

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. BOARD OF REGISTERED NURSING

MODIFIED PROPOSED TEXT
Independent Practitioner Supervision in Disciplinary Guidelines

Legend: Added text is indicated with an underline.
Omitted text is indicated by (* * * *)
Deleted text is indicated by ~~strikeout~~.

Modifications to the originally proposed
Regulatory language are shown double
underline for new text and ~~double~~
~~strikethrough~~ for deleted text.

Amend section 1444.5 of Division 14 of Title 16 of the California Code of Regulations to read as follows:

§ 1444.5. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the administrative adjudication provisions of the Administrative Procedure Act (Government Code Section 11400 et seq.), the board shall consider the disciplinary guidelines entitled: "Recommended Guidelines for Disciplinary Orders and Conditions of Probation" (~~10/02 Revised~~) (*OAL insert effective date here*), which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board, in its sole discretion, determines that the facts of the particular case warrant such a deviation--for example: the presence of mitigating factors; the age of the case; evidentiary problems.

(* * * *)

Note: Authority cited: Section 2715, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 726, 729, 2750, 2759, 2761 and 2762, Business and Professions Code; Section 44010, Education Code; and Sections 11425.50 and 11519, Government Code

The section below was pulled from page 21 of the [Recommended Guidelines For Disciplinary Orders and Conditions of Probation](#).

(8) SUPERVISION - Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse, ~~in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved~~ advanced practice registered nurse, physician, dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health and Safety Code that is in good standing [i.e. no disciplinary action within the last five (5) years] with the applicable professional state licensing agency and otherwise meets the requirements of this section.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.

(d) Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each workday. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each workday. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.

(e) Independent Practice Setting - If the Respondent is certified by the Board as an advanced practice registered nurse and has a scope of practice to provide patient care without standardized procedures in an independent practice setting, the Board shall require the respondent, during probation, to have a Board-approved advanced practice registered nurse, physician, dentist, podiatrist, or clinical psychologist who have agreed to provide supervision of the Respondent according to their plan(s) of supervision. The Respondent shall not resume practice until the Board provides written approval of the proposed supervisor(s)

and plan(s) of supervision in accordance with this subsection.

Within sixty (60) calendar days of the effective date of the Decision and Order, Respondent shall submit to the Board in writing by email to the address listed on this Board's website, for its prior approval, the name and qualifications of one or more proposed supervisors and a plan for each such supervisor by which Respondent would be supervised in accordance with this subsection. The plan for supervision shall describe how the supervisor(s) and supervisee will meet the requirements of this subsection, including duration, type of supervision and access to all patient records. The request shall include each proposed supervisor's license number and license type, and a description of how they meet the criteria for Board approval provided below.

The supervisor shall meet the following criteria to be approved:

1. Has not been subject to any disciplinary action by their licensing Board within the last five (5) years. For the purposes of this section "disciplinary action" shall mean revocation, suspension, probation, public reprimand or reproval or any other form of license restriction imposed on a license. An administrative citation and fine does not constitute discipline and, therefore, in and of itself is not a reason to deny an individual as a supervisor.
2. Does not have a current or prior financial, personal, or business, or professional relationship with Respondent.

The Board shall advise Respondent within thirty (30) calendar days whether the proposed supervisor and plan of supervision are approved. Respondent shall not practice nursing until receiving approval by the Board of Respondent's choice of a supervisor and plan of supervision.

The plan of supervision shall be either [(direct and require the physical presence of the supervising provider in the office during the time direct patient care is provided.)], or [(general and not require the physical presence of the supervising provider during the time direct patient care is provided but does require an occasional random check of the work performed on the patient as well as quarterly monitoring visits at the office or place of practice)]. Additionally, the supervisor shall have full and random access to all patient records of Respondent. The supervisor may evaluate all aspects of Respondent's practice regardless of Respondent's areas of deficiencies.

Each supervisor shall submit written reports to the Board, on the time frame established in the respondent's plan of supervision, that verify that supervision has taken place as required and include an evaluation of Respondent's performance. Respondent shall complete any required consent forms or Release of Information authorizing the supervisor to communicate with the Board. It shall be Respondent's responsibility to ensure that the required reports are filed in a timely manner as outlined in the Respondent's plan of supervision. Failure to file the required reports in a timely fashion within the time frames specified by the Board shall be a violation of probation.

If the supervisor is no longer available, Respondent shall notify the Board in writing by email within seventy-two (72) hours of the date the supervisor is no longer available. Within five (5) calendar days of the date the supervisor is no longer available, Respondent shall submit in writing by email to the Board or its designee for its prior approval, the name and qualifications of one or more proposed new supervisor(s) and a plan for supervision by each supervisor as specified in this subsection.

Respondent shall not practice until a new supervisor has been approved by the Board. If Respondent fails to submit a proposed new supervisor and plan for supervision as required or fails to cease practice in accordance with this section when there is no supervisor approved by the Board or its designee, this shall constitute a violation of probation.

All costs of the supervision shall be borne by Respondent.

RATIONALE: This allows the Board to require appropriate supervision and/or collaboration, to monitor the respondent's registered or advanced practice nursing competency and thus protect consumer safety. ~~The level of supervision or need for advanced practice collaboration will be determined by the Board at probation meetings.~~