

**NOTICE OF AVAILABILITY OF MODIFIED REGULATION TEXT
NOTICE OF A DOCUMENT RELIED UPON ADDED TO THE RULEMAKING FILE
NOTICE OF REVISION OF INITIAL STATEMENT OF REASONS**

NOTICE IS HEREBY GIVEN that the California Board of Registered Nursing (Board) has proposed modifications to the text contained in Article 10, Section 1500, et seq., in Division 14 of Title 16 of the California Code of Regulations, which was the subject of a 45-day comment period that ended December 12, 2011. A copy of the modified text is attached.

The Board is also modifying two forms incorporated by reference in the regulation sections specified above. The modified forms are identified as follows:

1. “Registration of Sponsoring Entity under Business & Professions Code Section 901” Form 901-A (DCA/2011), which replaces the initially proposed registration Form 901-A (09/2011).
2. “Request for Authorization to Practice without a California License at a Sponsored Free Health Care Event” Form 901-B (BRN/2011), which replaces the initially proposed form 901-B (09/2011).

Copies of these two forms are available upon request and are available on the Board’s website, www.rn.ca.gov. The revised forms are also available for public inspection at the address listed below during business hours of 8:00 a.m. to 5:00 p.m.

NOTICE IS FURTHER GIVEN that the Board is adding the following document to the rulemaking file:

“Data Supporting Fee for Requesting Authorization to Practice without a
California License”

The document was relied upon to determine the \$50 application fee specified in Section 1502(a).

The document is available for public inspection on the Board’s website (www.rn.ca.gov) and copies are available upon written request. The document is also available for public inspection at the address listed below during business hours of 8:00 a.m. to 5:00 p.m.

NOTICE IS FURTHER GIVEN that the Board is revising the Initial Statement of Reasons, page 4, paragraphs 4 and 5. The paragraphs provide the factual basis/rationale for denial of a request for authorization to participate in a sponsored free health care event specified in Section 1502(c)(2).

The revised language is available for public inspection on the Board’s website (www.rn.ca.gov) and is available upon written request. The revised language is also available for public inspection at the address listed below during business hours of 8:00 a.m. to 5:00 p.m.

Any person who wishes to comment on the proposed modifications to the regulations or forms incorporated by reference, the document added to the rulemaking file, or the revision of the Initial Statement of Reasons may do so by submitting written comments on or before 5:00 p.m. on August 16, 2012 to:

Person: Christina Sprigg, SSMII
Address: Board of Registered Nursing
1747 North Market Blvd., Suite 150
Sacramento, CA 95834
Telephone No.: 916-574-7614
Fax No: 916-574-7700
E-Mail Address: christina.sprigg@dca.ca.gov

DATED:

Louise Bailey, Executive Officer
Board of Registered Nursing

BOARD OF REGISTERED NURSING

Modified Text

Changes to the originally proposed language are shown in double underline for new text and single strikeout for deleted text. (For ease of locating the modified text, it also has been shaded.)

Proposed Regulations

Adopt Article 10, commencing with Section 1500, of division 14 of Title 16 of the California Code of Regulations, to read as follows:

Article 10

Sponsored Free Health Care Events—Requirements for Exemption.

§1500. Definitions.

For the purposes of section 901 of the code:

(a) “Community-based organization” means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

(b) “Out-of-state practitioner” means a person who is not licensed in California to engage in the practice of registered nursing but who holds a current valid license or certificate in good standing in another state, district, or territory of the United States to practice registered nursing.

NOTE: Authority cited: Sections 901 and 2715, Business and Professions Code. **Reference:** Section 901, Business and Professions Code.

§1501. Sponsoring Entity Registration and Recordkeeping Requirements.

(a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the code shall register with the board not later than ninety (90) calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the board by submitting to the board a completed “Registration of Sponsoring Entity under Business & Professions Code Section 901,” Form 901-A (09DCA/2011), which is hereby incorporated by reference.

(b) Determination of Completeness of Form. The board may, by resolution, delegate to the Department of Consumer Affairs the authority to receive and process “Registration of Sponsoring Entity under Business & Professions Code Section 901,” Form 901-A (DCA/2011) on behalf of the board. The board or its delegate shall inform the sponsoring entity within fifteen (15) calendar days of receipt of Form 901-A (DCA/2011) in writing that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The board or its delegate shall reject the registration if all of the identified deficiencies have not been corrected at least thirty (30) days prior to the commencement of the sponsored event.

(c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by section 901 as well as a copy of the authorization for participation issued by the board to an out-of-state practitioner. The

sponsoring entity shall maintain these records for a period of at least five (5) years after the date on which a sponsored event ended. The records may be maintained in either paper or electronic form. The sponsoring entity shall notify the board at the time of registration as to the form in which it will maintain the records. In addition, the sponsoring entity shall keep a copy of all records required by section 901(g) of the code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the board.

(d) Requirement for Prior Board Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval of such practitioner from the board.

(e) Report. Within fifteen (15) calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the board summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:

(1) The date(s) of the sponsored event;

(2) The location(s) of the sponsored event;

(3) The type(s) and general description of all health care services provided at the sponsored event; and

(4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number of that practitioner.

NOTE: Authority cited: Sections 901 and 2715, Business and Professions Code. Reference: Section 901, Business and Professions Code.

§1502. Out-of-State Practitioner Authorization to Participate in Sponsored Event.

(a) Request for Authorization to Participate. An out-of-state practitioner ("applicant") may request authorization from the board to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the board to provide those services. An applicant shall request authorization, at least sixty (60) days prior to the sponsored event, by submitting to the board a completed "Request for Authorization to Practice without a California License at a Sponsored Free Health Care Event" Form 901-B (09BRN/2011), which is hereby incorporated by reference, accompanied by a non-refundable, non-transferable processing fee of \$50.00. The applicant shall not participate in more than four (4) sponsored events in a twelve (12) month period. The applicant shall also furnish either a full set of fingerprints or submit a Live Scan inquiry to establish the identity of the applicant and to permit the board to conduct a criminal history record check. ~~This requirement~~ The fingerprint or Live Scan inquiry shall apply only to the first application for authorization that is submitted by the applicant within a twelve (12) month period.

(b) Response to Request for Authorization to Participate. Within twenty (20) calendar days of receiving a completed request for authorization, the board shall notify the sponsoring entity or local government entity administering the sponsored event and the applicant whether the request is approved or denied.

(c) Denial of Request for Authorization to Participate.

(1) The board shall deny a request for authorization to participate if:

(A) The submitted Form 901-B is incomplete and the applicant has not responded within seven (7) calendar days to the board's request for additional information.

(B) The applicant has not met the following educational and experience requirements:

1. Completed a prelicensure registered nursing program whose curriculum is equivalent to section 1420 of this code.

2. Is clinically competent to perform the registered nursing services he or she will be providing at the sponsored event.

3. Has provided the same or similar nursing services to be provided at the sponsored event within the last three (3) years.

(C) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial of an application for licensure by the board.

(D) The applicant does not possess a current valid **active** license in good standing and/or has a registered nurse license in another state, district, or territory of the United States to practice registered nursing that is not in good standing. The term “good standing” means the applicant:

1. Has not been charged with an offense for any act substantially related to the practice for which the applicant is licensed by any public agency;

2. Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant’s professional conduct or practice, including any voluntary surrender of license;

3. Has not been the subject of an adverse judgment resulting from the practice for which the applicant is licensed that the board determines constitutes evidence of a pattern of negligence or incompetence.

(E) The applicant is a current participant in a health care professional diversion program for chemical dependency or mental illness.

(F) The applicant has participated in four (4) sponsored events during the twelve (12) month period immediately preceding the current application.

(2) The board may deny a request for authorization to participate if:

(A) The request is received less than sixty (60) calendar days before the date on which the sponsored event will begin.

(B) The applicant has been previously denied a request for authorization by the board to participate in a sponsored event.

(C) The applicant has previously had an authorization to participate in a sponsored event terminated by the board.

(d) Appeal of Denial. An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in section ~~1504~~1503(d).

NOTE: Authority cited: Sections 901 and 2715, Business and Professions Code. Reference: Sections 144 and 901, Business and Professions Code.

§1503. Termination of Authorization and Appeal.

(a) Grounds for Termination. The board may terminate an out-of-state practitioner’s authorization to participate in a sponsored event for any of the following reasons:

(1) The out-of-state practitioner has failed to comply with any applicable provision of this article, or any applicable practice requirement or regulation of the board.

(2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the board.

(3) The board has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner’s services.

(b) Notice of Termination of Authorization to Practice. The board shall provide both the

sponsoring entity or a local government entity administering the sponsored event and the out-of-state practitioner with a written notice of the termination of the authorization to practice, including the basis for the termination. If the written notice is provided during a sponsored event, the board may provide the notice to any representative of the sponsored event on the premises of the event.

(c) Consequences of Termination. An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination.

Termination of authority to participate in a sponsored event shall be deemed a disciplinary action reportable to the national practitioner data banks. In addition, the board shall provide a copy of the written notice of termination to the board of registered nursing in each jurisdiction in which the out-of-state practitioner is licensed.

(d) Appeal of Termination. An out-of-state practitioner may appeal the board's decision to terminate an authorization in the manner provided by section 901(j)(2) of the code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act.

(e) Informal Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an informal conference with the executive officer regarding the reasons for the termination of authorization to participate. The executive officer or his or her designee shall, within thirty (30) days from receipt of the request, hold an informal conference with the out-of-state practitioner. At the conclusion of the informal conference, the executive officer or his or her designee may affirm or dismiss the termination of authorization to participate. The executive officer or his or her designee shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within ten (10) days from the date of the informal conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an informal conference. If the termination is dismissed after the informal conference, the request for a hearing shall be deemed to be withdrawn.

NOTE: Authority cited: Sections 901 and 2715, Business and Professions Code. **Reference:** Section 901, Business and Professions Code.

§1504 Disclosure Requirements; Name and License Status.

(a) A sponsoring entity shall place a notice visible to clients at every site where clients are receiving registered nursing services. The notice shall be in at least forty-eight (48) point font and shall include the following information:

(1) Registered nurses providing health care services at the event are either licensed and regulated by the California Board of Registered Nursing or hold a current valid license from another state and have been authorized to provide registered nursing services in California only at this specific event.

(2) Complaints or concerns should be reported to the California Board of Registered Nursing.

(3) California Board of Registered Nursing phone number, physical address, and e-mail address.

(b) An out-of-state practitioner authorized to provide nursing services at a sponsored event shall wear a name tag while practicing. The name tag shall be in at least eighteen (18)-point font and include the practitioner's name, registered nurse or R.N., and state of licensure.

NOTE: Authority cited: Sections 680, 901, and 2715, Business and Professions Code. **Reference:** Section 901, Business and Professions Code.