

## BOARD OF REGISTERED NURSING

### SUPPLEMENT TO THE INITIAL STATEMENT OF REASONS

**Subject Matter of Proposed Regulations:** Advanced Practice Registered Nurses

**Sections Affected:** Amend Sections: 1417, 1480, 1481, 1482, 1483, 1484  
Adopt Sections: 1483.1, 1483.2, 1486

#### Rationale for Consistency

##### 1417

The proposed “Incorporation by Reference” documents, the “Application for Nurse Practitioner (NP) Certification” (Rev. 3/2018) - (the “Certification Application”), the “Nurse Practitioner Furnishing Number Application” (Rev. 3/2018) - (the “Furnishing Number Application”) and Application for Temporary Nurse Practitioner (NP) Certificate” (Rev. 3/2018) – (the “Temporary Certification Application”) require each listed fee to be set to the minimum statutory range per Business and Professions Code section 2815.

In the Temporary Certification Application, the Board proposes a \$150 fee for a temporary nurse practitioner certificate per Business and Professions Code section 2815, subdivision (o)(2).

In the Certification Application, the Board proposes a \$500 fee for Certification as a nurse practitioner per Business and Professions Code section 2815, subdivision (o)(1).

In the Furnishing Number Application, the Board proposes a \$400 fee for a Board issued furnishing number which allows the Nurse Practitioner to furnish drugs and/or devices pursuant to Section 2836.1 of the Business and Professions Code.

Amending section 1417 is necessary because existing laws authorize the Board to charge fees for initial licensure and certification applications. The Board is a self-supporting, special fund agency that generates its revenue from these fees. In 1991, the Board set fees at the minimum level of the range established statute. In 2010, the Board raised its fees for the first time in nearly 20 years to support the Board and enhance its enforcement functions. In 2015, the Board adopted emergency regulations to raise most fees to the maximum range in statute.

After SB 1039 (2016) was passed into law, the Board assessed appropriate fee amounts to be set, with most fees set to the bottom of the new statutory ranges. Subsequently, the Board has a separate proposed rulemaking package addressing these fee increases. The proposed fee increases in this rulemaking package are the result of those statutory changes, with the amended fees being similarly set to the bottom of the new statutory ranges.

The financial health of the Board is determined by the months of average reserve available. The Board is currently operating with less than three months of reserve. The DCA Budget Office has stated that 11.5 months is an average reserve for most Boards and Bureaus which is about half of the 24-month maximum statutory limit prescribed in B&P section 128.5. While the revenue associated with the applications listed above represent a small percentage of total Board revenue (<5%), they will contribute positively to the Board’s fund reserve if they follow historical trends of 20-30% growth. The table below shows the projected growth on revenue and how these fee increases will impact the Board’s fund reserve if assuming a 25% annual growth.

<b>Projected Nurse Practitioner Certification &amp; Furnishing Application Revenue</b>					
	Year 1	Year 2	Year 3	Year 4	Year 5
Nurse Practitioner Certification*	\$881 K	\$1.1 M	\$1.4 M	\$1.8 M	\$2.2 M
Nurse Practitioner Furnishing	\$896 K	\$1.1 M	\$1.4 M	\$1.8 M	\$2.3 M
Total	\$1.8 M	\$2.2 M	\$2.8 M	\$3.6 M	\$4.5 M
<b>Fund Contribution (months)</b>	<b>0.5</b>	<b>0.6</b>	<b>0.7</b>	<b>0.9</b>	<b>1.2</b>
Source: Quality Business Interactive Reporting Tool (QBIRT)					
Assumes 25% annual revenue growth with \$3.8M total Board monthly operating expense.					
*Includes both Nurse Practitioner Certification and Temporary Certification applications.					

## **Rationale for Clarity**

### **1480**

In proposed section 1480, subdivision (b) and (c), the Board is adopting new definitions for the terms “primary health care” and “clinically competent” respectively. In addition, “The clinical experience must be such that the nurse received intensive experience in performing the diagnostic and treatment procedures essential to the provision of primary care” was added to the proposed definition of “clinically competent”. The Certification Application lists the adopted language so that they align to the proposed definitions. Proposed section 1480, subdivision (o) defines the term “Lead nurse practitioner faculty educator” which more accurately describes the individual and not a group of faculty members.

### **1481**

Categories of Nurse Practitioners are broad and comprise of population focus. Previously NP educators referred to this area of population as specialty. The six recognized population foci are Family/individual across the lifespan; Adult-gerontology, primary care or acute care; Neonatal; Pediatrics, primary care or acute care; Women’s health/gender-related; and Psychiatric-Mental Health across the lifespan. Listing these common categories within the regulation is within standard and not unreasonable. Business and Professions Code section 2836 allows the board to establish categories of nurse practitioners and standards that are relative in each category.

In setting such standards, the Board consults with organizations such as The National Organization of Nurse Practitioner Faculties (NONPF) specifically, in “Nurse Practitioner Core Competencies Content” (2017), and American Association of Nurse Practitioners (AANP) in “Criteria for Evaluation of Nurse Practitioner Programs” (2016), which are both proposed to be incorporated by reference in this

rulemaking. These organizations are relied upon as the standard for nurse practitioner education programs across all state licensing boards. In addition, the Board consults with nurse practitioners, physicians and surgeons with expertise in the nurse practitioner field.

## **1482**

To obtain certification as a Nurse Practitioner, an applicant must hold a valid and active license as a registered nurse in California and possess a master's degree in nursing, a master's degree in a clinical field related to nursing or a graduate degree in nursing. Preparation at the graduate level must be comprehensive and focus on the clinical practice of providing direct care to individuals.

In addition, the applicant must successfully complete a nurse practitioner education program approved by the Board or hold National certification as a nurse practitioner in one or more categories from a national certification organization accredited by the National Commission on Certifying Agencies (NCCA) or the American Board of Nursing Specialties (ABNS).

## **1483.1**

Existing regulations (1421, 1423) set forth the requirements for approving prelicensure programs in California; however, there are no current regulations to approve APRN-Nurse Practitioner Education Programs based in California. 1423(a) states "In order for a program to be approved by the board or to retain its approval, it shall comply with all requirements set forth in this article and in sections 2786 through 2788 of the code."

The Board is proposing regulations that will set forth requirements for APRN-Nurse Practitioner Education Programs based in California which is necessary for consumer protection to ensure that APRN-Nurse Practitioner Education Programs based in California meet the minimum requirements for training and competence of nurse practitioners.

To be considered for initial and continuing Board approval, the APRN-Nurse Practitioner Education Program must provide evidence to the Board that it is in an accredited academic institution located in California, be an academic program accredited by a nursing organization recognized by the United States Department of Education or the Council of Higher Education Accreditation and must offer a graduate degree in Nursing or graduate level certificate in Nursing. The Board shall grant initial and continuing approval when the Board receives the required accreditation evidence from the program.

## **1484**

The Nurse Practitioner education program must be accredited by a nursing or nursing-related accrediting organization recognized by the U.S. Department of Education (USDE) and/or the Council of Higher Education Accreditation (CHEA). The Nurse Practitioner education program must prepare the graduate with the core competencies of Nurse Practitioner education as outlined by The National Organization of Nurse Practitioner Faculties (NONPF) in "Nurse Practitioner Core Competencies Content" (2017) or the American Association of Colleges of Nursing (AACN) in "Criteria for Evaluation of Nurse Practitioner Programs" (2016).

These competencies represent the entry into practice upon graduation from a Nurse Practitioner education program. Curriculum alignment to these standards is necessary to prepare graduates to

meet education eligibility requirements to sit of a national NP certification examination that corresponds with the role and population focus of the NP program. In 2017, NONPF released the most current, nationally validated set of core competencies and are for entry to practice for all nurse practitioners.

## **1486**

The Board relies on the NONPF or the American Association of Colleges of Nursing (AACN) competencies when determining Clinical Practice Experience for NP students enrolled in out-of-state Nurse Practitioner Education programs. Clinical preceptors must have the educational preparation appropriate to their area of supervisory responsibility. The Board must receive evidence of each faculty member's valid and active California license to practice their respective profession and demonstrate current clinical competence. The NP faculty may participate in or undertake various types of practice in addition to direct patient care to maintain currency in practice.

### **Rationale by Necessity**

**Signing Under the Penalty of Perjury** – The applications proposed to be incorporated by reference in this rulemaking require certain individuals, when required to sign specific portions of the applications, to sign under the penalty of perjury. These individuals are (1) the applicants, (2) the program director/representative for the nurse practitioner academic program, (3) someone from the certifying national organization/association, (4) the evaluating nurse practitioner, (5) the evaluating physician, (6) the physician/nurse practitioner verifying the applicant's clinical experience and (7) the Director of the nurse practitioner academic program. Signing under the penalty of perjury is necessary because the Board is communicating to the applicant, future licensees, and the individuals listed above, the gravity of falsifying information to the Board. Providing false information or omitting required information is grounds for denial of licensure or license revocation in California per BPC 480 (d).

The Board specifies the requirement of the applicant and the individuals listed above by attesting under penalty of perjury to verify the accuracy of information provided in the applications. BPC 2761 (e) states the Board may take disciplinary action against a certified or license nurse or deny an application for a certificate or license for making or giving any false statement or information regarding the application for issuance of a certificate or license. Licensing nurses with false information increases the potential for causing harm and puts the public at risk.

**Core Competencies Specified by the National Organization of Nurse Practitioner Faculties (NONPF)** – Requiring the core competencies from NONPF is necessary to ensure Advance Practice Nurse Practitioner Education Programs meet the standards as outlined in the nationally recognized criteria used for evaluation and accreditation. This national standard is approved by all states, except for California. In requiring the nationally recognized core competencies, the Board wishes to align itself to this national standard. The first national meeting of nurse practitioner educators was held in 1974. The National Task Force for Family Nurse Practitioner Curriculum and Evaluation developed guidelines from 1976-1980 which continue to be utilized today.

**Faculty Years of Experience** – Section 1484, subdivision (d)(4)(C), requires faculty to have “at least two years of clinical experience as a nurse practitioner, certified nurse midwife, clinical nurse specialist or certified registered nurse anesthetist and within the last five years of practice and consistent with the teaching responsibilities.” Two years of clinical experience is necessary because it demonstrates a safe

level of clinical practice with direct care. Two years gives the nurse practitioner enough time to gain knowledge in the application of the practice to diagnose and treat patients within the designated population.

The National Council of State Boards of Nursing (NCSBN) uses two years and continued competency demonstration with national certification and state licensure as the model for faculty educators. A limit of five years to capture recent NP knowledge is necessary because typically practice changes within every 18 months to 2 years. For example, if a nurse practitioner has two years of clinical experience and leaves three years later, they would still be found to be competent in clinical practice. Whereas a nurse practitioner with the same two years of clinical experience, leaves for a period of eight years, they would not be up to date in clinical practice.

**Incorporation by Reference Correction** – The Board does not choose to incorporate these two documents, the “Application for California RN Licensure by Endorsement” and the “California RN Endorsement Application” and they are not part of the proposed rulemaking.

**Significant Adverse Economic Impact on Business** – The Board has determined that this regulatory proposal will not have a significant adverse economic impact on Business in California. In the 30 years since the last amendments, significant changes to educational and professional policies, procedures and practices have occurred to ensure consumer safety that must be reflected in the standards for California nurse practitioners. This proposal will allow California to be congruent to the national standards for nurse practitioners.

The California Action Coalition (CAC) along with the organizational members of the APRN Coalition agree with the Board that amendment of these regulations is necessary and will ensure nurse practitioners (NPs), nurse practitioner practice and nurse practitioner education programs are consistent with current laws, practices and professional standards. The CAC also agrees there is no indication that approval of the regulatory amendments would negatively or adversely impact California businesses who employ nurse practitioners to provide nurse practitioner services.

#### **Material Relied Upon / Underlying Data**

1. **The 2017 Nurse Practitioner Core Competencies with Curriculum Content**, the National Organization of Nurse Practitioner Faculties (NONPF) has released the most current, nationally validated set of core competencies for nurse practitioners. Available at [www.nonpf.org](http://www.nonpf.org).
2. **A Report of the National Task Force on Quality Nurse Practitioner Education**, 2016, Criteria for Evaluation of Nurse Practitioner Programs, 5<sup>th</sup> Edition, Washington, DC; National Organization of Nurse Practitioner Faculties (NONPF) and American Associate of Colleges of Nursing (AACN).