



LEGISLATIVE COMMITTEE

SUPPLEMENTAL MATERIALS TO COMMITTEE MEETING AGENDA

BRN Legislative Committee Meeting | October 15, 2020

LEGISLATIVE COMMITTEE

TABLE OF CONTENTS

10.0 Approval of Minutes	3
10.0.1 Review and Vote on Whether to Approve Previous Meeting Minutes: August 13, 2020	4
10.1 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:	7



Agenda Item 10.0

Approval of Minutes

BRN Legislative Committee Meeting | October 15, 2020

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

DRAFT

MEETING PRESENTED AS INFORMATION ONLY

DATE: August 13, 2020

START TIME: 1:56 p.m.

MEMBERS PRESENT: Michael Jackson
Imelda Ceja-Butkiewicz

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

Michael Jackson called the meeting to order at 1:56 p.m.
Quorum Not Established. Meeting presented as Information Only.

RECESS: Michael Jackson ordered the meeting to recess.
Time: 2:00p.m.

RECONVENE: Michael Jackson reconvened the meeting to order.
Time: 2:10 p.m.

10.0.1 Review and Vote on Whether to Approve Previous Meeting's Minutes:

➤ May 28, 2020

ACTION: **Action Deferred to Next Committee Meeting:** August 13, 2020
Meeting Presented as Information Only and Considered tabled until the next BRN Committee meeting.

10.1 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 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 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 2288** (Low) Nursing Programs: Clinical hours
- **AB 2549** (Salas) Department of Consumer Affairs: temporary licenses
- **AB 3016** (Dahle) Board of Registered Nursing: online license verification
- AB 3045 (Gray) Boards: veterans: military spouses: licenses
- SB 878 (Jones) Department of Consumer Affairs Licensing: applications: wait times
- **SB 1237** (Dodd) Nurse-Midwives: scope of practice

Thelma Harris, Legislative Committee Liaison, provided information of the Bills listed below:

AB 890 **(Wood) Nurse practitioners**
POSITION: Oppose Unless Amended
Update: APRN Committee will provide suggestions to the Board.

AB 2288 **(Low) Nursing Programs: Clinical hours**
POSITION: Oppose
Update: *Currently being In Senate Hearing; Update will be provided at a later date.*

AB 3016 (Dahle) Board of Registered Nursing: online license verification
Update: Information Only: Bill Is Currently Held In Committee.

SB 1237 (Dodd) Nurse-Midwives: scope of practice
Update: Concerns are expressed particularly in the language from the BRN Nurse-Midwives Advisory Committee and Board enforcer of Data.
The board would not license them if they don't receive that data.

POSITION: Support if Amended

PUBLIC COMMENT: No Public Comment

10.2 Public Comment For Items Not On The Agenda

PUBLIC COMMENT: Mitchel Erickson-Chair of APRN Advisory Committee

10.3 ADJOURNMENT
Time: 2:20 pm

Submitted By:

N/A

Accepted By:

N/A



Agenda Item 10.1

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

BRN Legislative Committee Meeting | October 15, 2020

2020 TENTATIVE LEGISLATIVE CALENDAR
 COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE
 Revised August 14, 2020

DEADLINES

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

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

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

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

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

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

Jan. 6 Legislature Reconvenes (J.R. 51(a)(4)).

Jan. 10 Budget must be submitted by Governor (Art. IV, Sec. 12(a)).

Jan. 17 Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house in the **odd-numbered year** (J.R. 61(b)(1)).

Jan. 20 Martin Luther King, Jr. Day.

Jan. 24 Last day for any committee to hear and report to the **floor** bills introduced in that house in the odd-numbered year (J.R. 61(b)(2)).
 Last day to **submit bill requests** to the Office of Legislative Counsel.

Jan. 31 Last day for each house to **pass bills introduced** in that house in the odd-numbered year (Art. IV, Sec. 10(c)), (J.R. 61(b)(3)).

Feb. 17 Presidents' Day.

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

Mar. 16 Legislature in recess, ACR 189, Resolution Chapter 15, Statutes of 2020

Mar. 27 Cesar Chavez Day observed

May 11 Senate Reconvenes

May 25 Memorial Day

May 29 Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house (J.R. 61(b)(5)).

*Holiday schedule subject to Senate Rules committee approval.

2020 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE
Revised August 14, 2020

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

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

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

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

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

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

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

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

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

July 3 Independence Day observed.

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

Aug. 18 Last day for **policy committees** to meet and report bills (J.R. 61(b)(14)).

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

Aug. 24 – 31 **Floor Session only**. No committees, other than conference and Rules committees, may meet for any purpose (J.R. 61(b)(16)).

Aug. 25 Last day to **amend bills** on the Floor (J.R. 61(b)(17)).

Aug. 27 Last day to **amend bills** on the **floor for Chaptering purposes only** CHAPTERING AMENDS ONLY

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

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

*Holiday schedule subject to Senate Rules committee approval.

IMPORTANT DATES OCCURRING DURING FINAL RECESS

2020

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

Nov. 3 General Election

Nov. 30 Adjournment *Sine Die* at midnight (Art. IV, Sec. 3(a)).

Dec. 7 12 m. convening of 2021-22 Regular Session (Art. IV, Sec. 3(a)).

2021

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

Jan. 4 Legislature reconvenes (JR 51(a)(1)).

BOARD OF REGISTERED NURSING
Assembly Bills 2019-2020
Status Update
September 30, 2020

BILL #	AUTHOR/ BILL SPONSOR	SUBJECT	COM POSITION/ date	BOARD POSITION/ date	BILL STATUS as of Oct 2020
AB 329	Rodriguez/ CENA	Hospitals: assaults and batteries	Watch 3/14/19	Watch 4/11/19	Dead
AB 362	Eggman/ DPA; HRC	Controlled substances: overdose prevention program	Information 5/9/19	Watch 4/11/19	Dead
AB 613	Low	Professions and vocations: regulatory fees	Watch 3/14/19	Watch 4/11/19	Dead
AB 732	Bonta	County jails: prisons: incarcerated pregnant persons	Watch 3/14/19	Watch 4/11/19	Enrolled
AB 890	Wood	Nurse practitioners: scope of practice: unsupervised practice	Oppose unless amended 01/09/19	Oppose unless amended 6/24/20	Chaptered
AB 1145	Cristina Garcia	Child abuse: reportable conduct	Watch 3/14/19	Watch 4/11/19	Chaptered
AB 1616	Low	Department of Consumer Affairs: boards: expunged convictions			Dead
AB 1759	Salas	Health care workers: rural and underserved areas			Dead
AB 1909	Gonzalez	Healing arts licensees: virginity examinations or tests			Dead
AB 1998	Low	Dental Practice Act: unprofessional conduct: patient of record			Dead
AB 2028	Aguilar-Curry	State agencies: meetings	Oppose unless amended 03/12/20	Support as Amended June 24, 20	Dead
AB 2113	Low	Refugees, asylees, and immigrants: professional licensing			Chaptered
AB 2288	Low	Nursing Programs: Clinical hours	Support with Amendments 5/27/20	Oppose 08/4/2020	Chaptered
AB 2549	Salas	Department of Consumer Affairs: temporary licenses	Watch	Watch 6/24/20	Dead
AB 3016	Dahle	Board of Registered Nursing: online license verification	Oppose 03/12/20	Oppose 6/24/20	Dead
AB 3045	Gray	Boards: veterans: military spouses: licenses			Dead

BOARD OF REGISTERED NURSING
Senate Bills 2019-2020
Status Update
September 30, 2020

BILL #	AUTHOR/ BILL SPONSOR	SUBJECT	COM POSITION/ date	BOARD POSITION/ date	BILL STATUS as of September 30, 2020
<u>SB 3</u>	Allen/Glazer	Office of Higher Education Coordination, Accountability, and performance			Dead
<u>SB 808</u>	Mitchell	Budget Act of 2020			Dead
<u>SB 878</u>	Jones	Department of Consumer Affairs Licensing: applications: wait times			Chaptered
<u>SB 1053</u>	Moorlach	Licensed registered nurses and licensed vocational nurses: Nurse Licensure Compact	Oppose 03/12/20	Oppose 6/24/20	Dead
<u>SB 1237</u>	Dodd	Nurse-Midwives: scope of practice	Support if amended 03/12/20	Support if amended 6/24/20	Chaptered

AMENDED IN SENATE JULY 23, 2020

AMENDED IN ASSEMBLY JANUARY 23, 2020

AMENDED IN ASSEMBLY APRIL 22, 2019

AMENDED IN ASSEMBLY APRIL 3, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 890

Introduced by Assembly Member Wood

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

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

February 20, 2019

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (B) "Peer review body" includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25

26 Article 8.5. Advanced Practice Registered Nurses

27

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

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

37 ~~(b) —~~

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

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

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

5 (2)

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

8 (3)

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

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

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

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

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

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

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

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

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

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

7 ~~2837.104.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~2837.105.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 ~~2837.106.~~

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

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

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

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

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

O

AMENDED IN SENATE AUGUST 4, 2020

AMENDED IN SENATE JULY 22, 2020

AMENDED IN SENATE JULY 2, 2020

AMENDED IN ASSEMBLY MAY 18, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2288

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

February 14, 2020

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill would authorize an approved nursing program to submit a request to a board nursing education consultant to revise certain clinical

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

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

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

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

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

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

8 2786.3. (a) Until the end of the 2020–21 academic year, and
 9 whenever the Governor declares a state of emergency for a county
 10 in which an agency or facility used by an approved nursing
 11 program for direct patient care clinical practice is located and is
 12 no longer available due to the conditions giving rise to the state
 13 of emergency, the director of the approved nursing program may
 14 submit to a board nursing education consultant requests to do any
 15 of the following for *no more than* the existing number of enrolled
 16 students:

17 (1) Utilize a clinical setting during the state of emergency *or*
 18 *until the end of the academic term* without the following:

19 (A) Approval by the board.

20 (B) Written agreements with the clinical facility.

1 (C) Submitting evidence of compliance with board regulations
2 relating to the utilization of clinical settings, except as necessary
3 for a board nursing education consultant to ensure course objectives
4 and faculty responsibilities will be met.

5 (2) Utilize preceptorships during the state of emergency *or until*
6 *the end of the academic term* without having to maintain written
7 policies relating to the following:

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

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

12 (C) Identification of preceptor qualifications for both the primary
13 and the relief preceptor.

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

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

20 (F) Plan for an ongoing evaluation regarding the continued use
21 of preceptors.

22 (3) Request that the approved nursing program be allowed to
23 reduce the required number of direct patient care hours to 50
24 percent *in geriatrics and medical-surgical and 25 percent in mental*
25 *health-psychiatric nursing, obstetrics, and pediatrics* if all of the
26 following conditions are met:

27 (A) ~~No alternative agency or facility located within 25 miles of~~
28 ~~the impacted approved nursing program, campus, or location, as~~
29 ~~applicable, has a sufficient number of open placements that are~~
30 available and accessible to the approved nursing program for direct
31 patient care clinical practice hours in the same subject matter area.
32 An approved nursing program shall *submit, and* not be required
33 to ~~contact a clinical facility that the program has previously~~
34 ~~contacted. provide more than, the following:~~

35 (i) *The list of alternative agencies or facilities listed within 25*
36 *miles of the impacted approved nursing program, campus, or*
37 *location, as applicable, using the facility finder on the Office of*
38 *Statewide Health Planning and Development's website.*

1 (ii) *The list of courses impacted by the loss of clinical*
 2 *placements due to the state of emergency and the academic term*
 3 *the courses are offered.*

4 (iii) *Whether each of the listed alternative agencies or facilities*
 5 *would meet the course objectives for the courses requiring*
 6 *placements.*

7 (iv) *Whether the approved nursing program has contacted each*
 8 *of the listed alternative agencies or facilities about the availability*
 9 *of clinical placements. The approved nursing program shall not*
 10 *be required to contact a clinical facility that would not meet course*
 11 *objectives.*

12 (v) *The date of contact or attempted contact.*

13 (vi) *The number of open placements at each of the listed*
 14 *alternative agencies or facilities that are available for the academic*
 15 *term for each course. If an alternative agency or facility does not*
 16 *respond within 48 hours, the approved nursing program may list*
 17 *the alternative agency or facility as unavailable. If the alternative*
 18 *agency or facility subsequently responds prior to the submission*
 19 *of the request to a board nursing education consultant, the*
 20 *approved nursing program shall update the list to reflect the*
 21 *response.*

22 (vii) *Whether the open and available placements are accessible*
 23 *to the students and faculty. An open and available placement is*
 24 *accessible if there are no barriers that otherwise prohibit a student*
 25 *from entering the facility, including, but not limited to, the lack of*
 26 *personal protective equipment or cost-prohibitive infectious disease*
 27 *testing. An individual's personal unwillingness to enter an*
 28 *alternative agency or facility does not make a placement*
 29 *inaccessible.*

30 (viii) *The total number of open and available placements that*
 31 *are accessible to the students and faculty compared to the total*
 32 *number of placements needed.*

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

38 (C) ~~Once the applicable state of emergency is lifted, clinical~~
 39 *Clinical practice hours not in direct patient care shall cease as soon*
 40 ~~as practicable~~ *a sufficient number of clinical placements are*

1 *available and accessible, once the applicable state of emergency*
2 *has terminated pursuant to Section 8629 of the Government Code,*
3 *or by the end of the academic-year, term, whichever is sooner.*

4 (D) The simulation experiences are based on the best practices
5 published by the International Nursing Association for Clinical
6 Simulation and Learning, the National Council of State Boards of
7 Nursing, the Society for Simulation in Healthcare, or equivalent
8 standards approved by the board, except those relating to the
9 number of direct patient care hours.

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

12 (4) Request that the approved nursing program be allowed to
13 reduce the required number of direct patient care hours to 25
14 percent for students in their graduating ~~quarter or semester~~
15 *academic term* if all of the following conditions are met:

16 (A) The approved program meets the requirements of paragraph
17 (3).

18 (B) *All courses in the students' earlier terms met a minimum of*
19 *50 percent direct patient care hours.*

20 ~~(B)~~

21 (C) The number of placements available at agencies or facilities
22 being used by the approved nursing program for direct patient care
23 are insufficient to meet the 50 percent direct patient care
24 requirement.

25 ~~(C)~~

26 (D) The approved program has maintained a minimum first-time
27 pass rate of 80 percent for the licensing examination under this
28 chapter for the last two consecutive academic years.

29 (5) Request that the approved nursing program allow theory to
30 precede clinical practice for purposes of placing students in the
31 remaining clinical placement settings if all of the following
32 conditions are met:

33 (A) No alternative agency or facility located within 25 miles of
34 the impacted approved nursing program, campus, or location, as
35 applicable, has *a sufficient number of* open placements that are
36 available and accessible to the approved nursing program for direct
37 patient care clinical practice hours in the same subject matter area.
38 An approved program shall not be required to ~~contact a clinical~~
39 ~~facility that the program has previously contacted.~~ *submit more*
40 *than required under subparagraph (A) of paragraph (3.)*

1 (B) Clinical practice takes place in the ~~quarter or semester~~
2 *academic term* immediately following theory.

3 (C) Theory is taught concurrently with nondirect patient care
4 clinical experiences if no direct patient care experiences are
5 available.

6 (b) If the conditions in paragraphs (1), (2), (3), (4), or (5) of
7 subdivision (a), as applicable to the request, are met, a board
8 nursing education consultant shall approve the request. If an
9 approved nursing program fails to submit information satisfactory
10 to the board nursing education consultant, or fails to meet the
11 conditions specified, the board nursing education consultant shall
12 deny the request. If the request is not approved or denied on or
13 before 5:00 p.m. on the date seven business days after receipt of
14 the request, the request shall be deemed approved.

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

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

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

27 In order to *protect public health and* preserve the future health
28 care workforce by providing flexibility in the way nursing students
29 obtain clinical experience during the COVID-19 pandemic as soon
30 as possible, it is necessary that this act take effect immediately.

O

AMENDED IN ASSEMBLY JULY 27, 2020

AMENDED IN SENATE JUNE 18, 2020

AMENDED IN SENATE MAY 19, 2020

AMENDED IN SENATE MAY 13, 2020

SENATE BILL

No. 1237

Introduced by Senator Dodd

(Coauthor: Senator Mitchell)

(Principal coauthor: Assembly Member Burke)

February 20, 2020

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This bill would make legislative findings to that effect.

(5)

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

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

(6)

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

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

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

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

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

7 ~~(a)~~

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

14 ~~(b)~~

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

23 ~~(c)~~

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

30 ~~(d)~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 16 (1) There is a single fetus.
- 17 (2) There is a cephalic presentation at onset of labor.
- 18 (3) The gestational age of the fetus is greater than or equal to
19 37 weeks and zero days and less than or equal to 42 weeks and
20 zero days at the time of delivery.
- 21 (4) Labor is spontaneous or induced.
- 22 (5) The patient has no preexisting disease or condition, whether
23 arising out of the pregnancy or otherwise, that adversely affects
24 the pregnancy and that the certified nurse-midwife is not qualified
25 to independently address ~~pursuant to~~ *consistent with* this section.
- 26 (b) (1) The certificate to practice nurse-midwifery authorizes
27 the holder to practice with a physician and surgeon under mutually
28 agreed-upon policies and protocols that delineate the parameters
29 for consultation, collaboration, referral, and transfer of a patient’s
30 care, signed by both the certified nurse-midwife and a physician
31 and surgeon to do either of the following:
 - 32 (A) Provide a patient with care that falls outside the scope of
33 services specified in subdivision (a).
 - 34 (B) Provide intrapartum care to a patient who has had a prior
35 cesarean section or surgery that interrupts the myometrium.
- 36 (2) If a physician and surgeon assumes care of the patient, the
37 certified nurse-midwife may continue to attend the birth of the
38 newborn and participate in physical care, counseling, guidance,
39 teaching, and support, as indicated by the mutually agreed-upon

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

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

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

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

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

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

28 ~~(2)~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (22) *Plurality, defined as the number of fetuses delivered live*
2 *or dead at any time in the pregnancy.*
- 3 (23) *Whether the birth was both vaginal and given by a parent*
4 *who has had a prior cesarian section.*
- 5 (24) *The intended place of birth at the onset of labor, including,*
6 *but not limited to, home, freestanding birth center, hospital, clinic,*
7 *doctor's office, or other location.*
- 8 (25) *Whether there was a maternal death.*
- 9 (26) *Whether there was a fetal death.*
- 10 (27) *Whether there was a hospital transfer during the*
11 *intrapartum or postpartum period, and, if there was a transfer,*
12 *the following:*
- 13 (A) *Whether the mother, the newborn or newborns, or a*
14 *combination thereof was transferred.*
- 15 (B) *The reason for the transfer.*
- 16 (C) *The outcome of the transfer.*
- 17 (D) *The name of the hospital to which the patient or patients*
18 *were transferred.*
- 19 (28) *The name and title of the delivery provider.*
- 20 (29) *Any other information prescribed by the board in*
21 *regulations.*
- 22 (b) *For those cases that involve a hospital transfer, the Office*
23 *of Statewide Health Planning and Development shall coordinate*
24 *the linkage of the data submitted by the nurse-midwife with the*
25 *vital records data and patient discharge data that reflects the*
26 *hospitalization so that additional data reflecting the outcome can*
27 *be incorporated into the aggregated reports provided pursuant to*
28 *subdivision (f).*
- 29 (c) *The State Department of Public Health shall maintain the*
30 *confidentiality of the information submitted pursuant to this section,*
31 *and shall not permit any law enforcement or regulatory agency to*
32 *inspect or have copies made of the contents of any reports*
33 *submitted pursuant to subdivision (a) for any purpose, including,*
34 *but not limited to, investigations for licensing, certification, or*
35 *regulatory purposes.*
- 36 (d) *The State Department of Public Health shall report to the*
37 *board, by April 30, those licensees who have met the requirements*
38 *of subdivision (a) for that year.*
- 39 (e) *The board shall send a written notice of noncompliance to*
40 *each licensee who fails to meet the reporting requirement of*

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

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

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

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

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

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

34 ~~SEC. 9.~~

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

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

O