and Safety
14 Code.~~

15 ~~(2) A health facility, as defined in Section 1250 of the Health
16 and Safety Code.~~

17 ~~(3) A facility described in Chapter 2.5 (commencing with
18 Section 1440) of Division 2 of the Health and Safety Code.~~

19 ~~(4) A medical group practice, including a professional medical
20 corporation, as defined in Section 2406, another form of
21 corporation controlled by physicians and surgeons, a medical
22 partnership, a medical foundation exempt from licensure, or another
23 lawfully organized group of physicians and surgeons that provides
24 health care services.~~

25 ~~(b) An entity described in subdivisions (1) to (4), inclusive, of
26 subdivision (a) shall not interfere with, control, or otherwise direct
27 the professional judgment of a nurse practitioner functioning
28 pursuant to this section in a manner prohibited by Section 2400 or
29 any other law.~~

30 ~~(c) In addition to any other practices authorized by law, a nurse
31 practitioner who meets the requirements of this section may
32 perform the following functions without the supervision of a
33 physician and surgeon in accordance with their education and
34 training:~~

35 ~~(1) Conduct an advanced assessment.~~

36 ~~(2) Order and interpret diagnostic procedures.~~

37 ~~(3) Establish primary and differential diagnoses.~~

38 ~~(4) Prescribe, order, administer, dispense, and furnish therapeutic
39 measures, including, but not limited to, the following:~~

1 ~~(A) Diagnose, prescribe, and institute therapy or referrals of~~
2 ~~patients to health care agencies, health care providers, and~~
3 ~~community resources.~~

4 ~~(B) Prescribe, administer, dispense, and furnish pharmacological~~
5 ~~agents, including over-the-counter, legend, and controlled~~
6 ~~substances.~~

7 ~~(C) Plan and initiate a therapeutic regimen that includes ordering~~
8 ~~and prescribing nonpharmacological interventions, including, but~~
9 ~~not limited to, durable medical equipment, medical devices,~~
10 ~~nutrition, blood and blood products, and diagnostic and supportive~~
11 ~~services, including, but not limited to, home health care, hospice,~~
12 ~~and physical and occupational therapy.~~

13 ~~(5) After performing a physical examination, certify disability~~
14 ~~pursuant to Section 2708 of the Unemployment Insurance Code.~~

15 ~~(6) Delegate tasks to a medical assistant pursuant to Sections~~
16 ~~1206.5, 2069, 2070, and 2071, and Article 2 (commencing with~~
17 ~~Section 1366) of Chapter 3 of Division 13 of Title 16 of the~~
18 ~~California Code of Regulations.~~

19 ~~(d) A nurse practitioner shall refer a patient to a physician and~~
20 ~~surgeon or other licensed health care provider if a situation or~~
21 ~~condition of a patient is beyond the scope of the education and~~
22 ~~training of the nurse practitioner.~~

23 ~~(e) A nurse practitioner practicing under this section shall~~
24 ~~maintain professional liability insurance appropriate for the practice~~
25 ~~setting.~~

26 ~~SEC. 4. Section 2837.2 is added to the Business and Professions~~
27 ~~Code, to read:~~

28 ~~2837.2. (a) Notwithstanding any other law, a nurse practitioner~~
29 ~~who holds an active certification by a national certifying body~~
30 ~~recognized by the board may practice without supervision by a~~
31 ~~physician and surgeon if, in addition to satisfying the requirements~~
32 ~~of this article, the nurse practitioner satisfies both of the following~~
33 ~~requirements:~~

34 ~~(1) The nurse practitioner has successfully completed a transition~~
35 ~~to practice program.~~

36 ~~(2) A supervising physician and surgeon at the clinic, facility,~~
37 ~~or medical group attests under penalty of perjury to the board that~~
38 ~~the nurse practitioner has successfully completed the transition to~~
39 ~~practice program and is proficient in the competencies identified~~
40 ~~by the board to practice pursuant to this section.~~

1 (b) A nurse practitioner authorized to practice pursuant to this
2 section shall comply with all of the following:

3 (1) The nurse practitioner, consistent with applicable standards
4 of care, shall practice within the scope of their clinical and
5 professional training and within the limits of their knowledge and
6 experience.

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

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

13 (e) For purposes of this section, “transition to practice program”
14 means a program in which additional clinical experience and
15 mentorship are provided to prepare a nurse practitioner to practice
16 without the routine presence of a physician and surgeon. A
17 transition to practice program shall meet all of the following
18 requirements:

19 (1) The transition to practice program shall consist of a minimum
20 of three years or 4,600 hours.

21 (2) The transition to practice program shall require proficiency
22 in competencies identified by the board by regulation.

23 (3) The transition to practice program is conducted in one of
24 the settings specified in paragraphs (1) to (4), inclusive, of
25 subdivision (a) of Section 2837.1 in which one or more physicians
26 and surgeons practices concurrently with the nurse practitioner.

27 (d) A nurse practitioner practicing under this section shall
28 maintain professional liability insurance appropriate for the practice
29 setting.

30 SEC. 3. Article 8.5 (commencing with Section 2837.100) is
31 added to Chapter 6 of Division 2 of the Business and Professions
32 Code, to read:

33

34 Article 8.5. Advanced Practice Registered Nurses

35

36 2837.100. It is the intent of the Legislature that the
37 requirements under this article shall not be undue or unnecessary
38 burden to licensure or practice. The requirements are intended to
39 ensure the new category of licensed nurse practitioners have the

1 *least restrictive amount of education, training, and testing*
2 *necessary to ensure competent practice.*

3 2837.101. (a) *There is in the Department of Consumer Affairs*
4 *the Advanced Practice Registered Nursing Board consisting of*
5 *nine members.*

6 (b) *For purposes of this article, “board” means the Advanced*
7 *Practice Registered Nursing Board.*

8 (c) *This section shall remain in effect only until January 1, 2026,*
9 *and as of that date is repealed.*

10 2837.102. *Notwithstanding any other law, the repeal of Section*
11 *2837.101 renders the board or its successor subject to review by*
12 *the appropriate policy committees of the Legislature.*

13 2837.103. (a) (1) *Until January 1, 2026, four members of the*
14 *board shall be licensed registered nurses who shall be active as*
15 *a nurse practitioner and shall be active in the practice of their*
16 *profession engaged primarily in direct patient care with at least*
17 *five continuous years of experience.*

18 (2) *Commencing January 1, 2026, four members of the board*
19 *shall be nurse practitioners licensed under this chapter.*

20 (b) *Three members of the board shall be physicians and*
21 *surgeons licensed by the Medical Board of California or the*
22 *Osteopathic Medical Board of California. At least one of the*
23 *physician and surgeon members shall work closely with a nurse*
24 *practitioner. The remaining physician and surgeon members shall*
25 *focus on primary care in their practice.*

26 (c) *Two members of the board shall represent the public at large*
27 *and shall not be licensed under any board under this division or*
28 *any board referred to in Section 1000 or 3600.*

29 2837.104. (a) (1) *Notwithstanding any other law, a nurse*
30 *practitioner who holds a certification as a nurse practitioner from*
31 *a national certifying body recognized by the board may perform*
32 *the functions specified in subdivision (c) without supervision by a*
33 *physician and surgeon if the nurse practitioner meets all of the*
34 *requirements of this article and practices in one of the following*
35 *settings or organizations in which one or more physicians and*
36 *surgeons practice with the nurse practitioner:*

37 (A) *A clinic, as defined in Section 1200 of the Health and Safety*
38 *Code.*

39 (B) *A health facility, as defined in Section 1250 of the Health*
40 *and Safety 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
7 another lawfully organized group of physicians and surgeons that
8 provides health care services.

9 (2) In health care agencies that have governing bodies, as
10 defined in Division 5 of Title 22 of the California Code of
11 Regulations, including, but not limited to, Sections 70701 and
12 70703 of Title 22 of the California Code of Regulations, the
13 following apply:

14 (A) A nurse practitioner shall adhere to all bylaws.

15 (B) A nurse practitioner shall be eligible to serve on medical
16 staff and hospital committees. A nurse practitioner who is not the
17 holder of an active certificate pursuant to Section 2837.105 shall
18 not serve as chair of medical staff committees.

19 (C) A nurse practitioner shall be eligible to attend meetings of
20 the department to which the nurse practitioner is assigned. A nurse
21 practitioner who is not the holder of an active certificate pursuant
22 to Section 2837.105 shall not vote at department, division, or other
23 meetings.

24 (b) An entity described in subparagraphs (A) to (D), inclusive,
25 of paragraph (1) of subdivision (a) shall not interfere with, control,
26 or otherwise direct the professional judgment of a nurse
27 practitioner functioning pursuant to this section in a manner
28 prohibited by Section 2400 or any other law.

29 (c) In addition to any other practices authorized by law, a nurse
30 practitioner who meets the requirements of this section may
31 perform the following functions without the supervision of a
32 physician and surgeon in accordance with their education and
33 training:

34 (1) Conduct an advanced assessment.

35 (2) Order and interpret diagnostic procedures.

36 (3) Establish primary and differential diagnoses.

37 (4) Prescribe, order, administer, dispense, and furnish
38 therapeutic measures, including, but not limited to, the following:

1 (A) Diagnose, prescribe, and institute therapy or referrals of
2 patients to health care agencies, health care providers, and
3 community resources.

4 (B) Prescribe, administer, dispense, and furnish
5 pharmacological agents, including over-the-counter, legend, and
6 controlled substances.

7 (C) Plan and initiate a therapeutic regimen that includes
8 ordering and prescribing nonpharmacological interventions,
9 including, but not limited to, durable medical equipment, medical
10 devices, nutrition, blood and blood products, and diagnostic and
11 supportive services, including, but not limited to, home health
12 care, hospice, and physical and occupational therapy.

13 (5) After performing a physical examination, certify disability
14 pursuant to Section 2708 of the Unemployment Insurance Code.

15 (6) Delegate tasks to a medical assistant pursuant to Sections
16 1206.5, 2069, 2070, and 2071, and Article 2 (commencing with
17 Section 1366) of Chapter 3 of Division 13 of Title 16 of the
18 California Code of Regulations.

19 (d) A nurse practitioner shall refer a patient to a physician and
20 surgeon or other licensed health care provider if a situation or
21 condition of a patient is beyond the scope of the education and
22 training of the nurse practitioner.

23 (e) A nurse practitioner practicing under this section shall
24 maintain professional liability insurance appropriate for the
25 practice setting.

26 2837.105. (a) Notwithstanding any other law, the following
27 apply to a nurse practitioner who is actively licensed under this
28 article and who holds an active certification issued by the board
29 under this section:

30 (1) The nurse practitioner may practice without supervision by
31 a physician and surgeon outside of the settings or organizations
32 specified under subparagraphs (A) to (D), inclusive, of paragraph
33 (1) of subdivision (a) of Section 2387.104.

34 (2) Subject to subdivision (g) and any applicable conflict of
35 interest policies of the bylaws, the nurse practitioner shall be
36 eligible for membership of an organized medical staff.

37 (3) Subject to subdivision (g) and any applicable conflict of
38 interest policies of the bylaws, a nurse practitioner member may
39 vote at meetings of the department to which nurse practitioners
40 are assigned.

1 ***(b) The board shall issue a certificate to practice outside of the***
2 ***settings and organizations specified under subparagraphs (A) to***
3 ***(D), inclusive, of paragraph (1) of subdivision (a) if, in addition***
4 ***to satisfying the requirements of this article, the nurse practitioner***
5 ***satisfies all of the following requirements:***

6 ***(1) The nurse practitioner meets one of the following:***

7 ***(A) Holds a Doctorate of Nursing Practice degree (DNP) and***
8 ***holds active national certification in a nurse practitioner role and***
9 ***population foci by a national certifying body recognized by the***
10 ***board.***

11 ***(B) Holds a Master of Science degree in Nursing (MSN) and***
12 ***holds active national certification in a nurse practitioner role and***
13 ***population foci by a national certifying body recognized by the***
14 ***board and has two years of licensed practice as a nurse***
15 ***practitioner.***

16 ***(2) The nurse practitioner has successfully completed a***
17 ***transition to practice.***

18 ***(c) (1) Upon application of an applicant who meets the***
19 ***requirements for a certificate under this section, the board shall***
20 ***issue an inactive certificate.***

21 ***(2) Upon application of a holder of a certificate issued pursuant***
22 ***to this section, the board shall change the status of an active***
23 ***certificate to inactive.***

24 ***(3) The holder of an inactive certificate shall not engage in any***
25 ***activity for which an active certificate under this section is required***
26 ***and is not otherwise subject to the provisions of this section.***

27 ***(4) Upon application of the holder of a certificate issued***
28 ***pursuant to this section, the board shall change the status of an***
29 ***inactive certificate to active if the holder's license is in good***
30 ***standing and the holder pays the renewal fee.***

31 ***(d) A nurse practitioner authorized to practice pursuant to this***
32 ***section shall comply with all of the following:***

33 ***(1) The nurse practitioner, consistent with applicable standards***
34 ***of care, shall practice within the scope of their clinical and***
35 ***professional education and training and within the limits of their***
36 ***knowledge and experience.***

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

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

4 (e) *For purposes of this section, “transition to practice” means*
5 *additional clinical experience and mentorship are provided to*
6 *prepare a nurse practitioner to practice without the routine*
7 *presence of a physician and surgeon. A transition to practice shall*
8 *meet all of the following requirements:*

9 (1) *The transition to practice shall consist of a minimum of three*
10 *years or 4,600 hours.*

11 (2) *The transition to practice shall require proficiency in*
12 *competencies identified by the board by regulation.*

13 (3) *The transition to practice is conducted in one of the settings*
14 *or organizations specified in subparagraphs (A) to (D), inclusive,*
15 *of paragraph (1) of subdivision (a) of Section 2837.104 in which*
16 *one or more physicians and surgeons practice with the nurse*
17 *practitioner.*

18 (4) *After the nurse practitioner satisfies paragraph (1) of this*
19 *subdivision, the nurse practitioner shall pass an objective*
20 *examination developed and administered by the board. The*
21 *examination shall test the competencies identified under paragraph*
22 *(2) of this subdivision.*

23 (f) *A nurse practitioner practicing under this section shall*
24 *maintain professional liability insurance appropriate for the*
25 *practice setting.*

26 (g) *For purposes of this section, corporations and other artificial*
27 *legal entities shall have no professional rights, privileges, or*
28 *powers.*

29 (h) *Subdivision (g) shall not apply to a nurse practitioner if any*
30 *of the following apply:*

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

33 (2) *The nurse practitioner is employed pursuant to the*
34 *exemptions under Section 2401.*

35 ~~SEC. 5.~~

36 SEC. 4. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

O

ASSEMBLY BILL

No. 2185

Introduced by Assembly Members Patterson and Gallagher

February 11, 2020

An act to add Section 117 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2185, as introduced, Patterson. Professions and vocations: applicants licensed in other states: reciprocity.

Existing law establishes the Department of Consumer Affairs, which is composed of boards that license and regulate various professions and vocations to ensure that certain businesses and professions that have potential impact upon the public health, safety, and welfare are adequately regulated. Existing law makes a violation of some of those licensure provisions a crime.

Existing law authorizes certain boards, for purposes of reciprocity, to waive examination or other requirements and issue a license to an applicant who holds a valid license in another state and meets specified other requirements, including, among others, a license to practice veterinary medicine.

This bill would require each board within the department to issue a license to an applicant in the discipline for which the applicant applies if the person currently holds a license in good standing in another state in the discipline and practice level for which the person applies and if the person meets specified requirements, including that the person has held the license and has practiced in the licensed field in the other state for at least 3 of the last 5 years and pays all applicable fees. By expanding the applicants who are authorized to be licensed and may be

prosecuted for a violation of those licensure provisions constituting a crime, the bill would impose a state-mandated 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 117 is added to the Business and
2 Professions Code, to read:

3 117. (a) Notwithstanding any law, each board within the
4 department shall issue a license in the discipline for which the
5 applicant applies if the applicant meets all of the following
6 requirements:

7 (1) The person is a resident in this state or is married to, or is
8 in a domestic partnership or other legal union with, an active duty
9 member of the Armed Forces of the United States who is assigned
10 to a duty station in this state under official active duty military
11 orders.

12 (2) The person currently holds a license in good standing in
13 another state in the discipline and practice level for which the
14 person is applying.

15 (3) The person has held the license and has practiced in the
16 licensed field in the other state for at least three of the last five
17 years.

18 (4) The person has not had any disciplinary actions imposed
19 against their license and has not had a license in the discipline for
20 which the person is applying revoked or suspended in any other
21 state.

22 (5) The person submits verification that they have satisfied all
23 education, work, examination, and other requirements for licensure
24 in the other state in which the person holds a license in good
25 standing.

26 (6) The person would not be denied licensure under any other
27 provision of this code, including, but not limited to, disqualification
28 for criminal history relating to the license sought.

1 (7) The person pays all applicable fees for licensure.

2 (8) If required by the board, the person has passed a California
3 jurisprudence and ethics examination or other examination
4 otherwise required for applicants by the board on the statutes and
5 regulations relating to the license.

6 (b) This section shall not supersede any other reciprocity
7 agreement, compact membership, or statute that provides
8 reciprocity for a person who holds a valid license in another state.

9 (c) Notwithstanding any law, the fees, fines, penalties, or other
10 money received by a board pursuant to this section shall not be
11 continuously appropriated and shall be available only upon
12 appropriation by the legislature.

13 SEC. 2. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

ASSEMBLY BILL

No. 2549

Introduced by Assembly Member Salas

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 introduced, 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.

This bill would expand that requirement to issue temporary licenses to include licenses issued by the Dental Hygiene Board of California, the California State Board of Pharmacy, and the California Board of

Accountancy, and certain registered dental assistant licenses issued by the Dental Board of California. 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.

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 board within the department shall, after
- 4 appropriate investigation, issue the following eligible temporary
- 5 licenses to an applicant if the applicant meets the requirements set
- 6 forth in subdivision (c):
- 7 (1) Registered nurse license by the Board of Registered Nursing.
- 8 (2) Vocational nurse license issued by the Board of Vocational
- 9 Nursing and Psychiatric Technicians of the State of California.
- 10 (3) Psychiatric technician license issued by the Board of
- 11 Vocational Nursing and Psychiatric Technicians of the State of
- 12 California.
- 13 (4) Speech-language pathologist license issued by the
- 14 Speech-Language Pathology and Audiology and Hearing Aid
- 15 Dispensers Board.
- 16 (5) Audiologist license issued by the Speech-Language
- 17 Pathology and Audiology and Hearing Aid Dispensers Board.
- 18 (6) Veterinarian license issued by the Veterinary Medical Board.
- 19 (7) All licenses issued by the Board for Professional Engineers,
- 20 Land Surveyors, and Geologists.
- 21 (8) All licenses issued by the Medical Board of California.
- 22 (9) All licenses issued by the Podiatric Medical Board of
- 23 California.
- 24 (10) *Registered dental assistant license or registered dental*
- 25 *assistant in extended functions license issued by the Dental Board*
- 26 *of California.*
- 27 (11) *All licenses issued by the Dental Hygiene Board of*
- 28 *California.*

1 (12) All licenses issued by the California State Board of
2 Pharmacy.

3 (13) All licenses issued by the California Board of Accountancy.
4 Revenues from fees for temporary licenses issued under this
5 paragraph shall be credited to the Accountancy Fund in
6 accordance with Section 5132.

7 (b) The board may conduct an investigation of an applicant for
8 purposes of denying or revoking a temporary license issued
9 pursuant to this section. This investigation may include a criminal
10 background check.

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

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

18 (2) The applicant shall hold a current, active, and unrestricted
19 license that confers upon the applicant the authority to practice,
20 in another state, district, or territory of the United States, the
21 profession or vocation for which the applicant seeks a temporary
22 license from the board.

23 (3) The applicant shall submit an application to the board that
24 shall include a signed affidavit attesting to the fact that the
25 applicant meets all of the requirements for the temporary license
26 and that the information submitted in the application is accurate,
27 to the best of the applicant's knowledge. The application shall also
28 include written verification from the applicant's original licensing
29 jurisdiction stating that the applicant's license is in good standing
30 in that jurisdiction.

31 (4) The applicant shall not have committed an act in any
32 jurisdiction that would have constituted grounds for denial,
33 suspension, or revocation of the license under this code at the time
34 the act was committed. A violation of this paragraph may be
35 grounds for the denial or revocation of a temporary license issued
36 by the board.

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

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

4 (d) A board may adopt regulations necessary to administer this
5 section.

6 (e) A temporary license issued pursuant to this section may be
7 immediately terminated upon a finding that the temporary
8 licenseholder failed to meet any of the requirements described in
9 subdivision (c) or provided substantively inaccurate information
10 that would affect the person's eligibility for temporary licensure.
11 Upon termination of the temporary license, the board shall issue
12 a notice of termination that shall require the temporary
13 licenseholder to immediately cease the practice of the licensed
14 profession upon receipt.

15 (f) An applicant seeking a temporary license as a civil engineer,
16 geotechnical engineer, structural engineer, land surveyor,
17 professional geologist, professional geophysicist, certified
18 engineering geologist, or certified hydrogeologist pursuant to this
19 section shall successfully pass the appropriate California-specific
20 examination or examinations required for licensure in those
21 respective professions by the Board for Professional Engineers,
22 Land Surveyors, and Geologists.

23 (g) A temporary license issued pursuant to this section shall
24 expire 12 months after issuance, upon issuance of an expedited
25 license pursuant to Section 115.5, or upon denial of the application
26 for expedited licensure by the board, whichever occurs first.

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

29 5132. (a) All moneys received by the board under this chapter
30 from any source and for any purpose *and from a temporary license*
31 *issued under Section 115.6* shall be accounted for and reported
32 monthly by the board to the Controller and at the same time the
33 moneys shall be remitted to the State Treasury to the credit of the
34 Accountancy Fund.

35 ~~The~~

36 (b) *The* secretary-treasurer of the board shall, from time to time,
37 but not less than once each fiscal year, prepare or have prepared
38 on ~~his or her~~ *their* behalf, a financial report of the Accountancy
39 Fund that contains information that the board determines is
40 necessary for the purposes for which the board was established.

1 ~~The~~
2 (c) *The* report of the Accountancy Fund, which shall be
3 published pursuant to Section 5008, shall include the revenues and
4 the related costs from examination, initial licensing, license
5 renewal, citation and fine authority, and cost recovery from
6 enforcement actions and case settlements.

O

AMENDED IN ASSEMBLY MAY 4, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2635

Introduced by Assembly Member Gallagher

February 20, 2020

An act to amend Section 704.030 of the Code of Civil Procedure, relating to civil actions; add Section 2786.3 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2635, as amended, Gallagher. ~~Enforcement of money judgments: exemptions.~~ *Nursing programs: clinical hours.*

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 requires the curriculum of a nursing program to include clinical practice hours and requires 75% of clinical hours in a course to be in direct patient care in a board-approved clinical setting.

This bill would provide that, during a state or local emergency declared on the basis of epidemic or contagious disease, only 25 % of clinical hours would be required to be in direct patient care in a hospital or other board-approved setting and would authorize up to 75% of clinical hours to be satisfied by simulation training.

~~Existing law identifies various types of property of a judgment debtor that are exempt from the enforcement of a money judgment, including material that in good faith is about to be applied to the repair or improvement of a residence, as specified.~~

~~This bill would clarify that this exemption would apply to the judgment debtor's principal place of residence or domicile.~~

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

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

1 ~~SECTION 1. Section 2786.3 is added to the Business and~~
2 ~~Professions Code, to read:~~

3 ~~2786.3. Notwithstanding any other law, for students obtaining~~
4 ~~clinical practice hours during a state or local emergency declared~~
5 ~~pursuant to Section 8558 of the Government Code on the basis of~~
6 ~~epidemic or contagious disease, only 25 percent of clinical hours~~
7 ~~in a course shall be required to be in direct patient care in a~~
8 ~~hospital or other board-approved setting and up to 75 percent of~~
9 ~~clinical hours in a course may be satisfied by simulation training.~~

10 ~~SECTION 1. Section 704.030 of the Code of Civil Procedure~~
11 ~~is amended to read:~~

12 ~~704.030. Material that in good faith is about to be applied to~~
13 ~~the repair or improvement of a residence is exempt if the equity~~
14 ~~in the material does not exceed two thousand four hundred~~
15 ~~twenty-five dollars (\$2,425) in the following cases:~~

16 ~~(a) If purchased in good faith for use in the repair or~~
17 ~~improvement of the judgment debtor's principal place of residence~~
18 ~~or domicile.~~

19 ~~(b) Where the judgment debtor and the judgment debtor's spouse~~
20 ~~live separate and apart, if purchased in good faith for use in the~~
21 ~~repair or improvement of the spouse's principal place of residence~~
22 ~~or domicile.~~

ASSEMBLY BILL

No. 3016

Introduced by Assembly Member Megan Dahle

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 introduced, 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, in consultation with the department, to develop recommendations for the implementation of the Nursys online license verification system in the licensure process for licenses administered by the board, and 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:

1 2718. (a) The board, in consultation with the department, shall
2 develop recommendations for the implementation of the Nursys
3 online license verification system in the licensure process for
4 licenses administered by the board.

5 (b) The board shall implement the recommendations within a
6 reasonable period upon completion of the development of those
7 recommendations.

Introduced by Senator MoorlachFebruary 18, 2020

An act to add Article 1.5 (commencing with Section 2720) to Chapter 6 of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1053, as introduced, Moorlach. Licensed registered nurses and licensed vocational nurses: Nurse Licensure Compact.

Existing law, the Nursing Practice Act, provides for the licensure and regulation of the practice of nursing by the Board of Registered Nursing. The Vocational Nursing Practice Act provides for the licensure and regulation of vocational nurses by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

This bill would enact the Nurse Licensure Compact, under which the Board of Registered Nursing would be authorized to issue a multistate license that would authorize the holder to practice as a registered nurse or a licensed vocational nurse, as applicable, in all party states under a multistate licensure privilege, as specified. The bill would designate the Board of Registered Nursing as the licensing board for purposes of the compact and would require the board to participate in a coordinated licensure information system that would include all of the licensure and disciplinary history of all licensed registered nurses and licensed vocational nurses. The bill would provide that the president of the Board of Registered Nursing shall be the administrator of the compact for the state and shall be a member of an entity known as the Interstate Commission of Nurse Licensure Compact Administrators. The bill would authorize the commission to adopt rules that have the force and effect of law.

By authorizing out-of-state licensees to practice in this state under the multistate compact privilege created by the bill, the bill would expand the scope of the criminal provisions of the Nursing Practice Act and Vocational Nursing Practice Act, thereby imposing 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. Article 1.5 (commencing with Section 2720) is
2 added to Chapter 6 of Division 2 of the Business and Professions
3 Code, to read:

4
5 Article 1.5. Nurse Licensure Compact
6

7 2720. The Nurse Licensure Compact is hereby enacted into
8 law with all other participating states.

9 2721. (a) The Board of Registered Nursing is hereby
10 designated as the licensing entity for purposes of the compact.

11 (b) The president of the Board of Registered Nursing shall be
12 the administrator of the compact for the state.

13 2722. If any provision in the compact is contrary to the United
14 States Constitution or the California Constitution, or conflicts with
15 any state or federal statute or regulation, the provision is void and
16 unenforceable.

17 2723. The provisions of the Nurse Licensure Compact are as
18 follows:

19
20 **ARTICLE I**
21 **Findings and Declaration of Purpose**
22

23 a. The party states find that:

1 1. The health and safety of the public are affected by the degree
2 of compliance with and the effectiveness of enforcement activities
3 related to state nurse licensure laws;

4 2. Violations of nurse licensure and other laws regulating the
5 practice of nursing may result in injury or harm to the public;

6 3. The expanded mobility of nurses and the use of advanced
7 communication technologies as part of our nation’s health care
8 delivery system require greater coordination and cooperation
9 among states in the areas of nurse licensure and regulation;

10 4. New practice modalities and technology make compliance
11 with individual state nurse licensure laws difficult and complex;

12 5. The current system of duplicative licensure for nurses
13 practicing in multiple states is cumbersome and redundant for both
14 nurses and states; and

15 6. Uniformity of nurse licensure requirements throughout the
16 states promotes public safety and public health benefits.

17 b. The general purposes of this Compact are to:

18 1. Facilitate the states’ responsibility to protect the public’s health
19 and safety;

20 2. Ensure and encourage the cooperation of party states in the
21 areas of nurse licensure and regulation;

22 3. Facilitate the exchange of information between party states
23 in the areas of nurse regulation, investigation and adverse actions;

24 4. Promote compliance with the laws governing the practice of
25 nursing in each jurisdiction;

26 5. Invest all party states with the authority to hold a nurse
27 accountable for meeting all state practice laws in the state in which
28 the patient is located at the time care is rendered through the mutual
29 recognition of party state licenses;

30 6. Decrease redundancies in the consideration and issuance of
31 nurse licenses; and

32 7. Provide opportunities for interstate practice by nurses who
33 meet uniform licensure requirements.

34
35 **ARTICLE II**
36 **Definitions**
37

38 As used in this Compact:

39 a. “Adverse action” means any administrative, civil, equitable
40 or criminal action permitted by a state’s laws which is imposed

1 by a licensing board or other authority against a nurse, including
2 actions against an individual’s license or multistate licensure
3 privilege such as revocation, suspension, probation, monitoring
4 of the licensee, limitation on the licensee’s practice, or any other
5 encumbrance on licensure affecting a nurse’s authorization to
6 practice, including issuance of a cease and desist action.

7 b. “Alternative program” means a non-disciplinary monitoring
8 program approved by a licensing board.

9 c. “Coordinated licensure information system” means an
10 integrated process for collecting, storing and sharing information
11 on nurse licensure and enforcement activities related to nurse
12 licensure laws that is administered by a nonprofit organization
13 composed of and controlled by licensing boards.

14 d. “Current significant investigative information” means:

15 1. Investigative information that a licensing board, after a
16 preliminary inquiry that includes notification and an opportunity
17 for the nurse to respond, if required by state law, has reason to
18 believe is not groundless and, if proved true, would indicate more
19 than a minor infraction; or

20 2. Investigative information that indicates that the nurse
21 represents an immediate threat to public health and safety
22 regardless of whether the nurse has been notified and had an
23 opportunity to respond.

24 e. “Encumbrance” means a revocation or suspension of, or any
25 limitation on, the full and unrestricted practice of nursing imposed
26 by a licensing board.

27 f. “Home state” means the party state which is the nurse’s
28 primary state of residence.

29 g. “Licensing board” means a party state’s regulatory body
30 responsible for issuing nurse licenses.

31 h. “Multistate license” means a license to practice as a registered
32 or a licensed practical/vocational nurse (LPN/VN) issued by a
33 home state licensing board that authorizes the licensed nurse to
34 practice in all party states under a multistate licensure privilege.

35 i. “Multistate licensure privilege” means a legal authorization
36 associated with a multistate license permitting the practice of
37 nursing as either a registered nurse (RN) or LPN/VN in a remote
38 state.

39 j. “Nurse” means RN or LPN/VN, as those terms are defined by
40 each party state’s practice laws.

1 k. “Party state” means any state that has adopted this Compact.

2 l. “Remote state” means a party state, other than the home state.

3 m. “Single-state license” means a nurse license issued by a party
4 state that authorizes practice only within the issuing state and does
5 not include a multistate licensure privilege to practice in any other
6 party state.

7 n. “State” means a state, territory or possession of the United
8 States and the District of Columbia.

9 o. “State practice laws” means a party state’s laws, rules and
10 regulations that govern the practice of nursing, define the scope
11 of nursing practice, and create the methods and grounds for
12 imposing discipline. “State practice laws” do not include
13 requirements necessary to obtain and retain a license, except for
14 qualifications or requirements of the home state.

15

16 **ARTICLE III**

17 **General Provisions and Jurisdiction**

18

19 a. A multistate license to practice registered or licensed
20 practical/vocational nursing issued by a home state to a resident
21 in that state will be recognized by each party state as authorizing
22 a nurse to practice as a registered nurse (RN) or as a licensed
23 practical/vocational nurse (LPN/VN), under a multistate licensure
24 privilege, in each party state.

25 b. A state must implement procedures for considering the
26 criminal history records of applicants for initial multistate license
27 or licensure by endorsement. Such procedures shall include the
28 submission of fingerprints or other biometric-based information
29 by applicants for the purpose of obtaining an applicant’s criminal
30 history record information from the Federal Bureau of Investigation
31 and the agency responsible for retaining that state’s criminal
32 records.

33 c. Each party state shall require the following for an applicant
34 to obtain or retain a multistate license in the home state:

35 1. Meets the home state’s qualifications for licensure or renewal
36 of licensure, as well as, all other applicable state laws;

37 2. i. Has graduated or is eligible to graduate from a licensing
38 board-approved RN or LPN/VN prelicensure education program;
39 or

- 1 ii. Has graduated from a foreign RN or LPN/VN prelicensure
2 education program that (a) has been approved by the authorized
3 accrediting body in the applicable country and (b) has been verified
4 by an independent credentials review agency to be comparable to
5 a licensing board-approved prelicensure education program;
- 6 3. Has, if a graduate of a foreign prelicensure education program
7 not taught in English or if English is not the individual's native
8 language, successfully passed an English proficiency examination
9 that includes the components of reading, speaking, writing and
10 listening;
- 11 4. Has successfully passed an NCLEX-RN® or NCLEX-PN®
12 Examination or recognized predecessor, as applicable;
- 13 5. Is eligible for or holds an active, unencumbered license;
- 14 6. Has submitted, in connection with an application for initial
15 licensure or licensure by endorsement, fingerprints or other
16 biometric data for the purpose of obtaining criminal history record
17 information from the Federal Bureau of Investigation and the
18 agency responsible for retaining that state's criminal records;
- 19 7. Has not been convicted or found guilty, or has entered into
20 an agreed disposition, of a felony offense under applicable state
21 or federal criminal law;
- 22 8. Has not been convicted or found guilty, or has entered into
23 an agreed disposition, of a misdemeanor offense related to the
24 practice of nursing as determined on a case-by-case basis;
- 25 9. Is not currently enrolled in an alternative program;
- 26 10. Is subject to self-disclosure requirements regarding current
27 participation in an alternative program; and
- 28 11. Has a valid United States Social Security number.
- 29 d. All party states shall be authorized, in accordance with existing
30 state due process law, to take adverse action against a nurse's
31 multistate licensure privilege such as revocation, suspension,
32 probation or any other action that affects a nurse's authorization
33 to practice under a multistate licensure privilege, including cease
34 and desist actions. If a party state takes such action, it shall
35 promptly notify the administrator of the coordinated licensure
36 information system. The administrator of the coordinated licensure
37 information system shall promptly notify the home state of any
38 such actions by remote states.
- 39 e. A nurse practicing in a party state must comply with the state
40 practice laws of the state in which the client is located at the time

1 service is provided. The practice of nursing is not limited to patient
2 care, but shall include all nursing practice as defined by the state
3 practice laws of the party state in which the client is located. The
4 practice of nursing in a party state under a multistate licensure
5 privilege will subject a nurse to the jurisdiction of the licensing
6 board, the courts and the laws of the party state in which the client
7 is located at the time service is provided.

8 f. Individuals not residing in a party state shall continue to be
9 able to apply for a party state’s single- state license as provided
10 under the laws of each party state. However, the single-state license
11 granted to these individuals will not be recognized as granting the
12 privilege to practice nursing in any other party state. Nothing in
13 this Compact shall affect the requirements established by a party
14 state for the issuance of a single-state license.

15 g. Any nurse holding a home state multistate license, on the
16 effective date of this Compact, may retain and renew the multistate
17 license issued by the nurse’s then-current home state, provided
18 that:

19 1. A nurse, who changes primary state of residence after this
20 Compact’s effective date, must meet all applicable Article III.c.
21 requirements to obtain a multistate license from a new home state.

22 2. A nurse who fails to satisfy the multistate licensure
23 requirements in Article III.c. due to a disqualifying event occurring
24 after this Compact’s effective date shall be ineligible to retain or
25 renew a multistate license, and the nurse’s multistate license shall
26 be revoked or deactivated in accordance with applicable rules
27 adopted by the Interstate Commission of Nurse Licensure Compact
28 Administrators (“Commission”).

29
30 **ARTICLE IV**

31 **Applications for Licensure in a Party State**

32
33 a. Upon application for a multistate license, the licensing board
34 in the issuing party state shall ascertain, through the coordinated
35 licensure information system, whether the applicant has ever held,
36 or is the holder of, a license issued by any other state, whether
37 there are any encumbrances on any license or multistate licensure
38 privilege held by the applicant, whether any adverse action has
39 been taken against any license or multistate licensure privilege

1 held by the applicant and whether the applicant is currently
2 participating in an alternative program.

3 b. A nurse may hold a multistate license, issued by the home
4 state, in only one party state at a time.

5 c. If a nurse changes primary state of residence by moving
6 between two party states, the nurse must apply for licensure in the
7 new home state, and the multistate license issued by the prior home
8 state will be deactivated in accordance with applicable rules
9 adopted by the Commission.

10 1. The nurse may apply for licensure in advance of a change in
11 primary state of residence.

12 2. A multistate license shall not be issued by the new home state
13 until the nurse provides satisfactory evidence of a change in
14 primary state of residence to the new home state and satisfies all
15 applicable requirements to obtain a multistate license from the
16 new home state.

17 d. If a nurse changes primary state of residence by moving from
18 a party state to a non-party state, the multistate license issued by
19 the prior home state will convert to a single-state license, valid
20 only in the former home state.

21

22 **ARTICLE V**

23 **Additional Authorities Invested in Party State Licensing**
24 **Boards**

25

26 a. In addition to the other powers conferred by state law, a
27 licensing board shall have the authority to:

28 1. Take adverse action against a nurse’s multistate licensure
29 privilege to practice within that party state.

30 i. Only the home state shall have the power to take adverse action
31 against a nurse’s license issued by the home state.

32 ii. For purposes of taking adverse action, the home state licensing
33 board shall give the same priority and effect to reported conduct
34 received from a remote state as it would if such conduct had
35 occurred within the home state. In so doing, the home state shall
36 apply its own state laws to determine appropriate action.

37 2. Issue cease and desist orders or impose an encumbrance on a
38 nurse’s authority to practice within that party state.

39 3. Complete any pending investigations of a nurse who changes
40 primary state of residence during the course of such investigations.

1 The licensing board shall also have the authority to take appropriate
2 action(s) and shall promptly report the conclusions of such
3 investigations to the administrator of the coordinated licensure
4 information system. The administrator of the coordinated licensure
5 information system shall promptly notify the new home state of
6 any such actions.

7 4. Issue subpoenas for both hearings and investigations that
8 require the attendance and testimony of witnesses, as well as, the
9 production of evidence. Subpoenas issued by a licensing board in
10 a party state for the attendance and testimony of witnesses or the
11 production of evidence from another party state shall be enforced
12 in the latter state by any court of competent jurisdiction, according
13 to the practice and procedure of that court applicable to subpoenas
14 issued in proceedings pending before it. The issuing authority shall
15 pay any witness fees, travel expenses, mileage and other fees
16 required by the service statutes of the state in which the witnesses
17 or evidence are located.

18 5. Obtain and submit, for each nurse licensure applicant,
19 fingerprint or other biometric-based information to the Federal
20 Bureau of Investigation for criminal background checks, receive
21 the results of the Federal Bureau of Investigation record search on
22 criminal background checks and use the results in making licensure
23 decisions.

24 6. If otherwise permitted by state law, recover from the affected
25 nurse the costs of investigations and disposition of cases resulting
26 from any adverse action taken against that nurse.

27 7. Take adverse action based on the factual findings of the remote
28 state, provided that the licensing board follows its own procedures
29 for taking such adverse action.

30 b. If adverse action is taken by the home state against a nurse's
31 multistate license, the nurse's multistate licensure privilege to
32 practice in all other party states shall be deactivated until all
33 encumbrances have been removed from the multistate license. All
34 home state disciplinary orders that impose adverse action against
35 a nurse's multistate license shall include a statement that the nurse's
36 multistate licensure privilege is deactivated in all party states during
37 the pendency of the order.

38 c. Nothing in this Compact shall override a party state's decision
39 that participation in an alternative program may be used in lieu of
40 adverse action. The home state licensing board shall deactivate

1 the multistate licensure privilege under the multistate license of
2 any nurse for the duration of the nurse’s participation in an
3 alternative program.

4
5
6
7
8

ARTICLE VI
Coordinated Licensure Information System and Exchange
of Information

9 a. All party states shall participate in a coordinated licensure
10 information system of all licensed registered nurses (RNs) and
11 licensed practical/vocational nurses (LPNs/VNs). This system will
12 include information on the licensure and disciplinary history of
13 each nurse, as submitted by party states, to assist in the
14 coordination of nurse licensure and enforcement efforts.

15 b. The Commission, in consultation with the administrator of
16 the coordinated licensure information system, shall formulate
17 necessary and proper procedures for the identification, collection
18 and exchange of information under this Compact.

19 c. All licensing boards shall promptly report to the coordinated
20 licensure information system any adverse action, any current
21 significant investigative information, denials of applications (with
22 the reasons for such denials) and nurse participation in alternative
23 programs known to the licensing board regardless of whether such
24 participation is deemed nonpublic or confidential under state law.

25 d. Current significant investigative information and participation
26 in nonpublic or confidential alternative programs shall be
27 transmitted through the coordinated licensure information system
28 only to party state licensing boards.

29 e. Notwithstanding any other provision of law, all party state
30 licensing boards contributing information to the coordinated
31 licensure information system may designate information that may
32 not be shared with non-party states or disclosed to other entities
33 or individuals without the express permission of the contributing
34 state.

35 f. Any personally identifiable information obtained from the
36 coordinated licensure information system by a party state licensing
37 board shall not be shared with non-party states or disclosed to other
38 entities or individuals except to the extent permitted by the laws
39 of the party state contributing the information.

1 g. Any information contributed to the coordinated licensure
2 information system that is subsequently required to be expunged
3 by the laws of the party state contributing that information shall
4 also be expunged from the coordinated licensure information
5 system.

6 h. The Compact administrator of each party state shall furnish
7 a uniform data set to the Compact administrator of each other party
8 state, which shall include, at a minimum:

- 9 1. Identifying information;
- 10 2. Licensure data;
- 11 3. Information related to alternative program participation; and
- 12 4. Other information that may facilitate the administration of
13 this Compact, as determined by Commission rules.

14 i. The Compact administrator of a party state shall provide all
15 investigative documents and information requested by another
16 party state.

17
18 **ARTICLE VII**

19 **Establishment of the Interstate Commission of Nurse**
20 **Licensure Compact Administrators**
21

22 a. The party states hereby create and establish a joint public
23 entity known as the Interstate Commission of Nurse Licensure
24 Compact Administrators.

- 25 1. The Commission is an instrumentality of the party states.
- 26 2. Venue is proper, and judicial proceedings by or against the
27 Commission shall be brought solely and exclusively, in a court of
28 competent jurisdiction where the principal office of the
29 Commission is located. The Commission may waive venue and
30 jurisdictional defenses to the extent it adopts or consents to
31 participate in alternative dispute resolution proceedings.
- 32 3. Nothing in this Compact shall be construed to be a waiver of
33 sovereign immunity.

34 b. Membership, Voting and Meetings

- 35 1. Each party state shall have and be limited to one administrator.
36 The head of the state licensing board or designee shall be the
37 administrator of this Compact for each party state. Any
38 administrator may be removed or suspended from office as
39 provided by the law of the state from which the Administrator is
40 appointed. Any vacancy occurring in the Commission shall be

1 filled in accordance with the laws of the party state in which the
2 vacancy exists.

3 2. Each administrator shall be entitled to one (1) vote with regard
4 to the promulgation of rules and creation of bylaws and shall
5 otherwise have an opportunity to participate in the business and
6 affairs of the Commission. An administrator shall vote in person
7 or by such other means as provided in the bylaws. The bylaws may
8 provide for an administrator’s participation in meetings by
9 telephone or other means of communication.

10 3. The Commission shall meet at least once during each calendar
11 year. Additional meetings shall be held as set forth in the bylaws
12 or rules of the commission.

13 4. All meetings shall be open to the public, and public notice of
14 meetings shall be given in the same manner as required under the
15 rulemaking provisions in Article VIII.

16 5. The Commission may convene in a closed, nonpublic meeting
17 if the Commission must discuss:

18 i. Noncompliance of a party state with its obligations under this
19 Compact;

20 ii. The employment, compensation, discipline or other personnel
21 matters, practices or procedures related to specific employees or
22 other matters related to the Commission’s internal personnel
23 practices and procedures;

24 iii. Current, threatened or reasonably anticipated litigation;

25 iv. Negotiation of contracts for the purchase or sale of goods,
26 services or real estate;

27 v. Accusing any person of a crime or formally censuring any
28 person;

29 vi. Disclosure of trade secrets or commercial or financial
30 information that is privileged or confidential;

31 vii. Disclosure of information of a personal nature where
32 disclosure would constitute a clearly unwarranted invasion of
33 personal privacy;

34 viii. Disclosure of investigatory records compiled for law
35 enforcement purposes;

36 ix. Disclosure of information related to any reports prepared by
37 or on behalf of the Commission for the purpose of investigation
38 of compliance with this Compact; or

39 x. Matters specifically exempted from disclosure by federal or
40 state statute.

1 6. If a meeting, or portion of a meeting, is closed pursuant to
2 this provision, the Commission's legal counsel or designee shall
3 certify that the meeting may be closed and shall reference each
4 relevant exempting provision. The Commission shall keep minutes
5 that fully and clearly describe all matters discussed in a meeting
6 and shall provide a full and accurate summary of actions taken,
7 and the reasons therefor, including a description of the views
8 expressed. All documents considered in connection with an action
9 shall be identified in such minutes. All minutes and documents of
10 a closed meeting shall remain under seal, subject to release by a
11 majority vote of the Commission or order of a court of competent
12 jurisdiction.

13 c. The Commission shall, by a majority vote of the
14 administrators, prescribe bylaws or rules to govern its conduct as
15 may be necessary or appropriate to carry out the purposes and
16 exercise the powers of this Compact, including but not limited to:

- 17 1. Establishing the fiscal year of the Commission;
- 18 2. Providing reasonable standards and procedures:
 - 19 i. For the establishment and meetings of other committees; and
 - 20 ii. Governing any general or specific delegation of any authority
21 or function of the Commission;
- 22 3. Providing reasonable procedures for calling and conducting
23 meetings of the Commission, ensuring reasonable advance notice
24 of all meetings and providing an opportunity for attendance of
25 such meetings by interested parties, with enumerated exceptions
26 designed to protect the public's interest, the privacy of individuals,
27 and proprietary information, including trade secrets. The
28 Commission may meet in closed session only after a majority of
29 the administrators vote to close a meeting in whole or in part. As
30 soon as practicable, the Commission must make public a copy of
31 the vote to close the meeting revealing the vote of each
32 administrator, with no proxy votes allowed;
- 33 4. Establishing the titles, duties and authority and reasonable
34 procedures for the election of the officers of the Commission;
- 35 5. Providing reasonable standards and procedures for the
36 establishment of the personnel policies and programs of the
37 Commission. Notwithstanding any civil service or other similar
38 laws of any party state, the bylaws shall exclusively govern the
39 personnel policies and programs of the Commission; and

- 1 6. Providing a mechanism for winding up the operations of the
2 Commission and the equitable disposition of any surplus funds
3 that may exist after the termination of this Compact after the
4 payment or reserving of all of its debts and obligations;
- 5 d. The Commission shall publish its bylaws and rules, and any
6 amendments thereto, in a convenient form on the website of the
7 Commission.
- 8 e. The Commission shall maintain its financial records in
9 accordance with the bylaws.
- 10 f. The Commission shall meet and take such actions as are
11 consistent with the provisions of this Compact and the bylaws.
- 12 g. The Commission shall have the following powers:
- 13 1. To promulgate uniform rules to facilitate and coordinate
14 implementation and administration of this Compact. The rules
15 shall have the force and effect of law and shall be binding in all
16 party states;
- 17 2. To bring and prosecute legal proceedings or actions in the
18 name of the Commission, provided that the standing of any
19 licensing board to sue or be sued under applicable law shall not
20 be affected;
- 21 3. To purchase and maintain insurance and bonds;
- 22 4. To borrow, accept or contract for services of personnel,
23 including, but not limited to, employees of a party state or nonprofit
24 organizations;
- 25 5. To cooperate with other organizations that administer state
26 compacts related to the regulation of nursing, including but not
27 limited to sharing administrative or staff expenses, office space or
28 other resources;
- 29 6. To hire employees, elect or appoint officers, fix compensation,
30 define duties, grant such individuals appropriate authority to carry
31 out the purposes of this Compact, and to establish the
32 Commission's personnel policies and programs relating to conflicts
33 of interest, qualifications of personnel and other related personnel
34 matters;
- 35 7. To accept any and all appropriate donations, grants and gifts
36 of money, equipment, supplies, materials and services, and to
37 receive, utilize and dispose of the same; provided that at all times
38 the Commission shall avoid any appearance of impropriety or
39 conflict of interest;

1 8. To lease, purchase, accept appropriate gifts or donations of,
2 or otherwise to own, hold, improve or use, any property, whether
3 real, personal or mixed; provided that at all times the Commission
4 shall avoid any appearance of impropriety;

5 9. To sell, convey, mortgage, pledge, lease, exchange, abandon
6 or otherwise dispose of any property, whether real, personal or
7 mixed;

8 10. To establish a budget and make expenditures;

9 11. To borrow money;

10 12. To appoint committees, including advisory committees
11 comprised of administrators, state nursing regulators, state
12 legislators or their representatives, and consumer representatives,
13 and other such interested persons;

14 13. To provide and receive information from, and to cooperate
15 with, law enforcement agencies;

16 14. To adopt and use an official seal; and

17 15. To perform such other functions as may be necessary or
18 appropriate to achieve the purposes of this Compact consistent
19 with the state regulation of nurse licensure and practice.

20 h. Financing of the Commission

21 1. The Commission shall pay, or provide for the payment of, the
22 reasonable expenses of its establishment, organization and ongoing
23 activities.

24 2. The Commission may also levy on and collect an annual
25 assessment from each party state to cover the cost of its operations,
26 activities and staff in its annual budget as approved each year. The
27 aggregate annual assessment amount, if any, shall be allocated
28 based upon a formula to be determined by the Commission, which
29 shall promulgate a rule that is binding upon all party states.

30 3. The Commission shall not incur obligations of any kind prior
31 to securing the funds adequate to meet the same; nor shall the
32 Commission pledge the credit of any of the party states, except
33 by, and with the authority of, such party state.

34 4. The Commission shall keep accurate accounts of all receipts
35 and disbursements. The receipts and disbursements of the
36 Commission shall be subject to the audit and accounting procedures
37 established under its bylaws. However, all receipts and
38 disbursements of funds handled by the Commission shall be audited
39 yearly by a certified or licensed public accountant, and the report

1 of the audit shall be included in and become part of the annual
2 report of the Commission.

3 i. Qualified Immunity, Defense and Indemnification

4 1. The administrators, officers, executive director, employees
5 and representatives of the Commission shall be immune from suit
6 and liability, either personally or in their official capacity, for any
7 claim for damage to or loss of property or personal injury or other
8 civil liability caused by or arising out of any actual or alleged act,
9 error or omission that occurred, or that the person against whom
10 the claim is made had a reasonable basis for believing occurred,
11 within the scope of Commission employment, duties or
12 responsibilities; provided that nothing in this paragraph shall be
13 construed to protect any such person from suit or liability for any
14 damage, loss, injury or liability caused by the intentional, willful
15 or wanton misconduct of that person.

16 2. The Commission shall defend any administrator, officer,
17 executive director, employee or representative of the Commission
18 in any civil action seeking to impose liability arising out of any
19 actual or alleged act, error or omission that occurred within the
20 scope of Commission employment, duties or responsibilities, or
21 that the person against whom the claim is made had a reasonable
22 basis for believing occurred within the scope of Commission
23 employment, duties or responsibilities; provided that nothing herein
24 shall be construed to prohibit that person from retaining his or her
25 own counsel; and provided further that the actual or alleged act,
26 error or omission did not result from that person's intentional,
27 willful or wanton misconduct.

28 3. The Commission shall indemnify and hold harmless any
29 administrator, officer, executive director, employee or
30 representative of the Commission for the amount of any settlement
31 or judgment obtained against that person arising out of any actual
32 or alleged act, error or omission that occurred within the scope of
33 Commission employment, duties or responsibilities, or that such
34 person had a reasonable basis for believing occurred within the
35 scope of Commission employment, duties or responsibilities,
36 provided that the actual or alleged act, error or omission did not
37 result from the intentional, willful or wanton misconduct of that
38 person.

39

40

ARTICLE VIII

Rulemaking

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
31
32
33
34
35
36
37
38
39

- a. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this Compact.
- b. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.
- c. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:
 - 1. On the website of the Commission; and
 - 2. On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.
- d. The notice of proposed rulemaking shall include:
 - 1. The proposed time, date and location of the meeting in which the rule will be considered and voted upon;
 - 2. The text of the proposed rule or amendment, and the reason for the proposed rule;
 - 3. A request for comments on the proposed rule from any interested person; and
 - 4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.
- e. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.
- f. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.
- g. The Commission shall publish the place, time and date of the scheduled public hearing.
 - 1. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.
 - 2. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the

1 convenience of the Commission at hearings required by this
2 section.

3 h. If no one appears at the public hearing, the Commission may
4 proceed with promulgation of the proposed rule.

5 i. Following the scheduled hearing date, or by the close of
6 business on the scheduled hearing date if the hearing was not held,
7 the Commission shall consider all written and oral comments
8 received.

9 j. The Commission shall, by majority vote of all administrators,
10 take final action on the proposed rule and shall determine the
11 effective date of the rule, if any, based on the rulemaking record
12 and the full text of the rule.

13 k. Upon determination that an emergency exists, the Commission
14 may consider and adopt an emergency rule without prior notice,
15 opportunity for comment or hearing, provided that the usual
16 rulemaking procedures provided in this Compact and in this section
17 shall be retroactively applied to the rule as soon as reasonably
18 possible, in no event later than ninety (90) days after the effective
19 date of the rule. For the purposes of this provision, an emergency
20 rule is one that must be adopted immediately in order to:

- 21 1. Meet an imminent threat to public health, safety or welfare;
- 22 2. Prevent a loss of Commission or party state funds; or
- 23 3. Meet a deadline for the promulgation of an administrative
24 rule that is required by federal law or rule.

25 1. The Commission may direct revisions to a previously adopted
26 rule or amendment for purposes of correcting typographical errors,
27 errors in format, errors in consistency or grammatical errors. Public
28 notice of any revisions shall be posted on the website of the
29 Commission. The revision shall be subject to challenge by any
30 person for a period of thirty (30) days after posting. The revision
31 may be challenged only on grounds that the revision results in a
32 material change to a rule. A challenge shall be made in writing,
33 and delivered to the Commission, prior to the end of the notice
34 period. If no challenge is made, the revision will take effect without
35 further action. If the revision is challenged, the revision may not
36 take effect without the approval of the Commission.

37
38
39
40

ARTICLE IX
Oversight, Dispute Resolution and Enforcement

1 a. Oversight

2 1. Each party state shall enforce this Compact and take all actions
3 necessary and appropriate to effectuate this Compact’s purposes
4 and intent.

5 2. The Commission shall be entitled to receive service of process
6 in any proceeding that may affect the powers, responsibilities or
7 actions of the Commission, and shall have standing to intervene
8 in such a proceeding for all purposes. Failure to provide service
9 of process in such proceeding to the Commission shall render a
10 judgment or order void as to the Commission, this Compact or
11 promulgated rules.

12 b. Default, Technical Assistance and Termination

13 1. If the Commission determines that a party state has defaulted
14 in the performance of its obligations or responsibilities under this
15 Compact or the promulgated rules, the Commission shall:

16 i. Provide written notice to the defaulting state and other party
17 states of the nature of the default, the proposed means of curing
18 the default or any other action to be taken by the Commission; and

19 ii. Provide remedial training and specific technical assistance
20 regarding the default.

21 2. If a state in default fails to cure the default, the defaulting
22 state’s membership in this Compact may be terminated upon an
23 affirmative vote of a majority of the administrators, and all rights,
24 privileges and benefits conferred by this Compact may be
25 terminated on the effective date of termination. A cure of the
26 default does not relieve the offending state of obligations or
27 liabilities incurred during the period of default.

28 3. Termination of membership in this Compact shall be imposed
29 only after all other means of securing compliance have been
30 exhausted. Notice of intent to suspend or terminate shall be given
31 by the Commission to the governor of the defaulting state and to
32 the executive officer of the defaulting state’s licensing board and
33 each of the party states.

34 4. A state whose membership in this Compact has been
35 terminated is responsible for all assessments, obligations and
36 liabilities incurred through the effective date of termination,
37 including obligations that extend beyond the effective date of
38 termination.

39 5. The Commission shall not bear any costs related to a state
40 that is found to be in default or whose membership in this Compact

1 has been terminated unless agreed upon in writing between the
2 Commission and the defaulting state.

3 6. The defaulting state may appeal the action of the Commission
4 by petitioning the U.S. District Court for the District of Columbia
5 or the federal district in which the Commission has its principal
6 offices. The prevailing party shall be awarded all costs of such
7 litigation, including reasonable attorneys’ fees.

8 c. Dispute Resolution

9 1. Upon request by a party state, the Commission shall attempt
10 to resolve disputes related to the Compact that arise among party
11 states and between party and non-party states.

12 2. The Commission shall promulgate a rule providing for both
13 mediation and binding dispute resolution for disputes, as
14 appropriate.

15 3. In the event the Commission cannot resolve disputes among
16 party states arising under this Compact:

17 i. The party states may submit the issues in dispute to an
18 arbitration panel, which will be comprised of individuals appointed
19 by the Compact administrator in each of the affected party states
20 and an individual mutually agreed upon by the Compact
21 administrators of all the party states involved in the dispute.

22 ii. The decision of a majority of the arbitrators shall be final and
23 binding.

24 d. Enforcement

25 1. The Commission, in the reasonable exercise of its discretion,
26 shall enforce the provisions and rules of this Compact.

27 2. By majority vote, the Commission may initiate legal action
28 in the U.S. District Court for the District of Columbia or the federal
29 district in which the Commission has its principal offices against
30 a party state that is in default to enforce compliance with the
31 provisions of this Compact and its promulgated rules and bylaws.
32 The relief sought may include both injunctive relief and damages.
33 In the event judicial enforcement is necessary, the prevailing party
34 shall be awarded all costs of such litigation, including reasonable
35 attorneys’ fees.

36 3. The remedies herein shall not be the exclusive remedies of
37 the Commission. The Commission may pursue any other remedies
38 available under federal or state law.

39

40

ARTICLE X

Effective Date, Withdrawal and Amendment

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
31
32
33
34
35
36
37
38
39

a. This Compact shall become effective and binding on the earlier of the date of legislative enactment of this Compact into law by no less than twenty-six (26) states or December 31, 2018. All party states to this Compact, that also were parties to the prior Nurse Licensure Compact, superseded by this Compact, (“Prior Compact”), shall be deemed to have withdrawn from said Prior Compact within six (6) months after the effective date of this Compact.

b. Each party state to this Compact shall continue to recognize a nurse’s multistate licensure privilege to practice in that party state issued under the Prior Compact until such party state has withdrawn from the Prior Compact.

c. Any party state may withdraw from this Compact by enacting a statute repealing the same. A party state’s withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

d. A party state’s withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state’s licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

e. Nothing contained in this Compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this Compact.

f. This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

g. Representatives of non-party states to this Compact shall be invited to participate in the activities of the Commission, on a nonvoting basis, prior to the adoption of this Compact by all states.

**ARTICLE XI
Construction and Severability**

1 This Compact shall be liberally construed so as to effectuate the
2 purposes thereof. The provisions of this Compact shall be
3 severable, and if any phrase, clause, sentence or provision of this
4 Compact is declared to be contrary to the constitution of any party
5 state or of the United States, or if the applicability thereof to any
6 government, agency, person or circumstance is held invalid, the
7 validity of the remainder of this Compact and the applicability
8 thereof to any government, agency, person or circumstance shall
9 not be affected thereby. If this Compact shall be held to be contrary
10 to the constitution of any party state, this Compact shall remain in
11 full force and effect as to the remaining party states and in full
12 force and effect as to the party state affected as to all severable
13 matters.

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

Introduced by Senator Dodd
(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 the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1237, as introduced, 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.

The bill 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 normal pregnancy and childbirth and to provide prenatal, intrapartum, and postpartum care, including gynecologic and 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 delete the above-described provisions defining the practice of nurse-midwifery, and instead would provide that the practice of nurse-midwifery includes consultation, comanagement, or referral, as those terms are defined by the bill, as indicated by the health status of the patient and the resources and medical personnel available in the setting of care, subject to specified conditions, including that a patient is required to be transferred from the primary management responsibility of the nurse-midwife to that of a physician and surgeon for the management of a problem or aspect of the patient's care that is outside the scope of the certified nurse-midwife's education, training, and experience. The bill would authorize a certified nurse-midwife to attend pregnancy and childbirth in an out-of-hospital setting if specified conditions are met, including that the gestational age of the fetus is within a specified range. 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 maintain clinical practice guidelines that delineate the parameters for consultation, comanagement, referral, and transfer of a patient's care, and to document all consultations, referrals, and transfers in the patient record. 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.

(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 the Nurse-Midwifery Advisory Committee. The bill would delete the provision including obstetricians on the committee, and would require a majority of the members of the committee to be nurse-midwives. 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 include standards related to all matter related to the practice of midwifery.

(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.

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 when care is rendered in a out-of-hospital setting, as specified. The bill would authorize a certified nurse-midwife to procure supplies and devices, obtain and administer diagnostic tests, 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) 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) There is a maternity care workforce crisis in California. At
4 least nine counties have no obstetrician at all, and many more
5 counties fall below the national average for obstetricians. This will
6 worsen to the point of critical shortage if the state refuses to take
7 steps to innovatively address this issue.

8 (b) While California has made great strides in reducing maternal
9 mortality overall, there still remains a large disparity for Black
10 and indigenous birthing people, and other birthing people of color.
11 The maternal mortality rate for black women in California is still
12 three to four times higher than white women. One avoidable death
13 or near miss is one too many.

14 (c) Structural, systemic, and interpersonal racism, and the
15 resulting economic and social inequities are the root cause of racial
16 disparities in health care. This is a complex problem requiring
17 multiple, innovative strategies in order to turn the tide. Midwifery
18 care has been named by leading organizations as one of these
19 innovative strategies.

20 (d) National and international studies show that wherever
21 midwifery is scaled up and integrated successfully into the overall
22 health system, regardless of the country or region’s income level,
23 the well-being of birthing people and babies is increased, including
24 reductions in racial disparities, maternal mortality and morbidity,
25 and neonatal mortality and prematurity.

26 (e) A study supported by the California Health Care Foundation
27 shows that increasing the percentage of pregnancies with
28 midwife-led care from the current level of about 9 percent to 20
29 percent over the next 10 years could result in \$4 billion in cost
30 savings and 30,000 fewer preterm births.

1 (f) Nurse-midwives attend 50,000 births a year in California
2 and are currently underutilized and prevented from expanding.
3 Reducing unnecessary cesarean section alone could save \$80
4 million to \$440 million annually in California.

5 (g) Outdated laws around the supervision of nurse-midwives
6 and other regulatory barriers directly prevent the expansion of the
7 nurse-midwifery profession, and have resulted in concentrating
8 nurse-midwives in geographic areas where physicians physically
9 practice. This severely reduces access and worsens “maternity
10 deserts” and health provider shortage areas.

11 (h) California is the only western state that still requires
12 nurse-midwives to have physician permission to practice and one
13 of only four states in the nation that still requires this. Forty-six
14 other states have removed the outdated requirement for physician
15 supervision.

16 (i) Bodily autonomy including the choice of health care provider
17 and the personalized, shared involvement in health care decisions
18 is key to reproductive rights. Racial and other disparities in health
19 care cannot be reduced without adherence to this concept.

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

25 (k) The core philosophy of nurse-midwifery is to provide
26 patient-centered, culturally sensitive, holistic care, all of which
27 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 ~~his or her~~ *their* immediate family has a financial
36 interest with 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 ~~his or her~~ *their* research and development of medical
22 devices and techniques for that manufacturer or distributor. For
23 purposes of this paragraph, “consulting fees” means those fees
24 paid by the manufacturer or distributor to a physician and surgeon
25 who has completed a recognized residency training program in
26 orthopedics only for ~~his or her~~ *their* ongoing services in making
27 refinements to ~~his or her~~ *their* medical devices or techniques
28 marketed or distributed by the manufacturer or distributor, if the
29 manufacturer or distributor does not own or control the facility to
30 which the physician is referring the patient. A “financial interest”
31 shall not include the receipt of capitation payments or other fixed
32 amounts that are prepaid in exchange for a promise of a licensee
33 to provide specified health care services to specified beneficiaries.
34 A “financial interest” shall not include the receipt of remuneration
35 by a medical director of a hospice, as defined in Section 1746 of
36 the Health and Safety Code, for specified services if the
37 arrangement is set out in writing, and specifies all services to be
38 provided by the medical director, the term of the arrangement is
39 for at least one year, and the compensation to be paid over the term
40 of the arrangement is set in advance, does not exceed fair market

1 value, and is not determined in a manner that takes into account
2 the volume or value of any referrals or other business generated
3 between parties.

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

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

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

1 *committed unprofessional conduct.* Violations of this section may
2 also be subject to civil penalties of up to five thousand dollars
3 (\$5,000) 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~~ *California, the Board of Registered Nursing,*
10 or other 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. ~~Each~~ *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 The board may appoint ~~a committee of qualified physicians and~~
21 ~~nurses, including, but not limited to, obstetricians and~~
22 ~~nurse-midwives,~~ *the Nurse-Midwifery Advisory Committee* to
23 develop the necessary standards relating to educational
24 ~~requirements, ratios of nurse-midwives to supervising physicians,~~
25 ~~and associated matters.~~ *requirements and all matters related to*
26 *the practice of nurse-midwifery.* The committee may ~~also include~~
27 *include, but not be limited to, qualified nurses and qualified*
28 *physicians and surgeons, including, but not limited to, family*
29 *physicians. A majority of the members of the committee shall be*
30 *nurse-midwives.*

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

33 2746.5. (a) *For purposes of this section, the following*
34 *definitions apply:*

35 (1) *“Consultation” means a request for the professional advice*
36 *or opinion of a physician or another member of a health care team*
37 *regarding a patient’s care while maintaining primary management*
38 *responsibility for the patient’s care.*

39 (2) *“Comanagement” means the joint management by a certified*
40 *nurse-midwife and a physician and surgeon, of the care of a patient*

1 *who has become more medically, gynecologically, or obstetrically*
2 *complicated.*

3 (3) *“Referral” means the direction of a patient to a physician*
4 *and surgeon or healing arts licensee for management of a*
5 *particular problem or aspect of the patient’s care.*

6 (4) *“Transfer” means the transfer of primary management*
7 *responsibility of a patient’s care from a certified nurse-midwife*
8 *to another healing arts licensee or facility.*

9 (b) *The certificate to practice nurse-midwifery authorizes the*
10 ~~*holder, under the supervision of a licensed physician and surgeon,*~~
11 *holder to attend cases of normal pregnancy and childbirth and to*
12 *provide prenatal, intrapartum, and postpartum care, including*
13 ~~*gynecologic and family-planning care, for the mother, services,*~~
14 ~~*interconception care, and immediate care for the newborn.*~~
15 *newborn, consistent with the Core Competencies for Basic*
16 *Midwifery Practice adopted by the American College of*
17 *Nurse-Midwives, or its successor national professional*
18 *organization, as approved by the board.*

19 (c) *A certified nurse-midwife shall, in the practice of*
20 *nurse-midwifery, emphasize informed consent, preventive care,*
21 *and early detection and referral of complications to physicians*
22 *and surgeons.*

23 ~~(b)~~

24 (d) *As used in this chapter, the practice of nurse-midwifery*
25 ~~*constitutes the furthering or undertaking by any certified person,*~~
26 ~~*under the supervision of a licensed physician and surgeon who has*~~
27 ~~*current practice or training in obstetrics, to assist a woman in*~~
28 ~~*childbirth so long as progress meets criteria accepted as normal.*~~
29 ~~*All complications shall be referred to a physician immediately.*~~
30 ~~*The practice of nurse-midwifery does not include the assisting of*~~
31 ~~*childbirth by any artificial, forcible, or mechanical means, nor the*~~
32 ~~*performance of any version.*~~ *includes consultation, comanagement,*
33 *or referral as indicated by the health status of the patient and the*
34 *resources and medical personnel available in the setting of care,*
35 *subject to the following:*

36 ~~(e) As used in this article, “supervision” shall not be construed~~
37 ~~*to require the physical presence of the supervising physician.*~~

38 ~~(d) A certified nurse-midwife is not authorized to practice~~
39 ~~*medicine and surgery by the provisions of this chapter.*~~

1 ~~(e) Any regulations promulgated by a state department that~~
2 ~~affect the scope of practice of a certified nurse-midwife shall be~~
3 ~~developed in consultation with the board.~~

4 (1) (A) *The certificate to practice nurse-midwifery authorizes*
5 *the holder to work collaboratively with a physician and surgeon*
6 *to comanage care for a patient with more complex health needs.*

7 (B) *The scope of comanagement may encompass the physical*
8 *care of the patient, including birth, by the certified nurse-midwife,*
9 *according to a mutually agreed upon plan of care with the*
10 *physician and surgeon.*

11 (C) *If the physician and surgeon must assume a lead role in the*
12 *care of the patient due to an increased risk status, the certified*
13 *nurse-midwife may continue to participate in physical care,*
14 *counseling, guidance, teaching, and support, according to a*
15 *mutually agreed upon plan.*

16 (2) *After a certified nurse-midwife refers a patient to a physician*
17 *and surgeon, the certified nurse-midwife may continue care of the*
18 *patient during a reasonable interval between the referral and the*
19 *initial appointment with the physician and surgeon.*

20 (3) (A) *A patient shall be transferred from the primary*
21 *management responsibility of the nurse-midwife to that of a*
22 *physician and surgeon for the management of a problem or aspect*
23 *of the patient's care that is outside the scope of the certified*
24 *nurse-midwife's education, training, and experience.*

25 (B) *A patient that has been transferred from the primary*
26 *management responsibility of a certified nurse-midwife may return*
27 *to the care of the certified nurse-midwife after resolution of any*
28 *problem that required the transfer or that would require transfer*
29 *from the primary management responsibility of a nurse-midwife.*

30 (e) *The certificate to practice nurse-midwifery authorizes the*
31 *holder to attend pregnancy and childbirth in an out-of-hospital*
32 *setting if all of the following conditions apply:*

33 (1) *Neither of the following are present:*

34 (A) *A preexisting maternal disease or condition creating risks*
35 *higher than that of a low-risk pregnancy or birth, based on current*
36 *evidence and accepted practice.*

37 (B) *Disease arising from or during the pregnancy creating risks*
38 *higher than that of a low-risk pregnancy or birth, based on current*
39 *evidence and accepted practice.*

40 (2) *There is a singleton fetus.*

1 (3) *There is cephalic presentation at the onset of labor.*

2 (4) *The gestational age of the fetus is at least 37 completed*
3 *weeks of pregnancy and less than 42 completed weeks of pregnancy*
4 *at the onset of labor.*

5 (5) *Labor is spontaneous or induced in an outpatient setting.*

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

9 (g) *A certified nurse-midwife shall maintain clinical practice*
10 *guidelines that delineate the parameters for consultation,*
11 *comanagement, referral, and transfer of a patient's care.*

12 (h) *A certified nurse-midwife shall document all consultations,*
13 *referrals, and transfers in the patient record.*

14 (i) (1) *A certified nurse-midwife shall refer all emergencies to*
15 *a physician and surgeon immediately.*

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

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

20 2746.51. (a) Neither this chapter nor any other ~~provision of~~
21 law shall be construed to prohibit a certified nurse-midwife from
22 furnishing or ordering drugs or devices, including controlled
23 substances classified in Schedule II, III, IV, or V under the
24 California Uniform Controlled Substances Act (Division 10
25 (commencing with Section 11000) of the Health and Safety Code),
26 when all of the following apply:

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

29 (A) Family planning services, as defined in Section 14503 of
30 the Welfare and Institutions Code.

31 (B) Routine health care or perinatal care, as defined in
32 subdivision (d) of Section 123485 of the Health and Safety Code.

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

1 and Safety Code, or a special hospital specified as a maternity
2 hospital in subdivision (f) of Section 1250 of the Health and Safety
3 Code.

4 *(D) Care rendered in an out-of-hospital setting pursuant to*
5 *subdivision (e) of Section 2746.5.*

6 (2) The ~~furnishing or ordering of drugs or devices are furnished~~
7 ~~or ordered~~ by a certified nurse-midwife *are* in accordance with
8 standardized procedures or protocols. For purposes of this section,
9 standardized procedure means a document, including protocols,
10 developed *in collaboration with*, and approved ~~by the supervising~~
11 *by a* physician and surgeon, the certified nurse-midwife, and the
12 facility administrator or ~~his or her~~ *their* designee. The standardized
13 procedure covering the furnishing or ordering of drugs or devices
14 shall specify all of the following:

15 (A) Which certified nurse-midwife may furnish or order drugs
16 or devices.

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

19 ~~(C) The extent of physician and surgeon supervision.~~

20 ~~(D)~~

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

24 (3) If Schedule II or III controlled substances, as defined in
25 Sections 11055 and 11056 of the Health and Safety Code, are
26 furnished or ordered by a certified nurse-midwife, the controlled
27 substances shall be furnished or ordered in accordance with a
28 patient-specific protocol approved ~~by the treating or supervising~~
29 *a* physician and surgeon. For Schedule II controlled substance
30 protocols, the provision for furnishing the Schedule II controlled
31 substance shall address the diagnosis of the illness, injury, or
32 condition for which the Schedule II controlled substance is to be
33 furnished.

34 ~~(4) The furnishing or ordering of drugs or devices by a certified~~
35 ~~nurse-midwife occurs under physician and surgeon supervision.~~
36 ~~For purposes of this section, no physician and surgeon shall~~
37 ~~supervise more than four certified nurse-midwives at one time.~~
38 ~~Physician and surgeon supervision shall not be construed to require~~
39 ~~the physical presence of the physician, but does include all of the~~
40 ~~following:~~

1 ~~(A) Collaboration on the development of the standardized~~
2 ~~procedure or protocol.~~

3 ~~(B) Approval of the standardized procedure or protocol.~~

4 ~~(C) Availability by telephonic contact at the time of patient~~
5 ~~examination by the certified nurse-midwife.~~

6 (b) (1) The furnishing or ordering of drugs or devices by a
7 certified nurse-midwife is conditional on the issuance by the board
8 of a number to the applicant who has successfully completed the
9 requirements of paragraph (2). The number shall be included on
10 all transmittals of orders for drugs or devices by the certified
11 nurse-midwife. The board shall maintain a list of the certified
12 nurse-midwives that it has certified pursuant to this paragraph and
13 the number it has issued to each one. The board shall make the list
14 available to the California State Board of Pharmacy upon its
15 request. Every certified nurse-midwife who is authorized pursuant
16 to this section to furnish or issue a drug order for a controlled
17 substance shall register with the United States Drug Enforcement
18 Administration.

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

26 ~~(3) A physician and surgeon may determine the extent of~~
27 ~~supervision necessary pursuant to this section in the furnishing or~~
28 ~~ordering of drugs and devices.~~

29 ~~(4)~~

30 (3) A copy of the standardized procedure or protocol relating
31 to the furnishing or ordering of controlled substances by a certified
32 nurse-midwife shall be provided upon request to any licensed
33 pharmacist who is uncertain of the authority of the certified
34 nurse-midwife to perform these functions.

35 ~~(5)~~

36 (4) Certified nurse-midwives who are certified by the board and
37 hold an active furnishing number, who are currently authorized
38 through standardized procedures or protocols to furnish Schedule
39 II controlled substances, and who are registered with the United
40 States Drug Enforcement Administration shall provide

1 documentation of continuing education specific to the use of
2 Schedule II controlled substances in settings other than a hospital
3 based on standards developed by the board.

4 (c) Drugs or devices furnished or ordered by a certified
5 nurse-midwife may include Schedule II controlled substances
6 under the California Uniform Controlled Substances Act (Division
7 10 (commencing with Section 11000) of the Health and Safety
8 Code) under the following conditions:

9 (1) The drugs and devices are furnished or ordered in accordance
10 with requirements referenced in paragraphs (2) ~~to (4), inclusive,~~
11 *and* (3) of subdivision (a) and in paragraphs (1) ~~to (3), inclusive,~~
12 *and* (2) of subdivision (b).

13 (2) When Schedule II controlled substances, as defined in
14 Section 11055 of the Health and Safety Code, are furnished or
15 ordered by a certified nurse-midwife, the controlled substances
16 shall be furnished or ordered in accordance with a patient-specific
17 protocol approved by ~~the treating or supervising~~ a physician and
18 surgeon.

19 (d) Furnishing of drugs or devices by a certified nurse-midwife
20 means the act of making a pharmaceutical agent or agents available
21 to the patient in strict accordance with a standardized procedure
22 or protocol. Use of the term “furnishing” in this section shall
23 include the following:

24 (1) The ordering of a drug or device in accordance with the
25 standardized procedure or protocol.

26 (2) Transmitting an order of a supervising physician and
27 surgeon.

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

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

8 2746.52. (a) Notwithstanding Section 2746.5, the certificate
9 to practice nurse-midwifery authorizes the holder to perform and
10 repair episiotomies, and to repair first-degree and second-degree
11 lacerations of the perineum, in a licensed acute care hospital, as
12 defined in subdivision (a) of Section 1250 of the Health and Safety
13 Code, and a licensed alternate birth center, as defined in paragraph
14 (4) of subdivision (b) of Section 1204 of the Health and Safety
15 Code, but only if all of the following conditions are met: *perineum*.

16 (a) ~~The supervising physician and surgeon and any backup~~
17 ~~physician and surgeon is credentialed to perform obstetrical care~~
18 ~~in the facility.~~

19 (b) ~~The episiotomies are performed pursuant to protocols~~
20 ~~developed and approved by all of the following:~~

21 (1) ~~The supervising physician and surgeon.~~

22 (2) ~~The certified nurse-midwife.~~

23 (3) ~~The director of the obstetrics department or the director of~~
24 ~~the family practice department, or both, if a physician and surgeon~~
25 ~~in the obstetrics department or the family practice department is~~
26 ~~a supervising physician and surgeon, or an equivalent person if~~
27 ~~there is no specifically identified obstetrics department or family~~
28 ~~practice department.~~

29 (4) ~~The interdisciplinary practices committee, if applicable.~~

30 (5) ~~The facility administrator or his or her designee.~~

31 (e) ~~The protocols, and the procedures which shall be developed~~
32 ~~pursuant to the protocols, shall relate to the performance and repair~~
33 ~~of episiotomies and the repair of first-degree and second-degree~~
34 ~~lacerations of the perineum, and shall do all of the following:~~

35 (b) *A certified nurse-midwife performing and repairing*
36 *first-degree and second-degree lacerations of the perineum shall*
37 *do both of the following:*

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

1 (2) Ensure immediate care of patients who are in need of care
2 beyond the scope of practice of the certified nurse midwife, or
3 emergency care for times when ~~the supervising~~ a physician and
4 surgeon is not on the premises.

5 ~~(3) Establish the number of certified nurse-midwives that a~~
6 ~~supervising physician and surgeon may supervise.~~

7 SEC. 7. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

BOARD OF REGISTERED NURSING
Enforcement Intervention Committee
Agenda Item Summary

AGENDA ITEM: 9.1
DATE: April 16, 2020

ACTION REQUESTED: **Information Only:** Complaint Intake, Intervention, Citation and Legal Desk

REQUESTED BY: Imelda Ceja-Butkiewicz, Chairperson

COMPLAINT INTAKE UNIT UPDATE:

The Complaint Intake Units have implemented teleworking agreements for their staff. The transition has had some challenges, but staff has responded well, and complaints are being processed within historically average timeframes.

Since the Governor’s COVID-19 stay at home Executive Order began to be implemented Statewide in March, the weekly volume of complaints has dropped approximately 25%. This has been a major factor in the unit staying up to date on incoming complaints.

Nearly all public complaints are already received online. For Subsequent Arrest and Applicant cases, the Complaint Intake Unit Managers, Sonya Wilson and Jessica Perry have partnered with the fingerprint processing staff to develop effective procedures for communicating issues and moving workload electronically between Enforcement and Licensing divisions. The new procedures are proving to be effective. Since telework was initiated, all incoming complaints are being processed, on average, within two days of receipt by the BRN.

AB 2138 UPDATE

Unit Managers Jessica Perry and Sonya Wilson are leading BRN’s preparations for the Implementation of AB 2138. Passed in September 2018, AB 2138 changes how BRN evaluates applicants for licensure with prior criminal convictions and prior professional license discipline. These changes will go into effect on July 1, 2020.

Although the law will significantly change the internal Enforcement procedures for applicants, most applicants for licensure will not be affected by these changes in law. For any future applicant for licensure with a prior criminal conviction, as of July 1, changes the process includes but is not limited to the following:

- The application for licensure will no longer ask the applicant if they have a prior criminal conviction. The BRN will rely on fingerprint results from the CA DOJ and FBI.
- BRN shall not consider criminal convictions which occurred more than seven years from the date of application. The seven-year limitation does not apply to “Serious Felonies” as defined in the law.

- BRN shall not consider any criminal conviction that has been dismissed or expunged pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the fingerprint report furnished by the Department of Justice.
- The BRN shall not require the applicant to disclose any information or documentation regarding the applicant's criminal history.
 - o The board may request mitigating information from an applicant regarding the applicant's criminal history provided the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

Beginning July 1, applicants will no longer be required to send the Board documentation regarding their past convictions. For all convictions falling within the AB 2138 timeframes, the BRN Enforcement division will conduct investigations to obtain Law Enforcement and Court records prior to making applications decisions. BRN anticipates this new process to take several weeks. However, the BRN will accept certified arrest and court records voluntarily submitted by the applicant.

COMPLAINT INTAKE UNIT STAFFING

The unit has one (1) AGPA, one (1) SSA, and one (1) OT vacancy.

INTERVENTION, CITATION, AND LEGAL SUPPORT UPDATE:

GENERAL UPDATE

Beginning March 2, the Attorney General's Office has taken over the service of all pleadings, including Accusations and Petitions to Revoke Probation. This greatly affects the Legal Support desk. New procedures for staff have been developed and distributed. As of the date of this report, the Enforcement Management team is working to assess the long-term impact this change will have, and to determine the full extent of changes to our internal business process. We are also collaborating with our AG Liaisons to fine-tune interagency procedures, ensure timely service of legal pleadings, and posting public notice pleadings to the web.

Intervention referrals from Complaint Intake remain at historically average levels. The participant census has remained steady for the past two years.

INTERVENTION, CITATION AND LEGAL SUPPORT STAFFING

The unit has one OT vacancy at this time.

INTERVENTION EVALUATION COMMITTEES (IEC)

There are currently four physician member vacancies

1. Physician, IEC 2 (Bay Area)
2. Physician, IEC 3 (Los Angeles)
3. Physician, IEC 5 (Fresno)
4. Physician, IEC 7 (San Jose)

There is one public member vacancy

5. Public, IEC 6 (Palm Springs)

There is one nurse member vacancy

6. Nurse, IEC 5 (Fresno)

OUTREACH

The BRN Intervention Program would like to thank Virginia Matthews, Maximus Recovery Program Manager, for her February presentation “Substance Use Disorders in the Health Professions” at the Sacramento Sierra Nurse Leaders meeting on February 26th. Lorraine Clarke, Intervention Unit Manager, and I also attended the meeting at UC Davis Medical Center in Sacramento. The audience included approximately 60 Sacramento region nurse leaders. The information was well received with an informative Q&A afterward.

On February 7th, Shannon Johnson and I gave a BRN Enforcement presentation at Sierra Nevada Hospital in Grass Valley to an audience of RN’s.

At the February Recovery Program Manager meeting, Maximus previewed a new informational video on Substance Use Disorder in the Health Professions and the services provided through their recovery programs, including the BRN Intervention Program. Maximus plans to release the final version in March, and the Intervention Unit will link the video on the BRN website.

PERSON TO CONTACT:

Joseph Pacheco, Deputy Chief
Complaint Intake, Intervention, Citations and Legal
(916) 515-5268

BOARD OF REGISTERED NURSING
Enforcement Intervention Committee
Agenda Item Summary

AGENDA ITEM: 9.2
DATE: April 16, 2020

ACTION REQUESTED: **Information Only:** Investigations Update

REQUESTED BY: Imelda Ceja-Butkiewicz, Chairperson

INVESTIGATION PROGRAM UPDATE:

The Investigation Unit Supervisors continue to work very closely to coordinate policy and procedure updates, especially during the coronavirus so cases continue to move as smooth as possible to meet the unit goals of completion within 240 days. However, the day to day operations have changed as a result of the stay at home orders and the coronavirus. Investigators are not conducting face to face interviews, they have developed a process to conduct interviews via Skype, Zoom and Microsoft Teams. Requests for records are also difficult to complete since staff in facilities who are responsible for fulfilling these requests may no longer be working on site any longer.

Before the pandemic, investigation staff developed a scanning process for cases to continue to move towards a green approach. The southern California team volunteered to develop and work out any kinks in the scanning process. They were quite successful in developing the process and procedures and conducted phone training with the northern and central teams during the week of March 16, 2020 and all staff began March 23, 2020. All investigators are now scanning their cases so they can be moved forward in the enforcement process much more expeditiously. The paper cases are mailed to HQ on a flow basis and handled by investigation support staff.

In an effort to continue to make improvements, the investigation supervisors recently adapted all forms requesting records be provided electronically instead of allowing facilities to provide paper copies. This includes the subpoena process which appears to be a positive change even though we have only issued a handful of subpoenas thus far. This could be a highly beneficial change for the new report scanning process.

STAFFING UPDATE

The vacant Special Investigator position in our Northern CA Unit was filled by Laura Callison. Laura was a Probation Monitor with BRN and started as Special Investigator on March 2, 2020.

An investigator in the Central Unit began using her leave credits at the end of March and is scheduled to retire in early July 2020. We already advertised to fill behind this investigator as it looks like it will take longer to fill the position due to the circumstances effecting California now.

The BRN Investigation Unit has the following vacancy:

1 Supervising Special Investigator II position to oversee all BRN Investigations. The recruitment process was initiated in July 2019 and first interviews were held in August 2019. Second level

executive interviews were held in October 2019. It was decided that a second statewide recruitment would be initiated. Recruitment efforts continue. It is unknown when this position will be filled.

BRN DOI CASE PRIORITIZATION PILOT PROJECT

BRN and DCA's Division of Investigation (DOI) continue to follow the one-year Pilot Program initiated in September 2019 that changed case referral guidelines for urgent priority Quality of Care complaints alleging significant patient harm and/or patient death.

Since April 14, 2020, approximately 61 cases that meet the new case referral guidelines have been referred to BRN Investigations.

The Pilot Program includes case tracking accountability measures so that BRN and DCA can closely monitor this critical caseload. The EIC requested an update by DOI at the May Committee meeting.

SUMMARY INVESTIGATION STATISTICS

As of March 16, 2020, the BRN Investigations staff have been assigned approximately 69% of all formal investigation case referrals while DOI are referred 31%. Specific information can be found in agenda item 9.4.

BRN Investigation staff closed 95 cases in March 2020 which is by far the highest number on record.

As of April 1, 2020, BRN has 13 and DOI has 123 open investigation cases over one year old.

NEXT STEP: Continue monitoring workload and investigative timeframes.

PERSON TO CONTACT: Stacie Berumen
Enforcement Chief
(916) 574-7678

BOARD OF REGISTERED NURSING
Enforcement and Intervention Committee
Agenda Item Summary

AGENDA ITEM: 9.3

DATE: April 16, 2020

ACTION REQUESTED: **Information Only: Discipline and Probation Update**

REQUESTED BY: Imelda Ceja-Butkiewicz, Chairperson

PROBATION UNIT

Currently the probation unit is teleworking successfully and only returning to the office once a week to take care of any administrative items that can't be done at home.

The unit has 1 AGPA vacancy. Laura has been hired as the newest investigator for N. California. We are reviewing applications and will be scheduling interviews when appropriate.

Year to date;

- 185 RN's completed probation successfully by either early termination or completing their full term.
- 64 RN's were unsuccessful in completing their term, resulting in 24 revocations and 40 surrenders.

There are currently 71 probation cases pending at the AG's. Of the 71, only 11 cases are over 1 year and none are over 2 years.

DISCIPLINE UNIT

Currently the Discipline unit is teleworking successfully and only returning to the office once a week to take care of any administrative items that can't be done at home. The Discipline unit is fully staffed.

We continue to focus our efforts on aging cases, striving to meet the CPEI guideline of 540 days. Approximately half of our cases are completed within this timeframe. Overall average is 610 days, which is only 70 days shy of our goal.

The AG's office has also decreased their aging cases by 60 days in the last 6 months.

Currently the Discipline Unit has only 7 cases over 2 years old and 88 that are 1-2 years old (approx. 14% of our overall pending Discipline Cases). At this time last year, we had 38 over 2 years old and 126 that were 1-2 years old.

	FY 2019/20 to Date
PC23s Requested	27
PC23s Ordered*	8
PC23s Denied*	7
PC23s Pending	9

** The Numbers represented in the Ordered and Denied sections may include PC23s that were requested prior to the beginning of the current Fiscal Year.*

Discipline staff have been actively working with the AG's office in preparation for the change to B&P § 480, which takes effect on July 1, 2020.

Discipline staff are working on updating the Discipline Procedure Manual and Unit overview presentations. These are expected to be completed by mid-May 2020.

NEXT STEP:	Follow directions given by committee and/or board.
FISCAL IMPACT, IF ANY:	AG's budget line item will be monitored for Discipline and Probation.
PERSON TO CONTACT:	Shannon Johnson, Deputy Chief Discipline and Probation (916) 515-5265

BOARD OF REGISTERED NURSING
Enforcement Intervention Committee
Agenda Item Summary

AGENDA ITEM: 9.4
DATE: April 16, 2020

ACTION REQUESTED: **Information Only:** Enforcement and Intervention Statistics

REQUESTED BY: Imelda Ceja-Butkiewicz, Chairperson

BACKGROUND:

Attached you will find data representing the entire enforcement process to include intake, intervention, investigation, citation and fine, discipline and probation.

Staff is prepared to answer any questions you may have.

PERSON TO CONTACT:

Stacie Berumen
Enforcement Chief
(916) 574-7678

Joseph Pacheco, Deputy Chief
Complaint Intake, Intervention, Citations and Legal
(916) 515-5268

Shannon Johnson, Deputy Chief
Discipline and Probation
(916) 515-5265

Board of Registered Nursing
Enforcement Process Statistics
Fiscal Year 19/20
July 1, 2019 – April 7, 2020

Complaint Intake	Complaints Received	3,156	
	Convictions/Arrest	1,047	
	Applicants	2,443	
	Total Complaints Received	6,646	
	Desk Investigations Pending	919	
	Over 1 year	107	
	Applications Pending	284	
	Over 1 year	21	
	Expert Review Pending	54	
Intervention	Referrals – Fiscal Year to date	775	
	Referrals – Last full month referrals (Mar)	59	
	Referrals – Since Program Effective Date (1/1/1985)	18,169	
Investigations	Non-Sworn Cases Initiated	637	
	Rejected	17	
	Sworn Cases Initiated	315	
	Rejected	8	
	Cases Initiated Percentage Breakout		
	Non-Sworn	67%	
	Sworn	33%	
	Non-Sworn Cases Pending	495	
	Sworn Cases Pending	450	
Citation and Fine	Citations Issued	241	
	Dollar Amount Ordered	\$ 173,527.42	
	Dollar Amount Received	\$ 122,628.57	
Discipline	AG Referrals – Individuals	865	
	AG Referrals – Cases	999	
	Cases Pending	702	
	Pending 1-2 Years	101	
	Pending More Than 2 Years	8	
	Cases Pending More Than 1 Year Without Pleading Filed	7	
	Cases Awaiting Hearing	168	
	Number of Days to Process Discipline Cases (DCA Goal 540 Days)	625	
	> 540 Days	52%	
	< 540 Days	48%	
	Average Days at AG	355	
	Legal Support	*Fiscal Year to Date	

Board of Registered Nursing
Enforcement Process Statistics
Fiscal Year 19/20
July 1, 2019 – April 7, 2020

Pleadings Served	748
Petitions to Revoke Probation	62
Stipulated Surrenders Signed by EO	213
Withdrawals of Statement of Issues	6
Decisions Adopted	1,029
Average Days from Default to Board Vote	25
*Last Calendar Month (Mar)	
Pleadings Served	71
Petitions to Revoke Probation	12
Stipulated Surrenders Signed by EO	20
Withdrawals of Statement of Issues	1
Decisions Adopted	94
Average Days from Default to Board Vote	12

Probation as of 4/7/2020	Numbers	% of Active
<i>Male</i>	251	30%
<i>Female</i>	576	70%
<i>Chemical Dependency</i>	432	52.2%
<i>Required Drug-Screening</i>	382	46.2%
<i>Practice</i>	274	33.1%
<i>Mental Health</i>	12	1.5%
<i>Conviction - excluding chemical dependency/alcohol use</i>	96	11.6%
<i>Advanced Certificates</i>	48	6%
<i>Southern California</i>	454	55%
<i>Northern California</i>	365	44%
<i>Tolled Probationers</i>	3	0%
<i>Pending AG</i>	71	9%
<i>License Revoked Fiscal YTD</i>	24	
<i>License Surrendered Fiscal YTD</i>	40	
<i>Deceased Fiscal YTD</i>	1	
<i>Terminated Fiscal YTD</i>	81	
<i>Successfully Completed Fiscal YTD</i>	104	
<i>Active In-State Probationers</i>	827	
<i>Completed/Revoked/Terminated/Surrendered YTD</i>	250	
<i>Tolled Probationers</i>	427	
<i>Active and Tolled Probationers</i>	1,254	
<i>Subsequent Cases Pending at AG</i>	64	
<i>Pending 1-2 Years</i>	7	
<i>Pending More Than 2 Years</i>	0	

Board of Registered Nursing
 Enforcement Process Statistics
 Fiscal Year 19/20
 July 1, 2019 – April 7, 2020

Disciplinary Actions Summary	Public Reproval	Probation	Suspension, Probation	Revocation	Surrender	Voluntary Surrender	Total Fiscal Year 19/20
Registered Nurse	131	211	20	256	176	32	826
Public Health Nurse	15	27		17	18	5	82
Psych/Mental Health							0
Nurse Practitioner	6	14		5	11	1	37
NP- Furnishing	6	13		5	7	1	32
Nurse- Midwife		3			1	1	5
NM- Furnishing		2			1	1	4
Nurse Anesthetist	1			1	4	1	7
Clinical Nurse Specialist	1			1	2		4

*Specialty certifications are a subset of the Registered Nurse license. When enforcement action is taken on an RN license, all advanced certifications a nurse holds is also included in the action. More than one enforcement action may be taken (thus counted here) against an RN during the time period.

CA BRN Intervention Program Statistics
FY2016/17 - FY2019/20

Board Referral Activity					
Type	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20 <small>(As of 3/31/20)</small>	Program to Date
Complaints sent to Intervention*	1225	995	1047	745	18138
Program offer letters mailed	803	815	869	622	/
RNs calling BRN about program (respond to offer letter)	/	/	491	402	/
RNs calling BRN about program (no program offer letter)	/	/	5	5	/
Others calling BRN about program (employer referrals, coworkers, attorneys)	/	/	25	14	/

* As of 3/17/20. An RN may have multiple complaints referred to Intervention

Participant Population					
Type	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20 <small>(As of 3/31/20)</small>	Program to Date
Intakes	159	109	115	89	5609
Closures	178	147	122	90	5148
Participants enrolled at end of FY	381	343	336	335	/

Case Closures					
Type	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20 <small>(As of 3/31/20)</small>	Program to Date
Applicant: Clinically Inappropriate	-	-	1	-	32
Applicant: No Longer Eligible	3	-	-	-	13
Applicant: Not Accepted by DEC	1	1	-	1	63
Applicant: Public Risk	8	3	3	1	105
Applicant: Sent to Board - Pre DEC	-	-	-	-	2
Applicant: Withdrawn - Pre DEC	20	13	10	9	581
Applicant: Withdrawn - Pre DEC (Due to Costs)	5	3	2	1	11
Completed	113	107	88	62	2454
Clinically Inappropriate - Post DEC	-	3	-	-	6
No Longer Eligible - Post DEC	-	-	-	-	7
Withdrawn - Failure to Sign Contract	-	-	-	-	1
Withdrawn - Post DEC	3	2	3	6	353
Withdrawn - Post DEC (Due to Costs)	2	2	3	1	8
Terminated - Deceased	-	-	1	-	42
Terminated - Failure to Receive Benefit	2	1	-	-	126
Terminated - Moved	-	-	1	-	53
Terminated - Non Compliant	7	4	1	1	991
Terminated - Public Risk	14	8	9	8	300
Totals	178	147	122	90	5148

Intake Demographics - Referrals					
Type	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20 <small>(As of 3/31/20)</small>	Program to Date
Board	125	83	94	74	4185
Self	34	26	21	15	1424
Total	159	109	115	89	5609

CA BRN Intervention Program Statistics
FY2016/17 - FY2019/20

Intake Demographics - Presenting Problem					
Type	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20 (As of 3/31/20)	Program to Date
Substance Use Disorder (SUD)	111	80	77	55	3540
Mental Illness (MI)	6	3	8	3	188
Dual (SUD and MI)	41	25	28	28	1790
Undetermined	1	1	2	3	91
Total	159	109	115	89	5609

Intake Demographics - Drug of Choice				
Type	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20 (As of 3/31/20)
Alcohol (Beer, Wine, Hard Liquor)	56	47	44	42
Opioids (Oxycodone, Morphine, Fentanyl, Heroin, etc.)	65	39	43	25
Depressants (Xanax, Valium, Ambien, etc.)	5	6	4	-
Stimulant (Adderall, Cocaine, Methamphetamine, etc.)	4	2	8	8
Cannabinoids	8	3	1	3
Other (Hallucinogens, Inhalants, etc.)	2	1	-	2
None/Denies DOC	19	11	15	9
Totals	159	109	115	89

Intake Demographics - Gender					
Type	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20 (As of 3/31/20)	Program to Date
Female	126	87	81	66	4370
Male	33	22	34	23	1212
Unknown	-	-	-	-	27
Totals	159	109	115	89	5609

Intake Demographics - Age					
Category	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20 (As of 3/31/20)	Program to Date
20-24	1	-	-	-	35
25-29	11	10	9	7	455
30-34	25	14	14	17	933
35-39	36	21	20	11	1157
40-44	22	21	20	14	1140
45-49	30	16	15	15	902
50-54	15	13	14	12	582
55-59	12	11	13	8	281
60-64	3	2	8	4	93
65+	3	-	2	-	15
DOB Error/Not Entered	1	1	-	1	16
Totals	159	109	115	89	5609

CA BRN Intervention Program Statistics
FY2016/17 - FY2019/20

Intake Demographics - Ethnicity					
Type	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20 (As of 3/31/20)	Program to Date
American Indian/Alaska Native	-	2	-	-	41
Asian/Asian Indian	4	9	7	4	148
African American	6	6	7	3	187
Hispanic	15	18	15	12	279
Native Hawaiian/Pacific Islander	1	1	6	-	38
Caucasian	108	59	74	61	4519
Other	7	5	2	4	95
Not Reported	18	9	4	5	302
Totals	159	109	115	89	5609

Intake Demographics - Worksite					
Worksite	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20 (As of 3/31/20)	Program to Date
Case Management	-	1	2	2	11
Clinic	-	6	5	11	146
Clinical - Public, non-profit	-	3	2	-	8
Corporation	-	-	2	1	13
Doctor's Office	-	-	-	-	46
Government Agency	-	-	-	-	8
Group Practice - profit	-	-	-	1	17
Health Maintenance Organization	-	-	-	1	10
HMO	-	2	-	-	2
Home Health Care	-	11	5	1	39
Hospital	11	77	89	65	2921
Inpatient Pharmacy	-	1	1	-	2
Not Working in Nursing	-	3	-	1	8
Nursing Home	1	1	1	1	13
Other	-	3	-	4	259
Prison/Jail	-	-	-	-	14
Private Practice	1	-	2	-	11
Registry	-	1	3	-	187
Retail	-	-	1	-	2
School of Nursing	1	-	-	1	10
Telephone Advice	-	-	-	-	2
Temporary Service	-	-	-	-	4
Undetermined	107	-	2	-	569
Unemployed	38	-	-	-	1307
Totals	159	109	115	89	5609

CA BRN Intervention Program Statistics
FY2016/17 - FY2019/20

Intake Demographics - Specialty					
Specialty	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20 (As of 3/31/20)	Program to Date
Chemical Dependency	-	-	-	-	9
Critical Care	6	15	19	8	972
Dental Public Health	-	-	-	-	1
Doctor's Office	-	1	-	1	29
Emergency Department	4	9	18	12	653
Gerontology	-	1	1	-	30
Home Care	2	9	4	2	119
Hospital	12	15	14	6	391
Insurance	-	-	1	2	8
Medical Surgical	6	18	17	14	1054
None	-	1	-	1	76
Nurse Anesthesia	2	1	1	1	59
Nurse Midwife	-	-	-	-	7
Nurse Practitioner	-	2	1	3	114
Nursing Home	-	1	1	1	19
Obstetrics/Gynecology	1	7	4	11	315
Oncology	4	4	2	3	174
Operating Room	-	7	5	4	196
Other/Other Specialty	6	13	11	14	547
Pediatrics	2	2	4	3	151
Psychiatry	5	-	5	1	155
Recovery Room	3	3	5	2	115
Undetermined	106	-	2	-	415
Totals	159	109	115	89	5609

Intake Demographics - Counties					
County	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20 (As of 3/31/20)	Program to Date
Alameda	6	1	2	5	172
Alpine	-	1	-	-	2
Amador	-	-	-	-	3
Butte	2	1	-	1	65
Calaveras	1	-	-	-	8
Colusa	-	-	-	-	5
Contra Costa	3	5	3	2	214
Del Norte	-	-	-	-	6
El Dorado	5	2	-	-	47
Fresno	5	-	8	6	153
Glenn	-	-	-	-	2
Horry	-	-	-	-	1
Humboldt	2	-	-	1	55
Imperial	1	1	1	-	14
Inyo	-	-	-	-	2
Jackson	-	-	-	-	1
Kern	-	3	5	4	122
Kings	-	-	-	1	17
Lake	-	1	-	1	16
Lassen	-	-	-	1	5
Los Angeles	25	25	33	18	1104
Madera	-	1	-	-	16
Marin	2	2	2	-	96
Mariposa	-	-	-	1	4

CA BRN Intervention Program Statistics
FY2016/17 - FY2019/20

Intake Demographics - Counties					
Mendocino	1	2	-	-	16
Merced	1	-	1	-	23
Modoc	-	-	-	-	1
Mono	-	-	-	-	8
Monterey	4	1	-	2	83
Napa	-	-	1	2	37
Nevada	-	-	3	1	30
None	2	1	-	-	3
Orange	5	7	10	1	373
Placer	6	4	1	4	84
Plumas	1	-	-	-	4
Riverside	9	9	5	4	286
Sacramento	7	5	2	1	265
San Benito	1	-	-	-	6
San Bernardino	4	4	8	1	303
San Diego	14	7	8	6	490
San Francisco	3	2	3	4	168
San Joaquin	3	1	1	3	96
San Luis Obispo	3	2	1	-	83
San Mateo	1	2	2	3	91
Santa Barbara	1	-	1	-	59
Santa Clara	5	3	4	1	186
Santa Cruz	4	2	2	2	91
Shasta	2	3	2	-	63
Siskiyou	2	-	-	-	12
Solano	5	2	2	2	81
Sonoma	7	3	2	1	133
Stanislaus	3	2	-	3	92
Sutter	-	1	-	1	14
Tehama	-	-	-	-	9
Trinity	-	-	-	-	1
Tulare	4	2	-	-	67
Tuolumne	-	1	1	1	20
Ventura	8	-	1	4	165
Yolo	1	-	-	-	26
Yuba	-	-	-	1	10
Totals	159	109	115	89	5609