

**LEGISLATIVE COMMITTEE
PUBLIC TELECONFERENCE MEETING**

May 27 – 29, 2020

AGENDA

**THIS MEETING IS ANTICIPATED TO FOLLOW THE CONCLUSION OF THE
EDUCATION/LICENSING COMMITTEE MEETING**

Important Notice to the Public: The Board of Registered Nursing’s Legislative Committee will hold a public meeting via a teleconference platform. The Legislative Committee Meeting is scheduled to be held on May 28, 2020; however, at the discretion of the Board items on the agendas for the May 27-29, 2020, Board and Committee meetings may be heard on either May 27th, 28th, or 29th.

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

INSTRUCTIONS FOR PARTICIPATION:

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

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

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

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

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

Thursday, May 28, 2020

8.0 Call to Order/Roll Call/Establishment of a Quorum/Approval of Minutes

8.0.1 Review and Vote on Whether to Approve Previous Meeting Minutes:

- March 12, 2020

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

- [AB 329](#) (Rodriguez) Hospitals: assaults and batteries
- [AB 362](#) (Eggman) Controlled substances: overdose prevention program
- [AB 613](#) (Low) Professions and vocations: regulatory fees
- [AB 732](#) (Bonta) County jails: pregnant inmates
- [AB 890](#) (Wood) Nurse practitioners
- [AB 1145](#) (Cristina Garcia) Child abuse: reportable conduct
- [AB 1544](#) (Gipson/Gloria) Community Paramedicine or Triage to Alternate Destination Act
- [AB 1616](#) (Low) Department of Consumer Affairs: boards: expunged convictions
- [AB 1759](#) (Salas) Health care workers: rural and underserved areas
- [AB 1909](#) (Gonzalez) Healing arts licensees: virginity examinations or tests
- [AB 1917](#) (Ting) Budget Act of 2020
- [AB 1928](#) (Kiley/Melendez) Employment standards: independent contractors and employees
- [AB 1998](#) (Low) Dental Practice Act: unprofessional conduct: patient of record
- [AB 2028](#) (Aguiar-Curry) State agencies: meetings
- [AB 2113](#) (Low) Refugees, asylees, and immigrants: professional licensing
- [AB 2185](#) (Patterson/Gallagher) Professions and vocations: applicants licensed in other states: reciprocity
- [AB 2288](#) (Low) Nursing Programs: Clinical hours
- [AB 2549](#) (Salas) Department of Consumer Affairs: temporary licenses
- [AB 2635](#) (Gallagher) Nursing programs: clinical hours
- [AB 2704](#) (Ting) Healing Arts: licenses: data collection
- [AB 3016](#) (Dahle) Board of Registered Nursing: online license verification
- [AB 3045](#) (Gray) Boards: veterans: military spouses: licenses
- [AB 3244](#) (Flora) Nursing, vocational nursing, and psychiatric technicians: schools: examination fraud
- [SB 3](#) (Allen/Glazer) Office of Higher Education Coordination, Accountability, and performance
- [SB 808](#) (Mitchell) Budget Act of 2020
- [SB 878](#) (Jones) Department of Consumer Affairs Licensing: applications: wait times
- [SB 1053](#) (Moorlach) Licensed registered nurses and licensed vocational nurses: Nurse Licensure Compact
- [SB 1237](#) (Dodd) Nurse-Midwives: scope of practice

8.2 Public Comment for Items Not on the Agenda; Items for Future Agendas

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

8.3 Adjournment

NOTICE:

All times are approximate and subject to change. Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. The meeting may be canceled without notice. For verification of the

meeting, call (916) 574-7600 or access the Board's Web Site at <http://www.rn.ca.gov>. Action may be taken on any item listed on this agenda, including information only items. Board members who are not members of this committee may attend meetings as observers only, and may not participate or vote.

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

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

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MEETING MINUTES**

DRAFT

DATE: March 12, 2020

START TIME: 10:30 a.m.

MAIN LOCATION: PierSouth Hotel
Boca Rio Ballroom
800 Seacoast Drive
Imperial Beach, CA 91932
(619) 621-5900

MEMBERS PRESENT: Donna Gerber, Chair
Dolores Trujillo, RN
Imelda Ceja-Butkiewicz
Trande Phillips, RN

STAFF MEMBERS PRESENT: Ann Salisbury, J.D., DCA Legal Attorney
Ms. Loretta Melby-Acting Executive Officer, NEC RNC, MSN, NEC
Evon Lenerd- Assistant Executive Officer
Thelma Harris, RN, PHN, MSN, Chief of Legislation-Staff Liaison

8.0 Call to Order/Roll Call/Establishment of a Quorum

Donna Gerber called the meeting to order at 10:31 a.m.
Quorum Established.

NOT PRESENT: N/A

8.0.1 Review and Vote on Whether to Approve Previous Meeting's Minutes:
➤ January 09, 2020

ACTION: The minutes of the January 09, 2020 meeting were approved with the amendment that there is a typo in the position of AB 890. It should state that there are no changes to the current position.

MOTION: Donna Gerber

SECOND: Trande Phillips

VOTE: **DT: Aye** **DG: Aye** **ICB: Aye** **TP: Aye**

PUBLIC COMMENT: None

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

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

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

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

- [AB 329](#) (Rodriguez) Hospitals: assaults and batteries
- [AB 362](#) (Eggman) Controlled substances: overdose prevention program
- [AB 613](#) (Low) Professions and vocations: regulatory fees
- [AB 732](#) (Bonta) County jails: pregnant inmates
- [AB 890](#) (Wood) Nurse practitioners
- [AB 1145](#) (Cristina Garcia) Child abuse: reportable conduct
- [AB 1544](#) (Gipson/Gloria) Community Paramedicine or Triage to Alternate Destination Act
- [AB 1616](#) (Low) Department of Consumer Affairs: boards: expunged convictions
- [AB 1759](#) (Salas) Health care workers: rural and underserved areas
- [AB 1909](#) (Gonzalez) Healing arts licensees: virginity examinations or tests
- [AB 1917](#) (Ting) Budget Act of 2020
- [AB 1928](#) (Kiley/Melendez) Employment standards: independent contractors and employees
- [AB 1998](#) (Low) Dental Practice Act: unprofessional conduct: patient of record
- [AB 2028](#) (Aguiar-Curry) State agencies: meetings
- [AB 2185](#) (Patterson/Gallagher) Professions and vocations: applicants licensed in other states: reciprocity
- [AB 2549](#) (Salas) Department of Consumer Affairs: temporary licenses
- [AB 2704](#) (Ting) Healing Arts: licenses: data collection
- [AB 3016](#) (Dahle) Board of Registered Nursing: online license verification
- [AB 3244](#) (Flora) Nursing, vocational nursing, and psychiatric technicians: schools: examination fraud
- [SB 3](#) (Allen/Glazer) Office of Higher Education Coordination, Accountability, and performance
- [SB 808](#) (Mitchell) Budget Act of 2020
- [SB 878](#) (Jones) Department of Consumer Affairs Licensing: applications: wait times
- [SB 1053](#) (Moorelach) Licensed registered nurses and licensed vocational nurses: Nurse Licensure Compact
- [SB 1237](#) (Dodd) Nurse-Midwives: scope of practice

AB 890 (Wood) Nurse practitioners: scope of practice: unsupervised practice

ACTION: None: Does not require an action as BRN will continue to oppose unless amended.

AB 2028 (Aguiar-Curry) State agencies: meetings

ACTION: Oppose unless amended

MOTION: Donna Gerber

SECOND: Imelda Ceja-Butkiewicz

VOTE: DT: Aye DG: Aye ICB: Aye TP: Aye

PUBLIC COMMENT: None

AB 2185 (Patterson/Gallagher) Professions and vocations: applicants licensed in other states: reciprocity

ACTION: Oppose

MOTION: Donna Gerber

SECOND: Imelda Ceja Butkiewicz

VOTE: DT: Aye DG: Aye ICB: Aye TP: Aye

PUBLIC COMMENT: None

AB 2549 (Salas) Department of Consumer Affairs: temporary licenses

ACTION: None: the Board's position will come forward with an actual position in April 2020.

PUBLIC COMMENT: None

AB 3016 (Dahle) Board of Registered Nursing: online license verification

ACTION: Oppose

MOTION: Donna Gerber

SECOND: Imelda Ceja-Butkiewicz

VOTE: DT: Aye DG: Aye ICB: Aye TP: Aye

PUBLIC COMMENT: None

SB 1053 (Moorlach) Licensed registered nurses and licensed vocational nurses: Nurse Licensure Compact

ACTION: Oppose

MOTION: Donna Gerber

SECOND: Imelda Ceja-Butkiewicz

VOTE: DT: Aye DG: Aye ICB: Aye TP: Aye

PUBLIC COMMENT: Judy Corless
Sharon Goldfarb

SB 1237 (Dodd) Nurse-Midwives: scope of practice

ACTION: Support

MOTION: Donna Gerber

SECOND: Trande Phillips

VOTE: DT: Aye DG: Aye ICB: Aye TP: Aye
PUBLIC COMMENT: None

8.2 Public Comment for Items Not On The Agenda

NOTE: The Committee may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting. (Government Code, Sections 11125 and 11125.7(a)).

PUBLIC COMMENT: None

8.3 ADJOURNMENT: 11:04 am

Submitted by:

Thelma Harris, RN, PHN, MSN
Chief of Legislation-Staff Liaison

Accepted by:

Donna Gerber- Chairperson

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.1

DATE: May 28, 2020

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

REQUESTED BY: Donna Gerber, Chair, Legislative Committee

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

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

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

NEXT STEPS: Present recommendations to the Board

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

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

2020 TENTATIVE LEGISLATIVE CALENDAR

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

DEADLINES

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

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

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

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

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

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

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

Mar. 27 Cesar Chavez Day observed.

- Apr. 2** **Spring Recess** begins upon adjournment (J.R. 51(b)(1)).
- Apr. 13** Legislature reconvenes from Spring Recess (J.R. 51(b)(1)).
- Apr. 24** Last day for **policy committees** to hear and report to fiscal committees **fiscal bills** introduced in their house (J.R. 61(b)(5)).
- May 1** Last day for **policy committees** to hear and report to the floor **nonfiscal** bills introduced in their house (J.R. 61(b)(6)).
- May 8** Last day for **policy committees** to meet prior to June 1 (J.R. 61(b)(7)).
- May 15** Last day for **fiscal committees** to hear and report to the **floor** bills introduced in their house (J.R. 61 (b)(8)). Last day for **fiscal committees** to meet prior to June 1 (J.R. 61 (b)(9)).
- May 25** Memorial Day.
- May 26-29** **Floor session only.** No committee may meet for any purpose except for Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(10)).
- May 29** Last day for each house to pass bills introduced in that house (J.R. 61(b)(11)).

*Holiday schedule subject to final approval by Rules Committee.

2020 TENTATIVE LEGISLATIVE CALENDAR

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

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

- June 1** Committee meetings may resume (J.R. 61(b)(12)).
- June 15** Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)).
- June 25** Last day for a legislative measure to qualify for the Nov. 3 General Election ballot (Elections Code Sec. 9040).
- June 26** Last day for **policy committees** to hear and report **fiscal bills** to fiscal committees (J.R. 61(b)(13)).

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

- July 2** Last day for **policy committees** to meet and report bills (J.R. 61(b)(14)).
Summer Recess begins upon adjournment, provided Budget Bill has been passed (J.R. 51(b)(2)).
- July 3** Independence Day observed.

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

- Aug. 3** Legislature reconvenes from **Summer Recess** (J.R. 51(b)(2)).
- Aug. 14** Last day for **fiscal committees** to meet and report bills (J.R. 61(b)(15)).
- Aug. 17 – 31** **Floor session only.** No committee may meet for any purpose except Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(16)).
- Aug. 21** Last day to **amend** bills on the floor (J.R. 61(b)(17)).
- Aug. 31** Last day for each house to pass bills (Art. IV, Sec 10(c), J.R. 61(b)(18)).
Final Recess begins upon adjournment (J.R. 51(b)(3)).

IMPORTANT DATES OCCURRING DURING FINAL RECESS

2020

- Sept. 30 Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec. 10(b)(2)).
- Oct. 1 Bills enacted on or before this date take effect January 1, 2021. (Art. IV, Sec. 8(c)).
- Nov. 3 General Election.
- Nov. 30 Adjournment *sine die* at midnight (Art. IV, Sec. 3(a)).
- Dec. 7 2021-22 Regular Session convenes for Organizational Session at 12 noon. (Art. IV, Sec. 3(a)).

2021

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

*Holiday schedule subject to final approval by Rules Committee.

BOARD OF REGISTERED NURSING
Assembly Bills 2019-2020
Status Update
May 28, 2020

BILL #	AUTHOR/ BILL SPONSOR	SUBJECT	COM POSITION/ date	BOARD POSITION/ date	BILL STATUS as of March 12, 2020
AB 329	Rodriguez/ CENA	Hospitals: assaults and batteries	Watch 3/14/19	Watch 4/11/19	Senate PubSafety
AB 362	Eggman/ DPA; HRC	Controlled substances: overdose prevention program	Information 5/9/19	Watch 4/11/19	Senate Health
AB 613	Low	Professions and vocations: regulatory fees	Watch 3/14/19	Watch 4/11/19	Senate BP&ED
AB 732	Bonta	County jails: prisons: incarcerated pregnant persons	Watch 3/14/19	Watch 4/11/19	Assembly APPR
AB 890	Wood	Nurse practitioners: scope of practice: unsupervised practice	Oppose unless amended 01/09/2019	Oppose unless amended 6/13/19	Assembly APPR
AB 1145	Cristina Garcia	Child abuse: reportable conduct	Watch 3/14/19	Watch 4/11/19	Assembly APPR
AB 1544	Gipson	Community Paramedicine or Triage to Alternate Destination Act	Oppose 8/15/19	Oppose	Senate Rules
AB 1616	Low	Department of Consumer Affairs: boards: expunged convictions			Senate
AB 1759	Salas	Health care workers: rural and underserved areas			
AB 1909	Gonzalez	Healing arts licensees: virginity examinations or tests			
AB 1917	Ting	Budget Act of 2020			
AB 1928	Kiley/Melendez	Employment standards: independent contractors and employees			
AB 1998	Low	Dental Practice Act: unprofessional conduct: patient of record			
AB 2028	Aguilar-Curry	State agencies: meetings	Oppose unless amended 03/12/20		
AB 2113	Low	Refugees, asylees, and immigrants: professional licensing			
AB 2185	Patterson/Gallagher	Professions and vocations: applicants licensed in other states: reciprocity	Oppose 03/12/20		

BOARD OF REGISTERED NURSING
Assembly Bills 2019-2020
Status Update
May 28, 2020

<u>AB 2288</u>	Low	Nursing Programs: Clinical hours			
<u>AB 2549</u>	Salas	Department of Consumer Affairs: temporary licenses			
<u>AB 2635</u>	Gallagher	Nursing programs: clinical hours			
<u>AB 2704</u>	Ting	Healing Arts: licenses: data collection			
<u>AB 3016</u>	Dahle	Board of Registered Nursing: online license verification	Oppose 03/12/20		
<u>AB 3045</u>	Gray	Boards: veterans: military spouses: licenses			
<u>AB 3244</u>	Flora	Nursing, vocational nursing, and psychiatric technicians: schools: examination fraud			

BOARD OF REGISTERED NURSING
Assembly Bills 2019-2020
Status Update
May 28, 2020

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

AMENDED IN ASSEMBLY APRIL 22, 2019

AMENDED IN ASSEMBLY APRIL 3, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 890

Introduced by Assembly Member Wood
(Coauthors: Assembly Members Aguiar-Curry, Eggman, Friedman,
Gallagher, and Gipson)
(Coauthors: Senators Caballero, Hill, Leyva, and Stone)

February 20, 2019

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

LEGISLATIVE COUNSEL'S DIGEST

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

Existing law, the Nursing Practice Act, provides for the certification and regulation of nurse practitioners by the Board of Registered Nursing. Existing law authorizes the implementation of standardized procedures that authorize a nurse practitioner to perform certain acts that are in addition to other authorized practices, including certifying disability after performing a physical examination and collaboration with a physician and surgeon. A violation of the act is a misdemeanor.

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

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

The bill would also authorize a nurse practitioner who holds ~~a~~ *an active certification as a nurse practitioner from a national certifying body recognized* issued by the board to practice without supervision by a physician and surgeon *outside of specified settings or organizations* in accordance with specified conditions and requirements if the nurse practitioner ~~has successfully completed~~ *meets specified education and other requirements, including completion of a transition to practice program, practice, as defined by the bill, and a supervising physician and surgeon at the facility at which the nurse practitioner completed the transition to practice program attests to the board that the nurse practitioner is proficient in competencies established by the board by regulation.* *bill. The bill would authorize the board, upon application, to issue an inactive certificate.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33

34 Article 8.5. Advanced Practice Registered Nurses

35

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

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

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

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

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

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

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

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

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

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

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

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

39 (B) *A health facility, as defined in Section 1250 of the Health*
40 *and Safety Code.*

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

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

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

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

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

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

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

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

34 (1) Conduct an advanced assessment.

35 (2) Order and interpret diagnostic procedures.

36 (3) Establish primary and differential diagnoses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 ~~SEC. 5.~~

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

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

O

ASSEMBLY BILL

No. 2028

Introduced by Assembly Member Aguiar-Curry

January 30, 2020

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill would, except for closed sessions, require that this notice include all writings or materials provided for the noticed meeting to a member of the state body by staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require these writings and materials to be made available on the internet at least 10 days in advance of the meeting. The bill would provide that a state body may only distribute or discuss these writings or materials at a meeting of the state body if it has complied with these requirements.

Existing law requires that a state body provide an opportunity for members of the public to directly address the body on each agenda item.

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

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

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

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

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) The Bagley-Keene Open Meeting Act (Article 9
- 3 (commencing with Section 11120) of Chapter 1 of Part 1 of
- 4 Division 3 of Title 2 of the Government Code) (hereafter
- 5 “Bagley-Keene”) was intended to implement Section 3 of Article
- 6 I of the California Constitution, which states in part, “The people
- 7 have the right of access to information concerning the conduct of
- 8 the people’s business, and, therefore, the meetings of public bodies
- 9 and the writings of public officials and agencies shall be open to
- 10 public scrutiny.”
- 11 (b) Bagley-Keene was written to protect public meetings and
- 12 public notice and to ensure the transparency of actions taken by
- 13 state agencies, boards, and commissions.
- 14 (c) Californians have the right to participate in state body
- 15 deliberations. This includes the public’s ability to comment on all
- 16 agenda items discussed at a meeting of the state body, regardless
- 17 of whether an item has been discussed previously in a committee
- 18 of the state body.
- 19 (d) The purpose of public notice is so that state bodies give the
- 20 public adequate time for review of the substance of a state body
- 21 meeting and for comment.
- 22 (e) Public notice must also include any writings or materials
- 23 provided by a state body’s staff or by a member of the state body
- 24 to other members of the state body for a noticed meeting of the
- 25 body held at least 10 days prior to the meeting.

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

8 SEC. 2. Section 11125 of the Government Code is amended
9 to read:

10 11125. (a) The state body shall provide notice of its meeting
11 to any person who requests that notice in writing. Notice shall be
12 given and also made available on the ~~Internet~~ *internet* at least 10
13 days in advance of the meeting, and shall include the name,
14 address, and telephone number of any person who can provide
15 further information prior to the meeting, but need not include a
16 list of witnesses expected to appear at the meeting. The written
17 notice shall additionally include the address of the ~~Internet~~ *internet* site
18 *internet website* where notices required by this article are made
19 available.

20 (b) The notice of a meeting of a body that is a state body shall
21 include a specific agenda for the meeting, containing a brief
22 description of the items of business to be transacted or discussed
23 in either open or closed session. A brief general description of an
24 item generally need not exceed 20 words. A description of an item
25 to be transacted or discussed in closed session shall include a
26 citation of the specific statutory authority under which a closed
27 session is being held. No item shall be added to the agenda
28 subsequent to the provision of this notice, unless otherwise
29 permitted by this article.

30 (c) (1) *Except as otherwise provided in paragraph (4), any*
31 *notice provided pursuant to subdivision (a) shall include all*
32 *writings or materials provided for the noticed meeting to a member*
33 *of the state body by the staff of a state agency, board, or*
34 *commission, or another member of the state body, that are in*
35 *connection with a matter subject to discussion or consideration*
36 *at the meeting.*

37 (2) *The writings or materials described in paragraph (1) shall*
38 *be made available on the internet at least 10 days in advance of*
39 *the meeting, and to any person who requests that notice in writing.*

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

4 (4) This subdivision does not apply to writings or materials
5 prepared for a matter to be discussed in a closed session of the
6 state body.

7 ~~(e)~~

8 (d) Notice of a meeting of a state body that complies with this
9 section shall also constitute notice of a meeting of an advisory
10 body of that state body, provided that the business to be discussed
11 by the advisory body is covered by the notice of the meeting of
12 the state body, provided that the specific time and place of the
13 advisory body’s meeting is announced during the open and public
14 state body’s meeting, and provided that the advisory body’s
15 meeting is conducted within a reasonable time of, and nearby, the
16 meeting of the state body.

17 ~~(e)~~

18 (e) A person may request, and shall be provided, notice pursuant
19 to subdivision (a) for all meetings of a state body or for a specific
20 meeting or meetings. In addition, at the state body’s discretion, a
21 person may request, and may be provided, notice of only those
22 meetings of a state body at which a particular subject or subjects
23 specified in the request will be discussed.

24 ~~(e)~~

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

27 ~~(f)~~

28 (g) The notice shall be made available in appropriate alternative
29 formats, as required by Section 202 of the Americans with
30 Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal
31 rules and regulations adopted in implementation thereof, upon
32 request by any person with a disability. The notice shall include
33 information regarding how, to whom, and by when a request for
34 any disability-related modification or accommodation, including
35 auxiliary aids or services may be made by a person with a disability
36 who requires these aids or services in order to participate in the
37 public meeting.

38 SEC. 3. Section 11125.7 of the Government Code is amended
39 to read:

1 11125.7. (a) Except as otherwise provided in this section, the
2 state body shall provide an opportunity for members of the public
3 to directly address the state body on each agenda item before or
4 during the state body’s discussion or consideration of the item.
5 ~~This section is not applicable if the agenda item has already been~~
6 ~~considered by a committee composed exclusively of members of~~
7 ~~the state body at a public meeting where interested members of~~
8 ~~the public were afforded the opportunity to address the committee~~
9 ~~on the item, before or during the committee’s consideration of the~~
10 ~~item, unless the item has been substantially changed since the~~
11 ~~committee heard the item, as determined by the state body.~~ Every
12 notice for a special meeting at which action is proposed to be taken
13 on an item shall provide an opportunity for members of the public
14 to directly address the state body concerning that item prior to
15 action on the item. In addition, the notice requirement of Section
16 11125 shall not preclude the acceptance of testimony at meetings,
17 other than emergency meetings, from members of the public if no
18 action is taken by the state body at the same meeting on matters
19 brought before the body by members of the public.

20 (b) The state body may adopt reasonable regulations to ensure
21 that the intent of subdivision (a) is carried out, including, but not
22 limited to, regulations limiting the total amount of time allocated
23 for public comment on particular issues and for each individual
24 speaker.

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

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

33 (d) The state body shall not prohibit public criticism of the
34 policies, programs, or services of the state body, or of the acts or
35 omissions of the state body. Nothing in this subdivision shall confer
36 any privilege or protection for expression beyond that otherwise
37 provided by law.

38 (e) This section is not applicable to ~~closed~~ *any of the following*:

39 (1) *Closed* sessions held pursuant to Section 11126.

40 (f) ~~This section is not applicable to decisions~~

1 (2) *Decisions* regarding proceedings held pursuant to Chapter
2 5 (commencing with Section 11500), relating to administrative
3 adjudication, or to the conduct of those proceedings.
4 ~~(g) This section is not applicable to hearings~~
5 (3) *Hearings* conducted by the California Victim Compensation
6 Board pursuant to Sections 13963 and 13963.1.
7 ~~(h) This section is not applicable to agenda~~
8 (4) *Agenda* items that involve decisions of the Public Utilities
9 Commission regarding adjudicatory hearings held pursuant to
10 Chapter 9 (commencing with Section 1701) of Part 1 of Division
11 1 of the Public Utilities Code. For all other agenda items, the
12 commission shall provide members of the public, other than those
13 who have already participated in the proceedings underlying the
14 agenda item, an opportunity to directly address the commission
15 before or during the commission’s consideration of the item.

ASSEMBLY BILL

No. 2185

Introduced by Assembly Members Patterson and Gallagher

February 11, 2020

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

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

prosecuted for a violation of those licensure provisions constituting a crime, the bill would impose a state-mandated program.

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

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

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

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

1 SECTION 1. Section 117 is added to the Business and
2 Professions Code, to read:

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

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

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

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

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

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

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

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

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

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

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

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

AMENDED IN ASSEMBLY MAY 18, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2288

Introduced by Assembly Member Low

February 14, 2020

~~An act to add Section 4052.11 to the Business and Professions Code, relating to pharmacy.~~ *An act to add Section 2786.3 to the Business and Professions Code, relating to healing arts.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2288, as amended, Low. ~~Schedule II controlled substances: partial~~
~~fill.~~ *Nursing programs: state of emergency.*

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

This bill would authorize the director of an approved nursing program to use a clinical setting without meeting specified requirements, including approval by the board, when the Governor declares a state of emergency in the county in which the facility is located. The bill would also authorize the director to use preceptorships without having to maintain written policies on specified matters that would otherwise be required, and to request that the approved nursing program be allowed to substitute up to an additional 25% of clinical practice hours in a course not in direct patient care, subject to specified conditions

and requirements. The bill would make those provisions subject to approval by a board nurse education consultant and would require the board nurse education consultant to use a uniform standard for granting approvals.

~~Existing law, the Pharmacy Law, provides for the licensing and regulation of pharmacists by the California State Board of Pharmacy in the Department of Consumer Affairs. The law specifies the functions pharmacists are authorized to perform, including to administer, orally or topically, drugs and biologicals pursuant to a prescriber’s order, and to administer immunizations pursuant to a protocol with a prescriber. Existing law authorizes a pharmacist to dispense a Schedule II controlled substance as a partial fill if requested by the patient or prescriber. A violation of the Pharmacy Law is a crime.~~

~~This bill would require a pharmacist to offer, to a patient, to dispense a Schedule II controlled substance containing an opioid as a partial fill if the prescription is for greater than 7 days. By expanding the scope of a crime, the bill would impose a state-mandated local program.~~

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

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

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

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

- 1 SECTION 1. Section 2786.3 is added to the Business and
- 2 Professions Code, to read:
- 3 2786.3. (a) When the Governor declares a state of emergency
- 4 for the county in which an agency or facility that is used by an
- 5 approved nursing program for direct patient care clinical practice
- 6 is located, the director of the approved nursing program may do
- 7 the following:
- 8 (1) Utilize a clinical setting without the following, if approved
- 9 by a board nurse education consultant:
- 10 (A) Approval by the board.
- 11 (B) Written agreements with the clinical facility.

1 (C) *Submitting evidence of compliance with board regulations,*
2 *except as necessary for a board nurse education consultant to*
3 *ensure course objectives will be met.*

4 (2) *Utilize preceptorships during the state of emergency without*
5 *having to maintain written policies relating to the following:*

6 (A) *Identification of criteria used for preceptor selection.*

7 (B) *Provision for a preceptor orientation program that covers*
8 *the policies of the preceptorship and preceptor, student, and faculty*
9 *responsibilities.*

10 (C) *Identification of preceptor qualifications for both the*
11 *primary and the relief preceptor.*

12 (D) *Description of responsibilities of the faculty, preceptor, and*
13 *student for the learning experiences and evaluation during*
14 *preceptorship.*

15 (E) *Maintenance of preceptor records that includes names of*
16 *all current preceptors, registered nurse licenses, and dates of*
17 *preceptorships.*

18 (F) *Plan for an ongoing evaluation regarding the continued use*
19 *of preceptors.*

20 (3) (A) *Request that the approved nursing program be allowed*
21 *to substitute up to an additional 25 percent of clinical practice*
22 *hours required by the board in a course not in direct patient care*
23 *for clinical practice hours in a course in direct patient care if all*
24 *of the following conditions are met:*

25 (i) *The agency or facility being used by the approved nursing*
26 *program for direct patient care clinical practice is no longer*
27 *available for use by the approved nursing program due to the*
28 *conditions giving rise to the state of emergency.*

29 (ii) *No alternative agency or facility located within 25 miles of*
30 *the impacted approved nursing program, campus, or location, as*
31 *applicable, is available to the approved nursing program for direct*
32 *patient care clinical practice hours in the same subject matter*
33 *area.*

34 (iii) *The substitute clinical practice hours not in direct patient*
35 *care provide a learning experience, as defined by the board*
36 *consistent with Section 2708.1, that is at least equivalent to the*
37 *learning experience provided by the direct patient care clinical*
38 *practice hours.*

1 (iv) *Substitute clinical practice hours not in direct patient care*
2 *shall cease as soon as practicable once the applicable state of*
3 *emergency is lifted.*

4 (B) *If the conditions in subparagraph (A) are met, a board nurse*
5 *education consultant shall approve the request. If an approved*
6 *nursing program fails to submit information satisfactory to the*
7 *board, or fails to meet the conditions specified in subparagraph*
8 *(A), a board nurse education consultant shall deny the request. If*
9 *the request is not approved or denied on or before 5:00 p.m. on*
10 *the date seven business days after receipt of the request, the request*
11 *shall be deemed approved.*

12 (b) *A board nurse education consultant shall use a uniform*
13 *standard consistent with Section 2708.1 for granting approvals*
14 *under this section.*

15 ~~SECTION 1. Section 4052.11 is added to the Business and~~
16 ~~Professions Code, to read:~~

17 ~~4052.11. A pharmacist shall offer, to a patient, to dispense a~~
18 ~~Schedule II controlled substance, as listed in Section 11055 of the~~
19 ~~Health and Safety Code, containing an opioid as a partial fill,~~
20 ~~pursuant to Section 4052.10, if the prescription is for greater than~~
21 ~~seven days.~~

22 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
23 ~~Section 6 of Article XIII B of the California Constitution because~~
24 ~~the only costs that may be incurred by a local agency or school~~
25 ~~district will be incurred because this act creates a new crime or~~
26 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
27 ~~for a crime or infraction, within the meaning of Section 17556 of~~
28 ~~the Government Code, or changes the definition of a crime within~~
29 ~~the meaning of Section 6 of Article XIII B of the California~~
30 ~~Constitution.~~

ASSEMBLY BILL

No. 2549

Introduced by Assembly Member Salas

February 19, 2020

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

Accountancy, and certain registered dental assistant licenses issued by the Dental Board of California. The bill would specifically direct revenues from fees for temporary licenses issued by the California Board of Accountancy to be credited to the Accountancy Fund, a continuously appropriated fund. By establishing a new source of revenue for a continuously appropriated fund, the bill would make an appropriation.

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

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

- 1 SECTION 1. Section 115.6 of the Business and Professions
- 2 Code is amended to read:
- 3 115.6. (a) A board within the department shall, after
- 4 appropriate investigation, issue the following eligible temporary
- 5 licenses to an applicant if the applicant meets the requirements set
- 6 forth in subdivision (c):
- 7 (1) Registered nurse license by the Board of Registered Nursing.
- 8 (2) Vocational nurse license issued by the Board of Vocational
- 9 Nursing and Psychiatric Technicians of the State of California.
- 10 (3) Psychiatric technician license issued by the Board of
- 11 Vocational Nursing and Psychiatric Technicians of the State of
- 12 California.
- 13 (4) Speech-language pathologist license issued by the
- 14 Speech-Language Pathology and Audiology and Hearing Aid
- 15 Dispensers Board.
- 16 (5) Audiologist license issued by the Speech-Language
- 17 Pathology and Audiology and Hearing Aid Dispensers Board.
- 18 (6) Veterinarian license issued by the Veterinary Medical Board.
- 19 (7) All licenses issued by the Board for Professional Engineers,
- 20 Land Surveyors, and Geologists.
- 21 (8) All licenses issued by the Medical Board of California.
- 22 (9) All licenses issued by the Podiatric Medical Board of
- 23 California.
- 24 (10) *Registered dental assistant license or registered dental*
- 25 *assistant in extended functions license issued by the Dental Board*
- 26 *of California.*
- 27 (11) *All licenses issued by the Dental Hygiene Board of*
- 28 *California.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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AMENDED IN ASSEMBLY MAY 4, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2635

Introduced by Assembly Member Gallagher

February 20, 2020

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

LEGISLATIVE COUNSEL'S DIGEST

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

Existing law, the Nursing Practice Act, provides for the licensure and regulation of the practice of nursing by the Board of Registered Nursing and requires an applicant for licensure to have completed a nursing program at a school of nursing that is approved by the board. Existing regulatory law requires the curriculum of a nursing program to include clinical practice hours and requires 75% of clinical hours in a course to be in direct patient care in a board-approved clinical setting.

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

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

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

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

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

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

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

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

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

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

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

ASSEMBLY BILL

No. 3016

Introduced by Assembly Member Megan Dahle

February 21, 2020

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill would require the board, in consultation with the department, to develop recommendations for the implementation of the Nursys online license verification system in the licensure process for licenses administered by the board, and would require the board to implement those recommendations within a reasonable period.

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

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

- 1 SECTION 1. Section 2718 is added to the Business and
- 2 Professions Code, to read:

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

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

Introduced by Senator MoorlachFebruary 18, 2020

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

By authorizing out-of-state licensees to practice in this state under the multistate compact privilege created by the bill, the bill would expand the scope of the criminal provisions of the Nursing Practice Act and Vocational Nursing Practice Act, thereby imposing a state-mandated local program.

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

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

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

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

1 SECTION 1. Article 1.5 (commencing with Section 2720) is
2 added to Chapter 6 of Division 2 of the Business and Professions
3 Code, to read:

4
5 Article 1.5. Nurse Licensure Compact
6

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

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

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

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

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

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

23 a. The party states find that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 As used in this Compact:

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

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

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

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

14 d. "Current significant investigative information" means:

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

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

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

27 f. "Home state" means the party state which is the nurse's
28 primary state of residence.

29 g. "Licensing board" means a party state's regulatory body
30 responsible for issuing nurse licenses.

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

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

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

- 1 k. “Party state” means any state that has adopted this Compact.
- 2 l. “Remote state” means a party state, other than the home state.
- 3 m. “Single-state license” means a nurse license issued by a party
- 4 state that authorizes practice only within the issuing state and does
- 5 not include a multistate licensure privilege to practice in any other
- 6 party state.
- 7 n. “State” means a state, territory or possession of the United
- 8 States and the District of Columbia.
- 9 o. “State practice laws” means a party state’s laws, rules and
- 10 regulations that govern the practice of nursing, define the scope
- 11 of nursing practice, and create the methods and grounds for
- 12 imposing discipline. “State practice laws” do not include
- 13 requirements necessary to obtain and retain a license, except for
- 14 qualifications or requirements of the home state.

15
16 **ARTICLE III**
17 **General Provisions and Jurisdiction**
18

- 19 a. A multistate license to practice registered or licensed
- 20 practical/vocational nursing issued by a home state to a resident
- 21 in that state will be recognized by each party state as authorizing
- 22 a nurse to practice as a registered nurse (RN) or as a licensed
- 23 practical/vocational nurse (LPN/VN), under a multistate licensure
- 24 privilege, in each party state.
- 25 b. A state must implement procedures for considering the
- 26 criminal history records of applicants for initial multistate license
- 27 or licensure by endorsement. Such procedures shall include the
- 28 submission of fingerprints or other biometric-based information
- 29 by applicants for the purpose of obtaining an applicant’s criminal
- 30 history record information from the Federal Bureau of Investigation
- 31 and the agency responsible for retaining that state’s criminal
- 32 records.
- 33 c. Each party state shall require the following for an applicant
- 34 to obtain or retain a multistate license in the home state:
 - 35 1. Meets the home state’s qualifications for licensure or renewal
 - 36 of licensure, as well as, all other applicable state laws;
 - 37 2. i. Has graduated or is eligible to graduate from a licensing
 - 38 board-approved RN or LPN/VN prelicensure education program;
 - 39 or

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

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

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

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

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

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

29
30 **ARTICLE IV**

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

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

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

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

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

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

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

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

21

22 **ARTICLE V**

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

25

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4

5

ARTICLE VI

6

Coordinated Licensure Information System and Exchange of Information

7

8

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

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

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

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

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

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

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

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

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

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

17
18 **ARTICLE VII**

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

21
22 a. The party states hereby create and establish a joint public
23 entity known as the Interstate Commission of Nurse Licensure
24 Compact Administrators.

25 1. The Commission is an instrumentality of the party states.

26 2. Venue is proper, and judicial proceedings by or against the
27 Commission shall be brought solely and exclusively, in a court of
28 competent jurisdiction where the principal office of the
29 Commission is located. The Commission may waive venue and
30 jurisdictional defenses to the extent it adopts or consents to
31 participate in alternative dispute resolution proceedings.

32 3. Nothing in this Compact shall be construed to be a waiver of
33 sovereign immunity.

34 b. Membership, Voting and Meetings

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

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

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

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

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

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

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

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

24 iii. Current, threatened or reasonably anticipated litigation;

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

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

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

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

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

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

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

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

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

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

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

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

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

8 10. To establish a budget and make expenditures;

9 11. To borrow money;

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

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

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

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

20 h. Financing of the Commission

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

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

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

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

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

3 i. Qualified Immunity, Defense and Indemnification

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

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

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

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ARTICLE VIII

Rulemaking

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

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

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

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

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

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

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

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

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ARTICLE IX
Oversight, Dispute Resolution and Enforcement

1 a. Oversight

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

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

12 b. Default, Technical Assistance and Termination

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

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

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

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

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

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

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

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

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

8 c. Dispute Resolution

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

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

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

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

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

24 d. Enforcement

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

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

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

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ARTICLE X

Effective Date, Withdrawal and Amendment

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

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

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

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

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

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

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

**ARTICLE XI
Construction and Severability**

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

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

Introduced by Senator Dodd
(Principal coauthor: Assembly Member Burke)

February 20, 2020

An act to amend Sections 650.01, 2746.2, 2746.5, 2746.51, and 2746.52 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

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

(1) Existing law, the Nursing Practice Act, establishes the Board of Registered Nursing within the Department of Consumer Affairs for the licensure and regulation of the practice of nursing. A violation of the act is a crime. Existing law requires the board to issue a certificate to practice nurse-midwifery to a person who, among other qualifications, meets educational standards established by the board or the equivalent of those educational standards. Existing law authorizes a certified nurse-midwife, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother, and immediate care for the newborn. Existing law defines the practice of nurse-midwifery as the furthering or undertaking by a certified person, under the supervision of licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal. Existing law requires all complications to be referred to a physician immediately. Existing law excludes the assisting of childbirth by any artificial, forcible, or mechanical means, and the performance of any version from the definition of the practice of nurse-midwifery.

The bill would delete the condition that a certified nurse-midwife practice under the supervision of a physician and surgeon and would

instead authorize a certified nurse-midwife to attend cases of normal pregnancy and childbirth and to provide prenatal, intrapartum, and postpartum care, including gynecologic and family-planning services, interconception care, and immediate care of the newborn, consistent with standards adopted by a specified professional organization, or its successor, as approved by the board. The bill would delete the above-described provisions defining the practice of nurse-midwifery, and instead would provide that the practice of nurse-midwifery includes consultation, comanagement, or referral, as those terms are defined by the bill, as indicated by the health status of the patient and the resources and medical personnel available in the setting of care, subject to specified conditions, including that a patient is required to be transferred from the primary management responsibility of the nurse-midwife to that of a physician and surgeon for the management of a problem or aspect of the patient's care that is outside the scope of the certified nurse-midwife's education, training, and experience. The bill would authorize a certified nurse-midwife to attend pregnancy and childbirth in an out-of-hospital setting if specified conditions are met, including that the gestational age of the fetus is within a specified range. Under the bill, a certified nurse-midwife would not be authorized to assist childbirth by vacuum or forceps extraction, or to perform any external cephalic version. The bill would require a certified nurse-midwife to maintain clinical practice guidelines that delineate the parameters for consultation, comanagement, referral, and transfer of a patient's care, and to document all consultations, referrals, and transfers in the patient record. The bill would require a certified nurse-midwife to refer all emergencies to a physician and surgeon immediately, and would authorize a certified nurse-midwife to provide emergency care until the assistance of a physician and surgeon is obtained.

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

This bill would specify the name of the committee as the Nurse-Midwifery Advisory Committee. The bill would delete the provision including obstetricians on the committee, and would require a majority of the members of the committee to be nurse-midwives. The bill would delete the provision including ratios of nurse-midwives to

supervising physicians and associated matters in the standards developed by the committee, and would instead include standards related to all matter related to the practice of midwifery.

(3) Existing law authorizes a certified nurse-midwife to furnish drugs or devices, including controlled substances, in specified circumstances, including if drugs or devices are furnished or ordered incidentally to the provision of care in specified settings, including certain licensed health care facilities, birth centers, and maternity hospitals provided that the furnishing or ordering of drugs or devices occur under physician and surgeon supervision.

This bill would delete the condition that the furnishing or ordering of drugs or devices occur under physician and surgeon supervision, and would authorize a certified nurse-midwife to furnish drugs or devices when care is rendered in a out-of-hospital setting, as specified. The bill would authorize a certified nurse-midwife to procure supplies and devices, obtain and administer diagnostic tests, order laboratory and diagnostic testing, and receive reports, as specified. The bill would make it a misdemeanor for a certified nurse-midwife to refer a person for specified laboratory and diagnostic testing, home infusion therapy, and imaging goods or services if the certified nurse-midwife or their immediate family member has a financial interest with the person receiving a referral. By expanding the scope of a crime, the bill would impose a state-mandated local program.

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

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

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

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

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

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

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

3 (a) There is a maternity care workforce crisis in California. At
4 least nine counties have no obstetrician at all, and many more
5 counties fall below the national average for obstetricians. This will
6 worsen to the point of critical shortage if the state refuses to take
7 steps to innovatively address this issue.

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

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

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

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

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

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

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

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

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

25 (k) The core philosophy of nurse-midwifery is to provide
26 patient-centered, culturally sensitive, holistic care, all of which
27 are key to reducing disparities in maternal health care.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 2746.2. ~~Each~~ *An* applicant shall show by evidence satisfactory
18 to the board that they have met the educational standards
19 established by the board or have at least the equivalent thereof.
20 The board may appoint ~~a committee of qualified physicians and~~
21 ~~nurses, including, but not limited to, obstetricians and~~
22 ~~nurse-midwives,~~ *the Nurse-Midwifery Advisory Committee* to
23 develop the necessary standards relating to educational
24 ~~requirements, ratios of nurse-midwives to supervising physicians,~~
25 ~~and associated matters.~~ *requirements and all matters related to*
26 *the practice of nurse-midwifery.* The committee may ~~also include~~
27 *include, but not be limited to, qualified nurses and qualified*
28 *physicians and surgeons, including, but not limited to, family*
29 *physicians. A majority of the members of the committee shall be*
30 *nurse-midwives.*

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

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

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

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

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

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

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

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

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

23 ~~(b)~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 ~~(D)~~

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

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

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

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

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

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

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

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

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

29 ~~(4)~~

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

35 ~~(5)~~

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

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

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

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

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

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

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

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

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

1 (f) Notwithstanding any other law, a certified nurse-midwife
2 may directly procure supplies and devices, obtain and administer
3 diagnostic tests, order laboratory and diagnostic testing, and
4 receive reports that are necessary to their practice as a certified
5 nurse-midwife within their scope of practice.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

O