August 24, 2021

Loretta Melby, RN, MSN
Executive Office
California Board of Registered Nursing
Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834-1924

Re: Assembly Bill 890 Implementation – Patient Protection

Dear Executive Director Melby –

Los Amigos de la Comunidad, Imperial Valley (*Los Amigos*) respectfully requests that the following recommendations are incorporated into regulations that will be developed to implement AB 890 (Wood). AB 890 allows nurse practitioners to perform limited procedures without doctor supervision. AB 890 does not require the same educational, residency and training requirements that medical doctors must complete in order to practice medicine which is a concern for our low-income communities of color. The California Board of Registered Nursing must ensure that adequate regulations are adopted to ensure that all communities, regardless of economic status or race receive adequate care.

Los Amigos represents low-income Californians in rural and urban areas that are in need of quality health care services. Many of the individuals that we serve and represent are challenged by poverty, food insecurity, violence, language barriers and are underinsured and unemployed. All Californians, regardless of race or economic status, should have access to high quality health care to live a long life. Poverty has been linked to death and disease and having wealth and a higher income provide material benefits such as healthier living conditions and access to health care.

AB 890 states that "A nurse practitioner shall verbally inform all new patients in a language understandable to the patient that a nurse practitioner is not a physician and surgeon. For purposes of Spanish language speakers, the nurse practitioner shall use the standardized phrase "enfermera especializada." We strongly believe that a verbal disclosure is not enough to make a patient aware that they are not receiving services from a doctor. Regulations should require a written disclosure and a post in each location where the nurse practitioner practices, in an area that is likely to be seen by all persons who enter the office.

Under AB 890, patients can request to see a physician at any time and the nurse practitioner is limited to providing certain services. The disclosure should include information that a patient can request to see a physician and the circumstances when a nurse must refer a patient to see a physician. Many times, low-income individuals face life threatening medical conditions and must be aware that a nurse practitioner may not provide the medical services that they need.

In addition of appropriate disclosures, through regulations, the Board of Registered Nursing must also ensure the following:

- Nurse practitioners must have an adequate education and training that will give confidence to

communities and ensure patients receive safe, high-quality care.

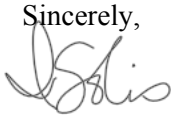
- Nurse practitioners must be adequately tested to ensure that their competency is sufficient to provide quality patient care in any setting in which they are allowed to practice, and to ensure that they are keeping up with their education.

- Patients should have a right to receive this information from a nurse practitioner without request. Placing such disclosure requirements on the nurse practitioner will ensure that all patients, and especially those in low-income communities, receive critical information about their care. The ability of a patient to receive these critical patient safety and consumer protection safeguards should not depend on their understanding of the healthcare system.

- Discipline and enforcement must be sufficiently developed and in place immediately to ensure that no patient is more susceptible to patient safety concerns and lower standards of care simply because they are being treated by a nurse practitioner.

Our communities continue to face predatory practices by businesses because of language barriers and limited economic resources. For instance, our immigrant communities are offered immigration legal services by individuals that are not licensed to practice law. Our communities face predatory lending services and are targets of fraud by many unscrupulous businesses. We cannot create a second tier of health care which would have negative impacts in our communities. Our communities deserve to have the option to see a medical doctor when they are seeking medical services. ***Los Amigos*** respectfully requests a meeting with the staff to discuss our concerns.

Sincerely,



Isabel Solis
President
Los Amigos de la Comunidad Inc. , Imperial Valley

From: Jan Griffin
To: Feusahrens, McCaulie@DCA
Subject: Received another letter to be included in meeting materials for 9/21
Date: Friday, September 10, 2021 4:29:52 PM

[EXTERNAL]: jjgriffin2647@gmail.com

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Catherine Nitafan-Young, DNP, FNP-C
5605 Aspen Grove Lane, Elk Grove, CA 95757
916-812-8902

September 10, 2021

Dear Committee Members,

Thank you for volunteering to work with the Board of Registered Nurses!

To introduce myself: I obtained my Master's of Science degree from the University of California, San Francisco, as a Family Nurse Practitioner (FNP) in 1998 and I have worked as a FNP for 23 years in various clinical specialties. In addition to working full-time as a NP in outpatient clinics, I have been a member of Professional Performance Committees (PPCs) in Stockton, Modesto, Sacramento, Roseville and South Sacramento, depending on the location of my clinic. PPCs are implemented in all service areas of my health maintenance organization in Northern California in order to improve quality patient care.

In 2020, I completed the Doctorate of Nursing Practice (DNP) degree from Touro University Nevada. In my DNP program, it was recommended that I develop and implement a quality improvement project, which would be sustained by the staff even if I was no longer part of that staff. I was encouraged to train the staff to implement the project and for them to provide the direct patient care.

The research or quality improvement project and the clinical hours that DNP candidates complete demonstrate the overall eight "Essentials of Doctoral Education for Advanced Nursing Practice." These essentials are delineated by the American Association of Colleges of Nursing, October 2006, and are as follows:

1) Scientific Underpinnings for Practice
2) Organizational and Systems Leadership for Quality Improvement and Systems Thinking
3) Clinical Scholarship and Analytical Methods for Evidence-Based Practice
4) Information Systems/Technology and Patient Care Technology for the Improvement and Transformation of Health Care
5) Health Care Policy for Advocacy in Health Care
6) Interprofessional Collaboration for Improving Patient and Population Health Outcomes
7) ClinicalPreventionandPopulationHealthforImproving the Nation's Health
8) Advanced Nursing Practice

The majority of the clinical hours for my DNP degree involved researching my topic of interest and critically analyzing and evaluating prior research, collaborating with other specialists and staff in order to identify and improve practice using systems-based thinking, exploring and improving knowledge about technological resources to improve patient care, and collaborating with my mentor and faculty advisor. My fellow colleagues in the program completed clinical hours of the same nature. I am thankful for the increased knowledge and skills I obtained in my DNP program since it enhanced my work in improving quality care for patients as a member of the Stockton and Modesto PPCs.

Since the clinical hours that my colleagues and I completed were not direct patient care for improvement of skills in assessment, diagnosis or treatment of patients, I recommend that nurse practitioners (NPs) with Doctorate of Nursing Practice (DNP) degrees are required to obtain the same clinical patient care experience as NPs without a DNP degree. The only exception I would consider is a DNP graduate who has completed an "Advanced Practice Nursing Focus" program and has earned an "advanced specialty certification, when available" as delineated by the American Association of Colleges of Nursing, in The Essentials of Doctoral Education for Advanced Nursing Practice, October 2006.

Finally, I recommend that the NP practice requirement should be defined as a minimum of three full-time equivalent years of clinical practice or a 4600 hours, not inclusive of the transition to practice required pursuant to subparagraph (D) of paragraph (1) of subdivision (a) of AB 890, Section 2837.103. There are NPs who may be in good standing but only work in per diem and on-call positions, which may only be 8-16 hours per week. In my organization, there are times when the length of time worked is counted (I.e., six months) rather than hours worked; thus NPs are given credit based on the length of time worked despite only working 8-16 hours per week. The experience obtained in 8 hours/week compared to 30 hours/week is not equal.

Thank you for your time and kind consideration.

Most sincerely,
Catherine Nitafan-Young, DNP, FNP-C

To: The Board of Registered Nursing
Nurse Practitioner Advisory Committee

Re: AB890

Dear Members of the Committees,

I have been practicing as a registered nurse since 1982 and a nurse practitioner since 1995. I have worked in a variety of settings. Early in my career I worked as a critical care nurse, then as a clinical nurse specialist in critical care. I have worked as a nurse practitioner in cardiology, internal medicine, urgent care, and, for the past 13 years, in a medical dermatology practice at Kaiser Permanente in Stockton, CA. I have a BSN from Brigham Young University and an MSN from UC San Francisco. I have attended several of the BRN board meetings and NPAC meetings. At the last NPAC meeting I tried to make a public comment but my name was passed over and the agenda moved forward due to time constraints. Therefore, I am expressing my comments in written form.

There was much discussion by members of the NPAC about educational preparation and transition to 103 and 104 status however, there was little discussion about clinical experience. I went to excellent undergraduate and graduate nursing programs but upon graduation, I was not an expert. I was a novice. Reflecting back on my work as a hospital nurse, it took me about six years until I felt like I could handle any patient situation. Again, working as a nurse practitioner, it took me about the same time to really become proficient.

According to nursing theorist Patricia Benner in her seminal work "From Novice to Expert: Excellence and Power in Clinical Nursing Practice," nurses finish their education and enter their role as novice and progress to advanced beginner then to competent nurse. With more experience, the nurse moves on to become proficient then finally expert (Benner, 1984). In our undergraduate nursing and NP programs, we learn theoretical concepts and gain scientific knowledge which we apply in our papers, care plans and clinical rotations. It is not until we work as nurses and nurse practitioners that we build on this knowledge through the clinical work we perform every day. Through clinical experience as an NP, I went from consulting frequently with my supervising physician to rarely doing so now. Expert NP's possess a "gestalt" and are able to make appropriate clinical decisions and understand their limitations.

Dr. Reys has expressed his concern about NP education. With advances in technology and scientific discovery, medicine and nursing have dramatically changed in the 40 years of my career. I consider my BSN and MSN the foundation of my education, not the pinnacle. A proficient NP must continue to learn through reading medical and nursing journals as well as relevant continuing education. I don't believe a DNP with three or four years of experience can compare to the knowledge and expertise I have acquired over decades of practice and ongoing learning.

The purpose of the NPAC is to develop regulation for the implementation of AB890 and the role of the BRN is to protect the public. While I fully support the goal of AB890 to provide more healthcare providers to residents of California, I feel strongly that decreasing the years required for DNPs to transition to 103 and 104 ignores my argument above. In addition, ignoring the rich experience of

seasoned nurse practitioners to advance to 103 and 104 status is short-sighted and will delay the supply of health care providers to those whom AB890 aims to serve.

Sincerely,

Heidi Yurong, RN, FNP, ANP-C
hyurong@gmail.com

CALIFORNIA MEDICAL ASSOCIATION

August 30, 2021

Samantha Gambles Farr, RN, MSN, FNP-C, CCRN, RNFA
Chair, Nurse Practitioner Advisory Committee
Board of Registered Nursing
PO Box 944210
Sacramento, CA 94244-2100

RE: NPAC Engagement on AB 890 Regulations and Implementation

Dear Ms. Gambles Farr:

California physicians would like to respectfully provide comments on the development of regulations and the implementation of AB 890, which contemplates the creation of two new types of nurse practitioners (NPs) — commonly referred to as the 103 and 104 NPs. Patient safety and consumer protection should be the top priority for all health care professionals and the implementation of this new regulatory scheme is no exception. We urge the Nurse Practitioner Advisory Committee (NPAC) and California Board of Registered Nursing (BRN) to consider the input and perspective of all clinicians, including our recommendations for specific regulations on the supplemental examination, the transition to practice requirements, continuing education, and consumer protections.

Supplemental Examination

All candidates seeking 103 or 104 NP certification, regardless of their preexisting nursing practice experience, must be required to take and pass a supplemental examination after successfully completing the transition to practice. Since the regulatory implementation of AB 890 intends to provide the 103 and 104 NPs the ability to practice without standardized procedures, the supplemental examination must include a clinical component to assess the ability of a 103 or 104 NP candidate to exercise sound clinical judgment and decision-making without standardized procedures and physician supervision. In order to ensure a rigorous education, training, and assessment that bolster patient access to safe, high-quality care, the clinical component should be in a real-world clinical environment and not only through a paper examination

Transition to Practice & Scope of Practice

Current NP practice varies significantly across practice settings, formal clinical training and an NP's training and experience working with different types of physician practices. AB 890 explicitly provides that the transition to practice requirements must ensure that NPs seeking certification as 103 or 104 NPs receive the additional clinical experience and mentorship necessary to practice independently. Therefore, the implementing regulations must establish standardized clinical training requirements, in addition to current NP education and training requirements, to ensure that all 103 and 104 NPs will be prepared to provide care without standardized procedures and physician supervision. Accordingly, to ensure patient safety and quality of care, we urge the BRN to include the following requirements in its implementing regulations:

- All 103 and 104 NP candidates, regardless of preexisting practice experience, are required to complete the transition to practice.

- The required transition to practice should be a structured clinical training program in a BRN-approved setting that provides training in specified competencies (established by the BRN) and include a rigorous process for evaluating progress in meeting milestones that demonstrate preparation to practice without standardized procedures.

- Transition-to-practice programs can only prepare 103 and 104 NPs to practice in the specified area of practice permitted by their education, training, and the certification they hold from a national certifying body pursuant to the requirement in Business & Professions Code §2837.103(a)(1)(B).

- The regulations should require that all NPs, once they have declared their transition to practice to the BRN, regardless of practice experience, 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 regulations should define mentorship as a formal clinical preceptorship with a physician in the same area of practice.

- Consistent with the statute, the regulations should provide that a 103 or 104 NP, regardless of practice area, can only perform those functions listed in AB 890 (Business and Professions Code §2837(c)). Further, in order to avoid any confusion and any potential patient safety issues, the regulations should specify that 103 and 104 NPs are not authorized to provide services, like surgery, that are prohibited by existing statutes and regulations. Any functions not listed in AB 890 must be performed pursuant to standardized procedures and under physician supervision.

Continuing Education

The BRN should outline continuing education requirements specific to 103 and 104 NPs designed to maintain, develop, and increase the knowledge, skills, and professional performance and decision-making needed to provide care in their specific area of practice without physician supervision and standardized procedures.

Consumer Protection

The BRN's regulations should ensure that patient safety and consumer protection are a paramount priority. Patients deserve transparency in understanding the training and qualifications of their care team and that 103 and 104 NPs may be practicing under different practice arrangements than patients currently expect and experience. Accordingly, the regulations should require 103 and 104 NPs to obtain consent from patients that provides a specific written notice to patients that the NP is practicing without physician supervision and, if applicable, without physician collaboration, that the patient has a right to see a physician, and the specific arrangements for consultation and referral of cases to a physician. We further urge the adoption of regulations that implement consumer protections, including the disclosure and informed consent requirements, that are understandable and accessible to all communities in California.

As the NPAC and the BRN move forward in the regulatory process, we urge you to carefully consider the potential impact of the regulations on patients, access to health care, and California's entire health delivery system.

Sincerely,

A Aminian, MD
Adam Nelson, MD
Afshin Aminian, MD
Alan Kelton, MD
Albert Han, MD
Alberto Panero, DO
Alejandro Alva, MD
Alex Mageno, MD
Alireza Mahmoudieh, MD
Alok Banga, MD
Alok Shukla, MD
Alpa Patel, MD
Alvaro Bolivar, MD
Alvin Chang, MD
Amitabh Goswami, DO
Amycecilia Mogal, MD
Ani Khondkaryan, MD
Ann Haas, MD
Anna Munoz Chavira, MD
Anna Ekstrom, DO
Anna Cheng, MD
Anthony Waechter, MD
Arinder Chadha, MD
Armand Hernandez, MD
Arthur Blain IV, MD
Arthur D'Harlingue, MD
Arthur Lurvey, MD
Aruna Gupta, MD
Ashwin Gowda, DO
Asma Jafri, MD
Asmina Khan, MD
Audrey Mok, MD
Ayodeji Ayeni, MD
Bernard Raskin, MD
Bethany Karl, DO
Bradley Zlotnick, MD
Branko Huisa-Garate, MD
Brennan Cassidy, MD
Brent Kovacs, MD
Brian Dunn, MD
Bruce Friedman, MD
Calvin Wong, MD
Catherine Gutfreund, MD
Catherine Xia, MD
Charish Barry, MD
Charles Moser, MD
Cheryl Thieu, MD
Christine Kilcline, MD
Christopher Kang, MD
Christopher Gunasekera, MD
Christopher Warren, DO
Chuyen Trieu, MD
Cindy Blifeld, MD
Corey Long, MD
Corinne Frugoni, MD
D. Mills Matheson, MD
Danelle Fisher, MD
Daniel Mills II, MD
Daniel Dress, MD
Daniel Kim, MD
Daniel Lin, DO
Daniel Woolridge
Dannielle Harwood, MD
Darith Khay, MD
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David Patella, MD
David Hopp, MD
David Stein, MD
David Palestrant, MD
David Morwood, MD
David Tran, MD
David Crownover, MD
Deborah Hsiung, DO
Deval Shah, MD
Dharini Patel, MD
Diana Blum, MD
Diana Dang, MD
Diego Ferro, MD
Dilangani Ratnayake, MD
Dina Canavero, MD
Dinesh Ghiya, MD
Dron Gauchan, MD
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Edward Nelson, MD
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Elias Sanchez, MD
Elisabeth Mailhot, MD
Elizabeth Giles, MD
Elizabeth Lee, MD
Elvis Tanson, DO
Emily Wong, MD
Eric Nash, MD
Eric Jacobson, MD
Estylan Arellano, DO
Evalyn Horowitz, MD
Faith Quenzer, DO

Fariborz Lalezarzadeh, DO
Farid Mozaffari, MD
Farid Yasharpour, MD
Felice Parisi, MD
Gary Grove, MD
Gary Greenwald, MD
Geoffrey Smith, MD
George Jacobs, MD
Georgine Nanos, MD
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Harvey Shew, MD
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Heather Chang, MD
Helen Chang, MD
Helen Biren, MD
Henry Koh, MD
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Howard Sofen, MD
Igor Guryev, MD
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Irene Mcaleer, MD
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James Wethe, MD
James Schlund, MD
James Keaney, MD
James Newman, MD
James Moitoza, MD
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Katrine Enrile, MD
Kenneth Lee, MD
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Kevin Vuchinich, MD
Kevin Kinback, MD
Kevin Smith, MD
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Ladan Farhoomand, MD
Le Thuy Tran, MD
Leeda Rashid, MD
Lei Han, MD
Leslie Ballard, MD
Li Liang, MD
Lillian Lee, MD
Linda Rever, MD
Linnea Lantz, DO
Lourdes Sison, MD
Lynn Welling, MD
Madeleine Lansky, MD
Mamerto Garcia, MD
Marc Capobianco, MD
Marcela Espinosa, MD
Margaret Garahan, MD
Marina Roytman, MD
Marine Demirjian, MD
Mark Kang, MD
Mark Potter, MD
Martin Leung, MD
Martin Tien, MD
Mary Ellis-Jammal, MD
Matthew Karp, MD
Maxwell Ohikhuare, MD
Mei Chow-Kwan, MD
Meigan Everts, MD
Mesfin Seyoum, MD
Michael Bain, MD
Michael Haight, MD
Michael Woo-Ming, MD
Michael Caton, MD
Michael Mulligan, MD
Michael DiBiase, MD
Michael Doney, MD
Michael Ritter, MD

Michael Chin, MD
Michael Champeau, MD
Michael Fitzgibbons, MD
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Midori Nishimura, MD
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Mikhal Schiffer, MD
Minh Mach, MD
Modupe Aiyegbusi, MD
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Mohammad Imandoust, MD
Mohammad Meratee, MD
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N Elizabeth Arovas, MD
Nader Nwaisser, MD
Nalan Narine, MD
Nancy Weres, MD
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Pamela Smith, MD
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Paul Cirangle, MD
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Preeti Chopra, MD
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Rajiv Nagesetty, MD
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Robert Hogan II, MD
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Roger Galindo, MD
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Steve Lee, MD
Steven Feinberg, MD
Steven Giannotta, MD
Sumithra Kommareddy, MD
Susan Bartolini, MD
Suzanne Chaves, MD
Swati Sikaria, MD
Sylvia Bowditch
Taiba Kator-Mulk, DO
Tammie Arnold, DO
Tanveer Bajwa, MD

Teresita Barbadillo, MD
Terry Warsaw, MD
Theodore Zwerdling, MD
Thomas Long, MD
Thomas Gildea, MD
Thuan Dang, MD
Tina Sasaki, MD
Tish Villaneuva, MD
Tom Liu, MD
Troy Dickson, MD
Tuan Luu, MD
Uyen Bui, MD
Valerie Garden, MD
Virgil Airola II, MD
Vishal Ghevariya, MD
Vivek Babaria, DO
Walter Keller, MD
Wanda Lo, MD
Warren Pleskow, MD
Wei-li Hsu, DO
Weiping Sarah Mei, MD
Yu Kao, DO
Yuan Liu, MD
Yu-nan Hsu, DO

cc:

Members, Nurse Practitioner Advisory Committee
Dolores Trujillo, RN, President, California Board of Registered Nursing
Loretta Melby, RN, MSN, Executive Officer, California Board of Registered Nursing

CALIFORNIA MEDICAL ASSOCIATION

August 30, 2021

Samantha Gambles Farr, RN, MSN, FNP-C, CCRN, RNFA
Chair
Nurse Practitioner Advisory Committee
Board of Registered Nursing
PO Box 944210
Sacramento, CA 94244-2100

Dear Ms. Gambles Farr:

On behalf of the California Medical Association (CMA) and our more than 50,000 physician and medical student members, CMA writes to respectfully provide input regarding regulations implementing the statute adopted by AB 890, which contemplates the creation of two new types of nurse practitioners (NPs)—commonly referred to as the 103 and 104 NPs. Specifically, as required by the statute and to advance patient safety and consumer protections, we request that the NPAC and BRN regulations explicitly address and clarify specific provisions, including the supplemental exemption requirement, the transition to practice requirements and standards, scope of practice and functions of 103 and 104 NPs, consumer disclosures and related protections (among other matters).

Supplemental Examination

AB 890 requires the Department of Consumer Affairs' (DCA) Office of Professional Examination Services (OPES) to perform an occupational analysis by January 1, 2023, to determine, with the Board of Registered Nursing (BRN), whether current testing for competency is sufficient to ensure advanced practice registered nurses can perform the functions specified in the bill. If the assessment identifies necessary additional competencies, the bill directs the BRN to develop a supplemental exam that properly validates identified competencies. (§2837.105) Like the transition to practice regulations, this occupational analysis will be key in ensuring rigorous education and training requirements that advance patient safety and consumer protection.

The regulations should provide that all NPs seeking certification as a 103 or 104 NP, regardless of practice experience, must pass a supplemental examination prior to being certified as a 103 or 104 NP. The competencies tested in the national nurse practitioner board certification examination are insufficient to ensure that 103 and 104 NPs possess the competency to make clinical determinations without operative standardized procedures with a physician. NP practice in California is shaped by a robust set of statutes and regulations that, until AB 890, have been predicated on an NP practicing under standardized procedures, and the competency assessments that serve to ensure NPs are providing safe, quality patient care have been calibrated accordingly. A supplemental exam is necessary to assess if 103 and 104 NPs have the knowledge and skills to safely perform the functions in Business & Professions Code §2837.103 without standardized procedures and physician supervision.

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Even where the functions listed in Business & Professions Code §2837.103 align with those functions an NP currently performs (although this is unclear because AB 890 lists functions and competencies that are not explicitly listed for NPs currently) the supplemental exam should be designed to ensure that 103 and 104 NPs possess the requisite clinical judgment, critical thinking, decision making, and care management when practicing without physician oversight to ensure patient safety and quality of care. 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 paper examination. Finally, because the purpose of the transition to practice required under AB 890 is to equip NPs with these clinical judgment and decision-making skills necessary to practice without physician supervision, we recommend the BRN promulgate regulations that specify that the supplemental exam should be taken only after an NP successfully completes the transition to practice.

Transition to Practice

AB 890 requires the BRN and Nurse Practitioner Advisory Committee (NPAC) to set minimum standards and transition-to-practice requirements that NPs must meet to practice without standardized procedures. Current NP practice varies significantly across specialties and practice settings. The implementing regulations must establish standardized clinical training requirements, in addition to current NP education and training requirements, to ensure that all NPs practicing without physician supervision will be prepared to provide medical care within their scope of practice.

As the NPAC and the BRN develop regulations to implement AB 890, we urge the inclusion of the following requirements to ensure the safety of patients:

- The regulations should clarify that all 103 and 104 NPs, regardless of practice experience, are required to complete the transition to practice. The plain language of AB 890 provides that the transition to practice is intended to prepare any nurse practitioners regardless of their level of experience to practice as a 103 or 104 NP. Moreover, despite efforts by proponents of AB 890 to fully exempt some current NPs from the transition to practice provisions, the statute fails to explicitly provide such an exemption or otherwise require only the newly certified NPs to complete a transition to practice. While statute authorizes the BRN to consider an NPs prior experience in assessing an NP's transition to practice obligations, considering such prior experience is not authority to completely exempt an NP from the transition to practice requirements but rather to consider an NPs experience to determine the type of transition to practice they should complete. AB 890 defines the transition to practice as "additional clinical experience and mentorship provided to prepare a nurse practitioner to practice independently." Business & Professions Code §2837.101 (emphasis added). 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. Rather, AB 890 makes clear that the transition to practice requirements are meant to ensure that NPs receive the additional clinical experience and mentorship necessary to practice "independently" and without physician supervision.

- The required transition to practice for NPs should be a structured clinical training program in a BRN-approved setting that provides training in specified competencies (established by the BRN) and includes a rigorous process for evaluating progress in meeting milestones that demonstrate an NP's preparation to practice without physician supervision.

- The regulations should clarify that the transition to practice period should be a minimum of one year, regardless of any credit for prior practice experience (as determined by the BRN), which may coincide with the one-year mentorship requirement discussed below. A minimum one-year transition to practice period will ensure that the program or entity overseeing the transition to practice can adequately determine an NP's progress in meeting competency milestones over the course of a structured program.

- The regulations should provide clear definitions and standards for the type and length of clinical practice experience that they BRN would consider to meet the clinical experience required in the transition to practice period.

- Transition-to-practice programs should prepare NPs to practice without physician supervision in a specified area of practice dictated by their education, training, and the certification they receive pursuant to the requirement in Business & Professions Code §2837.103(a)(1)(B).

- The regulations should specify the qualifications of the program, entity, or physician that is responsible for overseeing the transition to practice and verifying that the NP has demonstrated competency for practice without physician supervision.

AB 890 states that the BRN may consider an NP's clinical experience obtained before January 1, 2021, if the experience meets the transition to practice requirements established by the Board, in determining whether an NP has successfully completed the transition to practice. Business & Professions Code §2837.101. To ensure that any prior experience considered by the BRN is relevant to the practice area in which the NP will be practicing without physician supervision, we urge the inclusion of the following requirements:

- The BRN should promulgate regulations that require consideration of any prior clinical experience to be in the area of practice in which the NP is educated, trained, and certified and in which they will be practicing without physician supervision. The regulations should further specify that if an NP wishes to practice as a 103 or 104 NP in a practice area outside of their education, training, and certification, they must complete all necessary education and training for that practice area, be certified in that practice area, and complete a full transition to practice in that practice area.

- The regulations should specify that an NP must demonstrate to the BRN how any prior clinical experience is specific to the competencies listed in Business & Professions Code §2837.101, and that evidence of an NP's length of practice alone is insufficient to meet this requirement.

- Mentorship:

- The regulations should require all NPs, regardless of practice experience, to 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 regulations should define mentorship as a formal clinical preceptorship with a physician approved by the BRN. The regulations should further specify that the mentorship must be specifically intended to prepare an NP to make independent clinical determinations in a complex healthcare environment and to assist an NP in acquiring new competencies required for safe, ethical, and quality practice.

- The regulations should specify that no prior mentorship experience may satisfy or count towards the transition to practice requirements. AB 890 clearly establishes that the transition to practice requirement is comprised of both clinical experience and mentorship. While the bill states that the BRN may consider an NP's practice experience obtained before January 1, 2021, when determining whether they meet the "clinical experience" requirement of the transition to practice, it provides no analogous discretionary function to the BRN regarding the "mentorship" requirement. Thus, based on the plain language of the bill, every NP, regardless of practice experience, must complete the transition to practice, at a minimum, to receive the formal mentorship necessary to ensure they are able to practice without physician supervision. Accordingly, the regulations should clarify that every NP must complete at least a one-year mentorship program approved by the BRN.

- Finally, the regulations should require the formal mentorship to be in the same area of practice in which the NP is educated, trained, and certified and in which they will be practicing without physician supervision.

Scope of Practice/Function

AB 890 contains multiple specific educational and training requirements that an NP must meet before practicing without physician supervision. In order to perform the clinical functions listed in AB 890 without physician supervision, an NP must satisfy the following:

> (A) Passed a national nurse practitioner board certification examination and, if applicable, any supplemental examination developed pursuant to paragraph (3) of subdivision (a) of Section 2837.105.
>
> (B) Holds a certification as a nurse practitioner from a national certifying body accredited by the National Commission for Certifying Agencies or the American Board of Nursing Specialties and recognized by the board.
>
> (C) Provides documentation that educational training was consistent with standards established by the board pursuant to Section 2836 and any applicable regulations as they specifically relate to requirements for clinical practice hours. Online educational programs that do not include mandatory clinical hours shall not meet this requirement.
>
> (D) Has completed a transition to practice in California of a minimum of three full-time equivalent years of practice or 4600 hours.

Business & Professions Code §2837.103(a)(1).

When read within the context of existing regulations governing NP practice, the inclusion of these requirements is an express acknowledgment by the Legislature that the scope of practice of an NP practicing without physician supervision must be limited to the practice area in which the NP is certified and in which they have completed clinical practice hours.[1]

Business and Professions Code §2836 provides the authority for the BRN to promulgate regulations surrounding NP practice that establishes the types of advanced levels of nursing practice which may be performed and the scope of practice of NPs:

> (a) The board shall establish categories of nurse practitioners and standards for nurses to hold themselves out as nurse practitioners in each category. Such standards shall take into account the types of advanced levels of nursing practice which are or may be performed and the clinical and didactic education, experience, or both needed to practice safely at those levels. In setting such standards, the board shall consult with nurse practitioners, physicians and surgeons with expertise in the nurse practitioner field, and health care organizations utilizing nurse practitioners. Established standards shall apply to persons without regard to the date of meeting such standards. If the board sets standards for use of nurse practitioner titles which include completion of an academically affiliated program, it shall provide equivalent standards for registered nurses who have not completed such a program.
>
> (b) Any regulations promulgated by a state department that affect the scope of practice of a nurse practitioner shall be developed in consultation with the board.

Business & Professions Code §2836.

Accordingly, we urge the BRN to promulgate regulations that limit the scope of practice of a 103 or 104 NP to the practice area for which an NP is certified, pursuant to the requirements in Business & Professions Code §2837.103(a)(1)(B), and in which they have completed clinical practice hours and received at least one year of formal mentorship during the transition to practice period. The regulations should further specify that if an NP wishes to practice as a 103 or 104 NP in a practice area outside of the area in which they are certified, they must complete all necessary education and training for that practice area, be certified in that practice area, and complete a full transition to practice in that practice area. The regulations should also specify that an NP who is certified in a certain practice area may satisfy the clinical hour

[1] This is distinct from the regulations governing traditional NP practice, which requires either that the NP (1) successfully completed an NP education program approved by the BRN or (2) possesses a national certification as an NP in one or more categories listed in Section 1481(a) from a national certification organization accredited by the National Commission on Certifying Agencies or the American Board of Nursing Specialties. *See* 16 C.C.R. §1482. Indeed, the latter requirement is almost identical to the language in AB 890, but the language in AB 890 allows a 103 or 104 NP to be certified in any practice area that meets the requirement, and not only those categories (or practice areas) listed in 16 C.C.R. §1481(a). Notably, AB 890 does not allow a prospective 103 or 104 NP to meet the former, more general, requirement that the NP simply completed a BRN-approved NP education program.

requirement in Business & Professions Code §2837.103(a)(1)(C) during the transition to practice period.

Finally, the BRN should promulgate regulations that establish that a 103 or 104 NP, regardless of practice area, can only perform those functions listed in AB 890 Business and Professions Code §2837(c) necessary to provide medical care in that practice area, and that any additional functions not listed in AB 890 necessary for a 103 or 104 NP to provide care in a specific practice area must be performed pursuant to standardized procedures and under physician supervision, and in accordance with any existing statutes and regulations governing the functions an NP can perform.

Continuing Education

Business and Professions Code §2811.5 provides the authority for the BRN to promulgate regulations surrounding NP continuing education. The BRN must establish standards for continuing education that "take cognizance of specialized areas of practice, and content shall be relevant to the practice of nursing and shall be related to the scientific knowledge or technical skills required for the practice of nursing or be related to direct or indirect patient or client care." Business & Professions Code §2811.5(c). Current regulations pertaining to the continuing education standards of current NPs are insufficient to ensure the continued competence of 103 and 104 NPs. For instance, current regulations state that courses in nursing administration, management, and client care are acceptable but not required. *See* 16 C.C.R. §1456. However, AB 890 states that the transition to practice must include clinical experience and mentorship areas that include managing a panel of patients and business management of a practice. Business & Professions Code §2837.101 (emphasis added).

Accordingly, the BRN should promulgate regulations outlining the standards for the continuing education specific to 103 and 104 NPs that explicitly require course content in the areas of knowledge outlined in the transition to practice requirements and those functions listed in AB 890. The regulations should establish continuing education standards designed to maintain, develop, and increase the knowledge, skills, clinical management, and professional performance and decision making that a 103 or 104 NP needs to provide care in their specific area of practice without physician supervision and standardized procedures. Finally, the regulations should clarify that continuing education courses must be taken through a provider recognized by the BRN.

Prohibition on the Corporate Practice of Medicine

AB 890 states that the prohibition on the corporate practice of medicine applies to both 103 and 104 NPs. *See* Business & Professions Code §2837.103(b); §2837.104(g). This means that, like physicians, by law, the 103 and 104 NPs cannot be employed or controlled by lay entities. However, under AB 5, which went into effect on January 1, 2020, an NP is prohibited from working as an independent contractor. Accordingly, it is imperative that the BRN provide guidance regarding the corporate practice of medicine prohibition, allowable contracting arrangements, practice ownership and control, and employment arrangements for the 103 and 104 NPs.

CMA is particularly concerned about robust guidance and enforcement of the corporate bar within this context since California and the nation are witnessing the rapidly growing involvement of private equity, hospital systems, staffing management companies and other

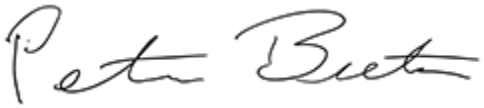
lay entities in medicine. These deals, in our experience, pose a great risk of prioritizing revenue over quality of care and eroding the integrity of the physician-patient relationship. *See, e.g.*, Mitchell Louis Jude Li, MD, "Private Equity is Ruining American Healthcare – Physicians, patients lose when PE takes over; it's time to take medicine back, July 17, 2021. The language in AB 890 applying the corporate bar to the practice of 103 and 104 NPs provides critical safeguards against the risk that the 103 and 104 NPs will be captured for corporate profit rather than the promise of ensuring health care access for underserved communities.

Consumer Protections

The BRN should promulgate regulations that ensure patient safety and consumer protection are a paramount priority. AB 890 provides some provisions that are intended to protect patients and consumers. The bill requires 103 and 104 NPs to verbally inform all new patients in a language understandable to the patient that the nurse practitioner is not a physician; post a notice in a conspicuous location accessible to public view that the nurse practitioner is regulated by the BRN, including information about how complaints can be made; refer patients to a physician in specified circumstances; and carry professional liability insurance. Business and Professions Code §§2837.103(d)-(g); 2837.104(c)(1), (3) & (d)-(f). In addition to these safeguards, the BRN should implement regulations that require 103 and 104 NPs to notify patients, in a language understandable to the patient, that they are practicing without physician supervision, and that the patient has a right to see a physician upon request. We urge regulations that implement these consumer protections in a way that is understandable and accessible to all communities in California.

Thank you for your consideration of our input and perspective. If you have additional questions, please contact Yvonne Choong at ychoong@cmadocs.org. CMA looks forward to working with the BRN on the development of these important regulations.

Sincerely,



Peter N. Bretan
President
California Medical Association

cc:

Members, Nurse Practitioner Advisory Committee
Dolores Trujillo, RN, President, California Board of Registered Nursing
Loretta Melby, RN, MSN, Executive Officer, California Board of Registered Nursing

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September 16, 2021

Nurse Practitioner Advisory Committee
Samantha Gables Farr, MSN, FNP-C, CCRN, RNFA, Chair
c/o Board of Registered Nursing
PO Box 944210
Sacramento, CA 94244-2100

Dear Chair Farr:

The California Association for Nurse Practitioners (CANP) is the unifying voice and networking forum for nurse practitioners in California, providing expert guidance and advancing the nurse practitioner profession, now at over 26,000 statewide. CANP values the work of the Nurse Practitioner Advisory Committee (NPAC) and wishes to express our appreciation for your leadership. We would like to take this opportunity to comment and provide feedback on the recommendations adopted by the NPAC on August 31 with respect to implementation of AB 890.

The enactment of AB 890 has created two categories of nurse practitioners (NPs) to function independently within a defined scope of practice without standardized procedures. For clarity in our comments below, 103 NPs are so named in reference to the Business and Professions Code (BPC) Section 2837.103. 103 NPs are eligible to practice pursuant to a defined scope of practice without standardized procedures who 1) work in one of the settings below in which one or more physicians practice, and 2) satisfy requirements clearly delineated in the bill.

The 104 NPs are so named in reference to the Business and Professions Code (BPC) Section 2837.104. 104 NPs are eligible to practice independently pursuant to a defined scope of practice without standardized procedures in settings outside those listed in BPC Section 2837.103(a)(2)(A)-(F) if they meet specific criteria set forth in the bill.

We understand that the NPAC was unable to complete its discussion and recommendations with respect to 104 NPs, so our comments below focus on the transition-to-practice (BPC Sec. 2837.101) and 103 nurse practitioners.

Subcommittee 101, focusing on transition to practice per BPC Sec. 2837.101

CANP agrees with the NPAC's recommended grandfathering clause for experienced nurse practitioners and the recommended 4,600 hours of mentored practice by a physician or NP. The AB 890 regulations should clearly state that the transition-to-practice is intended for new graduates. Because AB 890 was effective as of January 1, 2021, the regulations should specify that any nurse practitioner who graduated from accredited NP programs prior to January 1, 2018 should be deemed to have met the transition-to-practice requirement. Nurse practitioners who received their nurse practitioner certificate from the BRN on or after January 1, 2018 need to have three years or 4,600 hours of mentored practice by a physician and surgeon or nurse practitioner who has completed their transition-to-practice.

Further, the transition-to-practice should only include the elements that are defined by Business & Professions Code Section 2837.101(c). No additional requirements should be included in the transition-to-practice as the elements defined in this section of the statute are sufficient for a comprehensive transition-to-practice.

Subcommittee 103, focusing on NPs in transition per BPC Sec. 2837.103

We do not agree with the NPAC's recommendation to adopt an attestation of supervision form for 103 NPs nor should a clinical competency committee be required to attest to the competency for an NP to practice independently. 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.

Subcommittee 104, focusing on independent NPs per BPC Sec. 2837.104

We urge the NPAC to make the following two recommendations for 104 NPs at your next meeting on September 21:

- First, the standardized transition-to-practice form can be included in the application for 104 NP recognition by the BRN pursuant to Business and Professions Code Section 2837.104(b).

- Second, pursuant to Business and Professions Code Section 2837.104(b)(1)(C), we request that the BRN reduce the number of years for an NP with a Doctor of Nursing Practice (DNP) degree from 3 years to 1 year. The national standards from the American Association of Colleges of Nursing Essentials for DNP Education align with the spirit of AB 890 and provide evidence that the reduction of the number of years of practicing in good standing from 3 years to 1 year.

We appreciate the opportunity to provide input into the very important work that the Board and the NPAC are doing in order to effectively and efficiently implement AB 890 and expand access to care throughout California.

Sincerely,

Patti Gurney, MSN, NP-BC
CANP President

cc: Assemblymember Jim Wood
Richard Figueroa, Deputy Cabinet Secretary for Health, Office of Governor Gavin Newsom
Members, Board of Registered Nursing