From: [redacted]
To: Siddiqui, Ras@DCA; Clark, Marissa@DCA
Subject: Re: FW: Proposed Regulations - Categories and Scope of Practice of Nurse Practitioners (AB 890)- CCR 1480, 1481, 1482.3, 1482.4 & 1487
Date: Thursday, September 15, 2022 6:24:58 PM
Attachments: [redacted]

Hello, I am for the proposed changes and wish for independent practice as a Nurse Practitioner to take effect as soon as possible.
Thank you,
[redacted]

On Thu, Sep 15, 2022 at 5:44 PM Siddiqui, Ras@DCA <Ras.Siddiqui@dca.ca.gov> wrote:

> FYI
>
> Ras Siddiqui
>
> Regulatory Analyst
>
> Board of Registered Nursing
>
> 1747 N. Market Blvd, Suite 150
>
> Sacramento, CA 95834
>
> Ph: (916) 574-7922
>
> Fax: (916) 574-7700
>
> [redacted]
>
>

From: [redacted]
To: Clark, Marissa@DCA
Subject: AB 890 proposed rule making
Date: Monday, September 26, 2022 8:25:44 AM
Attachments: [redacted]

WARNING: This message was sent from outside the CA Gov network. Do not open attachments unless you know the sender: [redacted]

Good morning, Ms. Clark,

I wanted to reach out and follow up about the board's most recent notice of proposed regulatory action. There has been a lot of discussion in the SoCal region, I suspect state-wide, regarding the use of Family Nurse Practitioners (FNPs) in acute care settings roles such as Hospitalists and ICU. I notice on page 2 there are categories of specificity listed as per 16 CCR 1481 which separates those trained as family across the lifespan from those trained in specific settings such as adult-gero, primary, and acute care. Is it anticipated that there will be guidance from the board regarding this very specific situation? Additionally, if so, would it apply only to those who are seeking independent practice under this new law or have a broader application.
As you can imagine, the implications of finding FNPs practicing outside their scope by working in ICUs and as Hospitalists, for example, would be far-reaching. The rumor mill on this I believe has gotten slightly out of control and when I saw your name listed for specific questions, I thought you might be able to shed some light.

Thanks in advance for your time,

[redacted]

Siddiqui, Ras@DCA

From: Siddiqui, Ras@DCA
Sent: Tuesday, October 4, 2022 8:11 AM
To: Clark, Marissa@DCA
Subject: Fw: Proposed Regulations - Categories and Scope of Practice of Nurse Practitioners (AB 890)- CCR 1480, 1481, 1482.3, 1482.4 & 1487

FYI

AB890 Comment

Ras Siddiqui
Regulatory Analyst
Board of Registered Nursing
1747 N. Market Blvd, Suite 150
Sacramento, CA 95834
Ph: (916) 574-7922
Fax: (916) 574-7700

From: [redacted]
Sent: Monday, October 3, 2022 9:02 PM
To: Siddiqui, Ras@DCA <Ras.Siddiqui@dca.ca.gov>
Subject: RE: Proposed Regulations - Categories and Scope of Practice of Nurse Practitioners (AB 890)- CCR 1480, 1481, 1482.3, 1482.4 & 1487

Hi Ras,
I am a lobbyist in town and our firm represents a number of physician specialty organizations who are interested in the AB 890 regulations. One of them is the California Society of Plastic Surgeons (CSPS). For CSPS, their main concern is NPs will interpret the regulations to allow them to perform elective cosmetic procedures. Our members have been hearing of NPs expressing their intent to open up medi-spas on their own as the result of AB 890. Our folks had raised this issue in a few of the NPAC meetings. I was hoping I could set a meeting with you to walk through this concern and get your opinion if you felt the proposed regulations would allow an NP to perform elective cosmetic procedures without being under the supervision of a physician.
Thank you!
[redacted]

[redacted]

Siddiqui, Ras@DCA

From: [redacted]
Sent: Sunday, October 9, 2022 8:43 PM
To: Clark, Marissa@DCA
Subject: 103/104 NPs

WARNING: This message was sent from outside the CA Gov network. Do not open attachments unless you know the sender: [redacted]

I have a few concerns/questions regarding requirements to full practice authority.

1. You're license must be in good standing. I myself received a public reproval in 2012 for a case that occurred in 2006 So technically, I was not practicing as an NP when the issue occurred

And the reproval is never removed
(I hope this is an issue that is taken under advisement in the future. The case should be left on there too so people can read the details for themselves) so does this mean my license will never be in good standing?

2. What about NPs who practice outside of a group setting already but under standardized procedures? Do they still need to complete the 3 year requirement?

3. What about specialties not listed in 1481?

I understand not every scenario can be accounted for, but I do think the above issues affect many NPs

Sincerely,
[redacted], FNP

Hello,

A contact form was submitted with the following details:

Time: 10/10/2022, 8:48:57 AM
Name: [redacted]
CA RN License, Entity, or File Number (If Applicable) :
Email: [redacted]
Reason for Contacting: Scope of Practice Inquiries
Message: One-pager for Policymakers. Recommendations • A regulatory provision establishes the need for 103 and 104 nurse practitioners to get licenses. • The Board should establish a minimal transition to practice standards through regulation for 103 and 104 nurse practitioners. • A grandfathering provision for seasoned nurse practitioners and a need for 4600 hours of mentored practice by a doctor or nurse practitioner. • That a clinical skill council is expected to vouch for the capability of a 103 medical caretaker professional to rehearse freely, and that confirmation of oversight structures be essential. Introduction The AB 890 Bill, which was passed by the California state legislature this year with Jim Wood as its main sponsor, contains several requirements for nurse practitioners, including the time that a nurse practitioner must be in practice, what is expected of nurse practitioners when working within the confines of their scope of practice and knowledge, to name a few. The Bill has raised several moral dilemmas, one of which is why 103 nurse practitioners are permitted to operate under standardized procedures while their 104 counterparts are not. More importantly, due to the restrictions placed in place, nurse practitioners have been hindered from appropriately providing their medical services to various patients. The state legislature must make several changes to the passed Bill to ensure that it caters to the needs of all nurse practitioners, surgeons, and physicians. Background The Bill's passage was founded on the idea that medical practitioners—not simply nurse practitioners—must meet all other prerequisites, including certification, before engaging in medical practice. As a result, the aforementioned Bill ensures that nurse practitioners follow all required procedures before fully committing to the practice. Analysis My suggestions will be crucial in removing the moral problems present there and giving all parties and stakeholders an equal chance to pursue their careers and treat patients with different requirements and levels. Due to the severe limitations

imposed, many nurse practitioners now favor working independently, which is detrimental to the healthcare industry. Conclusion Although the state legislature finally adopted the AB 890 Bill after a protracted battle, improvements must be made to ensure it is equitable and works for everyone.

California Board of Registered Nursing
PO Box 944210
Sacramento, CA 94244-2100

Siddiqui, Ras@DCA

From: [redacted]
Sent: Saturday, October 15, 2022 5:33 PM
To: Clark, Marissa@DCA
Cc: Siddiqui, Ras@DCA
Subject: AB 890 Implementation - NP Independent Practice
Attachments: Screenshot (124).png

WARNING: This message was sent from outside the CA Gov network. Do not open attachments unless you know the sender: [redacted]

Hello,

I would like to share my comment in regards to the AB 890 legislation due November 1st, 2022.

Nurse Practitioners with experience amounting to 6+ years of full time NP practice SHOULD have an option to apply directly for Section 104 NP status upon implementation of the new legislation on January 1st, 2023.

Kind regards,

[redacted]

----- Forwarded Message -----
From: BRN, NEC@DCA <nec.brn@dca.ca.gov>
To: [redacted]
Sent: Thursday, October 13, 2022, 10:18:29 AM PDT
Subject: RE: RN - Contact Form

Good morning the attached screenshot provides the contact information you requested along with the relevant link.https://rn.ca.gov/regulations/proposed.shtml

Thank you for contacting the Board of Registered Nursing

Katie Daugherty, MN, RN

Nursing Education Consultant

katie.daugherty@dca.ca.gov

Sacramento Office 916.574.7685

1747 N. Market Blvd., Suite 150

Sacramento, CA 95834

Siddiqui, Ras@DCA

From: Yeates, Matthew@DCA
Sent: Wednesday, October 12, 2022 11:33 AM
To: Melby, Loretta@DCA; Clark, Marissa@DCA
Subject: FW: Updated Info on Independent NP Practice

[redacted]

From: [redacted]
Sent: Wednesday, October 12, 2022 10:08 AM
To: Yeates, Matthew@DCA <Matthew.Yeates@dca.ca.gov>
Subject: Updated Info on Independent NP Practice

WARNING: This message was sent from outside the CA Gov network. Do not open attachments unless you know the sender: [redacted]

Hi,

I'm a regulatory healthcare attorney and I have many NP clients who want to know the process for working independently beginning January 1, 2023. I understand not everything worked out, however, we were hoping we could get a timeline idea of what it looks like for a NP to begin practicing independently? For example, there appears to be a requirement of the NP practicing for a minimum of 3 years and satisfying certain educational requirements. Are these things that would have to take place after January 1, 2023 so that a NP couldn't actually practice until January 1, 2026 or is it that they practiced 3 years prior to January 1, 2023? They want to know if there is a possibility of working independently this upcoming 2023 or is it impossible since requirements would require them to begin the 3 year process. They just want to know because they are going to be making life long decisions and need to know the options. If you have any guidance please let me know. I was unable to find anything online. I understand it's not formal yet and things could change but wanted to at least know the possibilities of the NP beginning independently and the soonest that could physically happen.

Thank you,

[redacted]
--
[redacted]

CALIFORNIA ASSOCIATION
FOR NURSE PRACTITIONERS

1415 L Street, Suite 1000
Sacramento, CA 95814
916 441-1361 O | 916 443-2004 F

canpweb.org

October 17, 2022

Marissa Clark
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Subject: **Proposed Regulations Relating to Categories and Scope of Practice for Nurse Practitioners (AB 890) – CANP Comments**

Dear Ms. Clark,

On behalf of the California Association for Nurse Practitioners (CANP), I would like to take this opportuity to provide comments on the Board of Registered Nursing's (BRN) proposed regulations to Title 16, California Code of Regulations (CCR), Division 14, Article 8 to implement AB 890 (Chpt. 265, Statutes of 2020) related to nurse practitioners.

CANP is the unifying voice and networking forum for nurse practitioners in California, providing expert guidance and advancing the nurse practitioner profession, now at over 24,000 statewide. CANP greatly appreciates the BRN's support of nurse practitioners and commends the lengthy and deliberative process that the BRN has undertaken over the past two years to craft these regulations. AB 890 went through a rigorous legislative process, with extensive vetting and multiple amendments. It was passed with strong, bi-partisan support but needed the work of this board to promulgate regulations to fully implement the bill. We believe these regulations are the last step to fully implement AB 890 and will significantly expand access to health care for Californians by nurse practitioners.

Consistent with this spirit, we urge the Board to expeditiously adopt the proposed regulations at your November 14-15 meeting with some minor technical changes, which are outlined below.

1. § 1480. Definitions

(k) ~~[reserved]~~ "Group setting" means one of the settings or organizations set forth in Section 2837.103(a)(2) of the code ~~in which one or more physicians and surgeons practice with a nurse practitioner without standardized procedures~~.

2. §1481. Categories and Scope of Practice of Nurse Practitioners.

(b) Nurse Practitioners who have met the ~~additional training and experience~~ requirements defined in BPC § 2837.103(a) shall have a defined scope of practice pursuant to BPC § 2837.103(c) and can apply to the Board ~~for an expanded scope of practice,~~ and ~~work~~ practice without standardized procedures. ~~, under these two categories:~~
~~(1) A nurse practitioner practicing pursuant to Section 2837.103 of the code may perform the~~

~~functions listed in Section 2387.103(c) of the code without Board of Registered Nursing Proposed Text Page 1 of 6 16 CCR 1480 et seq. Categories of Nurse Practitioners and Scope of Practice Adopted 5/18/22 (AB 890) standardized procedures only in a group setting and in the category listed in subdivision (a) of this regulation in which the applicant is certified as a nurse practitioner pursuant to Section 2837.103 of the code.~~

(~~2~~c) A nurse practitioner who has met the requirements defined in BPC §2837.104(b)(1) shall have a defined scope of practice pursuant to BPC § 2837.104(a)(1).~~practicing pursuant to Section 2837.104 of the code may perform the functions listed in section 2387.104(c) of the code without standardized procedures, inside or outside of a group setting, only in the category listed in in subdivision (a) of this regulation in which the applicant is certified as a nurse practitioner pursuant to Section 2837.104 of the code.~~

3. § 1482.3. Requirements for a Nurse Practitioner Certification Pursuant to Business and Professions Code Section 2837.103.

(a)(13) Proof of completion of a transition to practice by submitting to the board one or more attestations of a physician or surgeon, a nurse practitioner practicing pursuant to Section 2837.103 of the code, or a nurse practitioner practicing pursuant to Section 2837.104 of the code. Any physician or surgeon, a nurse practitioner practicing pursuant to Section 2837.103 of the code, or a nurse practitioner practicing pursuant to Section 2837.104 of the code submitting an attestation ~~must specialize in the same specialty area or category listed in Section 1481(a) in which the applicant seeks certification as a nurse practitioner pursuant to Section 2837.103 of the code~~ and must not have a familial ~~or financial~~ relationship with the applicant.

(A) For purposes of this subdivision, "transition to practice" means 4600 hours or three full-time equivalent years of clinical practice experience and mentorship that are all of the following:

(i) Completed in California.

(ii) Completed within ~~five~~ seven years prior to the date the applicant applies for certification as a nurse practitioner pursuant to Section 2837.103 of the code.

(iii) Completed after certification by the Board of Registered Nursing as a nurse practitioner.

~~(iv) Completed in direct patient care in the role of a nurse practitioner in the category listed in Section 1481(a) in which the applicant seeks certification as a nurse practitioner pursuant to Section 2837.103 of the code.~~

4. § 1482.4. Requirements for a Nurse Practitioner Certification Pursuant to Business and Professions Code Section 2837.104.

(a)(13) Proof of completion of a transition to practice by submitting to the board one or more attestations of a physician or surgeon, a nurse practitioner practicing pursuant to Section 2837.103 of the code, or a nurse practitioner practicing pursuant to Section 2837.104 of the code. Any physician or surgeon, a nurse practitioner practicing pursuant to Section 2837.103 of the code, or a nurse practitioner practicing pursuant to Section 2837.104 of the code

submitting an attestation ~~must specialize in the same specialty area or category listed in Section 1481(a) in which the applicant seeks certification as a nurse practitioner pursuant to Section 2837.103 of the code~~ and must not have a familial ~~or financial~~ relationship with the applicant.

(A) For purposes of this subdivision, "transition to practice" means 4600 hours or three full-time equivalent years of clinical practice experience and mentorship that are all of the following:

(i) Completed in California.

(ii) Completed within ~~five~~ seven years prior to the date the applicant applies for certification as a nurse practitioner pursuant to Section 2837.104 of the code.

(iii) Completed after certification by the Board of Registered Nursing as a nurse practitioner.

~~(iv) Completed in direct patient care in the role of a nurse practitioner in the category listed in Section 1481(a) in which the applicant seeks certification as a nurse practitioner pursuant to Section 2837.104 of the code.~~

(b) Within 90 days of certification by the Board of Registered Nursing, a nurse practitioner practicing pursuant to Section 2837.104 of the code shall have a written protocol for consultation and a written plan for referrals, pursuant to Section 2837.104(c)(2) of the code.~~,~~ ~~and shall make that referral plan available to patients on request. If the written plan calls for referrals to a specific individual, the plan must include that individual's acknowledgment and consent to the referrals~~.

We appreciate the opportunity to provide input on the very important work that the Board is doing in order to effectively and efficiently implement AB 890 and expand access to care throughout California.

Please do not hesitate to contact our Sacramento representative, Kristy Wiese, with Capitol Advocacy, at (916) 444-0400 or kwiese@capitoladvocacy.com, if you have any questions.

Sincerely,

Cynthia Jovanov, DNP, MBA, CNS, ACNP-BC, FNP-BC
President

Cc: Loretta Melby, Executive Officer, Board of Registered Nursing
Assembly Member Jim Wood
The Honorable Toni Atkins, California State Senate pro Tem
Kimberly Kirchmeyer, Director, Department of Consumer Affairs (DCA)

Siddiqui, Ras@DCA

From: [redacted]
Sent: Saturday, October 22, 2022 9:37 PM
To: Clark, Marissa@DCA
Cc: Siddiqui, Ras@DCA
Subject: AB890 NP Public comment

WARNING: This message was sent from outside the CA Gov network. Do not open attachments unless you know the sender: [redacted]

To whom it may concern,

California allied health professionals and business community vastly supports independent practice for nurse practitioners. NPs have proved themselves time and again to be most competent and qualified medical professionals in the nation. Any other health profession is allowed to practice to the extent of their education and open their own businesses. There is absolutely NO reason to limit NPs in these areas, especially considering the dire state of healthcare in the country in general and California in particular.

The rights of NPs should be extended, not limited. Limiting NPs is not good for the health of Californians, our healthcare and our business. Let NPs with 6+ years of experience in their specialty apply directly for section 104 NP status and have the ability to start their own practice. They have proven to be extremely capable professionals and this measure will undoubtedly improve access to care throughout the state and stimulate our healthcare economy.

[redacted]
Massage therapist

Sent from my iPhone

Siddiqui, Ras@DCA

From: [redacted]
Sent: Saturday, October 22, 2022 9:49 PM
To: Clark, Marissa@DCA
Cc: Siddiqui, Ras@DCA
Subject: Re: AB 890 Nurse practitioners public opinion due 11/01/22

Hello,

This is in regard to the new law affecting nurse practitioners due January 1st 2023. I wanted to share my experience seeing nurse practitioners for my health issues. I have a lot of experience getting treatment from both physicians and nurse practitioners, and I have to say that time and again the care provided by NPs has always exceeded my expectations.

They have always been professional, competent, knowledgeable and holistic. At the same time, I have never been rushed through a visit and have always been treated with utmost respect. This has been true with both seasoned and recently graduating NPs. I firmly believe that NPs deserve the right to practice independently to the full extent of their education. Importantly, NPs who have experience of 6 years or longer, should be able to start their own practice.

This will allow people like me and many others access to their great care throughout the state of California, and that is something we all need right now.

[redacted]

LATINO COMMUNITY FOUNDATION

October 24, 2022

Marissa Clark
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Re: Nurse Practitioners, Scope of Practice Regulations

Dear Ms. Clark,

As CEO of the Latino Community Foundation, I have been closely following the Board's deliberations on the implementation of AB 890 (Wood). I appreciate the work done to date, and I encourage the Board to finalize these regulations so Nurse Practitioners (NPs) can begin transitioning to an expanded scope of practice on January 1, 2023—the date outlined in the legislation.

The Latino Community Foundation is the only statewide foundation solely focused on investing in the wellbeing of Latinos. With the largest network of Latino philanthropists, we exist to unleash the civic and economic power of Latinos. Since becoming an independent statewide foundation in 2016, we have invested over $30 million in initiatives aimed at improving the health and well-being of Latino families across California. Even before the pandemic exposed and exasperated our state's stark health inequities, our work forced us to confront this difficult fact: Without regular access to affordable, reliable, or high-quality health care, far too many Latinos suffer from preventable health issues that are negatively impacting their lives and their families.

The lingering inequities had a devastating and deadly impact on the lives of Latinos during the first years of COVID. Latino death rates were almost 20% higher than the rest of the state. This was the direct result of systemic inequities in our health system, and we can never allow this to happen again.

More than seven million Californians, most of them Latino, continue to live in Health Professional Shortage Areas. Almost half (44%) of Latinos say that there are not enough primary care providers in their community to meet local needs, 16% say they have difficulty finding a specialist when they need one, and 19% say they don't have a regular source of care. Even when Latinos do a see a doctor, they rarely see themselves. While Latinos are nearly 40 percent of California's population, they make up only 7 percent of physicians.

With the health system strained after years of fighting COVID and with a wave of Baby Boomers set to retire, these shortages are expected to get worse—unless we find creative ways to respond.

Nurse practitioners (NPs) are uniquely equipped and positioned to help fill these gaps and provide the preventive care California Latinos need. NPs represent almost a third of California's primary care workforce, and their numbers are growing at twice the rate of physicians. NPs are twice as likely as physicians to work at community health centers, more likely to speak Spanish, and more likely to work in rural communities. Study after study shows NPs provide culturally sensitive, high-quality care. Across the country, 28 other states permit NPs to practice independently after some form of transition to practice. There is no reason any longer for California to remain behind this curve.

Building a truly equitable health care system will require more than just increasing our reliance on NPs. The state is going to need to adopt an array of strategies to ensure every Californian has access to quality care—from training more doctors and nurses from Latino communities to deploying and securing support for community health workers and *promotores* in homecare and health care settings.

NPs are a critical part of the solution, and I hope the Board will move forward to provide these essential health workers with the flexibility they need to do the job—and move us forward and towards a more equitable California for All.

Thank you for your consideration.

Sincerely,

Jacqueline Martinez Garcel
Chief Executive Officer
Latino Community Foundation

Cc: Loretta Melby, Executive Officer, Board of Registered Nursing
Kimberly Kirchmeyer, Director, Department of Consumer Affairs

La Clínica
a california health center
La Clínica de La Raza, Inc.
Mailing Address: Post Office Box 22210 Oakland, CA 94623 • Tel 510-535-4000 • Fax 510-535-4189 • www.laclinica.org

October 20, 2022

Marissa Clark
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Re: Nurse Practitioners, Scope of Practice Regulations

Dear Ms. Clark –

As a former commissioner on the California Future Health Workforce Commission, I have been closely following the Board's deliberations on the implementation of AB 890 (Wood). I appreciate the work done to date, and I encourage the Board to finalize these regulations so Nurse Practitioners (NPs) can begin transitioning to an expanded scope of practice on January 1, 2023—the date outlined in the legislation.

Expanding NP scope of practice was a top priority recommendation of the Commission, a blue-ribbon group of senior leaders from across the health care system who convened in 2019 for one simple reason: California is facing a dire shortage of health care professionals, with millions of residents, especially low-income households and people of color, living in communities without access to the care they need. Even before COVID put unprecedented new pressure on the health care system, the Commission agreed that California needed to act decisively to address its health workforce gaps—and viewed expanding NP scope as a critical part of a comprehensive solution.

La Clínica de la Raza is a network of Bay Area community health centers committed to providing culturally appropriate, high-quality, and accessible health care for all. Like many other Federally-Qualified Health Centers, we struggle every year to find enough physicians to staff our 35 medical sites, where we serve more than 85,000 patients and provide more than 360,000 patient visits. Our staff does an incredible job with a shoestring budget, and our more than 60 nurse practitioners are a critical part of the team we rely on to provide health services in a culturally and linguistically appropriate manner.

At La Clínica, we actively recruit NPs to work with us because we have found they are committed, professional, highly effective providers of health care. Our health centers need professionals with expertise in family medicine who are fluent or near-fluent in Spanish—that's the population we serve, and our NPs never fail to provide a high standard of care, provided in a language and with a cultural fluency that allows them to reach our patients and serve them well. We have seen our NPs flourish in an environment where they have opportunities to take on leadership roles, including supervising large teams of nurses. Simply put, we could not function as an organization without NPs, and our patient satisfaction scores have never been higher.

If we had more scholarships to help NPs for their schooling—and more funding to compensate them fairly once they come to work—we would hire even more NPs, and I know many other FQHCs will say the same. I hope the Board will act quickly to help grow this essential part of our workforce by allowing NPs to practice independently. It will help community centers like ours provide high-quality care to more lower-income Californians who need it.

Thank you for your consideration.

Sincerely,

Jane Garcia
Chief Executive Officer
Cc: Loretta Melby, Executive Officer, Board of Registered Nursing
Kimberly Kirchmeyer, Director, Department of Consumer Affairs

UCDAVIS HEALTH
Betty Irene Moore School of Nursing
2570 48th St.
Sacramento, CA 95817
nursing.ucdavis.edu

October 22, 2022

Marissa Clark
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Re: Nurse Practitioners, Scope of Practice Regulations

Dear Ms. Clark,
As a former commissioner on the California Future Health Workforce Commission, I have been closely following the Board's deliberations on the implementation of AB 890 (Wood). I appreciate the work done to date, and I encourage the Board to finalize these regulations so Nurse Practitioners (NPs) can begin transitioning to an expanded scope of practice on January 1, 2023, the date outlined in the legislation.

Expanding NP scope of practice was a top priority recommendation of the Commission, a blue-ribbon group of senior leaders from across the health care system who convened in 2019 for one compelling reason: California is facing a dire shortage of health care professionals, with millions of residents, especially black people and people of color and our growing population of older adults, living in communities without access to the care they need. Even before COVID put unprecedented new pressure on the health care system, the Commission agreed that California needed to act decisively to address its health workforce gaps—and viewed expanding NP scope as a critical part of a comprehensive solution.

As a member of the California Master Plan on Aging Stakeholder Advisory Group, I witnessed the growing importance of this issue, and the widespread implications of inadequate access to health care across the communities of California. The Governor released the plan in early 2021, with a goal to build a California for all ages by 2030. Equity was at the center of this work, and access to quality health care across the lifespan, particularly for those with chronic conditions and functional limitations is a priority. Nurse Practitioners make vital contributions to addressing equitable access to quality care across our diverse racial/ethnic and geographic communities in California.

As a professor and dean emerita at the Betty Irene Moore School of Nursing at the University of California, Davis, my work is focused, in particular, on improving care for California's expanding number of older adults. Our state's over-65 population is expected to grow to 8.6 million people by 2030, and, simply put, we do not have enough workers in homecare or health care settings to provide the health services older and disabled Californians need.

Nurse practitioners are key part of the state's response this crisis—especially for communities of color and other underrepresented groups. Today, 44% of Latinos in California say there are

not enough primary care providers in their community, for example, and 19% say they have no usual source of care. Nurse practitioners are uniquely positioned to fill these gaps: NPs already represent nearly a third of California's primary care workforce, they are twice as likely as physicians to work on community health centers and more likely to speak Spanish—and their numbers are growing at twice the rate of physicians.

NPs are skilled health professionals who do their jobs well. I appreciate the Board's deliberate efforts over the last two years to craft regulations that will allow more NPs to safely make the transition to independent practice. I believe now the time has come to finalize this work—and show NPs and the people they serve that California is committed to growing this essential part of our health workforce. I offer my expertise to you and the board if I can be a resource to you in your deliberation.

Thank you for your consideration.

Sincerely,

Heather M. Young, PhD, RN, FAAN
Professor and Founding Dean Emerita, Betty Irene Moore School of Nursing
Co-Director, Family Caregiving Institute
National Director, Betty Irene Moore Nurse Fellows in Leadership and Innovation Program

Cc: Loretta Melby, Executive Officer, Board of Registered Nursing
Kimberly Kirchmeyer, Director, Department of Consumer Affairs

From: [redacted]
To: Clark, Marissa@DCA
Cc: Siddiqui, Ras@DCA; [redacted]
Subject: My public comment on Regulations to enact AB 890
Date: Wednesday, October 26, 2022 4:09:53 PM

Assembly Member Kiley and Senator Neilson, I know you are not on any committees that address the Board of Nursing or Healthcare, but as your constituent I thought you should be in the loop on this anyway. There is a severe shortage of primary care providers in this state, and the Board of Nursing would *only be making primary care less accessible by limiting the practice options* for family, pediatric, and women's health APRNs.

Public Comment on Regulations to enact AB 890 from [redacted], licensed Family Nurse Practitioner and Registered Nurse in California:

The text of AB 890 clearly states:

Article 8.5. Advanced Practice Registered Nurses
2837.100. *It is the intent of the Legislature that the requirements under this article shall not be an undue or unnecessary burden to licensure or practice. The requirements are intended to ensure the new category of licensed nurse practitioners has the least restrictive amount of education, training, and testing necessary to ensure competent practice.*

So why is the Board of Nursing writing those Rules and Regulations to be as restrictive as possible?

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

If an NP moves here from another state where they practiced for many years, without any action on their state license(s) and in some cases, independent of physician oversight, are you not "adding and unnecessary burden to licensure or practice" by demanding they go backwards professionally and submit to physician oversight for 3 years? This does not protect the public, it only limits the NP's employment possibilities, and who stands to benefit from that? Can you really claim that practice as an APRN in another state is any less qualifying than practice in California, when all APRNs are passing national board exams and regulated by their Boards of Nursing? There is no rational justification for this, which means it is a political concession in a healthcare "turf war." Although this line in the law was heavily lobbied for by the California Medical Board (not consumers), ***the extent of that limitation is determined by the Board of Nursing in California,*** so they shouldn't make matters worse by adding on to the restrictive language.

2837.101. *For purposes of this article, the following terms have the following meanings:*
"Transition to practice" includes, but is not limited to, managing a panel of patients, working in a complex health care setting, interpersonal communication, interpersonal collaboration and team-based care, professionalism, and business management of a practice. ***The board shall, by regulation, define minimum standards for transition to practice. Clinical experience may include experience obtained before January 1, 2021, if the experience meets the requirements established by the board.***

I would encourage the BRN to formulate Regulations that allow for 4600 hours of recent APRN practice in another state to meet the requirement for TTP upon review by the Nurse Practitioner Advisory

Committee. After all, they were created:

" to advise and make recommendations to the board on all matters relating to nurse practitioners, including, but not limited to, education, appropriate standard of care, and other matters specified by the board."

Also, public comments like this should be available to read (and make) online via a link for any California consumer to see, not hidden away in some BRN internal communication.

[redacted], RN, MSN, FNP-C

On Wednesday, October 26, 2022 at 02:13:24 PM PDT, Clark, Marissa@DCA <marissa.clark@dca.ca.gov> wrote:

Good Afternoon,

If you would like to make a public comment on the AB 890 regulation package that will be included as a part of the rulemaking file, please submit it in writing to myself and/or Ras Siddiqui as indicated below. This process complies with the California Administrative Procedure Act, which establishes the rulemaking procedures and standards for state agencies in California. Comments submitted on the rulemaking package will be included in the meeting materials for the November 14&15 Board meeting. The meeting materials will be posted after the public comment period closes at the link included below.

If you would like to make a public comment directly to all of the Board members, you may attend the upcoming Full Board meeting on November 14th and 15th. A web cast link to attend the Board meeting virtually will be included in the meeting agenda which is posted at the link below 10 days prior to the meeting, in accordance with the Bagley Keene Open Meeting Act. During the meeting, there will be multiple opportunities for members of the public to provide comments directly to the Board members either orally or in writing.

Information on upcoming and previous meetings, including meeting agendas, meeting materials, and links to attend all meetings virtually can be found on the BRN website here: https://rn.ca.gov/consumers/meetings.shtml.

Thank you,

Marissa Clark

(Pronouns She/Her/Hers)

Chief of Legislative Affairs

California Board of Registered Nursing

1747 N. Market Blvd., Suite 150

Sacramento, CA 95834

Email: Marissa.Clark@dca.ca.gov

Phone: 916-574-7438

From: [redacted]
Sent: Wednesday, October 26, 2022 1:45 PM
To: Clark, Marissa@DCA <Marissa.Clark@dca.ca.gov>
Cc: Siddiqui, Ras@DCA <Ras.Siddiqui@dca.ca.gov>
Subject: Re: How to make a public comment on Regulations to enact AB 890

It's not really a public comment if you are filtering them first now is it?

If I do send a comment, when and where will it be posted? Please include a direct link.

Thanks,

[redacted]

On Wednesday, October 26, 2022 at 01:09:03 PM PDT, Clark, Marissa@DCA <marissa.clark@dca.ca.gov> wrote:

Good Afternoon,

You can submit them to myself and/or Ras Siddiqui who is cc'd above. I've included a brief synopsis below of the formal Notice of Proposed Action that can be found on our website here: https://rn.ca.gov/pdfs/regulations/notice-ab890.pdf

The Board of Registered Nursing has released a Notice of Proposed Action to amend Title 16, Division 14, Article 8, of the California Code of Regulations related to Categories and Scope of Practice of Nurse Practitioners.

The proposed regulations would amend sections:

- **1480 - Definitions**
- **1481 - Categories and Scope of Practice of Nurse Practitioners**

The proposed regulations would add sections:

- **1482.3 - Requirements for a Nurse Practitioner Certification Pursuant to Business and Professions Code Section 2837.103**
- **1482.4 - Requirements for a Nurse Practitioner Certification Pursuant to Business and Professions Code Section 2837.104**
- **1487 - Notice to Consumers**

The Board of Registered Nursing will accept written comments to the proposed text until Tuesday, November 1, 2022, by 5:00 p.m.

Written comments on the proposed text can be submitted to main or back up contacts listed below:

Main Contact Person
Name: Marissa Clark
Address: California Board of Registered Nursing
1747 North Market Blvd., Suite 150
Sacramento, CA 95834
Fax No.: 916-574-7700
E-Mail Address: Marissa.Clark@dca.ca.gov

Back Up Contact Person
Name: Ras Siddiqui
Address: California Board of Registered Nursing
1747 North Market Blvd., Suite 150
Sacramento, CA 95834
Fax No.: 916-574-7700
E-Mail Address: Ras.Siddiqui@dca.ca.gov

Please click on the following link to view all documents associated with this proposed regulatory action and other pending regulations:

https://rn.ca.gov/regulations/proposed.shtml.

Thank you,

Marissa Clark
(Pronouns She/Her/Hers)

Chief of Legislative Affairs
California Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834
Email: Marissa.Clark@dca.ca.gov
Phone: 916-574-7438

From: [redacted]
Sent: Wednesday, October 26, 2022 1:04 PM
To: Clark, Marissa@DCA <Marissa.Clark@dca.ca.gov>
Cc: Siddiqui, Ras@DCA <Ras.Siddiqui@dca.ca.gov>
Subject: How to make a public comment on Regulations to enact AB 890

None of those links go to a link where I can actually MAKE a public comment...I can only read about what the BRN is doing. I do plan to attend the meeting, but how do I make a public comment before that?

Thank you,
[redacted], FNP-C
On Tuesday, October 25, 2022 at 04:58:52 PM PDT, Clark, Marissa@DCA <marissa.clark@dca.ca.gov> wrote:

Good Afternoon [redacted],

The Board has been performing widespread outreach and engagement over the past couple of years in order to develop the proposed regulatory language to implement AB 890. We received extensive input from Board members, Board advisory committee members, and community stakeholders. For more information on the activities that have taken place since AB 890 was signed into law, please refer to page 3 of the Initial Statement of Reasons.

Please note that the rulemaking package put forth by the Board of Registered Nursing to (Board) implement AB 890 (Woods) is still out for public comment and not yet final. All regulatory changes in California must go through the process outlined in the California Administrative Procedure Act, which usually takes a year to complete. Here is a link to where the proposed rulemaking package is posted on the Board's website if you'd like to review further or provide additional comment: https://rn.ca.gov/regulations/proposed.shtml.

In regards to your question about the 4600 hours, the proposed text includes the following definition of transition to practice:

Transition to Practice
Beginning January 1, 2023, NPs will be able to request certification as a 103 NP right away, if they meet all of the requirements outlined in BPC 2837.103(a)(1). These requirements include a 3 year transition to practice provision which is defined in the proposed text as 4600 hours or three full-time equivalent years of clinical practice experience and mentorship that are:

- Completed in California.
- Completed within five years prior to the date the applicant applies for certification as a 103 NP
- Completed after certification by the Board of Registered Nursing as a NP.
- Completed in direct patient care in the role of a NP in the category listed in CCR Section 1481(a) in which the applicant seeks certification as a 103 NP.

Based on this text, the hours would need to be performed in California within the last 5 years.

In addition, the Board will be discussing the proposed rulemaking package for AB 890 at the Nurse Practitioner Advisory Committee meeting on November 1st and the Full Board meeting on November 14 & 15.

All meetings are streamed virtually so that anyone may attend and provide public comment. Information on upcoming meetings, including agendas, materials, and virtual links can be found here: https://rn.ca.gov/consumers/meetings.shtml.

Thank you,

Marissa Clark

(Pronouns She/Her/Hers)

Chief of Legislative Affairs

California Board of Registered Nursing

1747 N. Market Blvd., Suite 150

Sacramento, CA 95834

Email: Marissa.Clark@dca.ca.gov

Phone: 916-574-7438

From: [redacted]
Sent: Saturday, October 22, 2022 10:49 PM
To: Clark, Marissa@DCA <Marissa.Clark@dca.ca.gov>
Cc: Siddiqui, Ras@DCA <Ras.Siddiqui@dca.ca.gov>
Subject: Questions about Regulations to enact AB890

Ms. Clark,

I am a licensed FNP in California (Irvine resident, recently moved to Roseville) and I'm having trouble finding updated information about how AB 890 will be implemented by the Board of Nursing. I was dismayed to see that despite this law being passed several years ago, the BRN has waited until the last minute to revise their Regulations...the deadline in the law is January 1, 2023, is it not? The latest information on your webpage says your are "reviewing" the affected Regulations - less than 3 months before the deadline.

I have over 12 years of practice in other states as an FNP (Texas, Florida, Georgia) and practiced briefly as an NP in California after moving here in 2019, but not a full 4600 hours (I quit during Covid).

Question #1) Do my previous years of practice in other states count towards the requirement for independent practice in California, or do those 4600 hours have to occur here? How recent do the hours have to be?

Question #2) I pay over $400 every two years for licensing requirements as an FNP in this state ($190 for RN + $172 for NP + $55 for BLS renewal), and that doesn't even include costs for required fingerprinting and constant continuing education - and I'm one of thousands of advanced practice providers licensed in California. So what is the BRN doing with all of our money? Is the BRN not obligated to get these Regulations written and available for public reading in the timeframe specified by the law? Especially considering how much time they had to write them? Where is the accountability?

I hear rumors that organized medicine is still fighting implementation of this law, but if it is passed, they no longer have a say in the matter, RIGHT?

I expect an answer to my questions within a reasonable time frame (a week), if not I'll be calling your offices for answers.

Regards,
[redacted], RN, FNP-C

CALIFORNIA MEDICAL ASSOCIATION

October 28, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Dear Ms. Clark:

On behalf of the California Medical Association (CMA) and our nearly 50,000 physician and medical student members, CMA writes to respectfully provide input regarding the proposed regulations implementing the statute adopted by AB 890, which creates two new types of nurse practitioners (NPs)—commonly referred to as the 103 and 104 NPs. CMA offers this input to the Board of Registered Nursing (BRN) to advance our common goals of ensuring patient safety and consumer protections. Adoption of our suggestions for robust education and training requirements and standards, paired with meaningful patient disclosures, aligns with our shared commitment to patients.

Supplemental Examination

CMA recommends that the proposed regulations be amended to require a supplemental exam to become a 103 and 104 NP. The supplemental exam should also contain a clinical component to assess the ability of a 103 or 104 NP to exercise sound clinical judgment and decision-making without standardized procedures and physician supervision in a real-world environment involving actual patient interactions, and not simply through a didactic examination. Finally, because the purpose of the transition to practice required under AB 890 is to equip NPs with the clinical judgment and decision-making skills necessary to practice without physician supervision, we recommend the BRN specify that the supplemental exam be taken only after an NP successfully completes the required transition to practice hours. The BRN should specify in regulation that the 103 and 104 NP applicant must submit proof of passing the supplemental examination with their application material.

Transition to Practice

The minimum standards for the transition to practice in the proposed regulations are largely a restatement of the language of AB 890 and are not in line with what the Legislature intended to ensure that 103 and 104 NPs are delivering safe, high-quality care to patients. As an overarching matter, the proposed regulations lack clarity and necessity required under the Administrative Procedure Act (APA) in that, in many instances, they simply restate the provisions in AB 890 without providing further meaningful guidance.[1] AB 890 defines

[1] For example, the proposed regulations contain a definition of "transition to practice" that merely distills certain temporal and location requirements already specified in the statute *See e.g.*, Business & Professions Code §2837.103(a)(1)(D) (the transition to practice must be completed in California); *cf.* proposed regulations §1482.3(a)(3)(A)(i) (transition to practice must be completed in California).

transition to practice as “additional clinical experience and mentorship provided to prepare a nurse practitioner to practice independently.” Business & Professions Code §2837.1019(c). It goes on to say that clinical experience “may include experience obtained before January 1, 2021.” *Ibid.* Therefore, while prior experience may be considered, the Legislature expressly chose to not exempt existing NPs from the transition to practice requirement, instead charging the BRN to create minimum standards for the transition to practice to prepare any NP, regardless of their level of experience, to practice without physician supervision as a 103 or 104 NP.

CMA continues to believe that because every NP currently practicing in California must do so under standardized procedures with a physician, any clinical experience a current NP possesses is, by itself, insufficient to satisfy the transition to practice requirement. Rather, AB 890 makes clear that the transition to practice requirements are meant to ensure that NPs receive the additional clinical experience and mentorship necessary to practice "independently" and without physician supervision. Consequently, the regulations should not recognize hours completed before the regulations are finalized for purposes of the transition to practice. As a broader matter, CMA also recommends that all 103 and 104 NP candidates, regardless of preexisting practice experience, should be required to complete the requisite hours to meet the transition to practice requirements after the regulations are operational.

CMA continues to encourage that clinical experience and mentorship received for purposes of transition to practice be completed in a structured, BRN-approved clinical training program. Unfortunately, the proposed regulations contain no substantive guidance on the type of clinical experience and mentorship that the BRN will consider to have satisfied the components of the transition to practice established in AB 890, and therefore fail to meet the requisite clarity called for by the APA. For instance, what are the minimum standards for working in a complex health care setting and/or team-based care that an applicant must satisfy? Without defining these minimum standards, how will the BRN determine whether an NP’s experience meets the requirements established by the board? CMA recommends that clinical experience for transition to practice purposes be further defined within regulations to cover specified competencies (established by the BRN) and include a process for evaluating progress in meeting milestones specific to the category of NP practice in which the applicant seeks certification (as defined in draft regulation §1481) that demonstrate an NP's preparation to practice without physician supervision.

Again, CMA maintains that the regulations should require that all NPs complete a minimum of one year of formal mentorship prior to being certified as a 103 or 104 NP as part of the transition to practice. As with the lack of clarity around the clinical experience component, the draft regulations similarly do not further define, or add specificity to, the mentorship component of the transition to practice. For example, what criteria will the BRN use in determining whether an applicant has successfully completed the mentorship requirement for the transition to practice? CMA recommends that the BRN revise regulations to define mentorship as a formal clinical preceptorship with a physician in the same area of practice. The mentorship should be specifically intended to prepare an NP to make independent clinical determinations in a complex healthcare environment and to assist an NP in acquiring new competencies required for providing safe, ethical, and high-quality care.

Also, CMA is appreciative of the fact that the regulations require that the experience gained toward the transition to practice for 103 NPs must be fairly recent due to the rapidly evolving field. While we do not agree with previous experience being used towards the transition to

practice, going forward, the experience needing to be within five years of certification is something we very much support.

CMA also suggests that the same logic of recent experience be paralleled in the requirement for a 103 NP looking to become a 104 NP. CMA recommends adding "within five years prior to the date the applicant applies for certification as a nurse practitioner pursuant to Section 2837.104" to §1482.4(a)(14) of the draft regulations for the same reasons outlined in the BRN's initial statement of reasons. Guaranteeing that a 104 NP has practiced as a 103 NP, without standardized procedures, within the last five years and is aware of current best practices will provide patients with a higher quality of care.

Consumer Protections

CMA supports the BRN's inclusion of §1487, the Notice to Consumers, in the proposed regulations. Patient safety and consumer protection are a paramount priority to CMA and it is crucial that patients in all communities throughout California understand the care they are receiving. However, CMA finds that the consumer protections within the regulation once again fall short of the clarity required under the APA since the language mostly restates the statutory language.

To ensure effective communication and to reinforce the safeguards laid out in the Notice to Consumers, CMA requests that the regulations include a requirement that all patient disclosures be provided both verbally and *in writing*. Patients have an understanding of how existing NPs function in the healthcare system. Requiring all disclosures to be made in writing will better ensure patients have information on how the new categories of NPs are different from current NPs. We urge the BRN to implement regulations that require written disclosures to patients to offer information on the care they are receiving in an accessible and understandable way.

Furthermore, to avoid any confusion and any potential patient safety issues, the regulations should specify that 103 and 104 NPs are not authorized to provide services, like surgery. Similarly, the regulations should provide explicit guidance that the categories of nurse practitioners do not incorporate the performance of cosmetic medical procedures independently. Indeed, the legislative history of AB 890 indicates that the bill was designed to increase access to primary care, not cosmetic services, and to stay true to this legislative intent, the regulations should clearly define those procedures which a 103 and 104 NP cannot do.

Thank you for your consideration of our input and perspective. If you have additional questions, please contact Juli Portola at jportola@cmadocs.org or Charlotte Tsui at ctsui@cmadocs.org. CMA appreciates the opportunity to provide feedback to the BRN on the development of these important regulations.

Sincerely,

Donaldo M. Hernandez, M.D., FACP
President
California Medical Association

cc:

Members, California Board of Registered Nursing
Members, Nurse Practitioner Advisory Committee
Loretta Melby, RN, MSN, Executive Officer, California Board of Registered Nursing

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SENATOR.ATKINS@SENATE.CA.GOV

SENATOR TONI G. ATKINS
PRESIDENT PRO TEMPORE

STANDING COMMITTEE
SENATE RULES
CHAIR

October 28, 2022

Dolores Trujillo, RN
President
California Board of Registered Nursing
PO Box 944210
Sacramento, CA 94244-2100

Re.: Proposed Regulations - Nurse Practitioners Scope of Practice

Dear President Trujillo:

I am writing in response to the notice of regulatory action the Board of Registered Nursing (BRN) issued relating to categories and scope of practice for nurse practitioners.

Drafting regulations to implement AB 890 (Wood, Ch. 2020) is complex and I commend the BRN, Board staff, and stakeholders for all your work in this endeavor. It is critical that the BRN implement the proposed regulations without delay so that California can begin to see the positive healthcare outcomes associated with providing nurse practitioners broader practice authority. Additionally with reproductive freedom facing unprecedented threats, nurse practitioners will play a key role in protecting and expanding access to reproductive care.

The California Future of Health Workforce Commission – composed of a statewide group of senior leaders across multiple sectors, including health, education, employment, labor, and government – found that in just 10 years, California will face a shortfall of over 4,100 primary care clinicians. One of the Commission's primary recommendations is to maximize the role of nurse practitioners and expand their practice authority. Twenty-six states and the District of Colombia currently grant nurse practitioners full practice authority and have seen positive impacts with access to care. In states where nurse practitioners have full practice authority, nurse practitioner supply is greater and grows more rapidly, [i] the number of nurse practitioners providing care in underserved populations increases, [ii] and rural communities see better utilization of primary care services with reduced healthcare costs.[iii]

With the Supreme Court's decision in June 2022, reproductive freedom in America has been derailed – and is taking a very real toll on the lives of many of our most vulnerable individuals and communities. This decision carries the weight of millions of women who will not have autonomy over their own bodies. It is a decision that will impact women, families, and our country for decades to come. This year I authored SB 1375 (Atkins, Ch. 2022), which allows nurse practitioners that meet the requirements in AB 890 (Wood, Ch. 2020) to provide aspiration abortion services without the supervision of a physician or surgeon, as a proactive step to further increase access to affordable, quality reproductive care in California. Earlier versions of SB 1375 addressed many of the items in the proposed regulations, including allowing nurse practitioners to count their prior practice towards meeting the transition to practice requirement.

AB 154 (Atkins, Ch. 2013) increased the types of trained health professionals who can provide early abortions by allowing NPs, certified nurse midwives, and physician assistants to perform early abortions safely within the terms of their licenses. While AB 154 (Atkins, Ch. 2013) expanded California's abortion-providing workforce, significant obstacles remain. Over 40 percent of California, counties do not have clinics that provide abortions. Advanced practice clinicians play a critical role in providing reproductive care. By removing barriers to abortion training and allowing experienced nurse practitioners to utilize their full training and education, SB 1375 will expand the number of qualified reproductive care practitioners, particularly in communities lacking access to care.

I thank the BRN for its work and look forward to the expeditious implementation of the proposed regulations, which will facilitate opportunities for nurse practitioners to improve healthcare access and bolster reproductive services. Thank you for your consideration. If you have questions, please feel free to contact Jano Dekermenjian, Consultant, at 916-651-4170.

Warmly,

TONI G. ATKINS
Senate President pro Tempore
39th enate District

TGA: jd

cc: Loretta Melby RN, MSN, Executive Officer, Board of Registered Nursing
Marissa Clark, Chief of Legislation, Board of Registered Nursing
Jennifer Simoes, Deputy Director - Division of Legislative Affairs, Department of Consumer Affairs

[i] P. B. Reagan and P. J. Salsberry, “The Effects of State-Level Scope-of-Practice Regulations on the Number and Growth of Nurse Practitioners,” Nursing Outlook 6, no. 1 (2013): 392–99.
[ii] Ying Xue et al., “Full Scope-of-Practice Regulation Is Associated with Higher Supply of Nurse Practitioners in Rural and Primary Care Health Professional Shortage Counties,” Journal of Nursing Regulation 8, no. 4 (2018): 5–13.
[iii] Ortiz J, Hofler R, Bushy A, Lin YL, Khanijahani A, Bitney A. Impact of Nurse Practitioner Practice Regulations on Rural Population Health Outcomes. Healthcare (Basel). 2018 Jun 15;6(2):65.

CALIFORNIA ACADEMY OF
FAMILY PHYSICIANS
STRONG MEDICINE FOR CALIFORNIA

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October 28, 2022

Marissa Clark
California Board of Registered Nursing
1747 N. Market Blvd, Suite 150
Sacramento, CA 95834

Sent via email to marissa.clark@dca.ca.gov

Re: AB 890 Proposed Regulatory Action

Dear Ms. Clark:

The California Academy of Family Physicians (CAFP) and our more than 10,000 family physicians and medical students would like to thank you for considering comments regarding the proposed regulations to implement Assembly Bill 890, codified at Business and Professions Code (BPC) sections 2837.101 – 2837.105. The new law creates new categories of nurse practitioners (NPs) – commonly referred to as sections 103 and 104 NPs – who, under specified conditions, would be allowed to perform certain functions without standardized procedures (i.e., physician supervision). The Board of Registered Nursing (BRN) has been given express rulemaking authority on certain provisions, including the transition to practice (BPC § 2837.101(c)) and the supplemental examination (BPC § 2837.105(a)(4)). There are other areas in the new law, however, that necessitate the BRN and the Nurse Practitioner Advisory Committee (NPAC) to also adopt regulations in order to implement, interpret, and make specific those provisions. Outlined below are CAFP's comments regarding the proposed regulatory text.

Minimum Standards for Transition to Practice Pursuant to BPC Section 2837.101(c)

BPC section 2837.101(c) requires the BRN, with the advice and recommendations of the NPAC, to define minimum standards for transition to practice. "Transition to practice" is defined in BPC section 2837.101(c) as, "*additional* clinical experience and mentorship provided *to prepare a nurse practitioner to practice independently*." (*emphasis added*) The intent of the transition to practice is to protect California's health care consumers and promote quality nursing care by ensuring NPs have the training, experience, and competency to perform the functions specified in BPC section 2837.103(c) without standardized procedures. Because every NP currently practicing in California must do so under standardized procedures with a physician, any clinical experience a current NP possesses is, by itself, insufficient to satisfy the transition to practice requirement since it is not intended to prepare an NP to "practice independently" but rather assumes physician supervision. Accordingly, we urge the BRN to ensure that the transition to practice is *additional* clinical experience beyond current experience to ensure that NPs who seek to be section 103 or 104 NPs have the training, experience, and competency to perform the functions specified in BPC section 2837.103(c) without standardized procedures or physician supervision.

Moreover, the regulations should specify the level of additional clinical experience and mentorship that constitute minimum standards for transition to practice. A state agency promulgates regulations in order to "implement, interpret, or make specific the law enforced or administered by it . . ." Gov. Code § 11342.600. The BRN has been given express rulemaking authority to define minimum standards for transition to practice. The BRN has not met the statutory requirement to define the minimum standards for transition to practice and it is does not make specific the law as the proposed regulations is largely a restatement of the statute and do not provide standards for clinical training and mentorship that would prepare an NP to "practice independently." Even the Office of Professional Examination Services' (OPES) summary and recommendations states that "additional standardized criteria for clinical training and

mentorship should be included in the NP transition to practice requirements." It further states that, "[w]hile core competencies can be assessed with an examination, more complex competencies like clinical decision-making may be better assessed through on-the-job supervised clinical experience and mentoring programs." OPES, therefore, "strongly recommends that the Board consider these concerns and recommendations as the Board finalizes the transition to practice requirements." Additional standardized criteria for clinical training and mentorship are not addressed in the proposed regulations, nor is how complex competencies such as clinical decision-making are to be assessed. CAFP provided the NPAC and the Board with recommendations of how this can be done in our letter dated September 15, 2021 (enclosed for reference). CAFP is concerned that without a supplemental examination and with undefined minimum standards for transition to practice, section 103 and 104 NPs will not have the adequate training, experience, and competency to perform the functions specified in BPC section 2837.103(c) without standardized procedures or physician supervision thereby subverting the BRN's mission to protect California's health care consumers and promote quality nursing care.

Supplemental Examination Pursuant to BPC § 2837.105

BPC section 2837.105 requires an occupational analysis to be conducted by the Department of Consumer Affairs' Office of Professional Examination Services (OPES), or an equivalent organization. The occupational analysis will be used by the BRN and OPES to assess whether the competencies tested in the national nurse practitioner certification examination is sufficient to ensure sections 103 and 104 NPs can perform the functions specified in BPC section 2837.103(c) without standardized procedures. If the assessment identifies necessary additional competencies that are not sufficiently validated by the national examination, the BRN shall identify and develop a supplemental examination that properly validates identified competencies.

The proposed regulations should provide that all NPs seeking to be a section 103 or 104 NP must first pass a supplemental examination. Per BPC section 2837.105(a)(1), the occupational analysis must be based on NPs performing the functions specified in BPC section 2837.103(c), which are to be performed without standardized procedures. Accordingly, the OPES analysis should not be comparing current NP practice in California with the content of the NP certification examinations, it should be comparing the NP certification examinations with the ability to perform the functions specified in BPC section 2837.103(c) without physician supervision. Though some of the functions specified in BPC section 2837.103(c) may be functions an NP currently performs, NPs do not currently perform these functions without standardized procedures. The national nurse practitioner certification examination would be insufficient to validate competencies to perform the functions specified in BPC section 2837.103(c) without standardized procedures as the examination is mostly designed with the expectation that NPs will be practicing under physician supervision. In addition, the OPES summary and recommendations itself states that the examinations do not assess knowledge related to California-specific NP laws and regulations, which would include performing the functions specified in BPC section 2837.103(c) without physician supervision. The summary and recommendations suggest that this could be achieved through ongoing continuing education (CE) requirements, however current CE requirements are not sufficient to assess an NPs ability to perform the functions specified in BPC section 2837.103(c) without standardized procedures as they are not currently designed or structured to do so. OPES further suggests that the general settings in which NPs work will provide sufficient administrative oversight to ensure compliance with California laws and regulations. This is, however, inaccurate as section 104 NPs may not be practicing in settings in which there is oversight.

Subject matter experts for the occupational analysis should not have just been NPs. It should have included physicians as they have the expertise in performing the functions specified in BPC section 2837.103(c) without standardized procedures. NPs do not have this expertise as they do not currently perform these functions without physician supervision.

We must ensure that sections 103 and 104 NPs possess the competency to make clinical determinations without standardized procedures and physician supervision. This can be achieved through a supplemental examination that tests medical knowledge, clinical judgement, critical thinking, decision-making, and care management when performing all the functions specified in BPC section 2837.103(c) without standardized procedures. The supplemental examination should not simply be theoretical, but should include a practical, clinical component to test the NP's ability to safely and competently perform the functions specified in BPC section 2837.103(c) without standardized procedures. Further, we recommend that the regulations specify that the supplemental exam be taken only after an NP successfully completes the transition to practice in order to ensure that upon completion of the transition to practice the NP is equipped with the necessary medical knowledge and clinical judgment to perform the functions specified in BPC section 2837.103(c) without standardized procedures or physician supervision.

Referrals and Consultations Pursuant to BPC Sections 2837.103(f), 2837.104(c)(2) & (3)

Sections 103 and 104 NPs must refer to a physician in certain situations, including in complex medical cases, emergencies, and situations which go beyond the NP's competence, scope of practice, or experience. (BPC §§ 2837.103(f) & 2837.104(c)(3).) Section 104 NPs must also obtain physician consultation under certain circumstances. (BPC § 2837.104(c)(2).) The new law, however, does not provide for the oversight and enforcement of referrals and consultations. Therefore, it is necessary that the BRN, through its implied rulemaking authority, adopt regulations to implement, interpret, and make specific requirements to ensure referrals and consultations are being appropriately done in order to protect California's health care consumers and promote quality care. Patients also have a right to know who is a part of their care team, particularly in complex medical cases, emergencies, and situations which go beyond the NP's competence, scope of practice, or experience. There are also practical reasons for having such information, such as determining whether the physician is within the patient's health plan or insurance network.

Accordingly, we support the BRN's inclusion as part of the requirements for section 104 NP certification that the NP have a written protocol for consultation and a written plan for referrals, and that the NP make the referral plan available to patients on request. Moreover, we support the requirement that if the written plan calls for referrals to a specific individual, the plan must include that individual's acknowledgment and consent to the referrals. Acknowledgement and consent are necessary to ensure that it is not a unilateral action and that there is an established common understanding between the parties. For instance, an NP may simply find a physician on a health plan or insurer provider directory and the physician is unaware of any referrals and consultations that could occur, which would raise potential liability concerns for the physician. It would also put the patient at risk if a physician were not actually available for a referral or consultation.

Notice to Consumers

The BRN's regulations should ensure patient safety and consumer protection are a paramount priority. The new law provides that sections 103 and 104 NPs are required to verbally inform all new patients in a language understandable to the patient that the NP is not a physician; post a notice in a conspicuous location accessible to public view that the NP is regulated by the BRN, including information about how complaints can be made; refer patients to a physician in specified circumstances; and carry professional liability insurance. (BPC §§2837.103(d)-(g); 2837.104(c)(1), (3) & (d)-(f).)

CAFP supports the inclusion in the proposed regulation the requirement that sections 103 and 104 NPs advise patients that they have the right to see a physician and surgeon on request and the circumstances under which they must be referred to see a physician and surgeon. The proposed regulations should, however, clarify that this should be done in a language understandable to the patient and in writing. Moreover, there should also be a requirement that the NP inform patients, in a

language understandable to the patient, that they are practicing without physician supervision as the patient may mistakenly assume that a physician could be immediately made available to them during their appointment or that a physician is also reviewing their charts and information.

Scope of Functions Pursuant to BPC Section 2837.103(c)

The functions described in BPC section 2837.103(c) are broad and unclear, and therefore requires the BRN in future regulatory action, through its implied rulemaking authority, to adopt regulations at a later point to implement, interpret, and make specific the scope and responsibilities of NPs under the functions specified in BPC section 2837.103(c). The BRN has the duty and power under the Nursing Practice Act to set out the scope of practice and responsibilities for RNs. Therefore, the BRN has implicitly been delegated the authority to adopt rules and regulations necessary to exercise their duty and power to set the scope of practice and responsibilities of NPs, which would include the scope and responsibilities under the functions specified in BPC section 2837.103(c). We urge that this be done in consultation with the Medical Board of California as the Medical Board also has expertise and understanding of the scope and responsibilities under the functions specified in BPC section 2837.103(c).

We appreciate your consideration of our input on how to best address the many nuances of the new law. We look forward to working with the BRN, the NPAC, and other stakeholders to ensure the new law is implemented in a way that will successfully achieve the BRN's mission to protect California's health care consumers and promote quality nursing care. If you have any questions, please contact me at creyes@familydocs.org.

Sincerely,

Catrina Reyes, Esq.
Vice President of Advocacy and Policy
California Academy of Family Physicians

October 28, 2022

Marissa Clark and/or Ras Siddiqui
California Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Via email: Marissa.Clark@DCA.CA.Gov; cc: ras.siddiqui@dca.ca.gov

RE: NOTICE OF PROPOSED REGULATORY ACTION CONCERNING
- Title 16, California Code of Regulations (CCR), Division 14, Article 8 Definitions, § 1480
- Categories and Scope of Practice of Nurse Practitioners, § 1481
- Requirements for a Nurse Practitioner Certification Pursuant to Business and Professions Code Section 2837.103, § 1482.3
- Requirements for a Nurse Practitioner Certification Pursuant to Business and Professions Code Section 2837.104, § 1482.4 Notice to Consumers, § 1487

Dear Ms. Clark and Mr. Siddiqui:

Thank you for the opportunity to submit comments to the California Board of Registered Nursing in response to the notice: PROPOSED REGULATORY ACTION CONCERNING Requirements for a Nurse Practitioner Certification. The undersigned organizations write in response to the open comment period for the above proposed regulatory actions.

Our primary concern is about potentially confusing terminology. We ask for clear, accurate Board of Registered Nursing (BRN) terminology that delineates actions about certification (rather licensure) to be taken at the state level by the BRN, and actions to be accomplished with individual national certification boards. There needs to be more clarity about actions to be taken in applying for new categories of practice at the state level, and those actions to be taken when applying for national board certification.

We offer the following examples:

Page 3 of 7	The Board is providing an "orderly means of applying for new certification categories."	Please clarify and define: Does this refer to applying to the CA BRN?
Page 4 of 7	The Board states that "current law does not authorize a fee to be charged for certification"; no fees are included in the proposal.	We are concerned that nurse practitioners may think this applies to the specialty NP certification boards such as those represented below. Certification organizations must charge fees for a candidate to register and sit for certification examinations. Is it licensure by the state of CA that will not be associated with a fee? Please clarify.

Page 5 of 7	The Board states "Individuals seeking certification will be able to apply either through the Board's online platform or through initial licensure."	Clarification is needed related to the application process. Each specialty NP certification board has its own process with an online application. We suggest the following language: Individuals applying for a 103 or 104 NP category in CA will be able to apply through the Board's online platform. Individuals applying to sit for a national board certification exam must (1) meet all current eligibility requirements and then (2) apply at one of the following websites: **American Academy of Nurse Practitioners Certification Board: https://www.aanpcert.org/** **American Association of Critical-Care Nurses Certification Corporation: https://www.aacn.org/** **American Nurses Credentialing Center: https://www.nursingworld.org/ancc/** **National Certification Corporation: https://www.nccwebsite.org/** **Pediatric Nursing Certification Board: https://www.pncb.org/**

We have included some definitions from the Institute for Credentialing Excellence (I.C.E) December 2020 "Basic Guide to Credentialing Terminology 2nd Edition" which may be helpful:

> **Certification**— A voluntary, nongovernmental process by which an individual is determined by a certification body to have successfully completed the requirements of a certification program and may be identified to the public and other stakeholders as a certificant. Some regulatory bodies use voluntary certification programs to meet licensure or registration requirements.
>
> **Licensure**— The mandatory process, created by statute, by which a governmental agency or an autonomous body grants time-limited permission to an individual to engage in a given occupation after verifying that the individual has met predetermined and standardized criteria; licensure offers title protection for those who meet the criteria.

At your request, we can extend to you the complete credentialing terminology guide.

Please ensure that these comments are forwarded to the most appropriate persons who can act to clarify terminology.

Thank you for the opportunity to comment.

Respectfully,

Diane Tyler, PhD, RN,FNP-C, FNP-BC,CAE,FAANP, FAAN, CEO, **American Academy of Nurse Practitioners Certification Board** dtyler@aanpcert.org

Kelli Lockhart, Senior Director, **American Association of Critical-Care Nurses Certification Corporation** kelli.lockhart@aacn.org

Marianne Horahan, MBA, MPH, RN, NEA-BC, CPHQ, CAE, Director, Certification Services, **American Nurses Credentialing Center** marianne.horahan@ana.org

Robin L. Bissinger, PhD, APRN, NNP-BC, FAAN, CEO, **National Certification Corporation** rbissinger@nccnet.org

Sheri Sesay-Tuffour, PhD, CAE, CEO, **Pediatric Nursing Certification Board** stuffour@pncb.org

Sycamores
a better life

October 28, 2022

Marissa Clark
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Dear Dear Ms. Clark,

Sycamores is writing about the Board of Registered Nursing's (BRN) proposed regulations to implement AB 890 (Chpt. 265, Statutes of 2020), related to categories and scope of practice for nurse practitioners.

Sycamores is proud to have been active member of the broad cross sector coalition that championed Assembly Bill 890 when it was debated by California's Legislature. Since the enactment of the bill, we recognize the efforts taken by the Board of Registered Nursing to fully implement AB 890 in the last two years. We sincerely believe that these regulations will finally move California toward achieving the primary objective of AB 890, which was to allow qualified nurse practitioners to work to the full extent of their education and training to increase access to culturally responsive and linguistically appropriate care.

AB 890 was passed to address an acute health care provider shortage seen across California which significantly impacted residents access to quality care. In a research report completed well before the start of COVID-19, UCSF Healthforce Center's research indicated that California was on track to have 50% fewer psychiatrists than needed by 2028 based on forecasts assuming service utilization remained the same during that specified time frame and unmet service need. However, in the two years since AB 890 was signed into law, mental health needs have significantly increased, and the health care provider workforce remains in crisis. This means that Californians are struggling to access quality health care providers across the state. As research has demonstrated, nurse practitioners are highly trained providers who are qualified to address these gaps in care without physician supervision.

Passed with tremendous bipartisan support, Assembly Bill 890 was extensively vetted and reviewed during the state legislative process. It is incredibly important that the BRN finish its work and adopt these regulations at its November 14-15 Board meeting so that the objectives of AB 890 can be realized to ensure that Californians receive timely access to much needed care and support.

Sincerely,

Wendy Wang, MPP
Chief Public Policy and Advocacy Officer

October 26, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834-1924

Re: Assembly Bill 890 Implementation – Patient Protection

Dear Ms. Clark–

First Day Foundation Inc. would like to provide comments regarding the California Board of Registered Nursing (BRN) proposed regulations for AB 890 (Wood) released September 16, 2022. AB 890, which was signed into law in 2020, allows two new categories of nurse practitioners to perform procedures without doctor supervision. AB 890 does not require the same educational, residency and training requirements that medical doctors must complete in order to practice medicine which is a concern for our low-income communities of color.

First Day Foundation Inc. helps low-income students receive necessary school materials such as clothes, backpacks, and shoes, and provide resources for parents. Our organization was founded in the Inland Empire of California with the endeavor of improving the lives of disadvantaged communities by informing, educating, and supporting the community´s educational needs.

Community groups have been providing written and verbal comments at the California Board of Registered Nursing Board meetings and the Nurse Practitioner Advisory Committee meetings for over a year. Community groups have also met with BRN staff to discuss our concerns. We regret to inform you that we continue to have concerns with the proposed regulations because they do not prioritize patient safety and patient information. We have been requesting that the California Board of Registered Nursing ensures that adequate regulations are adopted so that all communities, regardless of economic status or race receive high quality care.

All Californians, regardless of race or economic status, should have access to high quality health care to live a long life. Poverty has been linked to death and disease and having wealth and a higher income provide material benefits such as healthier living conditions and access to health care.

Accordingly, it is imperative the Board of Registered Nursing revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare and services.

Through regulations, the Board of Registered Nursing must ensure the following:

- Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.

- Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.

- Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:
    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
    - The right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
    - The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.

Patients should have a right to receive this information from a nurse practitioner in writing and without request. Placing such disclosure requirements on the nurse practitioner will ensure that all patients, and especially those in low-income communities, receive critical information about their care that they can have for future reference. The ability of a patient to receive these critical patient safety and consumer protection safeguards should not depend on their understanding of the healthcare system or a onetime conversation with a nurse practitioner.

Our communities continue to face predatory practices by businesses because of language barriers and limited economic resources. In response to our requests, the BRN staff has stated that they cannot enact regulations that are burdensome and which will make a patient weary when seeing a nurse practitioner. Written disclosures will only make patients more comfortable regarding the services they will receive from a nurse practitioner.

Regulations should be enacted to curb predatory practices such as unnecessary medical services and products. Our immigrant communities are offered immigration legal services by individuals that are not licensed to practice law or dentistry. Our communities face predatory lending services and are targets of fraud by many unscrupulous businesses. We cannot create a second tier of health care which would have negative impacts in our communities. Our communities deserve to have the option to see a medical doctor when they are seeking medical services and be sufficiently informed and educated about when their health care provider is not a medical doctor, the limits of the nurse practitioner they are being treated by, and the circumstances for any referrals.

Sincerely,

Pedro Molina
President
First Day Foundation Inc.

AltaMed

October 31st, 2022

Marissa Clark
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Re: Nurse Practitioners, Scope of Practice Regulations

Dear Ms. Clark –

As the Chief Operating Officer (COO) of AltaMed Health Services, the largest independent Federally Qualified Health Center (FQHC) in the nation, I have been closely following the Board's deliberations on the implementation of AB 890 (Wood). I appreciate the work done to date, and I encourage the Board to finalize these regulations so Nurse Practitioners (NPs) can begin transitioning to an expanded scope of practice on January 1, 2023—the date outlined in the legislation.

At AltaMed, we are on a mission to eliminate disparities in health care access and outcomes, and since our founding in 1969, we have grown into the nation's largest network of community-based primary care facilities and senior care programs—providing integrated care for Latino, multi-ethnic, and often-overlooked communities across Southern California. The AltaMed Foundation has raised millions of dollars for programs that help our communities grow healthy, including NP clinical training programs. We also provide mentoring and hands-on opportunities for aspiring health care workers at every level to expand their skillsets and become leaders.

In our work, we have learned one important thing: The only way to provide high-quality, compassionate care to the underrepresented groups we serve is by empowering *all* of our more than 3,200 essential health workers—from professionals in medicine, nursing, and social work to dentistry, mental health, and health administration.

We also recognize how much more we can do for patients relying on the safety net with more flexible, modern workplace standards—for NPs in particular. More than seven million people in California, most of them Latino, continue to live in Health Professional Shortage Areas. Almost half (44%) of Latinos say that there are not enough primary care providers in their community to meet local needs, and Latino doctors remain few and far between: While Latinos are nearly 40 percent of California's population, they make up only 7 percent of physicians.

At AltaMed—and in my role as board chair of the Latino Coalition for a Healthy California—I can see every day how uniquely equipped NPs are to fill these gaps, working on care teams that provide the high-quality, preventive care our patients need. Of the 300+ AltaMed providers, NPs represent over 25% of our clinical workforce. NPs already represent almost a third of California's primary care workforce, and their numbers statewide are growing at twice the rate of physicians. NPs are twice as likely as physicians to work community health centers, more likely to speak Spanish, and more likely to work in rural communities. Studies show we what see every day at AltaMed: our NPs make up approximately 1/3 of our provider workforce, and they provide culturally sensitive, high-quality care. Today, 28 other states permit NPs to practice independently after some form of transition to practice. There is no reason for California to remain behind this curve.

We are confident that these regulations the implementation and improved regulatory adherence, NPs will continue alleviating severe and acute provider shortages throughout California. NPs are extremely competent providers; they are safe, they work well with vulnerable groups, and they spend significantly more time with their patients than physicians. Enhancing their scope will help all of us—doctors, nurses, and every other health worker in California—provide better, more high-quality care for our patients.

I hope the Board will provide these essential workers the flexibility they need to do the job.

Thank you for your consideration.

Sincerely,

Efrain Talamantes, MD, MBA, MSc Chief Operating Officer, Health Services

Cc:
Loretta Melby, Executive Officer, Board of Registered Nursing
Kimberly Kirchmeyer, Director, Department of Consumer Affairs

AltaMed Health Services Corporation
2040 Camfield Avenue
Los Angeles, CA 90040
Tel 323 725 8751
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AltaMed.org

October 26, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834-1924

Re: Assembly Bill 890 Implementation – Patient Protection

Dear Ms. Clark–

Diligencias would like to provide comments regarding the California Board of Registered Nursing (BRN) proposed regulations for AB 890 (Wood) released September 16, 2022. AB 890, which was signed into law in 2020, allows two new categories of nurse practitioners to perform procedures without doctor supervision. AB 890 does not require the same educational, residency and training requirements that medical doctors must complete in order to practice medicine which is a concern for our low-income communities of color.

Diligencias represent low-income Californians in rural and urban areas. Many of the individuals that we serve and represent are challenged by poverty, food insecurity, violence, language barriers and are underinsured and unemployed. All Californians, regardless of race or economic status, should have access to high quality health care to live a long life.

Community groups have been providing written and verbal comments at the California Board of Registered Nursing Board meetings and the Nurse Practitioner Advisory Committee meetings for over a year. Community groups have also met with BRN staff to discuss our concerns. We regret to inform you that we continue to have concerns with the proposed regulations because they do not prioritize patient safety and patient information. We have been requesting that the California Board of Registered Nursing ensures that adequate regulations are adopted so that all communities, regardless of economic status or race receive high quality care.

We represent low-income Californians in rural and urban areas that are in need of quality health care services. Many of the individuals that we serve and represent are challenged by poverty, food insecurity, violence, language barriers and are underinsured and unemployed. All Californians, regardless of race or economic status, should have access to high quality health care to live a long life. Poverty has been linked to death and disease and having wealth and a higher income provide material benefits such as healthier living conditions and access to health care.

Accordingly, it is imperative the Board of Registered Nursing revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare and services.

Through regulations, the Board of Registered Nursing must ensure the following:

- Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.
- Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.

- Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:

    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
    - The right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
    - The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.

Patients should have a right to receive this information from a nurse practitioner in writing and without request. Placing such disclosure requirements on the nurse practitioner will ensure that <u>all</u> patients, and especially those in low-income communities, receive critical information about their care that they can have for future reference. The ability of a patient to receive these critical patient safety and consumer protection safeguards should not depend on their understanding of the healthcare system or a onetime conversation with a nurse practitioner.

Our communities continue to face predatory practices by businesses because of language barriers and limited economic resources. In response to our requests, the BRN staff has stated that they cannot enact regulations that are burdensome and which will make a patient weary when seeing a nurse practitioner. Written disclosures will only make patients more comfortable regarding the services they will receive from a nurse practitioner.

Regulations should be enacted to curb predatory practices such as unnecessary medical services and products. Our immigrant communities are offered immigration legal services by individuals that are not licensed to practice law or dentistry. Our communities face predatory lending services and are targets of fraud by many unscrupulous businesses. We cannot create a second tier of health care which would have negative impacts in our communities. Our communities deserve to have the option to see a medical doctor when they are seeking medical services and be sufficiently informed and educated about when their health care provider is not a medical doctor, the limits of the nurse practitioner they are being treated by, and the circumstances for any referrals.

Sincerely,

Lino Bastida
Executive Director
Diligencias

CALIFORNIA COA ORTHOPAEDIC ASSOCIATION

Strong as individuals. More powerful together.

October 31, 2022

Marissa Clark, Chief of Legislative Affairs
Board of Registered Nursing
1747 North Market Boulevard, Suite 150
Sacramento CA 95834
Via email: marissa.clark@dca.ca.gov

Re: Proposed Regulations

Dear Ms. Clark and the Board:

On behalf of the California Orthopaedic Association and the orthopedic surgeons we represent, I write to comment on the proposed Nurse Practitioner regulations and to support comments submitted by the California Medical Association.

We agree that a supplemental examination for 103 and 104 NPs is sound public policy and consistent with AB 890.

The transition to independent practice for 104 NPs requires additional training and supervision with an eye that the NP will be later practicing independently in a specific subspecialty area. Their supervised training must be in this subspecialty area of practice so, that they are prepared for this independent practice. General supervision that has already taken place may not have taken into consideration this subspecialty area of practice and would be insufficient. We also agree that the experience and supervision should be recent and that five years is a good definition of recent.

We support notices to consumers as an important consumer protection.

And, finally we agree that the regulations ought to specify that NPs are, under no circumstances, authorized to perform surgery.

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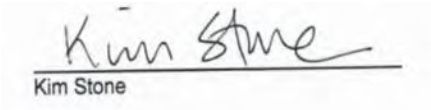
Phone: 916-454-9884 Fax: 916-454-9882

CALIFORNIA COA ORTHOPAEDIC ASSOCIATION

Strong as individuals. More powerful together.

We thank you for the opportunity to comment on the proposed regulations.

The mission of the California Orthopaedic Association is to protect the orthopedic surgeon's right to practice quality musculoskeletal care by monitoring and taking an active role in legislative and regulatory issues impacting orthopeadic practice and their patients.



Kim Stone, lobbyist, on behalf of the California Orthopaedic Association

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October 31, 2022

Marissa Clark
California Board of Registered Nursing
1747 N. Market Blvd., Suite 150
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Marissa.clark@dca.ca.gov

RE: Categories and Scope of Practice of Nurse Practitioners (AB 890)

Dear Ms. Clark,

The California Chapter of the American College of Emergency Physicians (California ACEP), representing emergency physicians treating California's patients in more than 14 million emergency department visits annually, respectfully submits the following comments regarding the regulations that must be promulgated to implement independent practice by nurse practitioners as enacted by AB 890.

We have serious concerns with the proposed regulations being put forward by the Board. The overarching theme of our recommendations centers around the unique situation of the emergency department (ED) where patients arrive with undifferentiated complaints and with potentially high-risk conditions. Approximately 30% of all acute care visits are ED visits, and the acuity of patient visits is steadily increasing. The percentage of ED visits categorized as "severe" increased from 32% in 2006 to 42% in 2016.

These proposed regulations contain no specific considerations for ED practice to protect ED patients. They do not require emergency nurse practitioner specialty training (ENP), specific transition to practice guidelines for the ED, or delineate how to refer a complex or unstable patient. In fact, the word emergency does not appear once in the proposed regulations.

Our members work alongside nurse practitioners (NPs) in the ED every day. NPs are an integral part of delivering high quality care to patients in numerous EDs. In many places they are trained and privileged to do advanced procedures. This model delivers effective care to millions of Californians because it is team-based and physician-supervised. Transition to a system where NPs practice independently will require promulgating regulations that recognize the unique and risky nature of ED care and promote safe practices for the millions of Californians who visit the ED each year.

Regulations are Insufficient if They Intend to Allow Independent Practice in the ED.

AB 890 appears to contemplate independent practice by NPs in the ED; however, the proposed regulations entirely ignore the specialty and instead use preexisting primary care and acute care language without updating the definitions and pathways to include the ED setting. If the regulations do not

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mean to allow NPs to practice independently in the ED, they should specifically say this area of practice is excluded. On the other hand, if they intend to allow such practice, they must be significantly modified.

Nowhere in the proposed regulations is there mention of a category of ENP or NP practice in the ED. Instead, the regulations talk about acute care nursing. These are not interchangeable. This drafting causes serious concern as it is unclear whether this distinction is not understood, or simply deemed unimportant. Either is detrimental to patient safety and should be remedied before adoption.

First, there is no definition of emergency care in the regulations, and instead they reuse an existing definition of acute care which includes "unstable, chronic, complex acute and critical conditions **in a variety of clinical practice settings**."

Second, the Categories of Nurse Practitioner in Section 1481 of the proposed regulations again mention "acute care" but do not mention emergency NP. Section 2837.103 requires an NP to pass a specialty-specific national NP board certification examination to practice independently in that specialty. The ENP board certification exams are specific to the care required in the ED, not acute care more broadly or care in other practice settings. State law does not allow for independent practice without passage of certification in the specialty, and the regulations must be changed throughout to address this flaw.

Section 103 Independent Practice.

Requirements of the Law. Business and Professions Code Section 2837.103 allows a nurse practitioner to practice in a hospital emergency department without standardized procedures if certain criteria are met. Business and Professions Code Section 2837.103 also allows for independent practice in a wide array of settings including a correctional facility, clinic, hospice facility and medical office – all of which are vastly different, have different resources, and have patients with varying clinical presentations and needs. Similarly, the proposed regulations do not contemplate the specialty of ENP and are overly broad in attempting to cover acute care in a variety of practice settings. We urge you to adopt regulations specific to this section which apply specifically to the ED.

Examination and certification requirements. Section 2837.103(a)(1)(A) requires that in order to practice independently, a nurse practitioner must have passed a national nurse practitioner board certification examination and, if applicable, any supplemental examination developed pursuant to paragraph (3) of subdivision (a) of Section 2837.105. Section 2837.103(a)(1)(B) requires that in order to practice independently, a nurse practitioner must hold a certification as a nurse practitioner from a national certifying body accredited by the National Commission for Certifying Agencies or the American Board of Nursing Specialties and recognized by the board.

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BRN proposed regulations. The BRN recommends that the training and national certification be in the area of clinical independent practice, however, there is no mention of emergency care in the regulations; instead, there is mention of acute care. Board certification as an Acute Care Nurse Practitioner is insufficient for independent practice in the ED.

CalACEP Recommendation. We urge the board to adopt regulations making it clear that in order for independent practice in the ED, a nurse practitioner must pass the emergency nurse practitioner (ENP) certification examination and may not practice independently in the ED with any other NP certification. We recognize that there are many NPs currently working in EDs who are family practice or acute care certified. However, this is successful because they are part of an emergency physician-led team. In order to ensure patient safety, any NP seeking to practice independently in the ED must have a specialty-specific certification in emergency care.

Additionally, we urge the board to adopt maintenance of certification requirements. Maintenance of certification should require re-examination and also should require a minimum number of ED practice hours within the past 2 years. Again, it is critical for patient safety to ensure that NPs practicing independently in the ED have current education and skills specific to the ED.

Transition to Practice.

Requirements of the Law. Business and Professions Code Section 2837.101(c) requires the board to adopt regulations to define minimum standards for transition to practice which identify additional clinical experience and mentorship necessary to prepare a nurse practitioner to practice independently. Section 2837.103(a)(1)(D) requires completion of a minimum of three full-time equivalent years of practice or 4600 hours.

BRN proposed regulations. The board recommends that the training and national certification be in the area of clinical independent practice and that mentorship can be provided by physicians or NPs in the area of clinical practice.

CalACEP recommendation. We strongly urge that the national certification required for independent practice of an ENP should be in emergency care. Additionally, we urge you to promulgate regulations that require a minimum of 3 years or 4600 hours of clinical experience in the ED, as attested to by a board-certified emergency physician. While peer mentorship of NPs can be beneficial and provide good training and experience to prepare NPs for supervised practice, it is not sufficient for independent practice. Attestation should be by a board-certified emergency physician.

Additionally, given the nature of ED practice, we urge that some of the 4600 hours of experience should include procedural competency, as attested to by a board-certified emergency physician. We recommend attestation to having supervised the following number of specific procedures: lacerations (35), incision

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and drainage (25), pelvic exam (30), initial fracture care (30), splinting (15), slit lamp exam (10), epistaxis care (cautery/packing techniques) (20), and foreign body removal (ear, nose, eye, vagina, anus, skin) (10).

Referral of Patients

Requirements of the Law. Section 2837.103(f) requires an NP to refer a patient to a physician and surgeon or other licensed health care provider if a situation or condition of a patient is beyond the scope of the education and training of the nurse practitioner.

BRN proposed regulations. The proposed regulations are silent on this critically important topic.

CalACEP recommendation.
We urge the board to adopt regulations that limit ENP independent practice to Emergency Severity Index (ESI) levels 4 and 5. While ESI is not a perfect tool for determining the acuity of patients who arrive with undifferentiated complaints and with potentially high-risk conditions, it is a known triage algorithm that can help serve as a regulatory proxy for determining which patients require the additional skill and training of an emergency physician as contemplated by the law.

Additionally, we recommend the regulations require mandatory physician consultation when there has been a change in ESI or acuity after assessment, and in the following instances:

When the patient chief complaint includes: scrotal pain, altered mental status, focal neuro deficit/stroke symptoms, chest pain, abdominal pain in a patient older than 65yrs or pregnant, respiratory distress, open or displaced fracture, joint dislocation, overdose, syncope, fever in a patient fewer than 3 months of age, major trauma, GI bleed, generalized weakness, chemotherapy patients, transplant patients, abnormal blood sugar less than 60 or greater than 400, pediatric patient with complex medical history, vaginal bleeding, pregnant patient with systolic blood pressure > 140, diabetic foot infection, acute visual change.

Adult Vital sign parameters:
T < 36 or > 38
RR < 8 or > 30
P < 50 or > 120
O2 sat < 95%
SBP < 100 or > 160

The stakes for patients are much higher in the ED than in other settings, and the risks of negative patient outcomes are much greater, because of the undifferentiated nature of the patients, the acuity of the cases, and the time-

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sensitive nature of many emergencies. Minutes, even seconds, matter in the emergency department.

The proposed regulations have no specific considerations for ED practice that will protect ED patients. They do not require emergency nurse practitioner training or ENP certification, specialty-specific transition to practice, or delineate how to refer a complex or unstable patient. We are concerned that the care of vulnerable, undifferentiated ED patients has not been sufficiently considered in the drafting of the regulations. We urge the board to adopt standards specific to the ED. The law allows nurse practitioners to practice independently in a diverse array of settings, and the regulations adopted by the board should recognize the depth and specificity of training and mentorship necessary to assure patient safety in each of those settings.

Respectfully,

ELENA LOPEZ-GUSMAN
Executive Director

October 26, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834-1924

Re: Assembly Bill 890 Implementation – Patient Protection

Dear Ms. Clark–

Union de Guatemaltecos Emigrantes (UGE) would like to provide comments regarding the California Board of Registered Nursing (BRN) proposed regulations for AB 890 (Wood) released September 16, 2022. AB 890, which was signed into law in 2020, allows two new categories of nurse practitioners to perform procedures without doctor supervision. AB 890 does not require the same educational, residency and training requirements that medical doctors must complete in order to practice medicine which is a concern for our low-income communities of color.

UGE represents low-income Californians in rural and urban areas. Many of the individuals that we serve and represent are challenged by poverty, food insecurity, violence, language barriers and are underinsured and unemployed.

Community groups have been providing written and verbal comments at the California Board of Registered Nursing Board meetings and the Nurse Practitioner Advisory Committee meetings for over a year. Community groups have also met with BRN staff to discuss our concerns. We regret to inform you that we continue to have concerns with the proposed regulations because they do not prioritize patient safety and patient information. We have been requesting that the California Board of Registered Nursing ensures that adequate regulations are adopted so that all communities, regardless of economic status or race receive high quality care.

We represent low-income Californians in rural and urban areas that are in need of quality health care services. Many of the individuals that we serve and represent are challenged by poverty, food insecurity,

violence, language barriers and are underinsured and unemployed. All Californians, regardless of race or economic status, should have access to high quality health care to live a long life. Poverty has been linked to death and disease and having wealth and a higher income provide material benefits such as healthier living conditions and access to health care.

Accordingly, it is imperative the Board of Registered Nursing revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare and services.

Through regulations, the Board of Registered Nursing must ensure the following:

- Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.
- Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.

- Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:

    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
    - The right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
    - The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.

  Patients should have a right to receive this information from a nurse practitioner in writing and without request. Placing such disclosure requirements on the nurse practitioner will ensure that <u>all</u> patients, and especially those in low-income communities, receive critical information about their care that they can have for future reference. The ability of a patient to receive these critical patient safety and consumer protection safeguards should not depend on their understanding of the healthcare system or a onetime conversation with a nurse practitioner.

Our communities continue to face predatory practices by businesses because of language barriers and limited economic resources. In response to our requests, the BRN staff has stated that they cannot enact regulations that are burdensome and which will make a patient weary when seeing a nurse practitioner. Written disclosures will only make patients more comfortable regarding the services they will receive from a nurse practitioner.

Regulations should be enacted to curb predatory practices such as unnecessary medical services and products. Our immigrant communities are offered immigration legal services by individuals that are not licensed to practice law or dentistry. Our communities face predatory lending services and are targets of

fraud by many unscrupulous businesses. We cannot create a second tier of health care which would have negative impacts in our communities. Our communities deserve to have the option to see a medical doctor when they are seeking medical services and be sufficiently informed and educated about when their health care provider is not a medical doctor, the limits of the nurse practitioner they are being treated by, and the circumstances for any referrals.

Sincerely,

Rosa Posadas
Union de Guatemaltecos Emigrantes (UGE)

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October 31, 2022

Marissa Clark
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

RE: Proposed Regulations Relating to Categories and Scope of Practice for Nurse Practitioners (AB 890) – AARP California Comments

Dear Ms. Clark:

On behalf of 3.3 million AARP members and all older adults in California, I am writing to express our continuing, deep concerns regarding the latest draft regulations for AB 890 and to urge you to quickly make changes that allow for prompt implementation of this important law. We appreciate the work that has been done so far by the Board of Registered Nursing's (BRN's) Nurse Practitioner (NP) Advisory Committee (NPAC) in making recommendations on regulations for implementing AB 890. Unfortunately, the draft contains provisions that do not reflect the spirit or intent of the law which was to reduce unnecessary barriers to practice, and to increase access to care for Californians, especially those in underserved areas. Instead of increasing access to qualified health providers, these provisions will have a dampening effect, a troubling development at a time when our state faces significant healthcare workforce shortages.

AARP strongly supported AB 890 throughout the legislative process because our members and their family caregivers would be impacted by the outcome of these regulations. AB 890 was passed with overwhelming bi-partisan support, with many lawmakers praising AB 890 because it would enhance the availability of healthcare providers, especially in rural areas. This important law would allow patients direct access to care by qualified NPs, which would be particularly beneficial to diverse communities and in areas of the state where obtaining primary care is difficult. As was repeatedly expressed in the legislative discussion surrounding AB 890, nurse practitioners are critical to the health care delivery system in California. Unfortunately, instead of expanding access to care, the current proposed regulations would have the opposite effect by creating additional barriers to practice for highly qualified nurse practitioners.

After the passage of AB 890, Section 2837 of the Business and Professions code was updated to read: "It is the intent of the Legislature that the requirements under this article shall not be an

undue or unnecessary burden to licensure or practice. The requirements are intended to ensure the new category of licensed nurse practitioners has the least restrictive amount of education, training, and testing necessary to ensure competent practice."

In the spirit of this preamble to a bill that passed the legislature in a bipartisan manner and was signed by the governor, we urge the Board to make the following changes to the regulatory language:

1. § 1480. Definitions
(k) ~~[reserved]~~ "Group setting" means one of the settings or organizations set forth in Section 2837.103(a)(2) of the code ~~in which one or more physicians and surgeons practice with a nurse practitioner without standardized procedures.~~

§ 1482.3 Requirements for a Nurse Practitioner Certification Pursuant to Business and Professions Code Section 2837.103 and § 1482.4 Requirements for a Nurse Practitioner Certification Pursuant to Business and Professions Code Section 2837.104

With respect to both these sections, and as stated in our letter of November 21, 2021, we do not believe an attestation of supervision form for 103 NPs should be required to attest to the competency for an NP to practice independently. Once 103 NPs complete their transition-to-practice, there should be no additional application or specific recognition by the BRN. The transition-to-practice attestation form should not be required to be submitted to the BRN for 103 NPs to practice. This poses an unnecessary barrier to practice, and we urge the Board to reject language that is not reflected in AB 890.

Section 1482.4. Transition to Practice
Regarding the required 4,600 hours of mentored practice by a physician or NP, the regulations should clearly state that the transition-to-practice is intended for new graduates only. Because AB 890 was effective as of January 1, 2021, the regulations should specify that any nurse practitioner who graduated from accredited NP programs prior to January 1, 2018 should be deemed to have met the transition-to-practice requirement. Nurse practitioners who received their certificate from the BRN on or after January 1, 2018 must have three years or 4,600 hours of mentored practice by a physician and surgeon or nurse practitioner who has completed their transition-to-practice. The Board should not limit the ability of thousands of experienced California nurse practitioners, many of whom have been practicing in good standing for decades, to begin to expand access to criticallyneeded health care services.

Additionally, the transition-to-practice should only include the elements that are defined by Business & Professions Code Section 2837.101(c). No additional requirements should be included in the transition-to-practice as the elements defined in this section of the statute are sufficient for a comprehensive transition-to-practice.

Further, pursuant to Business and Professions Code Section 2837.104(b)(1)(C), we request that the number of years of practice for an NP with a Doctor of Nursing Practice (DNP) degree be

reduced from 3 years to 1 year. The national standards from the American Association of Colleges of Nursing Essentials for DNP Education align with the spirit of AB 890 and provide evidence in favor of reducing the required number of years of practicing in good standing from 3 years to 1 year.

Under both sections 2837.103 and 104, we offer these amendments as well:

(A) For purposes of this subdivision, "transition to practice" means 4,600 hours or three full-time equivalent years of clinical practice experience and mentorship that meet all of the following criteria:
(i) Completed in California.
(ii) Completed within ~~five~~ seven years prior to the date the applicant applies for certification as a nurse practitioner pursuant to Section 2837.104 of the code.
(iii) Completed after certification by the Board of Registered Nursing as a nurse practitioner.
~~(iv) Completed in direct patient care in the role of a nurse practitioner in the category listed in Section 1481(a) in which the applicant seeks certification as a nurse practitioner pursuant to Section 2837.104 of the code.~~

Finally, under section 15 (b), we offer these amendments:

Within 90 days of certification by the Board of Registered Nursing, a nurse practitioner practicing pursuant to Section 2837.104 of the code shall have a written protocol for consultation and a written plan for referrals., ~~pursuant to Section 2837.104(c)(2) of the code., and shall make that referral plan available to patients on request. If the written plan calls for referrals to a specific individual, the plan must include that individual's acknowledgment and consent to the referrals.~~

We appreciate the opportunity to engage in this regulatory process, and I thank the Board for taking our comments into consideration. We urge the Board to promptly make changes to bring the regulations in keeping with the spirit of the law so that it can be implemented in a timely manner and begin benefiting Californians without delay. We also look forward to continued participation in the process.

If you have any questions about our comments on these draft regulations, please contact Nina Weiler-Harwell, Ph.D., Associate Director, Advocacy and Community Engagement, at 916-556-3027 or nweiler@aarp.org.

Sincerely,

Nancy McPherson
State Director

Cc: Assemblymember Jim Wood
Richard Figueroa, Deputy Cabinet Secretary for Health, Office of Governor Gavin Newsom
Members, Board of Registered Nursing
Loretta Melby, Executive Office, Board of Registered Nursing

ARCHSTONE
FOUNDATION

October 31, 2022

Marissa Clark, MPA
Board of Registered Nursing
1747 N Market Blvd, Suite 150
Sacramento, CA 95834

Dear Ms. Clark

Thank you and the Board of Registered Nursing for this opportunity to comment on the draft "Regulations Relating to Categories and Scope of Practice for Nurse Practitioners (AB 890)." We appreciate the long and careful process of formulating these regulations as called for by AB 890 when enacted into law in 2020. However, we argue there are several areas where modifications to the proposed regulation will better serve the needs of Californians and meet the intent of the legislation.

Archstone Foundation is a private, non-partisan foundation with the mission of improving the health and well-being of older Californians and their caregivers. We believe that effective and competent primary care,as part of a broader team of social/supportive services centered around the goals of the person, is essential to advancing that mission. In pursuing this work, we have gained wide-ranging experience in the preparation (or lack thereof) of nurses, physicians, and other health professionals to care for older adults.

As you will note in the maps attached as Appendix A, most of California outside of the Bay Area/Sacramento and Los Angeles metroplexes are designated by the state of California as primary care shortage regions. In addition, you will note that these shortage regions overlap closely with the eastern and northeastern counties that have the highest populations of people 65+, reaching as high as 30% of the population. Moreover, these older adults have high rates of chronic illness (80% have one or more chronic illnesses and 50% have two or more) and high rates of hospitalization for ambulatory care sensitive conditions, suggesting that the lack of access to effective primary care is causing needless suffering and expense.

As fewer and fewer physicians choose primary care or geriatrics specializations, it is harder and harder to see how this gap can be plausibly filled by allopathic or

osteopathic physicians. This provider gap makes the deployment of nurse practitioners in independent primary care roles a vital alternative.

While we understand and share the board's concerns for safety and quality of care of patients served by nurse practitioners in more independent roles, we believe that these concerns are overblown and the need for co-location with physicians and extended periods of supervised practice in the transition to more independent statuses (103 and 104) is exaggerated.

First, the evidence from the many other states that have granted independent practice authority without specified protocols and from specific comparative studies of quality of care do not show any reason for special concern in the quality and safety of nurse practitioner care.

Second, given the geographic needs demonstrated in Appendix A, any requirement that nurse practitioners must co-locate with other professionals will intrinsically limit the availability of primary care in rural, low-density counties where older adults comprise large shares of the population. The size of the population required to support multispecialty practices will, in turn, require patients to travel long distances for routine primary care, posing a significant barrier to care. Even if some form of collegial case review and mentorship is required, models such as ECHO[1] and collaborative care[2] have demonstrated that such consultation and continuing professional education can be successfully delivered virtually.

Third, while nurse practitioner (FNP or AGNP) preparation for the care of older adults may sound like a small fraction of the preparation of physicians for primary care, this is a misunderstanding of the realities of physician training. Internal medicine (IM) residency training requires that one of the three years be devoted to inpatient care, often on highly specialized services such as transplant medicine or oncology that will not be directly relevant to primary care practice. While one year is required to be devoted to ambulatory care, again, much of this is focused on subspeciality care. The actual "primary care" requirements for internal medicine are at least "130 distinct half-day outpatient sessions, extending at least over a 30-month period, devoted to longitudinal care of the residents' panel of patients.[3]" Moreover, the geriatrics requirement is one block-month. Combined, this would equal 680 hours of primary care/geriatrics training. FNP and especially AGNP training compares quite favorably to IM physicians who are granted full independent practice in primary care without question.

Lastly, the excessive concern about the quality and safety of independent nurse practitioner care mistakenly assumes that physician care is currently meeting a high standard of quality and safety. In the care of older adults, this assumption has been

[1] https://www.ahrq.gov/patient-safety/settings/multiple/project-echo/index.html
[2] https://aims.uw.edu/collaborative-care
[3] https://www.acgme.org/globalassets/pfassets/programrequirements/140_internalmedicine_2020.pdf

repeatedly shown to be untrue. The national quality of care assessments in RAND's Assessing Care of Vulnerable Elders (ACOVE) program[4] has shown that, on average, only 30% of indicated care for geriatric conditions such as falls, incontinence, and dementia are typically provided. Moreover, the rate of polypharmacy and potentially inappropriate medications prescribed to older adults remains shockingly high. All providers need to improve their quality and safety of care continuously throughout their careers. No type of practitioner can stand as an unquestioned standard of care, and the current barriers to primary care already pose a hazard to older Californians.

In addition, the proposed requirement that nurse practitioners working independently and outside of specified protocols must have written agreements with specialists and other physicians to whom they wish to refer patients can only be described as unprecedented. Under traditional Medicare, patients have the right to see whatever participating provider they wish. Under various forms of Medicare Advantage, such referrals may be limited by plan network requirements. The right to be seen by other practitioners belongs to the patient, not the referring professional, making documented prearrangement unnecessary. Even if this requirement were also in place for physician practice, it seems entirely unjustified and to misunderstand the autonomy of patients to seek medical care as they choose.

Thank you for your attention and your efforts on this important topic. As a stakeholder in the care of older Californians without any other entanglements or allegiances, we believe that broadening independent practice for nurse practitioners is in the best interests of all Californians we try to serve. We welcome the opportunity to further explain our analysis or provide additional details.

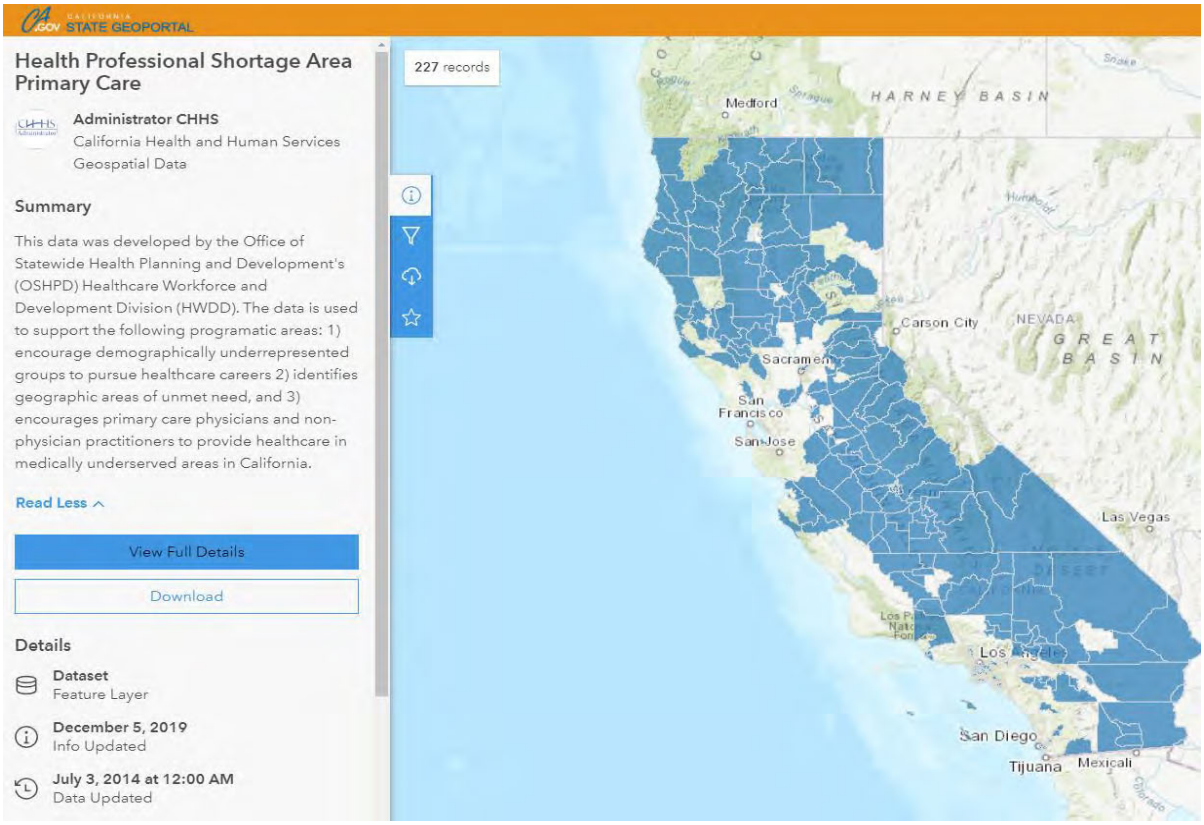
Sincerely,

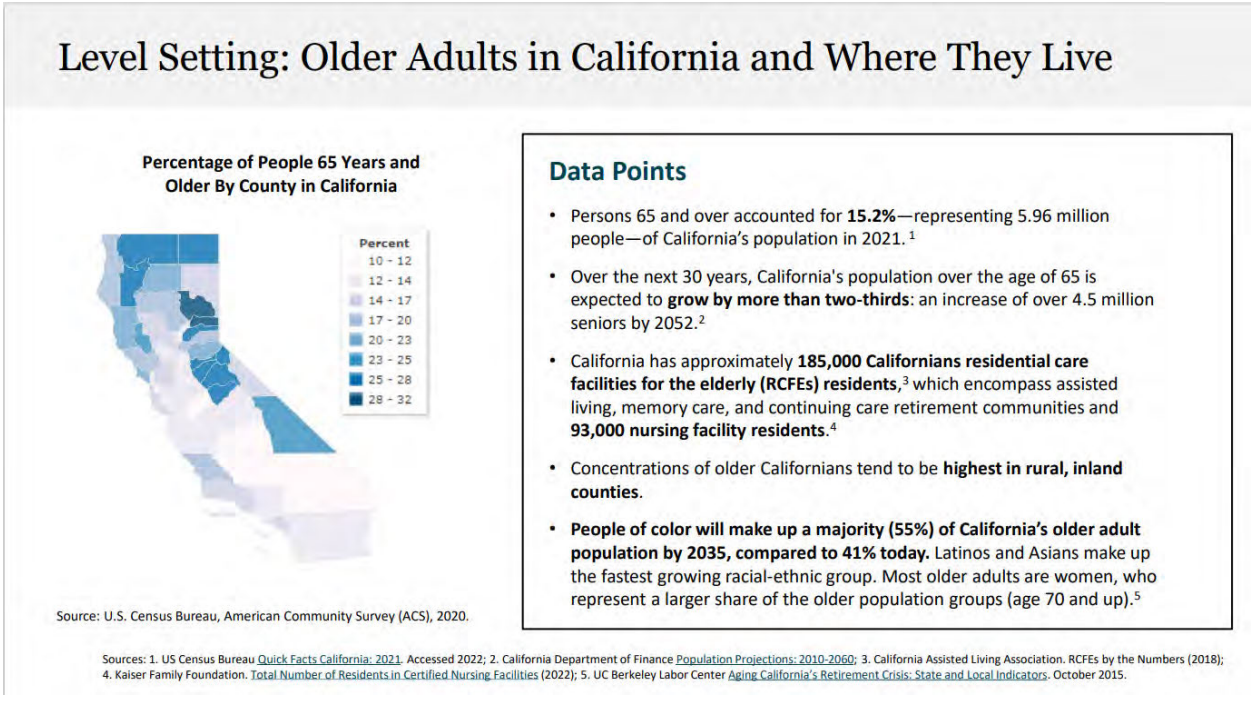
Christopher A. Langston, PhD
President and CEO
Archstone Foundation

[4] https://www.rand.org/health-care/projects/acove.html

Appendix A

Health Professional Shortage Area – Primary Care





[redacted]

When reviewing state regulations, it would seem as if AB-890 is not in effect until Jan 1st 2023. I have a few questions regarding the passage and enforcement of such regulation:

(1) How would, lets say, a facility such as a pharmacy, determine if the NP has full scope practice authority starting 2023, being that it requires the applicant meet specific requirements to do so?
(2) It has come to our attention that many mid-level practitioners have sent e-rxs which do not list a supervising physician. Upon inquiry, and pushback saying that adding a supervising physician cannot be done, those controlled substance prescriptions are consequently sent elsewhere.
(3) What is the consequence of operating individual practices, or without physician oversight for the licensee?

Thank you!

[redacted]

October 31, 2022

Marissa Clark
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Re: **Proposed Regulations Relating to Categories and Scope of Practice for Nurse Practitioners**

Dear Ms. Clark:

Our organizations, representing providers, clinics, hospitals, behavioral health experts, and health advocates, among others, are writing regarding the Board of Registered Nursing's (BRN) proposed regulations to implement AB 890 (Chpt. 265, Statutes of 2020), related to categories and scope of practice for nurse practitioners.

We strongly supported AB 890 when it was in the Legislature and we appreciate the work the BRN has undertaken over the last two years to fully implement AB 890. We believe these regulations will finally move California toward achieving the goal of AB 890, which was to allow nurse practitioners to work to the full extent of their education and training to expand access to care.

AB 890 was passed to address an extreme provider shortage in our state that is impacting patient access to care. In the two years since AB 890 was enacted, this shortage has only intensified and Californians have continued to struggle to access health care providers throughout the State. Nurse practitioners are highly-trained providers who research shows are extremely qualified to address these gaps in care, without physician supervision.

AB 890 went through a rigorous legislative process, with extensive vetting and multiple amendments. It was passed with strong, bipartisan support. It is incredibly important that this Board finish its work and adopt these regulations at your November 14-15 board meeting so that the goals of AB 890 can be realized and so that California can provide better access to care for patients who need it.

Sincerely,

Penney Cowan, Founder & CEO
American Chronic Pain Association

Sarah Bridge, Senior Legislative Advocate
Association of California Healthcare Districts

Adrienne Shilton, Director of Public Policy
California Alliance of Child & Family Services

Cynthia Jovanov, DNP, MBA, FNP-BC, ACNP-BC, President
California Association for Nurse Practitioners

Sheree Lowe, Vice President of Policy
California Hospital Association

Kathy Konst, Executive Director
California Naturopathic Doctors Association

Andrew Pederson, Capitol Director
Govern for California

Michael Vicioso, CPNP, Co-Owner
Growing Healthy Together

Matt Legé, Government Relations Advocate
SEIU California State Council

Ron Ordona, DNP, FNP-BC, GS-C, Administrator
Senior Care Clinic House Calls

Tara Gamboa-Eastman, Senior Advocate
Steinberg Institute

CC: Loretta Melby, Executive Officer, Board of Registered Nursing
The Honorable Governor Gavin Newsom
The Honorable Assembly Member Jim Wood
The Honorable Toni Atkins, California State Senate Pro Tem
Kimberly Kirchmeyer, Director, Department of Consumer Affairs (DCA)

PROTEUS INC.
... for Education, Employment and Community Services

Administration

October 26, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834-1924

Re: Assembly Bill 890 Implementation – Patient Protection

Dear Ms. Clark,

Proteus Inc. would like to provide comments regarding the California Board of Registered Nursing (BRN) proposed regulations for AB 890 (Wood) released September 16, 2022. AB 890, which was signed into law in 2020, allows two new categories of nurse practitioners to perform procedures without doctor supervision. AB 890 does not require the same educational, residency and training requirements that medical doctors must complete in order to practice medicine which is a concern for our low-income communities of color.

Proteus Inc. is a non-profit, community-based organization serving farmworkers and other low-income participants in the areas of Fresno, Tulare, Kern and Kings Counties. Our communities have always been some of the most underserved in the State of California.

Community groups have been providing written and verbal comments at the California Board of Registered Nursing Board meetings and the Nurse Practitioner Advisory Committee meetings for over a year. Community groups have also met with BRN staff to discuss our concerns. We regret to inform you that we continue to have concerns with the proposed regulations because they do not prioritize patient safety and patient information. We have been requesting that the California Board of Registered Nursing ensures that adequate regulations are adopted so that all communities, regardless of economic status or race receive high quality care.

We represent low-income Californians in rural and urban areas that are in need of quality health care services. Many of the individuals that we serve and represent are challenged by poverty, food insecurity, violence, language barriers and are underinsured and unemployed. All Californians, regardless of race or economic status, should have access to high quality health care to live a long life. Poverty has been linked to death and disease and having wealth and a higher income provide material benefits such as healthier living conditions and access to health care.

Accordingly, it is imperative the Board of Registered Nursing revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare and services.

Through regulations, the Board of Registered Nursing must ensure the following:

- Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.

- Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.

- Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:

    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
    - The right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
    - The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.

  Patients should have a right to receive this information from a nurse practitioner in writing and without request. Placing such disclosure requirements on the nurse practitioner will ensure that all patients, and especially those in low-income communities, receive critical information about their care that they can have for future reference. The ability of a patient to receive these critical patient safety and consumer protection safeguards should not depend on their understanding of the healthcare system or a onetime conversation with a nurse practitioner.

Our communities continue to face predatory practices by businesses because of language barriers and limited economic resources. In response to our requests, the BRN staff has stated that they cannot enact regulations that are burdensome and which will make a patient weary when seeing a nurse practitioner. Written disclosures will only make patients more comfortable regarding the services they will receive from a nurse practitioner.

Regulations should be enacted to curb predatory practices such as unnecessary medical services and products. Our immigrant communities are offered immigration legal services by individuals that are not licensed to practice law or dentistry. Our communities face predatory lending services and are targets of fraud by many unscrupulous businesses. We cannot create a second tier of health care which would have negative impacts in our communities. Our communities deserve to have the option to see a medical doctor when they are seeking medical services and be sufficiently informed and educated about when their health care provider is not a medical doctor, the limits of the nurse practitioner they are being treated by, and the circumstances for any referrals.

Sincerely,

Michelle Engel-Silva
Chief Executive Officer
Proteus Inc.

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P.O. Box 727 • Visalia, CA 93279

California
Human Development
Creating Opportunities

October 26, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834-1924

Re: Assembly Bill 890 Implementation – Patient Protection

Dear Ms. Clark,

California Human Development would like to provide comments regarding the California Board of Registered Nursing (BRN) proposed regulations for AB 890 (Wood) released September 16, 2022. AB 890, which was signed into law in 2020, allows two new categories of nurse practitioners to perform procedures without doctor supervision. AB 890 does not require the same educational, residency, and training requirements that medical doctors must complete in order to practice medicine, which is a concern for our low-income communities of color.

California Human Development is a non-profit, community-based organization serving farmworkers and other low-income participants in the thirty-one counties of Northern California. Our communities are some of the most underserved in the State of California.

Community groups have been providing written and verbal comments at the California Board of Registered Nursing Board meetings and the Nurse Practitioner Advisory Committee meetings for over a year. Community groups have also met with BRN staff to discuss our concerns. We regret to inform you that we continue to have concerns with the proposed regulations because they do not prioritize patient safety and patient information. We have been requesting that the California Board of Registered Nursing ensure that adequate regulations are adopted so that all communities, regardless of economic status or race receive high quality care.

We represent low-income Californians in rural and urban areas that need quality health care services. Many of the individuals that we serve and represent are challenged by poverty, food insecurity, violence, language barriers, and are underinsured and unemployed. All Californians, regardless of race or economic status, should have access to high quality health care. Poverty has been linked to death and disease and having wealth and a higher income provide material benefits such as healthier living conditions and access to health care.

Accordingly, it is imperative the Board of Registered Nursing revise their regulations to better ensure that low-income communities receive high quality, affordable health care and services. Through regulations, the Board of Registered Nursing must ensure the following:

- Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.
- Nurse practitioners must be adequately assessed to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.
- Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:
    - the right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
    - the right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
    - the right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.

Patients should have a right to receive this information from a nurse practitioner in writing and without request. Placing such disclosure requirements on the nurse practitioner will ensure that all patients, and especially those in low-income communities, receive critical information about their care that they can have for future reference. The ability of a patient to receive these critical patient safety and consumer protection safeguards should not depend on their understanding of the health care system or a one-time conversation with a nurse practitioner.

Our communities continue to face predatory practices by businesses because of language barriers and limited economic resources. In response to our requests, the BRN staff has stated that they cannot enact regulations that are burdensome, and which may make a patient weary when seeing a nurse practitioner. Written disclosures will make patients more comfortable regarding the services they will receive from a nurse practitioner.

Regulations should be enacted to curb predatory practices such as unnecessary medical services and products. Our immigrant communities are too often offered services by individuals who are not licensed to practice medicine, dentistry, or law. Our communities also face predatory lending services and are targets of fraud by many unscrupulous businesses. We cannot create a second tier of health care which would have negative impact in our communities. Our communities deserve to have the option to see a medical doctor when they are seeking medical services and be sufficiently informed and educated about when their health care provider is not a medical doctor, the limits of the nurse practitioner they are being treated by, and the circumstances for any referrals.

Sincerely,

Thomas Stuebner

Thomas Stuebner
Chief Executive Officer

Center *for* Employment Training
Central Administration
701 Vine Street San Jose, CA 95110 Phone (408) 534-5360

October 26, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834-1924

Re: Assembly Bill 890 Implementation – Patient Protection

Dear Ms. Clark–

The Center for Employment Training would like to provide comments regarding the California Board of Registered Nursing (BRN) proposed regulations for AB 890 (Wood) released September 16, 2022. AB 890, which was signed into law in 2020, allows two new categories of nurse practitioners to perform procedures without doctor supervision. AB 890 does not require the same educational, residency and training requirements that medical doctors must complete in order to practice medicine which is a concern for our low-income communities of color.

The mission of CET, an economic and community development corporation, is to promote human development and education by providing people with marketable skills training and supportive services that contribute to self-sufficiency.

Community groups have been providing written and verbal comments at the California Board of Registered Nursing Board meetings and the Nurse Practitioner Advisory Committee meetings for over a year. Community groups have also met with BRN staff to discuss our concerns. We regret to inform you that we continue to have concerns with the proposed regulations because they do not prioritize patient safety and patient information. We have been requesting that the California Board of Registered Nursing ensures that adequate regulations are adopted so that all communities, regardless of economic status or race receive high quality care.

We represent low-income Californians in rural and urban areas that are in need of quality health care services. Many of the individuals that we serve and represent are challenged by poverty, food insecurity, violence, language barriers and are underinsured and unemployed. All Californians, regardless of race or economic status, should have access to high quality health care to live a long life. Poverty has been linked to death and disease and having wealth and a higher income provide material benefits such as healthier living conditions and access to health care.

Accordingly, it is imperative the Board of Registered Nursing revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare and services.

Through regulations, the Board of Registered Nursing must ensure the following:

- Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.

· Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.

· Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:

  - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
  - The right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
  - The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.

Patients should have a right to receive this information from a nurse practitioner in writing and without request. Placing such disclosure requirements on the nurse practitioner will ensure that all patients, and especially those in low-income communities, receive critical information about their care that they can have for future reference. The ability of a patient to receive these critical patient safety and consumer protection safeguards should not depend on their understanding of the healthcare system or a onetime conversation with a nurse practitioner.

Our communities continue to face predatory practices by businesses because of language barriers and limited economic resources. In response to our requests, the BRN staff has stated that they cannot enact regulations that are burdensome and which will make a patient weary when seeing a nurse practitioner. Written disclosures will only make patients more comfortable regarding the services they will receive from a nurse practitioner.

Regulations should be enacted to curb predatory practices such as unnecessary medical services and products. Our immigrant communities are offered immigration legal services by individuals that are not licensed to practice law or dentistry. Our communities face predatory lending services and are targets of fraud by many unscrupulous businesses. We cannot create a second tier of health care which would have negative impacts in our communities. Our communities deserve to have the option to see a medical doctor when they are seeking medical services and be sufficiently informed and educated about when their health care provider is not a medical doctor, the limits of the nurse practitioner they are being treated by, and the circumstances for any referrals.

Sincerely,

Hermelinda Sapien

Hermelinda Sapien
President & CEO
The Center for Employment Training

CENTRAL VALLEY OPPORTUNITY CENTER, Inc.

"Helping People... Changing Lives"

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October 26, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834-1924

Re: Assembly Bill 890 Implementation – Patient Protection

Dear Ms. Clark–

Central Valley Opportunity Center would like to provide comments regarding the California Board of Registered Nursing (BRN) proposed regulations for AB 890 (Wood) released September 16, 2022. AB 890, which was signed into law in 2020, allows two new categories of nurse practitioners to perform procedures without doctor supervision. AB 890 does not require the same educational, residency and training requirements that medical doctors must complete in order to practice medicine which is a concern for our low-income communities of color.

Central Valley Opportunity Center, Inc. is a non-profit 501(c) (3) employment training and service provider serving the California counties of Merced, Madera, and Stanislaus. Our mission is to provide employment, skills training, education, and emergency services to improve the quality of life for farm workers and underserved members in our communities.

Community groups have been providing written and verbal comments at the California Board of Registered Nursing Board meetings and the Nurse Practitioner Advisory Committee meetings for over a year. Community groups have also met with BRN staff to discuss our concerns. We regret to inform you that we continue to have concerns with the proposed regulations because they do not prioritize patient safety and patient information. We have been requesting that the California Board of Registered Nursing ensures that adequate regulations are adopted so that all communities, regardless of economic status or race receive high quality care.

We represent low-income Californians in rural and urban areas that are in need of quality health care services. Many of the individuals that we serve and represent are challenged by poverty, food insecurity, violence, language barriers and are underinsured and

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Sincerely,

Jorge De Nava Jr.
Executive Director
Central Valley Opportunity Center

La Cooperativa Campesina de California

October 20, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834-1924

Re: Assembly Bill 890 Implementation – Patient Protection

Dear Ms. Clark–

La Cooperativa Campesina de California (La Cooperativa) would like to provide comments regarding the California Board of Registered Nursing (BRN) proposed regulations for AB 890 (Wood) released September 16, 2022. AB 890, which was signed into law in 2020, allows two new categories of nurse practitioners to perform procedures without doctor supervision. AB 890 does not require the same educational, residency and training requirements that medical doctors must complete in order to practice medicine which is a concern for our low-income communities of color.

La Cooperativa is the statewide association of agencies implementing and administering farm worker service programs. In an occupation dominated by instability and poverty, member agencies help our clients and their communities achieve lasting prosperity and self-sufficiency through education, training, placement, and other supportive services. Collectively, La Cooperativa member agencies operate more than 80 locally-engaged, bilingual offices. Our involved, collaborative model enables us to gain the trust of rural communities and makes our organization an essential vehicle for rural services delivery.

Community groups have been providing written and verbal comments at the California Board of Registered Nursing Board meetings and the Nurse Practitioner Advisory Committee meetings for over a year. Community groups have also met with BRN staff to discuss our concerns. We regret to inform you that we continue to have concerns with the proposed regulations because they do not prioritize patient safety and patient information. We have been requesting that the California Board of Registered Nursing ensures that adequate regulations are adopted so that all communities, regardless of economic status or race receive high quality care.

We represent low-income Californians in rural and urban areas that are in need of quality health care services. Many of the individuals that we serve and represent are challenged by poverty, food insecurity, violence, language barriers and are underinsured and unemployed. All Californians, regardless of race or economic status, should have access to high quality health care to live a long life. Poverty has been linked to death and disease and having wealth and a higher income provide material benefits such as healthier living conditions and access to health care.

Accordingly, it is imperative the Board of Registered Nursing revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare and services.

Through regulations, the Board of Registered Nursing must ensure the following:

- Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.
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- Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:

    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
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Patients should have a right to receive this information from a nurse practitioner in writing and without request. Placing such disclosure requirements on the nurse practitioner will ensure that all patients, and especially those in low-income communities, receive critical information about their care that they can have for future reference. The ability of a patient to receive these critical patient safety and consumer protection safeguards should not depend on their understanding of the healthcare system or a onetime conversation with a nurse practitioner.

Our communities continue to face predatory practices by businesses because of language barriers and limited economic resources. In response to our requests, the BRN staff has stated that they cannot enact regulations that are burdensome and which will make a patient weary when seeing a nurse practitioner. Written disclosures will only make patients more comfortable regarding the services they will receive from a nurse practitioner.

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Sincerely,

Marco Lizarraga
Executive Director
La Cooperativa Campesina de California (La Cooperativa)

Siddiqui, Ras@DCA

From: [redacted]
Sent: Monday, October 31, 2022 5:55 PM
To: Clark, Marissa@DCA
Subject: Proposed Rulemaking for NPs AB 890

WARNING: This message was sent from outside the CA Gov network. Do not open attachments unless you know the sender: [redacted]

Hello Marissa, thank you for taking in our comments. I support the verbiage overall for the proposed NP rulemaking. The only area that I do not agree with is:

Verbally inform all new patients in a language understandable to the patient that a nurse practitioner is not a physician and (change to "or") surgeon. For purposes of Spanish language speakers, the nurse practitioner shall use the standardized phrases "enfermera especializada" or "enfermero especializado."

I provided comment in earlier stages and still disagree with the verbiage of Especializada. This refers to a nurse that is specialized. Many nurses are specialized in areas such as pediatrics, neonatology, oncology, etc. This does not mean they are Nurse Practitioners. The phrase that would be more understandable to Spanish speakers would be

For purposes of Spanish language speakers, the nurse practitioner shall use the standardized phrases "enfermera/o avanzada/o certificada/o en practica medica" or "enfermera/o avanzada/o certificada/o para realizar practica medica"

Thank you, [redacted] FNP-BC, RN-PBC, PHN

Re: Notice of Proposed Action: Categories of Nurse Practitioners and Scope of Practice

Dear Ms. Marissa Clark,

On September 20, 2022, the California Board of Registered Nurses (the "Board") released its Notice of Proposed Action: Categories of Nurse Practitioners and Scope of Practice ("Notice"), which seeks to amend and add sections pursuant to AB 890. In accordance with the procedures set forth in the Notice, we are submitting the following comments on behalf of a psychiatric practice providing mental health care via digital platforms that facilitate telehealth services. Given the pervasive use of telehealth modalities and the high demand for accessible healthcare, particularly in the behavioral health space, we believe the proposed regulations should expressly provide language that encompasses telehealth and similar digital health platforms. Specifically, we would like to address (1) the notice requirement under Section 1487, which calls for the publishing of a notice "on the premises" where healthcare services are provided; and (2) the "transition to practice" protocol that requires 4600 hours of experience to be completed "in California" and "in direct patient care."

Telehealth as a prominent healthcare modality

Throughout the COVID-19 pandemic, telehealth services proved to be indispensable to both practitioners and patients by facilitating quality and accessible healthcare. By connecting provider and patient without the need to be physically present in the same room, telehealth provided essential healthcare services to the most vulnerable and underserved populations while mitigating the stress on an overwhelmed and understaffed medical workforce. In April 2020, during the first surge of COVID-19 cases, remote healthcare accounted for 69% of provider visits.[1] In 2021, a majority of U.S. broadband households reported using a telehealth service within the last twelve months, and more than a third of those households reported telehealth as their sole option to see their provider.[2] As new COVID-19 subvariants arise and spread, these telehealth trends are likely to continue if not accelerate. Moreover, telehealth has application in the much broader healthcare ecosystem as a standard offering. Indeed, both federal and state agencies have amended their regulations to reflect this expansion of virtual care models. Likewise, we request that the Board consider revising the proposed rules to include language that takes into account telehealth's growing prominence in healthcare.

The Notice Requirement

§ 1487 Notice to Consumers.
Except when working in facilities under the Department of Corrections and Rehabilitation, a nurse practitioner engaged in providing healthcare services shall do all of the following:
(a) Prominently post a notice, in at least 48-point Arial font, in a conspicuous location accessible to public view on the premises where the nurse practitioner provides the healthcare services.

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[1] Robert Pearl & Brian Wayling, *The Telehealth Era Is Just Beginning*, HARVARD BUS. REV., (June 2022), https://hbr.org/2022/05/the-telehealth-era-is-just-beginning%20.
[2] Katie Adams*, 7 Stats That Show How Americans Used Telehealth in 2021*, BECKER'S HOSP. REV. (Dec. 6, 2021), https://www.beckershospitalreview.com/telehealth/7-stats-that-show-how-americans-used-telehealth-in-2021.html.

As currently written, the notice requirement presumes that the patient is receiving healthcare at a physical location. Such a presumption is incompatible with current data that establishes the healthcare field's embrace of telehealth as an efficient and effective form of healthcare delivery.[3] We suggest that the proposed rules permit an electronic posting, as a supplement to the physical posting for healthcare professionals who deliver care via telehealth. In fact, the United States Department of Labor issued guidance in 2020 stated that an electronic posting was a sufficient form of conspicuous and prominent notice where there is no physical establishment.[4]

"Transition to Practice" Requirements

§ 1482.4 Requirements for a Nurse Practitioner Certification Pursuant to Business and Professions Code Section 2837.104.
(A) For purposes of this subdivision, "transition to practice" means 4600 hours or three full-time equivalent years of clinical practice experience and mentorship that are all of the following:
(i) Completed in California . . .
(iv) Completed in direct patient care in the role of a nurse practitioner in the category listed in Section 1481(a) in which the applicant seeks . . . .

We ask that the Board consider clarifying these requirements so as to encompass remote healthcare services. As written, these requirements do not appear to consider telehealth practices in which a provider, licensed in California, is providing care to patients in California from a remote location. Other states have amended their rules to reflect the expansion of virtual health services. For example, in the Texas Occupational Code, references to direct observation of a patient or direct care or services provided to a patient by a health professional expressly includes the provision of that observation, care, or service using telehealth services.[5] Adding a definition of direct patient care to encompass remote telehealth services, or a clarification to the definition of telehealth for purposes of this section, would provide much needed clarity in a rapidly evolving regulatory landscape.

Conclusion

We support the Board's mission of improving access to quality healthcare services, and we are encouraged by its commitment to ensuring Californians receive a high standard of care. The aforementioned comments and suggestions align with the Board's stated goals of increasing coverage, access, and affordability to healthcare, particularly in light of the shortage of primary care physicians in rural and underserved areas. However, the rules as presently drafted appear to present obstacles, impeding the delivery of essential health services by assuming all patients receive healthcare in person. Revising the rules to encompass telehealth services would best advance the Board's goals and help mitigate disparate health outcomes through increased healthcare accessibility.

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[3] *Id.*
[4] Dept. of Labor, Field Assistance Bulletin No. 2020-7, https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/fab_2020_7.pdf%20.
[5] Tex. Occ. Code § 51.501(3)(c).

Accordingly, we submit these comments for the Board's consideration.

Thank you,

Jarrod S. Brodsky
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

CASA DEL DIABÉTICO
GUALÁN - USA

October 26, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834-1924

Re: Assembly Bill 890 Implementation – Patient Protection

Dear Ms. Clark–

Casa Del Diabetico Gualan would like to provide comments regarding the California Board of Registered Nursing (BRN) proposed regulations for AB 890 (Wood) released September 16, 2022. AB 890, which was signed into law in 2020, allows two new categories of nurse practitioners to perform procedures without doctor supervision. AB 890 does not require the same educational, residency and training requirements that medical doctors must complete in order to practice medicine which is a concern for our low-income communities of color.

Casa Del Diabetico Gualan represents low-income Californians in rural and urban areas that are in need of quality health care services. Many of the individuals that we serve and represent are challenged by poverty, food insecurity, violence, language barriers and are underinsured and unemployed. All Californians, regardless of race or economic status, should have access to a high quality of life.

Community groups have been providing written and verbal comments at the California Board of Registered Nursing Board meetings and the Nurse Practitioner Advisory Committee meetings for over a year. Community groups have also met with BRN staff to discuss our concerns. We regret to inform you that we continue to have concerns with the proposed regulations because they do not prioritize patient safety and patient information. We have been requesting that the California Board of Registered Nursing ensures that

adequate regulations are adopted so that all communities, regardless of economic status or race receive high quality care.

We represent low-income Californians in rural and urban areas that are in need of quality health care services. Many of the individuals that we serve and represent are challenged by poverty, food insecurity, violence, language barriers and are underinsured and unemployed. All Californians, regardless of race or economic status, should have access to high quality health care to live a long life. Poverty has been linked to death and disease and having wealth and a higher income provide material benefits such as healthier living conditions and access to health care.

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Sincerely,

Fredy Lopez
Secretary
Casa Del Diabetico Gualan

October 26, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834-1924

Re: Assembly Bill 890 Implementation – Patient Protection

Dear Ms. Clark–

Los Amigos de la Comunidad would like to provide comments regarding the California Board of Registered Nursing (BRN) proposed regulations for AB 890 (Wood) released September 16, 2022. AB 890, which was signed into law in 2020, allows two new categories of nurse practitioners to perform procedures without doctor supervision. AB 890 does not require the same educational, residency and training requirements that medical doctors must complete in order to practice medicine which is a concern for our low-income communities of color.

Los Amigos de la Comunidad is a nonprofit organization committed to advocating for all underserved and under-represented families, farmworkers, immigrants and members of our community. We advocate for social and economic justice, immigrant and farmworker rights, as well as promoting health equity and community service. We are the voice for the people in our community who often go unheard, ignored, and overlooked.

Community groups have been providing written and verbal comments at the California Board of Registered Nursing Board meetings and the Nurse Practitioner Advisory Committee meetings for over a year. Community groups have also met with BRN staff to discuss our concerns. We regret to inform you that we continue to have concerns with the proposed regulations because they do not prioritize patient safety and patient information. We have been requesting that the California Board of Registered Nursing ensures that adequate regulations are adopted so that all communities, regardless of economic status or race receive high quality care.

We represent low-income Californians in rural and urban areas that are in need of quality health care services. Many of the individuals that we serve and represent are challenged by poverty, food insecurity, violence, language barriers and are underinsured and unemployed. All Californians, regardless of race or economic status, should have access to high quality health care to live a long life. Poverty has been linked to death and disease and having wealth and a higher income provide material benefits such as healthier living conditions and access to health care.

Accordingly, it is imperative the Board of Registered Nursing revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare and services.

Through regulations, the Board of Registered Nursing must ensure the following:

- Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.
- Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.

- Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:

    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
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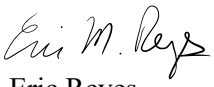
Our communities continue to face predatory practices by businesses because of language barriers and limited economic resources. In response to our requests, the BRN staff has stated that they cannot enact regulations that are burdensome and which will make a patient weary when seeing a nurse practitioner. Written disclosures will only make patients more comfortable regarding the services they will receive from a nurse practitioner.

Regulations should be enacted to curb predatory practices such as unnecessary medical services and products. Our immigrant communities are offered immigration legal services by individuals that are not licensed to practice law or dentistry. Our communities face predatory lending services and are targets of fraud by many unscrupulous businesses. We cannot create a second tier of health care which would have negative impacts in our communities. Our communities deserve to have the option to see a medical doctor when they are seeking medical services and be sufficiently informed and educated about when their health care provider is not a medical doctor, the limits of the nurse practitioner they are being treated by, and the circumstances for any referrals.

Sincerely,



Eric Reyes
Executive Director
Los Amigos de la Comunidad, Inc.

October 26, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834-1924

Re: Assembly Bill 890 Implementation – Patient Protection

Dear Ms. Clark–

Coalición de Buena Salud y Bienestar would like to provide comments regarding the California Board of Registered Nursing (BRN) proposed regulations for AB 890 (Wood) released September 16, 2022. AB 890, which was signed into law in 2020, allows two new categories of nurse practitioners to perform procedures without doctor supervision. AB 890 does not require the same educational, residency and training requirements that medical doctors must complete in order to practice medicine which is a concern for our low-income communities of color.

Community groups have been providing written and verbal comments at the California Board of Registered Nursing Board meetings and the Nurse Practitioner Advisory Committee meetings for over a year. Community groups have also met with BRN staff to discuss our concerns. We regret to inform you that we continue to have concerns with the proposed regulations because they do not prioritize patient safety and patient information. We have been requesting that the California Board of Registered Nursing ensures that adequate regulations are adopted so that all communities, regardless of economic status or race receive high quality care.

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· Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:

- The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
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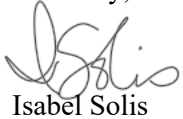

Isabel Solis
President
Coalición de Buena Salud y Bienestar

October 26, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834-1924

Re: Assembly Bill 890 Implementation – Patient Protection

Dear Ms. Clark–

Communities for a New California (CNC) would like to provide comments regarding the California Board of Registered Nursing (BRN) proposed regulations for AB 890 (Wood) released September 16, 2022. AB 890, which was signed into law in 2020, allows two new categories of nurse practitioners to perform procedures without doctor supervision. AB 890 does not require the same educational, residency and training requirements that medical doctors must complete in order to practice medicine which is a concern for our low-income communities of color.

Communities for a New California promotes economic prosperity and community health for residents in the rural areas of California. We bring valley residents together to champion the needs of poor and working-class families through community organizing, integrated leadership development, and mass non-partisan voter engagement.

Community groups have been providing written and verbal comments at the California Board of Registered Nursing Board meetings and the Nurse Practitioner Advisory Committee meetings for over a year. Community groups have also met with BRN staff to discuss these concerns. We regret to inform you that we continue to have concerns with the proposed regulations because they do not prioritize patient safety and patient information. Community groups have been requesting that the California Board of Registered Nursing ensures that adequate regulations are adopted so that all communities, regardless of economic status or race receive high quality care.

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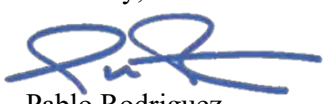

Pablo Rodriguez
Executive Director
Communities for a New California

COMITE CIVICO DEL VALLE, INC.
INFORMED PEOPLE BUILD HEALTHY COMMUNITIES
www.ccvhealth.org

October 26, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834-1924

Re: Assembly Bill 890 Implementation – Patient Protection

Dear Ms. Clark–

Comite Civico del Valle (CCV) would like to submit the following comments regarding the California Board of Registered Nursing (BRN) proposed regulations for AB 890 (Wood) released September 16, 2022. AB 890, which was signed into law in 2020, allows two new categories of nurse practitioners to perform procedures without doctor supervision. AB 890 does not require the same educational, residency and training requirements that medical doctors must complete in order to practice medicine which is a concern for our low-income communities of color.

Comite Civico del Valle is a 501 (c)(3) organization with an extensive background and accomplishments that date back to our grassroots origins in 1987. Our organization was founded in Imperial County, California with the endeavor of improving the lives of disadvantaged communities; informing, educating, and engaging the community's civic participation.

Community groups have been providing written and verbal comments at the California Board of Registered Nursing Board meetings and the Nurse Practitioner Advisory Committee meetings for over a year. Community groups have also met with BRN staff to discuss our concerns. We regret to inform you that we continue to have concerns with the proposed regulations because they do not prioritize patient safety and patient information. Community groups have been requesting that the California Board of Registered Nursing ensure that adequate regulations are adopted so that all communities, regardless of economic status or race receive high quality care.

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COMITE CIVICO DEL VALLE, INC.
INFORMED PEOPLE BUILD HEALTHY COMMUNITIES
www.ccvhealth.org

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Sincerely,

Luis Olmedo
Executive Director
Comite Civico del Valle

235 Main Street, Brawley, CA 92227 • Tel: (760) 351-8761 • Fax: (760) 351-8762

CalDerm
The Voice of California Dermatology

October 31, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Dear Ms. Clark,
The California Society of Dermatology and Dermatologic Surgery (CalDerm) appreciates the opportunity to provide input on the proposed regulations *Categories and Scope of Practice of Nurse Practitioners, Requirements for a Nurse Practitioner* as required under AB 890 (Wood, 2020).

CalDerm echoes the concerns of the California Medical Association that important patient protections remain missing for the proposal. Specifically, areas of concern include:

1) **Surgical Procedures** – Although the proposal nominally limits Nurse Practitioner independent practice to primary care, it does not address the need for proper training and experience for the procedures that are often provided in a primary care setting. Removal of skin lesions, for instance, is a surgical procedure sometimes performed by some primary care physicians and sometimes not. Nothing in draft addresses performing surgery, and nothing would seem to preclude a Section 104 NP from choosing to perform surgical procedures even if their 'transition to practice" program occurred in an office where such procedures weren't performed. **To protect patient safety, CalDerm strongly urges the BRN to prohibit independently practicing NPs from performing surgical procedures.**

2) **Transition to Practice** – The AB 890 statute makes clear that the Transition to Practice program is intended to provide "additional" knowledge and training beyond that which would be gained while working three years under supervision in a clinical setting. **Practice management, handling emergency situations, appropriate referral policy, and other basic features of independent medical practice should be delineated in the regulations as a part of a required curriculum.**

3) **Grandfathering/mothering clinical hours** – Again, Transition to Practice programs are intended to instruct NPs in the areas other than the typical scope of supervised practice.

Therefore, **any years spent simply engaged in supervised practice should not count toward the experience requirement**.

4) **Supplemental exam –** The statute notes that a supplemental exam may be appropriate for NPs applying to practice independently. As we have commented in the past, CalDerm believes **a supplemental state exam is appropriate.** Aside from helping to establish an individual's basic competency, it would help standardize the necessary skills and knowledge that all NPs would need to practice safely and competently, given that those skills and knowledge remain undefined under Transition to Practice.

5) **Operation and ownership of medi-spas** – The push for NP independent practice has seemingly gone hand-in-hand with a move toward the NP operation and ownership of cosmetic medi-spas. These facilities typically provide cosmetic services paid for out-of-pocket, which nonetheless consititute medical practice owing to the use of prescriptive drugs and devices. Medi-spas tend to be profitable, and therefore attractive business investments. Even now, there are challenges with patient safety, appropriate provision of services by mid-level providers, fair advertising and marketing, and transparent ownership structures. CalDerm believes that absent any restrictions, a certain percentage of newly independent providers will be drawn into this profitable area of medicine without adequate training, appropriate adherence to corporate bar restrictions, or formalized, affirmative referral arrangements. Simply, this is a profitable, fraught and complex area of practice in which services are typically rendered without the protections, utilization standards or other mediating features offered by a health insurer or health plan. **CalDerm strongly urges the BRN to prohibit NPs from owning/operating medi-spas until specific, appropriate patient protections can be studied and put in place.**

As the list shows, CalDerm believes the proposed regulations need significantly more clarity in several critical areas. We believe the California Legislature expected that level of clarity to emerge from the regulatory process. To our minds, the latest iteration of the regulations is still dangerously vague and non-proscriptive. For the sake California patients, CalDerm encourages much further consideration and work.

Sincerely,

Sheila Johnston

Sheila Johnston
Executive Director
California Society of Dermatology & Dermatologic Surgery (CalDerm)
E: sjohnston@calderm.org
P: 866-337-DERM
W: www.CalDerm.org

CAHSAH
Shaping the Future of Home Care
California Association for Health Services at Home

October 31, 2022

Marissa Clark
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Re: Proposed Regulations to Article 8 of Division 14 of Title 16 of the California Code of Regulations

Dear Ms. Clark:

The California Association for Health Services at Home (CAHSAH), the largest and oldest trade association representing licensed and Medicare Certified home health agencies, hospices and home care aide organizations since 1966 is pleased to comment on the proposed regulations that will impact the independent practice of nurse practitioners (NPs) in California. CAHSAH advocated strongly for the federal Balanced Budget Act of 1997 which included provisions to allow Medicare to reimburse NPs for providing physician services to Medicare patients and we have been actively involved in the passage and implementation of California's AB 890.

We appreciate the work that has been done by the Board's Nurse Practice Advisory Committee and have the following comments on the proposed regulations:

§1482.4 Requirements for a Nurse Practitioner Certification Pursuant to Business and Professions Code Section 2837.103
"For purposes of this subdivision, "transition to practice" means 4600 hours or three full-time equivalent years of clinical practice experience and mentorship that are all of the following" … It is our understanding that this sentence means no additional hours other than a total of 4600 are needed to complete the transition to practice for a nurse practitioner under this section.

We also would like clarification on how nurse practitioners who have been in good standing in another state and have practiced as a nurse practitioner for more than three years in another state will meet the requirements of section 2837.103 and section 2837.104.

Thank you for your consideration of the above comments and feel free to email me at dchalios@cahsah.org if you have any questions.

Sincerely,

Dean Chalios
President & CEO

November 1, 2022

Ms. Marissa Clark
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834
Email: Marissa.Clark@DCA.CA.Gov

RE: **Notice of Proposed Regulatory Action: Title 16, California Code of Regulations (CCR), Division 14, Article 8: Sections Definitions, § 1480 Categories and Scope of Practice of Nurse Practitioners, § 1481 Requirements for a Nurse Practitioner Certification Pursuant to Business and Professions Code Section 2837.103, § 1482.3 Requirements for a Nurse Practitioner Certification Pursuant to Business and Professions Code Section 2837.104, § 1482.4 Notice to Consumers, § 1487**

Dear Ms. Clark,

We are writing on behalf of the California Society of Plastic Surgeons (CSPS) and the American Society of Plastic Surgeons (ASPS). Thank you for allowing the opportunity to provide comments on the proposed regulations allowing nurse practitioners (NPs) to practice without physician supervision. We are concerned the regulations do not provide clarity on the question of whether nurse practitioners (NPs) who are practicing without supervision would be allowed to provide elective cosmetic services. Additionally, we are supportive of Section 1482.4(b) which outlines requirements for NPs practicing pursuant to Business and Professions code 2837.104 when referring patients to other physicians.

NPs performing elective cosmetic services

The clear intent of AB 890 (Wood), as communicated by Assemblymember Wood, was for the bill to result in more primary care providers. During the debate of AB 890 there was extensive discussion on the widening shortage of primary care physicians resulting in a significant lack of access to primary care for many Californians, in particular in rural and underserved areas. While presenting AB 890 in the Senate Business and Professions Committee on August 8, 2020, Assembly Wood stated when describing AB 890, “this is my attempt to deal with the shortage of

primary care in California"[1]. The analyses for AB 890 from both the Assembly Business and Professions Committee and the Senate Business, Professions and Economic Development Committee contained the statement below:

> *This bill is sponsored by the author. According to the author, "as the Legislature and Administration work together to increase coverage, access and affordability to healthcare for all Californian, it is apparent that our current workforce is not equipped to adequately address these goals. Less than half of the 139,000 licenses physicians in California are actively engaged in providing patient care. Of this number, only 32% are primary care physicians. The distribution of physicians also varies greatly by region with the San Joaquin Valley, Inland Empire and rural areas suffering the greatest shortages. While a number of initiatives, including loan forgiveness and expanded residency programs, have focused on improving this situation, we simply cannot train enough interested primary care physicians and need to engage in additional strategies to meet our workforce needs. One of the top recommendations from the California Health Workforce Commission, representing thought leaders from business, health, employment, labor and government, spent a year looking at how to improve California's ability to meet workforce demands. One of their top recommendations was to allow full practice authority for NPs. This bill aims to accomplish that goal in a measured and reasonable approach."*[2][3]

In addition to the legislative analysis, the materials put forward by the Board of Registered Nursing (BRN) mention the same background information to explain the need for the regulations as seen on pages two and three of the BRN Initial Statement of Reasons for these regulations. In addition, on page five of the Initial Statement of Reasons for these regulations, under the heading of Anticipated Benefits of the Regulatory Action, the Board states:

> *From a public health standpoint, the shortage of primary care physicians in rural and underserved areas means that NPs are a critical component to closing the provider gap in California's highest-need regions. Allowing NPs to utilize the full extent of their education and training by granting full practice authority is anticipated to result in high quality care, more primary care providers, and cost savings to the patient.* [4]

The proposed regulations in Section 1481 (b) do specify that a nurse practitioner applying for an expanded scope of practice may only do so if they are in one of the categories listed in Section 1481 (a). We feel the categories listed are broad enough for a nurse practitioner to provide elective cosmetic treatments inside or outside a group setting. Looking at the category in 1481

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[1] Senate Business, Professions and Economic Development Committee hearing August 8, 2020, https://www.senate.ca.gov/media-archive/default?title=&startdate=08%2F08%2F2020&enddate=08%2F08%2F2020

[2] California State Assembly Business and Professions Committee analysis of AB 890 (Wood), file:///C:/Users/Tim%20Madden/Downloads/201920200AB890_Assembly%20Business%20And%20Professions.pdf

[3] California State Senate Business, Professions, and Economic Development Committee analysis of AB 890 (Wood), file:///C:/Users/Tim%20Madden/Downloads/201920200AB890_Senate%20Business,%20Professions%20And%20Economic%20Development.pdf

[4] California Board of Registered Nursing, Initial Statement of Reasons, https://www.rn.ca.gov/pdfs/regulations/isor-ab890.pdf

(a)(1), we believe an NP could make an argument doing elective cosmetic Botox injections is a part of "family/individual across the lifespan". Looking at 1481 (a) (6), we believe an NP could make an argument that providing elective cosmetic Botox injections helps with a person's "Psychiatric-Mental Health". In our view, these categories are not specific enough to definitively state an NP is not allowed to provide elective cosmetic services without physician supervision. It is critical that elective cosmetic services are continued to be provided while under the supervision of a physician.

By not including clarifying language in the regulations saying NPs are not allowed to provide elective cosmetic services without physician supervision, the BRN is creating a pathway for NPs to move out of the very primary care areas they may be currently practicing in, to the detriment of the stated goal of the bill and regulations. In no way will the "anticipated goal of the regulations" to close the gap of primary care providers be met if the regulations end up allowing NPs to stop providing primary care to pursue a more lucrative pathway providing elective cosmetic services.

Since the clear intent of AB 890 is to have NPs provide primary care to address critical shortages in this area, the regulations should be specific to eliminate any possibility an NP pursues providing elective cosmetic services. We strongly urge the BRN to include additional clarifying language to say elective cosmetic services are not allowed under the pathways established for NPs to practice without physician supervision in sections 1482.3 and 1482.4 of the proposed regulations.

Section 1482.4 (b) – NPs and referral plans

We are supportive of the requirement for an NP who is practicing pursuant to Business and Professions Code 2837.104 to have a written protocol for consultation and a written plan for referrals to other physicians. Moreover, we are very supportive of the requirement for the NP to have the referral plan including the physician's acknowledgement and consent to the referral.

There could be situations where an NP may decide to refer a patient to a plastic surgeon for a suspected facial skin cancer. It is important for the timely care of the patient that the physician has an agreed upon arrangement with the NP for referrals. Otherwise, an NP may simply find a physician on a health plan or insurer provider directory and the physician is unaware of any referrals and consultations that could occur, which would raise potential liability concerns for the physician. It would also put the patient at risk if a physician were not actually available for a referral or consultation.

We appreciate your consideration of our comments. If you have any questions or would like to speak with our organizations, you may contact our legislative advocate Tim Madden at madden@mqadvocacy.com.

Regards,

William Hoffman

William Hoffman , M D, FACS
President, California Society of Plastic Surgeons (CSPS)

Gregory A. Greco, DO FACS
President, American Society of Plastic Surgeons (ASPS)

Cc: Loretta Melby, Executive Officer, Board of Registered Nursing
Kimberly Kirchmeyer, Director, Department of Consumer Affairs

C|S|A|P
CALIFORNIA STATE
ASSOCIATION OF PSYCHIATRISTS

November 1, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Dear Ms. Clark:

On behalf of the California State Association of Psychiatrists (CSAP), I write to respectfully provide input regarding the proposed regulations implementing the statute adopted by AB 890, which creates two new types of nurse practitioners (NPs)—commonly referred to as the 103 and 104 NPs. CSAP's overriding interest in providing these comments is that patient safety and consumer protection must be a shared commitment.

Supplemental Examination
CSAP recommends that the proposed regulations be amended to require a supplemental exam to become a 103 and 104 NP. The supplemental exam should also contain a clinical component to assess the ability of a 103 or 104 NP to exercise sound clinical judgment and decision-making without standardized procedures and physician supervision in a real-world environment involving actual patient interactions, and not simply through a didactic examination. Finally, because the purpose of the transition to practice required under AB 890 is to equip NPs with the clinical judgment and decision-making skills necessary to practice without physician supervision, we recommend the BRN specify that the supplemental exam be taken only after an NP successfully completes the required transition to practice hours. The BRN should specify in regulation that the 103 and 104 NP applicant must submit proof of passing the supplemental examination with their application material.

AB 890 requires the Department of Consumer Affairs' Office of Professional Examination Services to perform an occupational analysis by January 1, 2023, to determine, with the BRN, whether current testing for competency is sufficient to ensure advanced practice registered nurses can perform the functions specified in the bill. If the assessment identifies necessary additional competencies, the bill directs the BRN to develop a supplemental exam that properly validates identified competencies. If the regulations are not amended to include a supplemental examination, the BRN must be prepared to immediately begin the process to revise the regulations if the examination is deemed necessary.

Transition to Practice

The minimum standards for the transition to practice in the proposed regulations are largely a restatement of the language of AB 890 and do not provide the level of clarity and necessity as required under the Administrative Procedure Act (APA) and in line with what the Legislature intended to ensure that 103 and 104 NPs are delivering safe, high-quality care to patients. As an overarching matter, the proposed regulations lack clarity and necessity in that, in many instances, they simply restate the provisions in AB 890 without providing further meaningful guidance.[1] AB 890 defines transition to practice as "additional clinical experience and mentorship provided to prepare a nurse practitioner to practice independently." It goes on to say that clinical experience "may include experience obtained before January 1, 2021." (§2837.101) Therefore, while prior experience may be considered, the Legislature expressly chose to not exempt existing NPs from the transition to practice requirement, instead charging the BRN to create minimum standards for the transition to practice to prepare any NP, regardless of their level of experience, to practice without physician supervision as a 103 or 104 NP.

CSAP continues to believe that because every NP currently practicing in California must do so under standardized procedures with a physician, any clinical experience a current NP possesses is, by itself, insufficient to satisfy the transition to practice requirement. Rather, AB 890 makes clear that the transition to practice requirements are meant to ensure that NPs receive the additional clinical experience and mentorship necessary to practice "independently" and without physician supervision. Consequently, the regulations should not recognize hours completed before the regulations are finalized for purposes of the transition to practice. Instead, all 103 and 104 NP candidates, regardless of preexisting practice experience, should be required to complete the requisite hours to meet the transition to practice requirements after the regulations are operational.

CSAP requests that clinical experience and mentorship received for purposes of transition to practice be completed in a structured, BRN-approved clinical training program. Approved programs should cover specified competencies (established by the BRN) and include a process for evaluating progress in meeting milestones specific to the category of NP practice in which the applicant seeks certification that demonstrate an NP's preparation to practice without physician supervision.

The regulations should require that all NPs complete a minimum of one year of formal mentorship prior to being certified as a 103 or 104 NP as part of the transition to practice. The regulations should also define mentorship as a formal clinical preceptorship with a physician in the same area of practice. The mentorship should be specifically intended to prepare NPs to make independent clinical determinations in a complex healthcare environment and to assist NPs in acquiring new competencies required for providing safe, ethical, and high-quality care.

CSAP is appreciative that the experience gained toward the transition to practice must be within the last five years due to the rapidly evolving field. However, going forward, CSAP does not agree with previous experience being used towards the transition to practice.

The same logic of recent experience should be paralleled in the requirement for a 103 NP looking to become a 104 NP. Please add "within five years prior to the date the applicant applies for certification as a nurse practitioner pursuant to Section 2837.104" to §1482.4(a)(14) of the draft regulations for the same reasons outlined in the BRN's initial statement of reasons. Guaranteeing that a 104 NP has practiced as a 103 NP, without standardized procedures, within the last five years and is aware of current best practices will provide patients with a higher quality of care.

Consumer Protections
CSAP supports the BRN's inclusion of §1487, the Notice to Consumers, in the proposed regulations. Patient safety and consumer protection are a paramount priority to CSAP and it is crucial that patients in all communities throughout California understand the care they are receiving. However, CSAP finds that the consumer protections within the regulation once again fall short of the clarity required under the APA since the language mostly restates the statutory language.

To ensure effective communication and to reinforce the safeguards laid out in the Notice to Consumers, CSAP requests that the regulations include a requirement that all patient disclosures be provided both verbally and *in writing*. Patients have an understanding of how existing NPs function in the healthcare system. Requiring all disclosures to be made in writing will better ensure patients have information on how the new categories of NPs are different from current NPs. We urge the BRN to implement regulations that require written disclosures to patients to offer information on the care they are receiving in an accessible and understandable way.

Thank you for your consideration of our input and perspective. CSAP appreciates the opportunity to provide feedback to the BRN on the development of these important regulations.

Sincerely,

Dr. Emily Wood
Chairwoman, CSAP Governmental Affairs Committee

CC: Members, California Board of Registered Nursing
Members, Nurse Practitioner Advisory Committee
Loretta Melby, RN, MSN, Executive Officer, California Board of Registered Nursing

[1] For example, the proposed regulations contain a definition of "transition to practice" that merely distills certain temporal and location requirements already specified in the statute *See e.g.*, Business & Professions Code §2837.103(a)(1)(D) (the transition to practice must be completed in California); *cf.* proposed regulations §1482.3(a)(3)(A)(i) (transition to practice must be completed in California). However, the proposed regulations contain no substantive guidance on the type of clinical experience (and mentorship) that the BRN will consider to have satisfied the components of the transition to practice established in AB 890. The BRN, as mandated by the Legislature, must define these minimum standards. Business & Professions Code §2837.101 ("The board, shall, by regulation, define minimum standards for transition to practice.").

California Academy of Eye Physicians & Surgeons
PO Box 14347, San Francisco, CA 94114 ○ Phone: (415) 777-3937 ○ Fax: (415) 777-1082
e-mail: CaEyeMDs@aol.com ○ web: www.caeps.org

October 31, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Re: Proposed Amendments and Additions to Title 16, California Code of Regulations (CCR), Division 14, Article 8, §§ 1480, 1481, 1482.3, 1482.4, and 1487

Dear Ms. Clark:

On behalf of the California Academy of Eye Physicians and Surgeons, which represents the interests of the approximately 2,000 ophthalmologists practicing in our state and our patients, we are writing to comment on the above-referenced changes to Title 16 of the California Code of Regulations.

To limit redundancy, we will echo the concerns of the California Medical Association, which were separately submitted. However, for a few of those issues we will elaborate.

Transition to Practice
As you are aware, and similar to all Healing Arts Boards, Section 2708.1 of the Business and Professions Code (B&P) states:

> *Protection of the public shall be the highest priority for the Board of Registered Nursing in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.*

While the statute could have laid out every possible detail of the "Transition to Practice" called for in B&P Section 2837.101, it trusted the Board to "define minimum standards for transition to practice."

We are cognizant of the legislative intent expressed in B&P Section 2837.100 [the requirements…shall not be an undue or unnecessary burden to licensure or practice]. However, we remind the Board that this process is intended to prepare a Nurse Practitioner for ***independent*** practice, something the legislature – by requiring a "transition to practice" – is implicitly acknowledging has ***not*** occurred prior to that transition.

We further note that, while this process would not be fully comparable, California law requires closely supervised training with progressing levels of responsibility of at least three years (most residency programs are longer) for physicians and surgeons to practice independently. Therefore, failure to regulate ***any*** semblance of "structure" for this process

other than what is in the "bare bones" statutory language seems irresponsible. In short, "time served" without standards ***does not protect anyone.***

Indeed proposed CCR §1482.3 suggests the only needed "proof" that a "transition to practice" has occurred would be "one or more attestations" by specified professionals (note that one of these can be a physician and surgeon, but there is no obvious requirement that person be licensed or even practicing). We ask the Board to consider:

- Are these professionals expected to "certify" the ***competency*** of the potential CCR 2837.103 nurse practitioner?
- Who decides that those professionals are actually ***qualified*** to make that judgment?
- Would they (again) just be attesting to "time served?"

In short, we believe the public protection demands – and the legislature trusted the Board to develop – far more and meaningful specificity to this process, and the ***regulations should be revised to provide that specificity.***

Consumer Notices

We note that the CMA requests certain patient disclosures be both verbal and written. We note the Board has indicated in proposed CCR §1487 (c) that a 103 or 104 Nurse Practitioner must:

> *"Advise patients that they have the right to see a physician and surgeon on request and the circumstances under which they must be referred to see a physician and surgeon."*

Therefore, we believe the public would benefit – in addition to any written materials provided – from seeing ***these facts included in the posted "Notice to Consumers."*** For example:

NOTICE

Nurse practitioners are licensed and regulated
by the Board of Registered Nursing
(916) 322-3350
www.rn.ca.gov

A nurse practitioner is not a physician and surgeon.

You have the right to see a physician and surgeon on request.

You will be referred to a physician and surgeon if specific circumstances warrant.
Your nurse practitioner will explain those circumstances if you ask.

Note that we would also recommend the Board require these notices be posted in the common languages spoken where the practice is located.

Surgical Procedures

We strongly support CMA in its request that the regulations clarify that a "103" or "104" nurse practitioner not be permitted to perform surgical services. We note that the legislature just passed SB 1375 (two years after AB 890) that explicitly provided that a nurse practitioner can independently

perform an abortion by aspiration techniques – which is clearly a ***surgical*** procedure – with specified additional training. This establishes legislative intent that surgical procedures are unique and were not envisioned as part of the independent practice of nurse practitioners under AB 890 (otherwise SB 1375 would not have been needed).

Surgeries have unique risks and require expertise that would not typically and uniformly be acquired in a "transition to practice," and that fact should be respected in the interest of public protection.

Thank you for considering our comments.

Sincerely,

Craig H. Kliger, MD
Executive Vice President

Dear AB890 BRN advisory board,

The University of California has been a strong supporter of AB890 to improve access to care for California. We appreciate the unique challenges that the board faces as it prepares the infrastructure for independent NP practice. As a leading healthcare employer for advanced practice nurses, we also face challenges. We would appreciate the opportunity to share points of uncertainty that could be addressed by the advisory board to support full adoption from an organizational standpoint.

BPC 2837.103(b) provides that a clinic, health facility, facility, medical group practice, home health agency or hospice (as described in **BPC 2837.103(a)(2)(A)—(F))** "shall not interfere with, control, or otherwise direct the professional judgment of a nurse practitioner functioning pursuant to this section in a manner prohibited by Section 2400 or any other law."

The UC system utilizes advanced practice providers in team-based care roles; however, some roles will still work in a medical supervision model using standardized procedures. **We therefore request that the BRN clarify (1) whether an NP who is certified as a 103 NP from practicing in a role that still requires standardized procedures to perform the functions described in BPC 2837.103(c), and (2) whether an NP who is certified as a 104 NP can practice in a team-based care position (as a 103 NP) without standardized procedures.** We recognize that entrepreneurial NPs licensed as 103 and 104 NPs may own their own business in which they practice independently but also may choose to supplement their income by working for the University of California in a team-based care role. Understanding our obligations and limitations in those situations is critical.

Proposed Title 16, California Code of Regulations (CCR), Division 14, Article 8 to implement AB 890 (Chpt. 265, Statutes of 2020) related to nurse practitioners

Furthermore, at your November 14-15 meeting we urged the Board to expeditiously adopt the proposed regulations to Title 16, California Code of Regulations (CCR), Division 14, Article 8 to implement AB 890 (Chpt. 265, Statutes of 2020) related to nurse practitioners with some minor technical changes, which are outlined below.

1. **§ 1480. Definitions**

   (k) ~~[reserved]~~ "Group setting" means one of the settings or organizations set forth in Section 2837.103(a)(2) of the code ~~in which one or more physicians and surgeons practice with a nurse practitioner without standardized procedures~~.

Rationale: We propose deleting the language from the definition of "group setting" because it is duplicative of the language that the BRN proposes to add to Section 1481(b) to define the expanded scope of practice for 103 and 104 NPs.

2. **§1481. Categories and Scope of Practice of Nurse Practitioners.**

   (a) Categories of nurse practitioners include:

   1. **Family/individual across the lifespan;**
   2. **Adult-gerontology, primary care or acute care;**
   3. **Acute Care Nurse Practitioner;**
   4. **Adult Nurse Practitioner;**
   5. **Neonatal;**
   6. **Pediatrics, primary care or acute care;**
   7. **Women's health/gender-related;**
   8. **Psychiatric-Mental Health across the lifespan**

Rationale: We recognize that the "Acute Care Nurse Practitioner" and "Adult Nurse Practitioner" certifications have sunset. However, UC has some employees who hold those legacy certifications and may wish to apply for an expanded scope of practice pursuant to 2837.103 or 2837.104. Because the proposed language in Section 1481(b)(1) and (b)(2) refers to practicing "only in the category listed in subdivision(a)", we believe it is necessary to continue to list the legacy certifications in subdivision (a).

3. **§ 1482.3. Requirements for a Nurse Practitioner Certification Pursuant to Business and Professions Code Section 2837.103.**

Rationale: We believe that the CA BRN licensure database already contains and maintains the information listed below and therefore we are requesting the CA BRN obtain that information from its existing database instead of requiring the practitioner to provide the same information a second time.

We are also requesting the addition of language to subdivision (a)(13) to permit the CA BRN to recognize applications for expanded scope of practice from practitioners in other specialties (i.e., and not be limited to the categories of nurse practitioner listed in Section 1481(a)).

(a) To obtain certification as a nurse practitioner pursuant to Section 2837.103 of the code, an applicant shall hold a valid and active certification as a nurse practitioner in California and submit a completed application that includes the following:

(1) Applicant's full legal name ((Last Name) (First Name) (Middle Name) and/or (Suffix)),

Obtain from current CA BRN licensure database the following:

~~(2) Other name(s) applicant has used or has been known by,~~
~~(3) Applicant's physical address,~~
~~(4) Applicant's mailing address, if different than the applicant's physical address. The mailing address may be a post office box number or other alternate address,~~
~~(5) Email address, if any,~~
~~(6) Applicant's telephone number,~~
~~(7) Applicant's Social Security Number or Individual Taxpayer Identification Number,~~
~~(8) Applicant's birthdate (month, day, and year),~~

(9) California registered nurse license number issued by the Board,
(10) California nurse practitioner certification number issued by the Board,

Obtain from current CA BRN licensure database the following:

~~(11) Date of passage of the Board's national nurse practitioner board certification examination. Verification of this passage shall be provided directly to the board by the organization that administered the examination.~~

(12) Proof of holding a certification as a nurse practitioner by a national certification organization accredited by the National Commission for Certifying Agencies or the Accreditation Board for Specialty Nursing Certification (ABSNC) as a nurse practitioner in the category listed in Section 1481(a) in which the applicant seeks certification as a nurse practitioner pursuant to Section 2837.103 of the code. Verification of this certification shall be provided directly to the board by the issuing organization

(13) Proof of completion of a transition to practice by submitting to the board one or more attestations of a physician or surgeon, a nurse practitioner practicing pursuant to Section 2837.103 of the code, or a nurse practitioner practicing pursuant to Section 2837.104 of the code. Any physician or surgeon, a nurse practitioner practicing pursuant to Section 2837.103 of the code, or a nurse practitioner practicing pursuant to Section 2837.104 of the code submitting an attestation **must specialize in the same specialty area or category listed in** ~~Section 1481(a) in which the applicant seeks certification as a nurse practitioner pursuant~~ to Section 2837.103 of the code and must not have a familial or financial relationship with the applicant.

(A) For purposes of this subdivision, "transition to practice" means 4600 hours or three full-time equivalent years of clinical practice experience and mentorship that are all of the following:

(i) Completed in California.

(ii) Completed within ~~five~~ **seven** years prior to the date the applicant applies for certification as a nurse practitioner pursuant to Section 2837.103 of the code.

(iii) Completed after certification by the Board of Registered Nursing as a nurse practitioner.

(iv) Completed in direct patient care in the role of a nurse practitioner in the same specialty area and/or category listed in Section 1481(a) in which the applicant seeks certification as a nurse practitioner pursuant to Section 2837.103 of the code.

Rationale regarding § 1482.3 13A: this section is in line with the consensus model and our commitment to the community to provide them with qualified providers not practicing under standardized procedures. Adding the language for transition to practice in a specialty area allows the board to consider specialty practice applications

4. **§ 1482.4. Requirements for a Nurse Practitioner Certification Pursuant to Business and Professions Code Section 2837.104.**

Rationale: We believe that the CA BRN licensure database already contains and maintains the information listed below and therefore we are requesting the CA BRN obtain that information from its existing database instead of requiring the practitioner to provide the same information a second time.

We are also requesting the addition of language to subdivision (a)(13) to permit the CA BRN to recognize applications for expanded scope of practice from practitioners in other specialties (i.e., and not be limited to the categories of nurse practitioner listed in Section 1481(a)).

(a) To obtain certification as a nurse practitioner pursuant to Section 2837.104 of the code, an applicant shall hold a valid and active certification as a nurse practitioner in California and submit a completed application that includes the following:

(1) Applicant's full legal name ((Last Name) (First Name) (Middle Name) and/or (Suffix)),

Obtain from current CA BRN licensure database the following:

~~(2) Other name(s) applicant has used or has been known by,~~
~~(3) Applicant's physical address,~~
~~(4) Applicant's mailing address, if different than the applicant's physical address. The mailing address may be a post office box number or other alternate address,~~
~~(5) Email address, if any,~~
~~(6) Applicant's telephone number,~~
~~(7) Applicant's Social Security Number or Individual Taxpayer Identification Number,~~
~~(8) Applicant's birthdate (month, day, and year),~~

(9) California registered nurse license number issued by the Board,
(10) California nurse practitioner certification number issued by the Board,

Obtain from current CA BRN licensure database the following:

~~(11) Date of passage of the Board's national nurse practitioner board certification examination. Verification of this passage shall be provided directly to the board by the organization that administered the examination.~~

(12) Proof of holding a certification as a nurse practitioner by a national certification organization accredited by the National Commission for Certifying Agencies or the Accreditation Board for Specialty Nursing Certification (ABSNC) as a nurse practitioner in the category listed in Section 1481(a) in which the applicant seeks certification as a nurse practitioner pursuant to Section 2837.103 of the code. Verification of this certification shall be provided directly to the board by the issuing organization

(13) Proof of completion of a transition to practice by submitting to the board one or more attestations of a physician or surgeon or a nurse practitioner practicing pursuant to Section 2837.104 of the code. Any physician or surgeon or a nurse practitioner practicing pursuant to Section 2837.104 of the code submitting an attestation must specialize in the same specialty area or category listed in Section 1481(a) in which the applicant seeks certification as a nurse practitioner pursuant to Section 2837.104 of the code and must not have a familial or financial relationship with the applicant.

(A) For purposes of this subdivision, "transition to practice" means 4600 hours or three full-time equivalent years of clinical practice experience and mentorship that are all of the following:

(i) Completed in California.

(ii) Completed within ~~five~~ seven years prior to the date the applicant applies for certification as a nurse practitioner pursuant to Section 2837.104 of the

code.
(iii) Completed after certification by the Board of Registered Nursing as a nurse practitioner.
(iv) Completed in direct patient care in the role of a nurse practitioner in the same specialty area and/or category listed in Section 1481(a) in which the applicant seeks certification as a nurse practitioner pursuant to Section 2837.104 of the code.

Rationale regarding § 1482.4 13A: this section is in line with the consensus model and our commitment to the community to provide them with qualified providers not practicing under standardized procedures. Adding the language for transition to practice in a specialty area allows the board to consider specialty practice applications.

(b) Within 90 days of certification by the Board of Registered Nursing, a nurse practitioner practicing pursuant to Section 2837.104 of the code shall have a written protocol for consultation and a written plan for referrals, pursuant to Section 2837.104(c)(2) of the code.~~, and shall make that referral plan available to patients on request. If the written plan calls for referrals to a specific individual, the plan must include that individual's acknowledgment and consent to the referrals~~.

Rationale regarding proposed strike out wording in § 1482.4 15B: "~~and shall make that referral plan available to patients on request. If the written plan calls for referrals to a specific individual, the plan must include that individual's acknowledgment and consent to the referrals~~." This wording will delay care and obstruct access to care. This increases administrative burden on NPs and delays patients getting through the healthcare system. Furthermore, this is not in line with the requests of other healthcare providers, as there is no requirement to get agreement from referral provider.

We appreciate the opportunity to provide input on the very important work that the Board is doing in order to effectively and efficiently implement AB 890 and expand access to care throughout California.

Sincerely,

Ivette Becerra-Ortiz, DNP, MPH, NP, RN, NEA-BC, CPNP-PC
Chief of Advanced Practice Providers
University of California San Francisco Health

Christi DeLemos, MS, CNRN, ACNP-BC
Chief of Advanced Practice Providers
University of California Davis Health

Lisa Erickson DNP, RN, ACNP-BC
Senior Director of Advanced Practice Providers
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Lora Johnstone, MS, NNP-BC
Director of Advanced Practice Providers
University of California Los Angeles

Vasco Deon Kidd, DHSc, MPH, MS, PA-C.
Director of Advanced Practice Providers University of California Irvine Health
Member, California Physician Assistant Board

Siddiqui, Ras@DCA

From: [redacted]
Sent: Tuesday, November 1, 2022 4:30 PM
To: Clark, Marissa@DCA
Subject: Comments regarding Notice Title 16, California Code of Regulations (CCR), Division 14, Article 8

I wanted to make a comment regarding this posted regulatory language.

If the scope of BRN request to the OPES was to assess the alignment of National Certification NP Examination in the 8 categories of specialty to the scope of practice of California nurse practitioners, I am unclear why the OPES reached out to an undisclosed group of physician professionals to weigh in on transition to practice. Were these randomly selected? Were they considered to be SMEs based on their experience working in an interprofessional setting with nurse practitioners? Why was this group limited only to physicians and not inclusive of practicing nurse practitioners and other healthcare professionals?

I do not believe the OPES was asked to evaluate and make recommendations on the hours necessary to determine competency or years needed to demonstrate competency.

There is no setting regulation necessary to specifically determine what services nurse practitioners would be qualified to work in based on their board certification. It is clear the educational preparation needs to match their clinical specialty, but this is determined by the Nursing Practice Act and existing regulations under the BRN oversight.

I do not agree with my physician colleagues to have a full awareness or have the qualifications to determine the progressive clinical experience an APRN may have acquired prior to APRN graduate education. This experience has significant bearing on the clinical acumen that an APRN might apply to their clinical practice whether in a specialty such as esthetic services or providing services to patient in critical care.

Thanks for accepting my comments and questions.

[redacted]

Psychiatric Physicians Alliance of California
1415 L Street, #1200, Sacramento CA ~ P-916.572.2035
www.psychiatristsca.org

October 28, 2022

Sent via email to Marissa.Clark@DCA.CA.Gov

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Dear Ms. Clark:

On behalf of the California Psychiatric Physicians Alliance - which is the premiere, statewide organization representing psychiatrists - PPAC addresses the proposed regulations implementing AB 890. AB 890, as you know, creates two new categories of nurse practitioners: the 103 and 104 NP. PPAC offers input specifically related to 103 and 104 psychiatric mental health nurse practitioners who will encounter patients from across the life span. Among those will be those who are severely mentally ill, including psychotic disorders such as schizophrenia.

Our hope is that the system of education and training that successfully provides psychiatric competencies in our medical schools and psychiatric residency training programs may provide useful guidance to the Board of Registered Nursing in preparing a transition to practice for NPs that affords maximum safety for patients and consumer protection for the public. The below recommendations are derived from the medical education system for psychiatrists.

Clinical Training

We strongly encourage a formal one-year clinical mentorship program. We strongly encourage that mentors be psychiatric physicians. We also highly recommend that psychiatrist mentors be members of academic education and training institutions and that the mentorship occurs in this context as well. Training across the lifespan should be required and will necessarily include rotations through child and adolescent, adult, geriatric as well as substance using treatment settings, with inpatient and outpatient components for each.

Assessments and Reporting

We encourage 6 month intervals of assessment of individual progress towards transition to practice with reporting of the degree of achievement towards acquiring identified core and sub core competencies necessary for independent PMHNP practice. This is the standard for residents in psychiatry. Assessment of knowledge, skills, attitudes, critical thinking and clinical analytical skills, as well other attributes should form the basis for gauging individual progress. This need not be formalized testing, but it should entail a reasoned analytical report directly from the preceptor/monitor, or program training

leadership. The BRN should receive these reports and track the progress of individuals engaged in transition to practice.

Standardized Training

Psychiatrist who are currently preceptors of nurse practitioners report wide variability in levels of educational attainment by nurses enrolled in clinical training programs leading to the PMHNP certificate. Currently, a process of remedial education or re-education must be attempted with some individuals depending on which program they matriculated from. Medical education and practice standardization brought about by the 1910 Flexner report resulted in the elimination of proprietary and individual training schemes and produced strong medical education uniformity across all states. Analogous to this, BRN should provide rigorous standards that promote consistency in training and reduce the risks of proprietary education programs and individual training that does not train to the standards of care.

Supervision. PPAC strongly encourages that the BRN develop rigorous supervision guidelines and require that they be incorporated into institutional and program training policies that prepare 103 and 104 NPs for transition to practice.

Continuing education. BRN regulations should support continuous quality improvement for individual learners by requiring a rigorous continuing education requirement for both 103 and 104 candidates. The requirement should be rigorous and be commensurate status as independent and unsupervised practitioners.

Granting 103 or 104 status. PPAC recommends that the BRN require an attestation by a psychiatrist, who practices in the geographic area in which the NP will practice that the candidate is ready for graduation and unsupervised practice.

Psychotropic medications. Psychotropic medications may have very powerful effects on multiple organ systems in the body. The Federal Drug Administration requires black box labels on many of them because of various health and mental health risks entailed in their use. This includes the risk of suicide. Because of these factors, PPAC strongly recommends that a relationship with a consulting psychiatrist be a condition preceding psychotropic furnishing by independently practicing NPs whether they are PMHNPs, FNPs or any other NP designation.

Thank you for the opportunity to offer the perspective of psychiatrists on your mission of patient protection and providing quality of care. Please do not hesitate to contact me if you have follow-up questions.

Randall Hagar, Legislative Advocate
Psychiatric Physicians Alliance of California.

SC ADVOCATES

November 1, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Via email only

Dear Ms. Clark:

My name is Stephen Cattolica and I write to you on behalf of the California Neurology Society (CNS) in support of the California Medical Association's position and input previously submitted to you with respect to the proposed expansion of the scope of practice for Nurse Practitioners resulting from passage of AB 890 this past legislative session.

To the extent that the expansion of Nurse Practitioners' scope of practice demands further education and training requirements as well as more thorough communication with and acknowledgement from our patients, we urge the Board to work together with the physician community to establish appropriate standards. The CMA's suggestions and recommendations should become the basis for that work.

The Board and members of CNS are in earnest regarding reinforcement of such standards throughout the medical profession as we are sure the Board of Nursing is as well. For example, in 2020 CNS introduced, and CMA adopted, a resolution addressing Duty of Care (DOC) and its direct relationship to Utilization Review (UR). That is, Utilization Review physicians are obligated to comply with the "Consumer Protections" spelled out on page three of the CMA letter to you dated Oct. 28th. As matters now stand UR is often "practiced" at arm's length via computer algorithms. In fact, within the workers' compensation system, doctors are not even obliged to be licensed in California but are nonetheless allowed by law to overrule licensed CA physicians.

Thus, CNS and CMA also find that current consumer protections when not addressed specifically, can easily fall short of the clarity required under the APA (Administrative Procedure Act). Therefore, we confidently believe the scope and outcome of the current rulemaking process in support of AB 890 will reflect great care in this regard.

Cordially,

Stephen J. Cattolica
Legislative Advocate
SC Advocates

Cc: Robert Weinmann, M.D., President CNS
CNS Board Members

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California Urological Association

1950 Old Tustin Avenue, Santa Ana, CA 92705
Tel: 714-550-9155 / Fax: 714-550-9234
www.cuanet.org / info@cuanet.org

November 1, 2022

Marissa Clark
Chief of Legislative Affairs
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Dear Ms. Clark:

On behalf of the California Urological Association (CUA) and its greater than 1,200 practicing urologists in California, I write to respectfully provide input on the proposed regulations implementing AB 890, in particular the regulations concerning the implementation of the two new types of independent practice nurse practitioners created by AB 890, commonly referred to as 103 and 104 NPs.

The California Urological Association recommend that the regulations should specify that a 103 and 104 NPs should not independently and without supervision from a licensed MD, perform hormonal replacement therapy for the purpose of hypogonadism, male fertility or lifestyle enhancement. Hormonal replacement poses a particular patient safety concern given the complexity of management. In particular, testosterone replacement therapy, if mismanaged, has a high risk for adverse outcomes, including the risk of exacerbation of malignancy, polycythemia, thrombosis and stroke, infertility, exacerbation of hypogonadism, depression and even suicide. Additionally, complex management of male sexual dysfunction should be prohibited by a 103 and 104 NP.

Although management of sexual dysfunction with phosphodiesterase type 5 inhibitors (sildenafil and others) has been proven to be safe and relatively straight forward in the hands of most providers, these therapies are not effective for about 35% of men. More complex therapies for sexual dysfunction such as injectable medications for the treatment of erectile dysfunction and for the treatment of Peyronie's disease (deformity of the erection) carry a significant risk of injury and exacerbation of the disease. Providers trained to the level of the MD license often refer patients in need of hormone replacement therapy and patients who fail oral agents for the treatment of sexual dysfunction to urologists due to their complexity. Numerous academic studies and media exposes have demonstrated the high degree of mismanagement and even abuse of testosterone replacement as well as injection therapy for sexual dysfunction in markets where there is insufficient regulation of under-credentialed providers. It is the position of CUA, that without equal extent of formal training, on parity with the number of hours of clinical contact that licensed MDs obtain through medical school and residency training, allowing unsupervised discretion for these treatments is problematic and will lead to mismanagement and the creation of "pill mills" that do not serve the public interest of increased access to primary healthcare. Barring extensive training requirements demonstrating parity in residency training with Board Certified providers, the CUA believes the regulations should exclude 103 and 104 NPs from providing injectable treatment for erectile dysfunction, testosterone replacement, and Peyronie's disease without supervision.

CUA also believes the regulations should specify that a 103 and 104 NP should not perform office based invasive procedures including cystoscopic procedures of the urethra, prostate, bladder or ureters, urethral dilation, ultrasound guided biopsy, injection or aspiration of the genito-urinary tract, adult circumcision, vasectomy, or implantation of a neuromodulation device without supervision. These procedures each carry a risk of morbidity that can rise to the level of

permanent disability and even death. There is additionally a significant risk of under diagnosis or misdiagnosis of life-threatening disease states including cancers of the genito-urinary system as part of the pre-treatment evaluation or provision of these interventions. In addition to insufficient and potentially dangerous delivery of healthcare, there is a potential for misallocation of the critical resources that NPs provide to population health.

Thank you for your consideration.

Sincerely,

Christopher DeSantis
CEO California Urological Association

Siddiqui, Ras@DCA

From: [redacted]
Sent: Tuesday, November 1, 2022 4:58 PM
To: Clark, Marissa@DCA
Subject: AB 890 (Wood) regulations

WARNING: This message was sent from outside the CA Gov network. Do not open attachments unless you know the sender: [redacted]

I would like to make a comment about the proposed regulations of 103 and 104 NPs and transition to practice. I think that 4600 hours is ample time for the transition to practice, and would decrease that amount of time in future regulation.

It was commented today that it might be 6 years for transition to practice; 3 years of working under standardized procedures and then 3 more years of physician mentorship. I think this is far too long to allow for independent practice.

I also wonder about NPs that have been practicing for more than 3 or 6 years and feel they should be able to apply directly for 104 "status".

Also retired NPs, how would they go about applying for 103 or 104 status?

I thank the OPES for confirming that a supplemental exam is not needed, if the NP is certified nationally.

Thank you.

Leslie

[redacted]