

**BOARD OF REGISTERED NURSING
INITIAL STATEMENT OF REASONS
(AMENDED)**

Original Hearing Date: September 21, 2015

New Hearing Date: December 11, 2015

Subject Matter of Proposed Regulations: Abortion by aspiration techniques

Sections Affected: Adopt Sections: 1463.5, 1485.5

REASONS FOR AMENDED INITIAL STATEMENT OF REASONS:

- Due to a technical error, the original Notice was not mailed out to interested parties and the Board is re-noticing this proposed regulation in order to comply with Government Code Section 11346.5.
- The original language was incompletely noticed on or about August 7, 2015.
- The public hearing was held on September 21, 2015.
- Minor changes were made to the language based on public comments received between August 7, and September 21, 2015 and the Board conducted a 15 day comment period for the new language beginning October 8 and ending October 23, 2015.
- No additional public comments were received during the 15 day comment period.
- The hearing scheduled for December 11, 2015 is for the amended language approved by the Board and considered during the recent 15 day comment period.

Introduction: The Board of Registered Nursing's (Board) highest priority is consumer protection. Nurse practitioners and certified nurse-midwives in California are regulated by the Nurse Practice Act found at Business and Professions Code Section 2700 and following, as well as Section 1400 and following of Title 16 of the California Code of Regulations which require these professionals to achieve and maintain a level of competency that promotes quality of care and patient safety.

In order to perform an abortion by aspiration techniques pursuant to Section 2253 and 2725.4 of the Business and Professions Code (Section 2725.4), a person with a license or certificate to practice as a nurse practitioner or a certified nurse-midwife shall complete training recognized by the Board. The proposed regulatory action will set forth parameters in order to comply with Section 2725.4.

Specific Changes and Factual Basis/Rationale:

With respect to the Board-recognized training required for nurse practitioners and certified nurse midwives to perform abortions by aspiration techniques, AB 154 (2013) requires the Board to use the competency based training protocols established by Health Workforce Pilot Project (HWPP) No. 171 through the Office of Statewide Health Planning and Development for the period of time between January 1, 2014 through December 31, 2015. AB 154 also added statutory language that makes it unprofessional conduct for any nurse practitioner or certified nurse midwife to perform an abortion by aspiration techniques without prior completion of training and validation of clinical competency.

After December 31, 2015, nurse practitioners and certified nurse midwives will not have any method by which to become competent in performing abortion by aspiration, a function they are now authorized to do by statute. The Board is proposing regulations that would recognize the training required on and after January 1, 2016 to allow nurse practitioners and certified nurse midwives to perform abortion by aspiration techniques.

The pathways to competency as set forth in these proposed regulations parallel the pathways to competency found in HWPP No. 171. The recognized pathways for training that are already accepted by the Board under HWPP No. 171 are by the following: (1) A Board-approved nurse practitioner program, a Board-approved certified nurse midwife program or in a post-graduate course offered by an accredited nurse practitioner program or an accredited certified nurse midwife program; (2) A course offered by a Board-approved continuing education provider that reflects evidence-based national training guidelines or a course approved for Category I continuing medical education; (3) A course offered by a state or national health care professional or accreditation organization. There currently are not any other pathways that nurse practitioners or certified nurse midwives can take in order to perform abortion by aspiration techniques. The proposed regulations will capture all pathways to competency currently employed, providing maximum training options to nurse practitioners and certified nurse midwives. These methods have been proven effective by the HWPP No. 171.

Benefit: The proposed regulations will increase access to safe qualified providers of abortion care for California residents by assuring evidenced-based and competency-based education and training in safe abortion care.

Underlying Data:

Technical, theoretical or empirical studies or reports relied upon: HWPP No. 171.

Business Impact:

There may be a positive economic impact on schools and continuing education providers that pursuant to the regulations, will be able to provide classes and courses on abortion by aspiration techniques for nurse practitioners and certified nurse midwives. This may create more jobs and businesses.

Economic Impact Assessment:

This regulatory proposal affects individual registered nurses who may perform abortion by aspiration. The proposal will create jobs as they will allow nurse practitioners and certified nurse midwives to perform abortion by aspiration techniques. The proposal should not eliminate jobs within the State of California; the proposal will create businesses within the state for giving instruction to nurse practitioners and certified nurse midwives to perform abortion by aspiration techniques. The proposal will not eliminate existing businesses within the state; the proposal does affect the health and welfare of California residents as it will increase access to safe qualified providers of abortion care for residents by assuring evidenced-based and competency-based education and training in safe abortion care; the proposal will not affect worker safety; and the proposal does not affect the state's environment because the regulation pertains only to nurses performing abortion by aspiration.

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Not adopt the regulations. If the Board does not adopt the regulations, nurse practitioners and certified nurse midwives will have no Board recognized way to become competent to perform abortion by aspiration techniques.
2. Adopt the regulation. The Board determined that this alternative is the most feasible because the proposed regulatory changes would enhance the Board's ability to protect the public.