Title 16, Division 14, Article 8, sections 1480, 1481, 1482.3, 1482.4 and 1487
California Code of Regulations

Board of Registered Nursing

Final Statement of Reasons

Categories and Scope of Practice of Nurse Practitioners

Sections Affected: California Code of Regulations (CCR), Title 16, Division 14, Article 8, Sections 1480, 1481, 1482.3, 1482.4 and 1487.

Request for a January 1, 2023 Effective Date, or "upon filing" if Approved after January 1, 2023:

The Board of Registered Nursing (Board) requests that this regulatory proposal become effective January 1, 2023, to statutorily align with the implementation date of Assembly Bill (AB) 890 (Wood, Chapter 265, Statutes of 2020), if the Office of Administrative Law has completed its review and approved the regulation package by then. If the Office of Administrative Law is still reviewing the regulatory package on January 1, 2023, then the Board requests that this regulatory proposal become effective on filing.

The proposed amendments and additions to the Board's regulations implement the Legislature's intent to provide enhanced health care services to the public, especially in underserved communities without undue or unnecessary burden to licensure or practice. Many of the written comments received, including by Senate President pro Tempore Toni Atkins, and by over a dozen commenters at the Board's meeting regarding adoption, urged the swift passage of this package so that nurse practitioners (NP) could transition to an enhanced scope of practice. As explained in the Initial and in this Final Statement of Reasons, AB 890's intention is to provide enhanced health care to fill a gap in the current provision of medical services in California. Expediting these regulations to allow nurse practitioners to apply for an expanded scope of practice will assist to close the current gap. As a voluntary certification, if a nurse practitioner does not want to progress to an expanded scope of practice, no action is required on their part and no additional regulatory obligations will be imposed.

Up to 32,000 NPs are expected to apply for the 103 NP certification when these regulations are approved and effective. Therefore, it would be of benefit to current NP licensees as well as general public to hasten the effect of these regulations.

Updated Information

The Informative Digest and Initial Statement of Reasons are included in the rulemaking file and incorporated as though set forth herein.

The 45-day public comment period began on September 16, 2022 and ended on November 1, 2022. The Board received 52 letters and emails during the public comment period. There were no requests for a public hearing and no separate public hearing was held. The Board considered these comments at the November 14, 2022, Board Meeting, approved the responses, and voted to adopt the proposed text as noticed, delegating any non-substantive or technical changes to the Executive Officer.

After Board approval and prior to submission to the Office of Administrative Law, the following non-substantive changes were made:

- In 1481(b), "Practitioners" was lowercased for grammatical and consistency purposes;
- Typographical errors in statutory citations in 1481(b)(1), 1481(b)(2), and 1482.4(a)(12) were corrected;
- A duplicative "in" in 1481(b)(2) was deleted;
- The term "Board" in 1482.3(a)(12) and 1482.4(a)(12) was capitalized for consistency; and
- Ending punctuation in 1482.3(a)(12) and 1482.4(a)(12) was added for grammatical correctness.

Objections or Recommendations/Responses

Below are the summarized comments the Board received regarding the proposed text during the 45-day public comment period, followed by the Board's responses.

A. Email received September 15th, 2022, from Commenter 1

Comment A-1

Summary of Comment
The commenter expressed support for the proposed changes and for independent practice as a NP to take effect as soon as possible.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board appreciates the commenter's attention to these regulations and is making every effort to finalize these regulations expeditiously.

B. Email received September 26, 2022, from Commenter 2

Comment B-1

Summary of Comment
The commenter stated there has been a lot of discussion regarding the use of Family NPs in acute care settings roles such as Hospitalists and ICU. The commenter stated that the categories listed in Title 16 CCR 1481 separate those trained as family across the lifespan from those trained in specific settings such as adult-gero, primary, and acute care. The commenter inquired whether the Board will be releasing guidance on this situation and, if so, whether the guidance would apply only to those who are seeking independent practice under the new law or have a broader application.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

A traditional NP (non-103 / non-104) can practice in any setting and in any specialty that they are deemed competent for so long as it's in accordance with their standardized procedures. The physical setting in which an NP practices does not determine whether they are operating within their scope of practice.

NPs who chose to leave the traditional NP role and progress to a 103 or 104 can only do so in whichever of the six NP categories outlined in 16 CCR 1481(a) they received their national certification and completed their transition to practice clinical experience and mentorship. Of the six NP categories identified in 16 CCR 1481(a), only adult-gerontology and pediatrics have a primary care or acute care designation. All other categories do not have a designation location and can work in any modality for delivery of care.

C. Email received October 3, 2022, from Commenter 3

Comment C-1

Summary of Comment
The commenter requested clarification on whether the proposed regulation would allow an NP to perform elective cosmetic procedures without being under the supervision of a physician.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

According to Business and Professions Code (BPC) Section 2837.103(a)(1)(B) and Section 2837.104(b), a 103 or 104 NP must hold a certification from a national certifying body accredited by the National Commission for Certifying Agencies (NCCA) or the American Board of Nursing Specialties (ABSNC) and recognized by the Board.

Under the Advanced Practice Registered Nursing (APRN) Consensus Model, licensure occurs at the level of the population foci, as core competencies are aligned with role/population foci. Therefore, NPs who wish to progress to a 103 or 104 can only do so in whichever of the six NP categories outlined in 16 CCR 1481(a) in which they received their national certification and a national certification for Plastic Surgical NP does not currently exist.

This rulemaking does not alter the existing categories of NP, listed in 16 CCR 1481(a), as:

(1) Family/individual across the lifespan;
(2) Adult-gerontology, primary care or acute care;
(3) Neonatal;
(4) Pediatrics, primary care or acute care;
(5) Women's health/gender-related;
(6) Psychiatric-Mental Health across the lifespan.

While there are Emergency NP and Dermatology NP certifications, they are recognized by the Board as a specialty practice area and not a population focus. They do not replace the national certification and do not expand the scope of practice beyond the role or population. Consequently, the Board cannot grant a 103 or 104 NP status in those specialties. However, the Board is open to future discussions and potential rulemaking action(s) to address the inclusion of specialty practice areas within 16 CCR 1481(a).

D. Email received October 9, 2022, from Commenter 4

Comment D-1

Summary of Comment
The commenter asked whether a public reproval that occurred over 10 years ago and is still associated with the license would impact an NPs ability to meet the “full practice authority” 104 NP criteria of “practicing in good standing” for at least three full-time equivalent years or 4600 hours.

Response to Comment
If the public reproval did not occur while the NP was completing their 3-year Transition to Practice (TTP) requirement as a 103 NP, then it would not impact their ability to become a 104 NP. Proposed section 1482.4 (a)(14) states that an applicant must have: “Proof of practice as a nurse practitioner pursuant to Section 2837.103 of the code in

good standing for at least three full-time equivalent years or 4600 hours in direct patient care." Because "good standing" is followed by "for at least three…years" and that phrase is further defined in in 1482.14(a)(14)(A) to include practice under an "unrestricted" license, which is further clarified to include public reproval, the Board has determined that this language is sufficiently clear.

Comment D-2

Summary of Comment
The commenter asked whether NPs who already practice outside of a group setting, but under standardized procedures, need to complete the 3-year requirement?

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

It appears the commenter is referring to the requirement to practice as a 103 NP in good standing for 3 years prior to becoming a 104 NP. Yes, according to the proposed text at section 1482.4(a)(14), the 3-year practice requirement to become a 104 NP must occur once certification as a 103 NP is obtained, after completing the TTP. That requirement would apply for all 103 NPs who wish to transition to a 104 NP, regardless of whether they have already practiced outside of a group setting under standardized procedures. The Board has determined that this language is sufficiently clear.

Comment D-3

Summary of Comment
The commenter asked whether specialty areas other than those listed in 16 CCR 1481 would be recognized.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board incorporates by reference the response to Comment C-1, above. NPs who would like to progress to a 103 or 104 can only do so in whichever of the six NP categories outlined in 16 CCR 1481(a) in which they received their national certification and completed their transition to practice clinical experience and mentorship.

E. Email received October 10, 2022, from Commenter 5

Comment E-1

Summary of Comment
The commenter stated that the Board should establish minimal transition to practice standards for 103 and 104 NPs which include a grandfathering provision for seasoned NPs and a need for 4600 hours of mentored practice by a doctor or NP. The commenter also stated that a clinical skill council should vouch for the capability of a 103 medical caretaker professional to rehearse freely. Commenter references unspecified moral dilemmas and suggests that the statute be amended.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

According to BPC Section 2837.101, transition to practice is additional clinical experience and mentorship provided to prepare a nurse practitioner to practice independently. This can include, but is not limited to, managing a panel of patients, working in a complex health care setting, interpersonal communication, interpersonal collaboration and team-based care, professionalism, and business management of a practice.

The transition to practice provision in 16 CCR Section 1482.3 allows for the 4600 hours or three full-time equivalent years of clinical practice experience and mentorship requirement to be met with experience that was obtained before January 1, 2023, so long as it meets the following criteria:

- Completed in California.
- Completed within five years prior to the date the applicant applies for certification as a nurse practitioner pursuant to Section 2837.103 of the code.
- Completed after certification by the Board of Registered Nursing as a nurse practitioner.
- Completed in direct patient care in the role of a nurse practitioner in the category listed in Section 1481(a) in which the applicant seeks certification as a nurse practitioner pursuant to Section 2837.103 of the code.

As outlined in page 10 of the Initial Statement of Reasons (ISOR), a NP must receive formal attestation from a physician, surgeon, 103 NP or 104 NP who practices in the same practice area that the 103 NP is pursuing and who is familiar with the NP's background and work experience that a transition to practice of a minimum of three full-time equivalent years of practice or 4600 hours was completed. Requiring a formal

attestation allows a mentor at an equal or higher level to observe the planning, supervision, implementation, and evaluation of the care provided to each patient to verify that the NP has met the additional clinical experience and mentorship that is intended to prepare the nurse practitioner to practice independently.

This is a critical step because although all NPs have the same scope of practice, this practice is based on competence and not all NPs have the same type and amount of education and experience. Therefore, the number of functions in which an NP is competent could vary. Furthermore, the attestation must be from someone in the same practice area as the applicant because a physician practicing in pediatrics may not have the experience and knowledge to recognize subtle nuances that would prove or disprove competency of an NP pursuing Adult-gerontology, primary care, or acute care nursing at a 103 NP level.

By requiring the attestor to have a more advanced scope of practice and to provide patient care in a practice area that is similar to the one the applicant NP is seeking certification as 103 or 104 NP in, it ensures the mentor can appropriately assess the qualifications of the NP completing the mentorship and verify that the TTP requirements set forth in statue and regulations have been met.

Furthermore, 16 CCR 1482.4(a)(14) requires an additional 3 years' experience as a 103 NP in good standing in order become a 104 NP. The Board believes this provision is sufficient to ensure the capability of a NP to practice independently.

As to statutory changes, the Board is only authorized to regulate based upon current statutory language; the Board does not have the authority to change or amend current statutes through the rulemaking process.

F. Email received October 12, 2022, from Commenter 6

Comment F-1

Summary of Comment
The commenter stated that NPs with experience amounting to over 6 years of full time NP practice should have an option to apply directly for 104 NP status upon implementation of the new legislation on January 1st, 2023.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board does not have the authority to change or amend current law through the rulemaking process. The requirement to practice as a 103 NP in good standing for 3

years prior to seeking certification as 104 NP and practicing independently is codified in BPC Section 2837.104(b)(1)(C).

G. Email received October 12, 2022, from Commenter 7

Comment G-1

Summary of Comment
The commenter inquired as to the timeline for an NP to begin practicing independently. The commenter asked whether the requirements in the proposed text for an NP to practice for a minimum of 3 years and satisfy certain educational requirements, must take place after January 1, 2023, or can they have practiced 3 years prior to January 1, 2023?

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

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

- Completed in California.
- Completed within five years prior to the date the applicant applies for certification as a 103 NP
- Completed after certification by the Board of Registered Nursing as a NP.
- Completed in direct patient care in the role of a NP in the category listed in 16 CCR Section 1481(a) in which the applicant seeks certification as a 103 NP.

To become a 104 NP and practice independently, an NP must meet all the requirements outlined in BPC 2837.104(b)(1). These requirements include having practiced as a 103 NP in good standing for at least three full-time equivalent years or 4600 hours in direct patient care. This means that the earliest an NP can apply to become certified as a 104 NP is January 1, 2026.

H. Letter received October 17, 2022, from Commenter 8

Comment H-1

Summary of Comment
The commenter requests that the definition of “group setting” in 16 CCR 1480 be amended to remove language specifying that a group setting has one or more physicians and surgeons practicing with a NP without standardized procedures.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board does not have authority to repeal or amend statute through the rulemaking process. The requirement for a 103 NP to practice in a setting or organization where one or more physicians and surgeons practice with the 103 NP, without standardized procedures, is codified in BPC 2837.103(a)(2). That language is duplicated in these regulations for definitional convenience to the reader, and the language is consistent with the statutory requirements.

Comment H-2

Summary of Comment
The commenter requested the following amendments to 16 CCR 1481(b):

a. 16 CCR 1481(b)(1) be amended to state, "Nurse Practitioners who have met the requirements defined in BPC § 2837.103(a) shall have a defined scope of practice pursuant to BPC § 2837.103(c) and can apply to the Board, and practice without standardized procedures."
b. 16 CCR 1481(b)(1) be repealed.
c. 16 CCR 1481(b)(2) be recategorized as 16 CCR 1481(c) and be amended to state, "A nurse practitioner who has met the requirements defined in BPC §2837.104(b)(1) shall have a defined scope of practice pursuant to BPC § 2837.104(a)(1)."

Response to Comment H-2(a)
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The requirement for nurse practitioners to meet additional training and experience requirements is in alignment with BPC 2837.103(a)(1) which requires the completion of a transition to practice in California of a minimum of three full-time equivalent years of practice or 4600 hours. Transition to practice is further defined in BPC Section 2837.101 as additional clinical experience and mentorship provided to prepare a nurse practitioner to practice independently.

Response to Comment H-2(b)
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

As stated on page 7 and 8 of the Initial Statement of Reasons, the language in 16 CCR 1481(b)(1) is necessary to establish the regulatory framework for NPs to work without standardized procedures as set forth in BPC Section 2837.103. The term "group setting" is defined in 16 CCR Section 1480(k) as "one of the settings or organizations set forth in Section 2837.103(a)(2) of the code in which one or more physicians and surgeons practice with a nurse practitioner without standardized procedures."

The Board located subdivision (b)(1) in 16 CCR Section 1481 to correlate the expanded scope of practice with the subject matter categories in subdivision (a) so that it is clear that these categories of NPs are further divided into those who work with standardized procedures and without standardized procedures as set forth in BPC Section 2837.103(a)(2).

Response to Comment H-2(c)
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

As stated on page 8 of the Initial Statement of Reasons, the language in 16 CCR 1481(b)(2) is necessary to establish the regulatory framework for NPs to work without standardized procedures as set forth in BPC Section 2837.103 and increases the areas that these functions can be performed, including outside of a group setting.

The Board located subdivision (b)(1) in 16 CCR Section 1481 to correlate the expanded scope of practice with the subject matter categories in subdivision (a) so that it is clear, that these categories of NPs are further divided into those who work with standardized procedures and without standardized procedures as set forth in BPC Section 2837.103(a)(2).

Comment H-3

Summary of Comment
The commenter requested the following amendments to 16 CCR 1482.3(a)(13):

a. 16 CCR 1482.3(a)(13) be amended to remove the requirement that the physician or surgeon, 103 NP, or 104 NP who attests that an applicant has completed the transition to practice, must specialize in the same specialty area or category listed in 16 CCR Section 1481(a) in which the applicant is seeking certification as a 103 NP.
b. 16 CCR 1482.3(a)(13) be amended to remove the requirement that the physician or surgeon, 103 NP, or 104 NP who attests that an applicant has completed the transition to practice not have a financial relationship with the applicant.
c. 16 CCR 1482.3(a)(13)(A)(ii) be amended to state that the 4600 hours or three years of clinical practical experience and mentorship can be completed within seven years of the date of application instead of within five years of the date of application.
d. 16 CCR 1482.3(a)(13)(A)(iv) be repealed.

Response to Comment H-3(a)
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

As described in the ISOR at page 10, the requirement that the physician or surgeon, 103 NP, or 104 NP who is attesting to an applicant's completion of the transition to practice must also specialize in the category in which the applicant is seeking certification is a matter of public protection. If the attestor does not work in the specialty area that the applicant is seeking certification, then they would not have the appropriate subject matter expertise to evaluate whether the applicant had successfully completed the transition and could move to from dependent practice to independent practice.

Response to Comment H-3(b)
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

As described in the ISOR, beginning at page 13, the requirement for the physician or surgeon, 103 NP, or 104 NP who is attesting to an applicant's completion of the transition to practice to not have a financial relationship is intended to preserve the professional ethics and objectivity needed to ensure this mentorship is completed as outlined and the evaluation of the transition from a dependent practice to an independent practice is impartial and unbiased.

Response to Comment H-3(c)
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

As outlined in page 12 of the ISOR, the Board requires the transition to practice to be completed within five years prior to the date the applicant applies for certification as a 103 NP because healthcare is a rapidly evolving field, and the NP must be aware of current best practices, community standards of care, and research. Therefore, recent clinical practice is of the utmost importance in seeking to establish the qualifications to practice without standardized procedures.

The Board has a recency requirement of three years to serve as a subject matter expert and a recency requirement of five years to be a nurse educator. Furthermore, the Board's licensing requirements state that after eight years of not practicing, an applicant must retake the NCLEX-RN since it could not be validated that the applicant possesses the current scientific knowledge and technical skills that are needed to practice safely as a nurse. Consequently, the NPAC subcommittee determined that the 4600 hours or three years of full-time equivalent clinical practice should be within the five years preceding the application for 103 NP status.

Response to Comment H-3(d)
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

NPs who wish to progress to a 103 or 104 can only do so in whichever of the six NP categories outlined in 16 CCR 1481(a) in which they received their national certification. Consequently, their direct patient care experience must also be in that category to ensure they have obtained the training and experience necessary for a safe transition to independent practice. Removing the direct patient component could jeopardize patient safety, as an NP could have been employed continuously but not involved in direct patient care and thus not be prepared for an expanded scope of practice.

Comment H-4

Summary of Comment
The commenter requests that 16 CCR 1482.4(b) be amended to remove the requirement for the written plan for referrals to be made available to patients upon request. The commenter also requested that 16 CCR 1482.4(b) be amended to remove the requirement for the written referral plan to contain the consent and acknowledgement of any specific individual that is named in the plan.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

As outlined on page 20 of the ISOR, the Board requires 104 NPs to make referral plans available on patients' request because the patient may prefer a specific provider or may believe that a particular type of health care practitioner is the type of provider that best suits their needs. The Board also requires if the written plan calls for referrals to a specific individual, the plan must include that individual's acknowledgment and consent to the referrals because this ensures that this is an agreed-upon relationship and both providers are comfortable with the services that will be provided. These requirements are in alignment with the recommendations made by the NPAC committee as well as the current practice requirements for Certified Nurse Midwives.

I. Email received October 22, 2022, from Commenter 9

Comment I-1

Summary of Comment
The commenter states that California allied health professionals and business community vastly supports independent practice for NP. The commenter states that other health professions are allowed to practice to the extent of their education and open their own businesses and that there is no reason to limit NPs in these areas. The commenter states that the rights of NPs should be extended, not limited and that NPs with 6+ years of experience in their specialty should be able to apply directly for Section 104 NP status and have the ability to start their own practice.

Response to Comment
The Board incorporates by reference the response to Comment F-1, above.

J. Email received October 22, 2022, from Commenter 10

Comment J-1

Summary of Comment
The commenter stated the care the commenter has received from NPs has always exceeded their expectations. The commenter stated that NPs have always been professional, competent, knowledgeable, and holistic. The commenters stated that they firmly believe that NPs deserve the right to practice independently to the full extent of their education and that NPs who have experience of 6 years or longer, should be able to start their own practice.

Response to Comment
The Board incorporates by reference the response to Comment F-1, above.

K. Letter received October 24, 2022, from Commenter 11

Comment K-1

Summary of Comment
The commenter appreciates the work done to date encourages the Board to finalize the regulations so that NPs can begin transitioning to an expanded scope of practice on January 1, 2023. The commenter highlighted the systematic inequities faced by Latinos during the pandemic and identified independent practice by NPs as one strategy for addressing these gaps and increasing access to culturally sensitive, high-quality care.

Response to Comment
The Board incorporates by reference the response to Comment A-1, above.

L. Letter received October 24, 2022, from Commenter 12

Comment L-1

Summary of Comment
The commenter appreciates the work done to date encourages the Board to finalize the regulations so that NPs can begin transitioning to an expanded scope of practice on January 1, 2023. The commenter states that expanding NP scope of practice was a top priority recommendation of the California Future Health Workforce Commission. The commenter also stated that their organization actively recruits NPs because they are committed, professional, highly effective providers of health care.

Response to Comment
The Board incorporates by reference the response to Comment A-1, above.

M. Letter received October 26, 2022, from Commenter 13

Comment M-1

Summary of Comment
The commenter appreciates the work done to date encourages the Board to finalize the regulations so that NPs can begin transitioning to an expanded scope of practice on January 1, 2023. The commenter states that expanding NP scope of practice was a top priority recommendation of the California Future Health Workforce Commission. The commenter also state that NPs make vital contributions to addressing equitable access to quality care across diverse racial/ethnic and geographic communities in California.

Response to Comment
The Board incorporates by reference the response to Comment A-1, above.

N. Letter received October 26, 2022, from Commenter 14

Comment N-1

Summary of Comment
The commenter states that there is a severe shortage of primary care providers in this state and the Board would be making primary care less accessible by limiting the practice options for family, pediatric, and women's health advanced practice registered nurses (APRN). The commenter encourages the Board to formulate regulations that allow for 4600 hours of recent APRN practice in another state to meet the requirement for transition to practice upon review by the NPAC.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board does not have the authority to change or supersede statute through the rulemaking process. The requirement for the 4600 hours or three years of transition to practice experience to take place in California is codified in BPC 2837.103(a)(1)(D).

Comment N-2

Summary of Comment
The commenter states that public comments should be able to be made and viewed online via a link rather than “hidden away in some BRN internal communication.”

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board accepts written comments, pursuant to the Notice issued, via letter or email, and has made them available as to the NPAC and Board as available in Committee or Board materials posted online at the Board's web page. The Notice also describes how rulemaking materials may be accessed.

Comment N-3

Summary of Comment
The commenter asked whether previous years of practice in other states count towards the requirement for independent practice in California, or if all 4600 hours must be completed in California? Commenter also asked about how recent the hours must be.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

Regarding where the hours must be completed, the Board incorporates by reference, it's response to Comment N-1, above.

Regarding the recency of the hours, the proposed text states that the 4600 hours of transition to practice must be completed within five years prior to the date of the applicant applies for certification. This is because healthcare is a rapidly evolving field, and the NP must be aware of current best practices, community standards of care, and research. Therefore, recent clinical practice is of the utmost important in seeking to establish the qualification to practice without standardized procedures. Based on the knowledge and experience of the NPAC members, the NPAC determined and recommended to the Board that the 4,600 hours or three years of full-time equivalent clinical practice should be within the five years preceding the application for the 103 NP status, which the Board determined was appropriate.

Comment N-4

Summary of Comment
The commenter wonders about accountability and "what is BRN doing with all of our money?"

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon. This comment is outside the scope of this rulemaking generally. However, the Board is not proposing any new fees with this regulatory package and notes that information regarding the Board's budget is regularly on the Board's meeting agendas, which are posted online. The Board fully complies with the Open Meeting Act and encourages participation by the public in meetings. All

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

O. Letter received October 28, 2022, from Commenter 15

Comment O-1

Summary of Comment
The commenter recommends the proposed regulations be amended to require a supplemental exam to become a 103 and 104 NP. The commenter states that the supplemental exam should contain a clinical component to assess the ability of a 103 or 104 NP to exercise sound clinical judgment and decision-making without standardized procedures and physician supervision in a real-world environment involving actual patient interactions, and not simply through a didactic examination.

The commenter also recommends the Board specify that the supplemental exam be taken only after an NP successfully completes the required transition to practice hours and that the applicant submit proof of passing the supplemental examination with their application material.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

As required by BPC Section 2837.105, as of October 2022, the Department of Consumer Affairs (DCA) Office of Professional Examination Services (OPES) has completed their occupational analysis and the results of the evaluation and linkage studies indicate that the existing NP certification examinations adequately assess the critical competencies required to perform safe and effective independent NP practice in California. Although the national examinations do not assess knowledge related to California specific laws and regulations, OPES does not believe a supplemental examination is necessary to address additional competencies.

Comment O-2

Summary of Comment
The commenter states that, the minimum standards for the transition to practice proposed regulations lack clarity and necessity required under the Administrative Procedure Act (APA) in that, in many instances, they simply restate the provisions in AB 890 without providing further meaningful guidance.

Response to Comment
The Board incorporates by reference the response to Comment E-1, above.

Comment O-3

Summary of Comment
The commenter states that because every NP currently practicing in California must do so under standardized procedures with a physician, any clinical experience a current NP possesses is, by itself, insufficient to satisfy the transition to practice requirement. The commenter states that regulations should not recognize hours completed before the regulations are finalized for purposes of the transition to practice. Rather, all 103 and 104 NP candidates, regardless of preexisting practice experience, should be required to complete the requisite hours to meet the transition to practice requirements after the regulations are operational.

Response to Comment
The Board incorporates by reference the response to Comment E-1, above.

Comment O-4

Summary of Comment
The commenter recommends that clinical experience and mentorship received for purposes of transition to practice be completed in a structured, BRN-approved clinical training program. The commenter recommends that clinical experience for transition to practice purposes be further defined within regulations to cover specified competencies, established by the Board, and include a process for evaluating progress in meeting milestones specific to the category of NP practice in which the applicant seeks certification that demonstrate an NP's preparation to practice without physician supervision.

Response to Comment
The Board incorporates by reference the response to Comment E-1, above.

Comment O-5

Summary of Comment
The commenter states that the regulations should require that all NPs complete a minimum of one year of formal mentorship prior to being certified as a 103 or 104 NP as part of the transition to practice. The commenter recommends that the BRN revise regulations to define mentorship as a formal clinical preceptorship with a physician in the same area of practice.

Response to Comment
The Board incorporates by reference the response to Comment E-1, above.

Comment O-6

Summary of Comment
The commenter agrees with the requirement that experience gained toward the transition to practice for 103 NPs must be recent due to the rapidly evolving field but does not agree with previous experience being used towards the transition to practice. The commenter recommends adding "within five years prior to the date the applicant applies for certification as a nurse practitioner pursuant to Section 2837.104" to 16 CCR §1482.4(a)(14) of the draft regulations for the same reasons outlined in the Board's initial statement of reasons. The commenter states that guaranteeing that a 104 NP has practiced as a 103 NP, without standardized procedures, within the last five years and is aware of current best practices will provide patients with a higher quality of care.

Response to Comment
The Board incorporates by reference the response to Comment E-1, above. The Board appreciates the support for the determination that experience must be within five years.

Comment O-7

Summary of Comment
The commenter supports a Notice to Consumers and requests that the regulations include a requirement that all patient disclosures be provided both verbally and in writing. The commenter also requests that the regulations specify that 103 and 104 NPs are not authorized to provide services like surgery. Lastly, the commenter requests the regulations provide explicit guidance that the categories of nurse practitioners do not incorporate the performance of cosmetic medical procedures independently.
Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon. The Board appreciates the support for the Notice to Consumers.

According to BPC Section BPC 2837.103(d), a NP must verbally inform all new patients in a language understandable to the patient that a NP is not a physician and surgeon. Additionally, BPC 2837.104(d) requires a NP to verbally inform all new patients in a language understandable to the patient that a NP is not a physician and surgeon. There are other areas of California's Nursing Practice Act where both verbal and written notice are required, however, written notice was not included as a part of AB 890 . Therefore, since the Legislature is presumed to mean what it plainly says, AB 890 does not require further advisements.

The scope and responsibilities of NPs are already addressed in statute and regulations. According to 16 CCR Section 1485, an NP shall function within the scope of practice as specified in the Nursing Practice Act and as it applies to all RNs.

The scope of practice for a RN is outlined in the Nursing Practice Act and codified under BPC Section 2725 through BPC Section 2726, which states that, except as otherwise provided, this chapter confers no authority to practice medicine or surgery.

P. Letter received October 28, 2022, from Commenter 16

Comment P-1

Summary of Comment
The commenter states it is critical that the BRN implement the proposed regulations without delay so that California can begin to see the positive healthcare outcomes associated with providing NP broader practice authority. The commenter states that expanding NP scope of practice was a top priority recommendation of the California Future Health Workforce Commission. The commenter also states that APRNs play a critical role in providing reproductive care.

Response to Comment
The Board incorporates by reference the response to Comment A-1, above.

Q. Letter received October 28, 2022, from Commenter 17

Comment Q-1

Summary of Comment
The commenter urges the Board to ensure that the transition to practice is additional clinical experience beyond current experience to ensure that NPs who seek to be Section 103 or 104 NPs have the training, experience, and competency to perform the functions specified in BPC Section 2837.103(c) without standardized procedures or physician supervision.

Response to Comment
The Board incorporates by reference the response to Comment E-1, above.

Comment Q-2

Summary of Comment
The commenter states that the regulations should specify the level of additional clinical experience and mentorship that constitute minimum standards for transition to practice. The commenter states that the BRN has not met the statutory requirement to define the minimum standards for transition to practice as the proposed regulations is largely a restatement of the statute and do not provide standards for clinical training and mentorship that would prepare an NP to “practice independently.”

Response to Comment

The Board incorporates by reference the response to Comment E-1, above.

Comment Q-3

Summary of Comment
The commenter states that the proposed regulations should provide that all NPs seeking to be a Section 103 or 104 NP must first pass a supplemental examination. The commenter states that the supplemental examination should not simply be theoretical, but should include a practical, clinical component to test the NP's ability to safely and competently perform the functions specified in BPC Section 2837.103(c) without standardized procedures.

The commenter recommends the regulations specify that the supplemental exam be taken only after an NP successfully completes the transition to practice in order to ensure that upon completion of the transition to practice the NP is equipped with the necessary medical knowledge and clinical judgment to perform the functions specified in BPC Section 2837.103(c) without standardized procedures or physician supervision.

The commenter further suggests that current continuing education (CE) requirements are not sufficient to assess an NPs ability to perform the functions specified in BPC section 2837.103(c) without standardized procedures as they are not currently designed or structured to do so.

The commenter further discusses the OPES report and the use of NPs as subject matter experts.

Response to Comment
The Board incorporates by reference the response to Comment O-1, above. Continuing Education is outside the scope of this initial certification package, but the Board is willing to look at CE requirements in the future. The OPES report was not used as Underlying Data in this package because it has been researched concurrent to this proposal, and the subject matter experts used by OPES are not relevant to this regulatory proposal. Thus, no text changes are deemed necessary in response to this comment.

Comment Q-4

Summary of Comment
The commenter states that it is necessary for the Board to adopt regulations to implement, interpret, and make specific requirements to ensure referrals and consultations are being appropriately done to protect California's health care consumers and promote quality care. The commenter supports the requirement for 104 NPs to have a written protocol for consultation and a written plan for referrals, and that the NP make the referral plan available to patients on request. The commenter also supports

the requirement that if the written plan calls for referrals to a specific individual, the plan must include that individual's acknowledgment and consent to the referrals.

Response to Comment
The Board acknowledges the comment and appreciates the support; no text changes are deemed necessary in response to this comment.

Comment Q-5

Summary of Comment
The commenter supports the requirement for 103 and 104 NPs advise patients that they have the right to see a physician and surgeon on request and the circumstances under which they must be referred to see a physician and surgeon but states that this should be done in a language understandable to the patient and in writing. The commenter also states that there should be a requirement that the NP inform patients, in a language understandable to the patient, that they are practicing without physician supervision.

Response to Comment
The Board incorporates by reference the response to Comment O-7, above.

Additionally, healthcare providers are already subject to a variety of laws at the state and federal level that address linguistic access, interpreters, and cultural competence with the healthcare system. All healthcare providers, including NPs, are required to uphold these laws and provide the assistance needed to facilitate meaningful communication between patients and their medical team.

Comment Q-6

Summary of Comment
The commenter states that the functions described in BPC Section 2837.103(c) are broad and unclear, and requires the Board in future regulatory action, through its implied rulemaking authority, to adopt regulations at a later point to implement, interpret, and make specific the scope and responsibilities of NPs under the functions specified in BPC Section 2837.103(c). The commenter urges that this be done in consultation with the Medical Board of California.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon. The scope and responsibilities of NPs are already addressed in statute and regulations. The scope of practice for a Registered Nurse (RN) is outlined in the Nursing Practice Act and codified under BPC Section 2725 through BPC Section 2726. According to 16 CCR Section 1485, an NP shall function within the scope of practice as specified in the Nursing Practice Act and as it applies to all RNs. Upon certification as a 103 or 104 NP these can be performed without

standardized procedures. BPC Section 2837.103(c) outlines the additional functions a 103 or 104 NP can perform without standardized procedures in accordance with their education and training.

R. Letter received October 28, 2022, from Commenter 18

Comment R-1

Summary of Comment
The commenter requests clear, accurate Board terminology that delineates actions about certification (rather licensure) [*sic*] to be taken at the state level by the Board, and actions to be accomplished with individual national certification boards. The commenter states that there needs to be more clarity about actions to be taken in applying for new categories of practice at the state level, and those actions to be taken when applying for national board certification. The commenter references language in the Board's Notice as unclear.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

It appears the commentor is referring to potential confusion regarding the licensing and certification processes for APRNs to be recognized in California versus at the national level. It is important to note that APRNs are recognized in various ways through each state's Board of Nursing. Each state can provide a license, a certification, an APRN registry, an authorization to practice, a document of recognition, and a Board certification.

APRNs in California are licensed as an RN first and then certified as an APRN. National certification in a population foci is not required to practice as an NP in California. However, in proposed 16 CCR 1482.3(a)(12) and 16 CCR 1482.4(a)(12), to advance to a more independent practice as a 103 NP or 104 NP, individuals must hold a certification from a national certifying body accredited by the NCCA or the ABSNC and recognized by the Board. AB 890 uses "certificate" or "certification" coming from the Board with regard to 103 or 104 NPs; the Board is using this terminology for consistency.

This proposal only provides the Board's requirements to obtain certification as a 103 NP or 104 NP, explicitly specifying that is "pursuant to Section 287.103 of the code" in 16 CCR 1482.3(a) and "pursuant to Section 287.104 of the code" in 16 CCR 1482.4(a); it does not in any way outline the steps to receive certification from a national certifying body. To the extent that the commenter suggests listing the web sites of the various credentialing bodies, the Board does not deem that necessary in this regulatory

proposal. The Board is not defining, in this regulation, how to obtain national certification.

Further, with the anticipation that some confusion regarding certification(s) could arise in certain circumstances, the Board did specify itself as the organization when necessary; for example, in 16 CCR 1482.4(b), the certification referred to is by the "Board of Registered Nursing" so that it was clear that the credentialing bodies were not creating a timing obligation.

S. Letter received October 30, 2022, from Commenter 19

Comment S-1

Summary of Comment
The commenter states that it is incredibly important that the Board finish its work and adopt these regulations at the November Board Meeting so that the objectives of AB 890 can be realized to ensure that Californians receive timely access to much needed care and support.

Response to Comment
The Board incorporates by reference the response to Comment A-1, above

T. Letter received October 31, 2022, from Commenter 20

Comment T-1

Summary of Comment

The commenter states that it is imperative that the Board revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare and services by ensuring the following:

a. Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.
b. Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.
c. Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:
    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
    - The right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
    - The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.
    - The right for patients to receive this information from a nurse practitioner in writing and without request.

Response to Comment T-1(a)

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The education and training requirements for NPs are already addressed in statute and regulations. BPC Section 2837.103(a) outlines the requirements, including education, clinical practice, and certification/exam requirements to practice as a 103 NP. Additionally, that section cross references BPC Section 2836 and any applicable regulations as they specifically relate to requirements for clinical practice hours. These applicable regulations include 16 CCR 1480 – 16 CCR 1486. Furthermore, BPC 2837.104(b)(1)(B) requires the NP to have a master's degree in nursing or in a clinical field related to nursing or a doctoral degree in nursing. Continuing Education is outside the scope of this initial certification package, but the Board is willing to look at CE requirements in the future.

Response to Comment T-1(b)
The Board incorporates by reference the response to Comment O-1, above.

Response to Comment T-1(c)
The Board incorporates by reference the response to Comment O-7, above.

Comment T-2

Summary of Comment
The commenter states that regulation should be enacted to curb predatory practices such as unnecessary medical services and products.

Response to Comment T-2
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon. This comment is outside the scope of this rulemaking. However, to the extent that the Notice to Consumers requires the Board's phone number and website to be posted, consumers could contact the Board to complain if they encounter any potentially predatory practices.

U. Letter received October 31, 2022, from Commenter 21

Comment U-1

Summary of Comment
The commenter appreciates the work done to date encourages the Board to finalize the regulations so that NPs can begin transitioning to an expanded scope of practice on January 1, 2023.

Response to Comment
The Board incorporates by reference the response to Comment A-1, above.

V. Letter received October 31, 2022, from Commenter 22

Comment V-1

Summary of Comment
The commenter states that it is imperative that the Board revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare and services by ensuring the following:

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

c. Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:
    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
    - The right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
    - The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.
    - The right for patients to receive this information from a nurse practitioner in writing and without request.

Response to Comment V-1(a)
The Board incorporates by reference the response to Comment T-1(a), above.

Response to Comment V-1(b)
The Board incorporates by reference the response to Comment O-1, above.

Response to Comment V-1(c)
The Board incorporates by reference the response to Comment O-7, above.

Comment V-2

Summary of Comment
The commenter states that regulation should be enacted to curb predatory practices such as unnecessary medical services and products.

Response to Comment V-2
The Board incorporates by reference it's response to Comment T-2, above.

W. Letter received October 31, 2022, from Commenter 23

Comment W-1

Summary of Comment
The commenter states that a supplemental examination for 103 and 104 NPs is sound public policy and consistent with AB 890.

Response to Comment
The Board incorporates by reference the response to Comment O-1, above.

Comment W-2

Summary of Comment
The commenter states that transition to independent practice for 104 NPs requires additional training and supervision with an eye that the NP will be later practicing independently in a specific subspecialty area. The commenter states general supervision that has already taken place may not have taken into consideration this subspecialty area of practice and would be insufficient. The commenter agrees that the experience and supervision should be recent and that five years is a good definition of recent.

Response to Comment
The Board incorporates by reference the response to Comment E-1, above. The Board appreciates the support for a five-year period for recency.

Comment W-3

Summary of Comment
The commenter supports notices to consumers as an important consumer protection.

Response to Comment
The Board appreciates the support for Notices to Consumers; no text change is necessary based upon this comment.

Comment W-4

Summary of Comment
The commenter states that the regulations ought to specify that NPs are, under no circumstances, authorized to perform surgery.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The scope and responsibilities of NPs are already addressed in statute and regulations. According to 16 CCR Section 1485, an NP shall function within the scope of practice as specified in the Nursing Practice Act and as it applies to all RNs.

The scope of practice for a RN is outlined in the Nursing Practice Act and codified under BPC Section 2725 through BPC Section 2726, which states that, except as otherwise provided, *this chapter confers no authority to practice medicine or surgery*. Because this is clearly stated in statute, there is no need to duplicate it into regulation.

X. Letter received October 31, 2022, from Commenter 24

Comment X-1

Summary of Comment
The commenter states that AB 890 appears to contemplate independent practice by NPs in the emergency department (ED), but the proposed regulations ignore the specialty and instead use preexisting primary care and acute care language without updating the definitions and pathways to include the ED setting. The commenter states that if the regulations do not mean to allow NPs to practice independently in the ED, they should specifically say this area of practice is excluded. However, if the regulations intend to allow such practice, they must be significantly modified.

Response to Comment
The Board incorporates by reference the response to Comment C-1, above.

Comment X-2

Summary of Comment
The commenter urges the Board to that clarify a nurse practitioner must pass the emergency nurse practitioner (ENP) certification examination to practice independently in the ED and may not practice independently in the ED with any other NP certification.

Response to Comment
The Board incorporates by reference the response to Comment C-1, above.

Comment X-3

Summary of Comment
The commenter urges the Board to require a minimum of 3 years or 4600 hours of clinical experience in the ED for an ENP, as attested to by a board-certified emergency physician. The commenter also recommends that some of the 4600 hours of experience should include procedural competency, including having supervised the following number of specific procedures: lacerations (35), incision and drainage (25), pelvic exam (30), initial fracture care (30), splinting (15), slit lamp exam (10), epistaxis care (cautery/packing techniques) (20), and foreign body removal (ear, nose, eye, vagina, anus, skin) (10).

Response to Comment
The Board incorporates by reference the response to Comment C-1, above.

Comment X-4

Summary of Comment
The commenter urges the Board to limit ENP independent practice to Emergency Severity Index (ESI) levels 4 and 5. The commenter also recommends the Board require mandatory physician consultation when there has been a change in ESI or acuity after assessment, and in the following instances: When the patient chief complaint includes: scrotal pain, altered mental status, focal neuro deficit/stroke symptoms, chest pain, abdominal pain in a patient older than 65yrs or pregnant, respiratory distress, open or displaced fracture, joint dislocation, overdose, syncope, fever in a patient fewer than 3 months of age, major trauma, GI bleed, generalized weakness, chemotherapy patients, transplant patients, abnormal blood sugar less than 60 or greater than 400, pediatric patient with complex medical history, vaginal bleeding, pregnant patient with systolic blood pressure > 140, diabetic foot infection, acute visual change, etc.

Response to Comment
The Board incorporates by reference the response to Comment C-1, above.

Y. Letter received October 31, 2022, from Commenter 25

Comment Y-1

Summary of Comment
The commenter states that it is imperative that the Board revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare and services by ensuring the following:

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

- The right for patients to receive this information from a nurse practitioner in writing and without request.

Response to Comment Y-1(a)
The Board incorporates by reference the response to Comment T-1(a), above.

Response to Comment Y-1(b)
The Board incorporates by reference the response to Comment O-1, above.

Response to Comment Y-1(c)
The Board incorporates by reference the response to Comment O-7, above.

Comment Y-2

Summary of Comment
The commenter states that regulation should be enacted to curb predatory practices such as unnecessary medical services and products.

Response to Comment Y-2
The Board incorporates by reference it's response to Comment T-2, above.

Z. Letter received October 31, 2022, from Commenter 26

Comment Z-1

Summary of Comment
The commenter requests that the definition of "group setting" in 16 CCR 1480 be amended to remove language specifying that a group setting has one or more physicians and surgeons practicing with a NP without standardized procedures.

Response to Comment
The Board incorporates by reference the response to Comment H-1, above.

Comment Z-2

Summary of Comment
The commenter does not believe an attestation of supervision form for 103 NPs should be required to attest to the competency for an NP to practice independently.
The commenter states that once 103 NPs complete their transition-to practice, there should be no additional application or specific recognition by the BRN. The transition-to-practice attestation form should not be required to be submitted to the BRN for 103 NPs to practice.

Response to Comment
The Board incorporates by reference the response to Comment E-1, above.

Comment Z-3

Summary of Comment
The commenter states that the transition-to-practice should only apply to new graduates and that any NP who graduated from accredited NP programs prior to January 1, 2018, should be deemed to have met the transition-to-practice requirement. The commenter also states that NPs who received their certificate from the BRN on or after January 1, 2018, must have three years or 4,600 hours of mentored practice by a physician and surgeon or NP who has completed their transition-to-practice.

Response to Comment
The Board incorporates by reference the response to Comment E-1, above.

Comment Z-4

Summary of Comment
The commenter states that the transition-to-practice should only include the elements that are defined by BPC Section 2837.101(c) and no additional requirements should be included as the elements defined in this section of the statute are sufficient.

Response to Comment
The Board incorporates by reference the response to Comment E-1, above.

Comment Z-5

Summary of Comment
The commenter requests that the number of years of practice for an NP with a Doctor of Nursing Practice (DNP) degree be reduced from 3 years to 1 year.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

As outlined in Page 18 of the ISOR, applicants who hold a DNP degree will be able to apply any hours of direct patient care completed during their doctoral education if the direct patient care pertained to the applicant's area of national certification and was earned during the doctoral part of the applicant's doctoral education and not applied towards their master's degree completion.

This allows DNPs to obtain credit of their experience gained in the applicant's practice area during their doctoral education experience and apply it to the 4600 hours needed

to progress from a 103 NP to a 104 NP. This recommendation came from the NPAC who determined that any further reduction in the hour requirement could not be justified.

Comment Z-6

Summary of Comment
The commenter requests 16 CCR 1482.3(a)(13)(A)(ii) and 16 CCR 1482.4(a)(13)(A)(ii) be amended to state that the 4600 hours or three years of clinical practical experience and mentorship can be completed within seven years of the date of application instead of within five years of the date of application.

Response to Comment
The Board incorporates by reference the response to Comment H-3(c), above.

Comment Z-7

Summary of Comment
The commenter requests 16 CCR 1482.3(a)(13)(A) and 16 CCR 1482.4(a)(13)(A) be amended to remove the requirement that the physician or surgeon, 103 NP (for 1482.3), or 104 NP who attests that an applicant has completed the transition to practice, must specialize in the same specialty area or category listed in 16 CCR Section 1481(a) in which the applicant is seeking certification as a 103 NP.

Response to Comment
The Board incorporates by reference the response to Comment H-3(a), above.

Comment Z-8

Summary of Comment
The commenter requests that 16 CCR 1482.4(b) be amended to remove the requirements for the written plan for referrals to be made available to patients upon request and for the written referral plan to contain the consent and acknowledgement of any specific individual that is named in the plan.

Response to Comment
The Board incorporates by reference the response to Comment H-3(d), above.

AA. Letter received October 31, 2022, from Commenter 27

Comment AA-1

Summary of Comment
The commenter understands and shares the Board's concerns for safety and quality of care of patients served by nurse practitioners in more independent roles but believes

that these concerns are overblown and the need for co-location with physicians and extended periods of supervised practice in the transition to more independent statuses is exaggerated. Commenter suggests that consultation could be achieved virtually. Commenter further states that physician care is currently not meeting an assumed high standard of quality, implying that the Board should not use safety as a barrier to certification.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board does not have the authority to change or amend current law through the rulemaking process. The requirement for a 103 NP to undergo a transition to practice consisting of additional clinical experience and mentorship and the requirement for a 103 NP to practice in a group setting or organization where one or more physicians and surgeons practice are both codified in BPC Section 2837.103. The ability to conduct this oversight virtually is not disallowed but would be dependent on the attestor/mentor's professional judgment and therefore could be done on a case-by-case basis so long as the standardized procedures are in compliance with 16 CCR 1474. Standardized procedure requirements, which were jointly promulgated by the Medical Board and the Board of Registered Nursing, are outlined in 16 CCR 1470-1474, and the physician supervision requirements are outlined in the standardized procedures that the NP is required to use prior to and while completing their transition to practice. Patient safety is the paramount mission of the Board, and the standardized procedures specify the scope of supervision, continuing evaluation, and any limitations on settings (which could include telehealth or virtual options) to ensure patient safety.

Comment AA-2

Summary of Comment
The commenter states that the proposed requirement that nurse practitioners working independently and outside of specified protocols must have written agreements with specialists and other physicians to whom they wish to refer patients can only be described as unprecedented. The commenter states that the right to be seen by other practitioners belongs to the patient, not the referring professional, making documented prearrangement unnecessary.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board does not have the authority to change or amend current law through the rulemaking process. The requirement for a 104 NP to establish a plan for referral of

complex medical cases and emergencies to a physician and surgeon or other appropriate healing arts provider is codified in BPC 2837.104(c)(3).

The Board also requires that if the plan calls for referrals to a specific individual, the plan must include that individual's acknowledgment and consent to the referrals because this ensures that this is an agreed-upon relationship and both providers are comfortable with the services that will be provided. The Board is in no way restricting a patient's right to choose a provider.

BB. Fax received October 31, 2022, from Commenter 28

Comment BB-1

Summary of Comment
The commenter asks how a facility, such as a pharmacy, can determine if a NP is certified as 103 or 104 NP once the law goes into effect.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

Once certified by the Board, an individual's authority to practice as a 103 NP or 104 NP will be displayed along with their RN license status through DCA's License Search. The DCA License Search is an online search tool used to verify a professional license issued by the various Board and Bureaus under DCA.

However, it is important to note that passage of AB 890 did not change the scope of practice as it relates to furnishing/prescribing for a 103 NP or 104 NP.

Comment BB-2

Summary of Comment
The commenter asks about the consequence of operating individual practices, or without physician oversight for the licensee.

Response to Comment
Once certified, 103 NPs and 104 NPs will be subject to the same disciplinary guidelines as all other RNs. Those disciplinary guidelines are outlined in 16 CCR 1444.5.

CC. Letter received October 31, 2022, from Commenter 29

Comment CC-1

Summary of Comment
The commenter states that it is incredibly important that the Board finish its work and adopt these regulations at the November Board Meeting so that the goals of AB 890 can be realized and so that California can provide better access to care for patients who need it.

Response to Comment
The Board incorporates by reference the response to Comment A-1, above.

DD. Letter received October 31, 2022, from Commenter 30

Comment DD-1

Summary of Comment
The commenter states that it is imperative that the Board revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare, and services by ensuring the following:

a. Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.
b. Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.
c. Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:
    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
    - The right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
    - The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.
    - The right for patients to receive this information from a nurse practitioner in writing and without request.

Response to Comment DD-1(a)
The Board incorporates by reference the response to Comment T-1(a), above.

Response to Comment DD-1(b)
The Board incorporates by reference the response to Comment O-1, above.

Response to Comment DD-1(c)
The Board incorporates by reference the response to Comment O-7, above.

Comment DD-2

Summary of Comment
The commenter states that regulation should be enacted to curb predatory practices such as unnecessary medical services and products.

Response to Comment DD-2
The Board incorporates by reference the response to Comment T-2, above.

EE. Letter received October 31, 2022, from Commenter 31

Comment EE-1

Summary of Comment
The commenter states that it is imperative that the Board revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare, and services by ensuring the following:

a. Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.
b. Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.
c. Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:
    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
    - The right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
    - The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.
    - The right for patients to receive this information from a nurse practitioner in writing and without request.

Response to Comment EE-1(a)
The Board incorporates by reference the response to Comment T-1(a), above.

Response to Comment EE-1(b)
The Board incorporates by reference the response to Comment O-1, above.

Response to Comment EE-1(c)
The Board incorporates by reference the response to Comment O-7, above.

Comment EE-2

Summary of Comment
The commenter states that regulation should be enacted to curb predatory practices such as unnecessary medical services and products.

Response to Comment EE-2
The Board incorporates by reference the response to Comment T-2, above.

FF. Letter received October 31, 2022, from Commenter 32

Comment FF-1

Summary of Comment
The commenter states that it is imperative that the Board revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare, and services by ensuring the following:

a. Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.
b. Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.
c. Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:
    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
    - The right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
    - The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.
    - The right for patients to receive this information from a nurse practitioner in writing and without request.

Response to Comment FF-1(a)
The Board incorporates by reference the response to Comment T-1(a), above.

Response to Comment FF-1(b)
The Board incorporates by reference the response to Comment O-1, above.

Response to Comment FF-1(c)
The Board incorporates by reference the response to Comment O-7, above.

Comment FF-2

Summary of Comment
The commenter states that regulation should be enacted to curb predatory practices such as unnecessary medical services and products.

Response to Comment FF-2
The Board incorporates by reference the response to Comment T-2, above.

GG. Letter received October 31, 2022, from Commenter 33

Comment GG-1

Summary of Comment
The commenter states that it is imperative that the Board revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare, and services by ensuring the following:

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

- The right for patients to receive this information from a nurse practitioner in writing and without request.

Response to Comment GG-1(a)
The Board incorporates by reference the response to Comment T-1(a), above.

Response to Comment GG-1(b)
The Board incorporates by reference the response to Comment O-1, above.

Response to Comment GG-1(c)
The Board incorporates by reference the response to Comment O-7, above.

Comment GG-2

Summary of Comment
The commenter states that regulation should be enacted to curb predatory practices such as unnecessary medical services and products.

Response to Comment GG-2
The Board incorporates by reference the response to Comment T-2, above.

HH. Letter received October 31, 2022, from Commenter 34

Comment HH-1

Summary of Comment
The commenter states that it is imperative that the Board revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare, and services by ensuring the following:

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

- The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.
- The right for patients to receive this information from a nurse practitioner in writing and without request.

Response to Comment HH-1(a)
The Board incorporates by reference the response to Comment T-1(a), above.

Response to Comment HH-1(b)
The Board incorporates by reference the response to Comment O-1, above.

Response to Comment HH-1(c)
The Board incorporates by reference the response to Comment O-7, above.

Comment HH-2

Summary of Comment
The commenter states that regulation should be enacted to curb predatory practices such as unnecessary medical services and products.

Response to Comment HH-2
The Board incorporates by reference the response to Comment T-2, above.

II. Letter received October 31, 2022, from Commenter 35

Comment II-1

Summary of Comment
The commenter states that they support the verbiage overall except for the language that states an NP must verbally inform all new patients in a language understandable to the patient that a nurse practitioner is not a physician and surgeon and that for the purposes of Spanish language speakers, the NP shall use the standardized phrases “enfermera especializada” or “enfermero especializado.”

The commenter disagrees with the verbiage of “especializada” as this refers to a nurse that is specialized. However, many nurses are specialized in areas such as pediatrics, neonatology, oncology, etc. therefore this does not mean they are NPs. The commenter states that the phrase that would be more understandable to Spanish speakers would be standardized phrases such as “enfermera/o avanzada/o certificada/o en practica medica” or “enfermera/o avanzada/o certificada/o para realizar practica medica”

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board does not have the authority to change or amend current law through the rulemaking process. As described in the ISOR at page 21, the requirement for 103 and 104 NPs to use the term “enferma especializada” when informing Spanish language speakers that they are a NP is codified in BPC 2837.103(d) and the Board is harmonizing the Assembly Concurrent Resolution No. 260 of 2018 imprimatur to use more gender-neutral language by including the masculine/neutral expression of this phrase.

JJ. Letter received October 31, 2022, from Commenter 36

Comment JJ-1

Summary of Comment
The commenter states that 16 CCR Section 1487, which calls for the publishing of a notice “on the premises” where healthcare services are provided, presumes that the patient is receiving healthcare at a physical location. The commenter suggests the proposed language permit an electronic posting, as a supplement to the physical posting for healthcare professionals who deliver care via telehealth.

Response to Comment
The Board incorporates by reference the response to Comment O-7, above.

BPC 2837.103(d) and 2837.104(d) requires a NP to verbally inform all new patients in a language understandable to the patient that a NP is not a physician and surgeon. Proposed regulation 16 CCR 1487(b) reinforces this directive. This disclosure occurs with each new patient care encounter, no matter how services are provided. Telehealth is only a modality that is used to deliver the patient care and does not alter this requirement.

Proposed regulation 1487(a) directs a posting “on the premises where” services are provided. If there is no premises, then the interrogatory adverb “where” would indicate that no notice would be posted. As described in the ISOR, pages 20-21, the requirement to post in a conspicuous location is required by BPC 2837.103(e) and 2837.104(e).

Comment JJ-2

Summary of Comment
The commenter states the transition to practice requirements in CCR 1482.4, which require the 4600 hours of experience to be completed in California, do not appear to

consider telehealth practices in which a provider, licensed in California, is providing care to patients in California from a remote location. The commenter requests that the Board clarify these requirements to encompass remote healthcare services.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

Telehealth is not a distinct service, but a way that providers deliver health care to their patients that approximates in-person care. The standard of care is the same whether the patient is seen in-person or through telehealth.

KK. Letter received October 31, 2022, from Commenter 37

Comment KK-1

Summary of Comment
The commenter states that it is imperative that the Board revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare, and services by ensuring the following:

a. Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.
b. Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.
c. Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:
    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
    - The right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
    - The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.
    - The right for patients to receive this information from a nurse practitioner in writing and without request.

Response to Comment KK-1(a)
The Board incorporates by reference the response to Comment T-1(a), above.

Response to Comment KK-1(b)
The Board incorporates by reference the response to Comment O-1, above.

Response to Comment KK-1(c)
The Board incorporates by reference the response to Comment O-7, above.

Comment KK-2

Summary of Comment
The commenter states that regulation should be enacted to curb predatory practices such as unnecessary medical services and products.

Response to Comment KK-2
The Board incorporates by reference the response to Comment T-2, above.

LL. Letter received October 31, 2022, from Commenter 38

Comment LL-1

Summary of Comment
The commenter states that it is imperative that the Board revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare, and services by ensuring the following:

a. Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.
b. Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.
c. Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:
    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
    - The right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
    - The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.
    - The right for patients to receive this information from a nurse practitioner in writing and without request.

Response to Comment LL-1(a)
The Board incorporates by reference the response to Comment T-1(a), above.

Response to Comment LL-1(b)
The Board incorporates by reference the response to Comment O-1, above.

Response to Comment LL-1(c)
The Board incorporates by reference the response to Comment O-7, above.

Comment LL-2

Summary of Comment
The commenter states that regulation should be enacted to curb predatory practices such as unnecessary medical services and products.

Response to Comment LL-2
The Board incorporates by reference the response to Comment T-2, above.

MM. Letter received October 31, 2022, from Commenter 39

Comment MM-1

Summary of Comment
The commenter states that it is imperative that the Board revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare, and services by ensuring the following:

a. Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.
b. Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.
c. Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:
    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
    - The right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
    - The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.
    - The right for patients to receive this information from a nurse practitioner in writing and without request.

Response to Comment MM-1(a)
The Board incorporates by reference the response to Comment T-1(a), above.

Response to Comment MM-1(b)
The Board incorporates by reference the response to Comment O-1, above.

Response to Comment MM-1(c)
The Board incorporates by reference the response to Comment O-7, above.

Comment MM-2

Summary of Comment
The commenter states that regulation should be enacted to curb predatory practices such as unnecessary medical services and products.

Response to Comment MM-2
The Board incorporates by reference the response to Comment T-2, above.

NN. Letter received October 31, 2022, from Commenter 40

Comment NN-1

Summary of Comment
The commenter states that it is imperative that the Board revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare, and services by ensuring the following:

a. Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.
b. Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.
c. Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:
    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
    - The right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
    - The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.
    - The right for patients to receive this information from a nurse practitioner in writing and without request.

Response to Comment NN-1(a)
The Board incorporates by reference the response to Comment T-1(a), above.

Response to Comment NN-1(b)
The Board incorporates by reference the response to Comment O-1, above.

Response to Comment NN-1(c)
The Board incorporates by reference the response to Comment O-7, above.

Comment NN-2

Summary of Comment
The commenter states that regulation should be enacted to curb predatory practices such as unnecessary medical services and products.

Response to Comment NN-2
The Board incorporates by reference the response to Comment T-2, above.

OO. Letter received October 31, 2022, from Commenter 41

Comment OO-1

Summary of Comment
The commenter states that it is imperative that the Board revise their regulations to better ensure that low-income communities receive high quality, affordable healthcare, and services by ensuring the following:

a. Nurse practitioners must have adequate education and training that will give confidence to communities and ensure patients receive safe, high-quality care.
b. Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.
c. Safeguards must be put in place to protect patients as there will be confusion among low-income communities who may think that they are receiving care from a medical doctor when in fact they are not, including:
    - The right for patients to be informed in writing that they are not receiving care from a physician and that they have the right to see a physician.
    - The right for patients to be provided in writing the circumstances in which a nurse practitioner is solely responsible for the care the patient receives.
    - The right for patients to receive sufficient information in writing about their care plan to ensure that they have meaningful input in the care they receive.
    - The right for patients to receive this information from a nurse practitioner in writing and without request.

Response to Comment OO-1(a)
The Board incorporates by reference the response to Comment T-1(a), above.

Response to Comment OO-1(b)
The Board incorporates by reference the response to Comment O-1, above.

Response to Comment OO-1(c)
The Board incorporates by reference the response to Comment O-7, above.

Comment OO-2

Summary of Comment
The commenter states that regulation should be enacted to curb predatory practices such as unnecessary medical services and products.

Response to Comment OO-2
The Board incorporates by reference the response to Comment T-2 above.

PP. Letter received November 1, 2022, from Commenter 42

Comment PP-1

Summary of Comment
The commenter states the draft language does not addresses performing surgery and does not seem to preclude a 104 NP from choosing to perform surgical procedures even if their transition to practice occurred in an office where such procedures weren't performed. The commenter urges the Board to prohibit NPs who practice independently from performing surgical procedures.

Response to Comment
The Board incorporates by reference the response to Comment W-4, above.

Comment PP-2

Summary of Comment
The commenter states the transition to practice provision is intended to provide additional knowledge and training beyond that which would be gained while working three years under supervision in a clinical setting. The commenter states that practice management, handling emergency situations, appropriate referral policy, and other basic features of independent medical practice should be delineated in the regulations as a part of a required curriculum. The commenter also states that any years spent simply engaged in supervised practice should not count toward the experience requirement.

Response to Comment
The Board incorporates by reference the response to Comment E-1, above.

Comment PP-3

Summary of Comment
The commenter believes a supplemental state exam is appropriate for NPs applying to practice independently. The commenter states that an exam would establish an individual's basic competency and standardize the necessary skills and knowledge that all NPs would need to practice safely and competently.

Response to Comment
The Board incorporates by reference the response to Comment O-1, above.

Comment PP-4

Summary of Comment
The commenter urges the Board to prohibit NPs from owning/operating Medi-spas until specific, appropriate patient protections can be studied and put in place.

Response to Comment
The Board incorporates by reference the response to Comment C-1, above.

QQ. Letter received November 1, 2022, from Commenter 43

Comment QQ-1

Summary of Comment
The commenter request to clarify their understanding no additional hours other than a total of 4600 are needed to complete the transition to practice for a NP. The commenter also requests clarification on how NPs who have been in good standing practiced as a NP for more than three years in another state will meet the requirements of BPC Sections 2837.103 and 2837.104.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The transition to practice provision in 16 CCR Section 1482.3 allows for the 4600 hours or three full-time equivalent years of clinical practice experience and mentorship requirement to be met with experience that was obtained before January 1, 2023, so long as it meets the following criteria:

- Completed in California.
- Completed within five years prior to the date the applicant applies for certification as a nurse practitioner pursuant to Section 2837.103 of the code.
- Completed after certification by the Board of Registered Nursing as a

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

In accordance with BPC 2837.103(a)(D), experience obtained by an NP in a state other than California would not apply towards the 4600 hour or three full time year transition to practice provision.

RR. Letter received November 1, 2022, from Commenter 44

Comment RR-1

Summary of Comment
The commenter states that the clear intent of AB 890 is to have NPs provide primary care to address critical shortages in this area, the regulations should be specific to eliminate any possibility an NP pursues providing elective cosmetic services. The commenter urges the Board to include additional clarifying language to say elective cosmetic services are not allowed under the pathways established for NPs to practice without physician supervision in 16 CCR Sections 1482.3 and 1482.4 of the proposed regulations. The commenter considers the existing language of 16 CCR 1481(a) to be broad enough to encompass elective cosmetic services.

Response to Comment
The Board incorporates by reference the response to Comment C-1, above.

Comment RR-2

Summary of Comment
The commenter is supportive of the requirement for an NP who is practicing pursuant to BPC 2837.104 to have a written protocol for consultation and a written plan for referrals to other physicians. The commenter is also supportive of the requirement for the NP to have the referral plan including the physician's acknowledgement and consent to the referral.

Response to Comment
The Board incorporates by reference the response to Comment Q-4, above.

SS. Letter received November 1, 2022, from Commenter 45

Comment SS-1

Summary of Comment
The commenter recommends the proposed regulations be amended to require a supplemental exam to become a 103 and 104 NP. The commenter states that the supplemental exam should contain a clinical component to assess the ability of a 103 or 104 NP to exercise sound clinical judgment and decision-making without standardized procedures and physician supervision in a real-world environment involving actual patient interactions, and not simply through a didactic examination.

The commenter also recommends the Board specify that the supplemental exam be taken only after an NP successfully completes the required transition to practice hours and that the applicant submit proof of passing the supplemental examination with their application material.

Response to Comment
The Board incorporates by reference the response to Comment O-1, above.

Comment SS-2

Summary of Comment
The commenter states that the minimum standards for the transition to practice proposed regulations lack clarity and necessity required under the Administrative Procedure Act (APA) in that, in many instances, they simply restate the provisions in AB 890 without providing further meaningful guidance.

Response to Comment
The Board incorporates by reference the response to Comment O-2, above.

Comment SS-3

Summary of Comment
The commenter states that because every NP currently practicing in California must do so under standardized procedures with a physician, any clinical experience a current NP possesses is, by itself, insufficient to satisfy the transition to practice requirement. The commenter states that regulations should not recognize hours completed before the regulations are finalized for purposes of the transition to practice. Rather, all 103 and 104 NP candidates, regardless of preexisting practice experience, should be required to complete the requisite hours to meet the transition to practice requirements after the regulations are operational.

Response to Comment
The Board incorporates by reference the response to Comment O-3, above.

Comment SS-4

Summary of Comment
The commenter recommends that clinical experience and mentorship received for purposes of transition to practice be completed in a structured, BRN-approved clinical training program. The commenter recommends that clinical experience for transition to practice purposes be further defined within regulations to cover specified competencies, established by the Board, and include a process for evaluating progress in meeting milestones specific to the category of NP practice in which the applicant seeks certification that demonstrate an NP's preparation to practice without physician supervision.

Response to Comment
The Board incorporates by reference the response to Comment O-4, above.

Comment SS-5

Summary of Comment
The commenter states that the regulations should require that all NPs complete a minimum of one year of formal mentorship prior to being certified as a 103 or 104 NP as part of the transition to practice. The commenter recommends that the BRN revise regulations to define mentorship as a formal clinical preceptorship with a physician in the same area of practice.

Response to Comment
The Board incorporates by reference the response to Comment O-5, above.

Comment SS-6

Summary of Comment
The commenter agrees with the requirement that experience gained toward the transition to practice for 103 NPs must be recent due to the rapidly evolving field but does not agree with previous experience being used towards the transition to practice. The commenter recommends adding “within five years prior to the date the applicant applies for certification as a nurse practitioner pursuant to Section 2837.104” to 16 CCR §1482.4(a)(14) of the draft regulations for the same reasons outlined in the Board’s initial statement of reasons. The commenter states that guaranteeing that a 104 NP has practiced as a 103 NP, without standardized procedures, within the last five years and is aware of current best practices will provide patients with a higher quality of care.

Response to Comment
The Board incorporates by reference the response to Comment O-6, above.

Comment SS-7

Summary of Comment
The commenter requests that the regulations include a requirement that all patient disclosures be provided both verbally and in writing.

Response to Comment
The Board incorporates by reference the response to Comment O-7, above.

TT. Letter received November 1, 2022, from Commenter 46

Comment TT-1

Summary of Comment
The commenter states that 16 CCR Section 1482.3 suggests the only needed proof that a transition to practice has occurred would be one or more attestations by specified professionals. The commenter asked the following questions regarding the specified professionals:

a) Are the professionals expected to certify the competency of the 103 NP?
b) Who determines the professionals are qualified to make that judgment?
c) Would the professionals just be attesting to time served?

Response to Comment TT-1a
Professionals working within the standard procedures of the group setting will verify the hours completed but are not specifically asked questions regarding competency. See also the response to Comment E-1, above.

Response to Comment TT-1b
The Board incorporates by reference the response to Comment E-1, above.

Response to Comment TT-1c
The Board incorporates by reference the response to Comment E-1, above.

Comment TT-2

Summary of Comment
The commenter states that the required Notice to Consumers should be posted in the common languages spoken where the practice is located. The commenter also suggests the notice include the following information:

- A nurse practitioner is not a physician and surgeon.

- You have the right to see a physician and surgeon on request.
- You will be referred to a physician and surgeon if specific circumstances warrant.
- Your nurse practitioner will explain those circumstances if you ask

Response to Comment TT-2
The Board incorporates by reference the response to Comment Q-5, above.

Comment TT-3

Summary of Comment
The commenter requests the regulations clarify that 103 and 104 NPs are not permitted to perform surgical services.

Response to Comment TT-3
The Board incorporates by reference the response to Comment W-4, above.

UU. Letter received November 1, 2022, from Commenter 47

Comment UU-1

Summary of Comment
The commenter requests clarification on whether a 103 NP can practice in a role that still requires standardized procedures to perform the functions described in BPC Section 2837.103(c). The commenter also requests the Board clarify whether a 104 NP can practice in a team-based care position (as a 103 NP) without standardized procedures.

Response to Comment UU-1
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

Functioning as an NP under standardized procedures or practicing within a group setting after advancing in the pathway to independent practice may limit the scope of practice of the NP while functioning in those roles. However, advancement to a more independent practice does not remove an NPs ability to practice in whatever role that the NP chooses to be employed. Employment obligations under a contract agreed to by the employer and employee (or contractor) could certainly be more restrictive than one's license to practice generally allows.

An NP applying for a 103 may not previously have held national certification, so it is important to have that in the application. Similarly, a 103 NP may not be current in their national certification, so it is important to have that listed in the 104 applications as well.

Comment UU-2

Summary of Comment
The commenter requests that the definition of “group setting” in 16 CCR 1480 be amended to remove language specifying that a group setting has one or more physicians and surgeons practicing with a NP without standardized procedures.

Response to Comment
The Board incorporates by reference the response to Comment H-1, above.

Comment UU-3

Summary of Comment
The commenter recommends adding “Acute Care Nurse Practitioner” and “Adult Nurse Practitioner” to the categories of NPs outlined in 16 CCR 1481(a). The commenter recognizes those certifications have a sunset, however, some NPs who hold those legacy certifications and may wish to apply for an expanded scope of practice. The commenter states that because the proposed language in 16 CCR Section 1481(b)(1) and (b)(2) refers to practicing “only in the category listed in subdivision (a)”, it is necessary to continue to list the legacy certifications.

Response to Comment
The Board incorporates by reference the response to Comment C-1, above.

In addition, the national certifications for Acute Care NP and Adult Nurse Practitioners are certifications that can only be renewed and not newly obtained. These legacy certifications are currently recognized only for licensure. Consequently, the Board cannot grant a 103 or 104 NP status in those specialties. However, the Board is open to future discussions and potential rulemaking action to address the inclusion of legacy population focus certification within 16 CCR 1481(a).

Comment UU-4

Summary of Comment
The commenter requests that the Board obtain the information outlined in 16 CCR 1482.3(a)(2-8,11) and 16 CCR 1482.4(a)(2-8,11) from its existing licensure database instead of requiring the practitioner to provide the same information a second time.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

This is a separate licensing application. Each new license application requires this information, and it cannot be carried over from a previous application. This information

verifies the NP's identity, and the Board needs to ensure that the licensee information is current, as described in the ISOR, page 11. National Certification must be renewed every five years. Progression through the steps to become an independent practitioner requires that the NP maintain national certification.

Comment UU-5

Summary of Comment
The commenter requests 16 CCR 1482.3(a)(13) and 16 CCR 148234(a)(13) be amended to allow the direct patient care portion of the transition to practice provision to occur in specialties other than those outlined in 16 CCR 1481(a).

The commenter also requests 16 CCR 1482.3(a)(13) and 16 CCR 148234(a)(13) be amended to accept attestations from practitioners in specialties other than those outlined in 16 CCR 1481(a).

Response to Comment
The Board incorporates by reference the responses to Comment C-1 and E-1, above.

Comment UU-6

Summary of Comment
The commenter requests 16 CCR 1482.3(a)(13)(A)(ii) be amended to state that the 4600 hours or three years of clinical practical experience and mentorship can be completed within seven years of the date of application instead of within five years of the date of application.

Response to Comment
The Board incorporates by reference the response to Comment H-3c, above.

Comment UU-7

Summary of Comment
The commenter requests that 16 CCR 1482.4(b) be amended to remove the requirement for the written plan for referrals to be made available to patients upon request. The commenter also requests that 16 CCR 1482.4(b) be amended to remove the requirement for the written referral plan to contain the consent and acknowledgement of any specific individual that is named in the plan.

Response to Comment
The Board incorporates by reference the response to Comment H-3(d), above.

VV. Email received November 1, 2022, from Commenter 48

Comment VV-1

Summary of Comment
The commenter inquired as to why the Department of Consumer Affairs (DCA) Office of Professional Examination Services (OPES) reached out to a group of physician professionals to weigh in on the transition to practice requirement and how they were selected. The commenter believes that topic was outside of the scope of the Board's original request as they do not believe the OPES was asked to evaluate and make recommendations on the hours necessary to determine competency or years needed to demonstrate competency.

The commenter states that there is no regulation necessary to specifically determine what services nurse practitioners would be qualified to provide based on their board certification as this is determined by the Nursing Practice Act and existing regulations under the BRN oversight. The commenter does not agree that physicians have a full awareness of or the qualifications to determine the progressive clinical experience an APRN may have acquired prior to APRN graduate education. The commenter states that experience has significant bearing on the clinical acumen that an APRN might apply to their clinical practice.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The OPES report was not used as Underlying Data in this package because it has been researched concurrent to this proposal, and the subject matter experts used by OPES are not relevant to this regulatory proposal.

However, as defined in BPC 2837.101(c) the "transition to practice" means additional clinical experience and mentorship provided to prepare a nurse practitioner to practice independently. At the February 2021 NPAC meeting, during a report out by the DCA OPES regarding the report, the two physician committee members suggested that physician input should be considered regarding their knowledge of independent practice and the competencies required. The OPES representative said that physicians would be interviewed and included to ensure that the review is thorough. This was informational only and no vote was taken.

Again, although not part of this rulemaking package, as a parallel effort, the DCA OPES was contracted to evaluate the results of the 11 linkage studies and make recommendations. Linkage studies are used to assess critical competencies required for safe and effective independent NP practice in California. Currently, independent

practice in California is performed by physician and surgeons making them a subject matter expert. The DCA OPES was not contracted to evaluate the number of hours or years necessary to demonstrate competency, as that was set in BPC 2837.103 (D) stating that the transition to practice be a minimum of three-full time equivalent years of practice of 4600 hours.

The Board agrees with the comment that no additional regulations are needed to determine what services NPs are qualified to provide since the NP scope of practice is already outlined in both statute and regulation.

The Board interprets the comment about physicians' awareness of the progressive clinical experience an APRN may have acquired prior to APRN graduate education to be in response to the OPES recommendation on the transition to practice requirements where physicians' expressed concerns about the insufficiency of existing NP education and training to prepare NPs for independent practice.

It was confirmed in the November 2022 NPAC meeting and subsequent Board meeting by OPES that this evaluation did not look at educational standards as the report was focused on the National Certification Exams taken after completion of the advanced education and clinical preparation. The Board agrees that current national education and clinical experience requirements provide NPs with the ability to make good judgments and quick decisions in practical matters, thereby, making the education requirements appropriate for the preparation of NPs to practice independently.

WW. Email received November 1, 2022, from Commenter 49

Comment WW-1

Summary of Comment
The commenter states that their input is specific to psychiatric mental health nurse practitioners (PMHNP) seeking certification as a 103 or 104 NP. The commenter encourages a formal one-year clinical mentorship program with a psychiatric physician who is a member of academic education and training institution. The commenter also states that training across the lifespan should be required and will necessarily include rotations through child and adolescent, adult, geriatric as well as substance using treatment settings, with inpatient and outpatient components for each.

Response to Comment
The Board incorporates by reference the response to Comment E-1, above.

The education and training for the population focus of PMHNP encompasses education and practice across the lifespan. In addition, the TTP is required to be completed in an area that is consistent with the applicant's National Certification, including PMHNP.

Comment WW-2

Summary of Comment
The commenter encourages 6-month intervals of assessment of individual progress towards transition to practice with reporting of the degree of achievement towards acquiring identified core and sub core competencies necessary for independent PMHNP practice. The commenter states the Board should receive a reasoned analytical report directly from the preceptor/monitor, or program training leadership to track the progress of individuals engaged in transition to practice.

Response to Comment
The Board incorporates by reference the response to Comment E-1, above.

In addition, the attestation that verifies that the NP has met the additional clinical experience and mentorship that is intended to prepare the nurse practitioner to practice independently evaluates the successful completion of the TTP. This process is cumulative and not completed periodically.

Comment WW-3

Summary of Comment
The commenter states that psychiatrists who are currently preceptors of NPs report wide variability in levels of educational attainment by nurses enrolled in clinical training programs leading to the PMHNP certificate. The commenter states that the Board should provide rigorous standards that promote consistency in training and reduce the risks of proprietary education programs and individual training that does not train to the standards of care.

Response to Comment
The Board incorporates by reference the response to Comment E-1, above.

Comment WW-4

Summary of Comment
The commenter encourages the Board to develop rigorous supervision guidelines and require that they be incorporated into institutional and program training policies that prepare 103 and 104 NPs for transition to practice.

Response to Comment
The Board incorporates by reference the response to Comment E-1, above.

Comment WW-5

Summary of Comment
The commenter states that the regulations should support continuous quality improvement for individual learners by requiring a rigorous continuing education requirement for both 103 and 104 NP candidates.

Response to Comment
The Board has considered this comment but declines to make any text changes in response. Continuing Education is outside the scope of this initial certification package, but the Board is willing to look at CE requirements in the future.

Comment WW-6

Summary of Comment
The commenter states that the Board should require an attestation that the candidate is ready for graduation and unsupervised practice by a psychiatrist, who practices in the geographic area in which the NP will practice.

Response to Comment
The Board incorporates by reference the response to E-1, above. The physician supervision requirements are outlined in the standardized procedures that the NP is required to use prior to and while completing their TTP. Standardized procedure requirements are outlined in 16 CCR Article 7 1470-1474.

Furthermore, the Board is not requiring a 103 or 104 applicant to, after certification, work in the same geographic area as their attestor. To make such a requirement would undermine AB 890's intent of spreading medical professionals across the state to provide needed healthcare to underserved populations.

Comment WW-7

Summary of Comment
The commenter recommends that due to the health and mental health risks, a relationship with a consulting psychiatrist be a condition preceding psychotropic furnishing by independently practicing NPs whether they are PMHNPs, FNPs, or any other NP designation.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

Current law provides 103 NPs and 104 NPs with statutory authority to prescribe without physician supervision. In accordance with BPC Section 2837.103(c)(4)(B), 103 NPs

may prescribe, administer, dispense, and furnish pharmacological agents, including over the counter, legend, and controlled substances without standardized procedures. In accordance with BPC Section 2837.104(a)(1), this authority is also granted to 104 NPs. The Board does not have the authority to change or supersede statute through the rulemaking process.

There are many medications that have powerful effects on multiple organ systems with boxed warnings. According to 16 CCR 1484 and the national standards for NP education curriculum, NPs must be trained in the advanced pharmacology and clinical competency must be established. The law did not place any limitations on the drug classes, DEA class, how it is supplied, dosage or indication, including medications with boxed warnings with FDA drug safety communication.

However, a certain amount of consultation with and referral to other healthcare providers is also required of 103 NPs and 104 NPs in certain circumstances, as outlined below:

- BPC Section 2837.103(f) requires all 103 NPs to refer a patient to a physician and surgeon if a situation or condition of a patient is beyond the scope of the education and training of the NP.
- BPC Section 2837.104(c)(2) requires all 104 NPs to consult and collaborate with other healing arts providers based on the clinical condition of the patient to whom health care is provided.
- BPC Section 2837.104(c)(3) requires all 104 NPs to have a plan for referral of complex medical cases and emergencies to a physician and surgeon or other appropriate healing arts provider.

XX. Letter received November 1, 2022, from Commenter 50

Comment WW-1

Summary of Comment
The commenter stated their support of the public comment submitted by the California Medical Association.

Response to Comment
The Board thanks the commentor for their shared interest in consumer protection and incorporates by reference the response to the public comment submitted by the California Medical Association: Comment O-1, Comment O-2, Comment O-3, Comment O-4, Comment O-5, Comment O-6, and Comment O-7, above.

YY. Letter received November 1, 2022, from Commenter 51

Comment YY-1

Summary of Comment
The commenter recommends that the regulations should specify that 103 and 104 NPs should not independently and without supervision from a licensed MD, perform hormonal replacement therapy for the purpose of hypogonadism, male fertility, or lifestyle enhancement.

Response to Comment
The Board incorporates by reference the response to Q-6, above.

Comment YY-2

Summary of Comment
The commenter states that barring extensive training requirements demonstrating parity in residency training with Board Certified providers, the regulations should exclude 103 and 104 NPs from providing injectable treatment for erectile dysfunction, testosterone replacement, and Peyronie's disease without supervision.

Response to Comment
The Board incorporates by reference the response to Q-6, above.

Comment YY-3

Summary of Comment
The commenter believes the regulations should specify that a 103 and 104 NP should not perform office based invasive procedures including, cystoscopic procedures of the urethra, prostate, bladder or ureters, urethral dilation, ultrasound guided biopsy, injection or aspiration of the genito-urinary tract, adult circumcision, vasectomy, or implantation of a neuromodulation device without supervision.

Response to Comment
The Board incorporates by reference the response to Q-6, above.

ZZ. Email received November 1, 2022, from Commenter 52

Comment ZZ-1

Summary of Comment
The commenter believes that 4600 hours is ample time for the transition to practice and would decrease that amount of time in future regulation. The commenter inquired about NPs that have been practicing for more than 3 or 6 years and feel they should be able to apply directly to become a 104 NP.

Response to Comment
The Board incorporates by reference the response to Comment G-1, above.

Comment ZZ-2

Summary of Comment
The commenter inquired how retired NPs would apply to become a 103 or 104 NP.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The Board does not have a retired license category at this point in time. An NP who wants to apply for certification as a 103 NP would follow the process outlined in 16 CCR 1482.3. An NP who wants to apply for certification as a 104 NP would follow the process outlined in 16 CCR 1482.4.

Comment ZZ-3

Summary of Comment
The commenter thanked OPES for confirming that a supplemental exam is not needed if the NP is certified nationally.

Response to Comment
The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The commenter appears to be commenting on a discussion that occurred on Tuesday, November 1, 2022, during a meeting of the Board's Nurse Practitioner Advisory Committee regarding OPES findings. This is outside of the scope of this rulemaking package, but the Board acknowledges the commenter's appreciation of the work performed by OPES.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulations or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Board incorporates by reference the alternatives identified in

its Initial Statement of Reasons and did not receive any comments that altered its findings.