

DEPARTMENT OF CONSUMER AFFAIRS

TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS

DIVISION 14.

BOARD OF REGISTERED NURSING

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:

Independent Practice Supervision

In Disciplinary Guidelines

NOTICE IS HEREBY GIVEN that the Board of Registered Nursing (Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Person" in this Notice, must be **received by the Board at its office no later than March 17, 2026**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code section 2715; and Government Code section 11400.20, and to implement, interpret, or make specific BPC sections 726, 729, 2750, 2759, 2761 and 2762, Education Code section 44010, and Government Code sections 11425.50 and 11519, the Board is considering amending section 1444.5 of Title 16 of Article 4, Division 14, of the California Code of Regulations (CCR).

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

As part of its mission of public protection, the Board is charged with regulating all Registered Nurses (RN) and Advanced Practice Registered Nurse (APRN) in California. This includes investigating complaints and taking disciplinary action against licensees, when deemed appropriate by the Board and the Attorney General's Office. If an Administrative Law Judge determines that a licensee was in violation of the California Nursing Practice Act (NPA) but has demonstrated a capacity to practice safe nursing, then a stayed revocation order with probation is recommended. Probation allows a licensee to practice as an RN, under certain restrictions, for a set period of time.

Title 16 CCR Section 1444.5 incorporates by reference the Board's [Recommended Guidelines for Disciplinary Orders and Conditions of Probation](#). This document, commonly referred to as the "DGs", outlines recommended penalties and probationary terms for violations of California's Nursing Practice Act (NPA).

Existing law under 16 CCR 1444.5 incorporates by reference *Recommended Guidelines for Disciplinary Orders and Conditions of Probation (10/02)* which includes Standard Probation Condition 8. It outlines the various levels of supervision that may be required when a licensee is placed on probation. This condition was originally written to apply to RNs who are already required to work under the supervision of a physician, dentist, podiatrist, or clinical psychologist in their daily practice.

However, statutory changes over the last several years have provided certain APRNs, such as Nurse Practitioners (NP) and Nurse Midwives (NM), with the authority to practice without physician supervision and outside of typical group healthcare setting.

The first was [Assembly Bill 890 \(Wood, Chapter 265, Statutes of 2020\)](#), which created two new categories of NPs that can practice without standardized procedures or physician supervision. These new categories of NPs are:

- 103 NP - Works under the provisions outlined in Business and Profession Code Section 2837.103. This NP must work in a group setting with at least one physician and surgeon.
- 104 NP - Works under the provisions outlined in Business and Professions Code Section 2837.104. This NP may work independently within the population focus of their National Certification.

The second was [Senate Bill 1237 \(Dodd, Chapter 88, Statutes of 2020\)](#), which removed the requirement for a NM to practice midwifery according to standardized procedures or protocols with a physician. NMs can provide care in the hospital or in any out-of-hospital setting.

Consequently, it is necessary to update Standard Probation Condition 8 to account for the new scenario in which an APRN who is practicing independently is placed on probation and required to have some level of supervision during their probationary period. Absent this update, these APRNs would be forced to cease practicing while on probation.

The Board proposes to amend 16 CCR Section 1444.5 to do the following:

- Update the effective date once the referenced document is approved by OAL and the new effective date is known.
- Update the reference section to add Government Code Section 11519

The Board also proposes to amend Probation Condition #8 in the *Recommended Guidelines for Disciplinary Orders and Conditions of Probation* to including the following:

- Further clarification regarding who can supervise a probationary respondent and what constitutes “in good standing.”
- Add a new subsection to address respondents that are practicing in an independent setting when placed on probation. This subsection includes the following information:
 - Levels of supervision and minimum qualification for the supervisor.
 - Reporting requirements and the respondent’s plan for supervision.
 - Criteria for a respondent to resume practice.
 - Notification timelines for both the respondent and the Board.
 - Respondent is responsible for the cost of supervision.

Anticipated Benefits of Proposal

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents:

- The proposal will further public protection by ensuring the Board has a mechanism to impose necessary restrictions on and monitor the rehabilitation progress of a licensee on probation that practices in an independent setting.
- The proposal will maintain access to care by providing a pathway for licensees that practice in an independent setting who are placed on probation to be able to continue providing care, with the appropriate oversight.

Evaluation of Consistency and Compatibility with Existing State Regulations

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on these topics and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

The proposed regulations incorporate by reference the Board’s [Recommended Guidelines for Disciplinary Orders and Conditions of Probation](#) (Revised date to be determined upon OAL approval)

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

This regulation may result in a fiscal impact to the state but the Board does not have a

total fiscal estimate at this time.

The Board indicates a small number of individual APRNs may violate the California Nursing Practice Act. The Board, on average, suspends or revokes, or places practice restrictions on less than one percent of licensees per year. However, because independent practice has only recently become an option for certain APRNs, the Board does not have an estimate of the number of licensees that would be subject to this regulation.

The Board typically incurs annual probation monitoring workload costs of approximately \$5,000 per licensee or up to \$15,000 for an average three-year probation period. Because the number of future licensees subject to probation is unknown, the Board does not have a total fiscal estimate as time but does not anticipate a significant fiscal impact.

Nondiscretionary Costs/Savings to Local Agencies: None.

Cost to any Local Agency or School District Requiring Reimbursement pursuant to Government Code Sections 17500 et seq: None.

Mandate Imposed on Local Agencies or School Districts: None.

Significant Effect on Housing Costs (and, if applicable, including any estimated costs of compliance or potential benefits of a building standard): None.

BUSINESS IMPACT ESTIMATES

The Board has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other states. This initial determination is based on the following facts/evidence/documents/testimony or other evidence:

The proposed regulation will improve the disciplinary process by clarifying disciplinary decisions, thus enhancing consumer protection. This proposal will not create new businesses nor eliminate existing businesses within the State of California.

This proposed regulation will enable APRNs practicing in an independent setting and subject to probation to continue their practice under supervision.

The Board has made the initial determination that there will be cost impacts that a representative private person would incur in reasonable compliance with the proposed action. These costs will apply to the licensees subject to discipline. However, because probation monitoring costs vary and because the number of future probationers is unknown, the Board does not have a cost estimate at this time.

Cost Impact on Representative Private Person or Business:

Individual licensees participating in the probation program (respondents) for the duration of their three-year probation period will incur varying costs of supervision. This could depend on the nature of their offense which may dictate the kind of supervision necessary (e.g. remote or in person) and its frequency. Some respondents may be able to find a healthcare provider that will monitor them on a voluntary basis (i.e. no cost) while others will need to pay an hourly/weekly/monthly fee for their monitoring.

However, because probation monitoring costs vary and because the number of future probationers is unknown, the Board does not have a cost estimate at this time.

RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS

Impact on Jobs/Businesses

The Board has determined that this regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because it allows current licensees to continue working while on probation.
- It will not create new business or eliminate existing businesses within the State of California because it allows licensees to maintain their existing businesses while on probation.
- It will not affect the expansion of businesses currently doing business within the State of California because a respondent would not be able to expand their practice operations while on probation.
- This regulatory proposal does not affect worker safety because it does not involve worker safety.
- This regulatory proposal does not affect the state's environment because it does not involve the environment.

Benefits of Regulation:

This regulatory proposal will benefit the health and welfare of California residents by ensuring that licensees practicing in an independent setting that are placed on probation receive an appropriate level of supervision and oversight when providing care to patients.

Business Reporting Requirements

The proposed regulations will require a respondent's supervisor to submit written reports to the Board as outlined in their plan of supervision. The responsibility for timely submission of the written reports falls on the respondent. It is necessary for the health,

safety, or welfare of the people of the state that the regulation which requires a report apply to businesses.

Effect on Small Business

The has determined that the proposed regulations may affect small businesses. Although small businesses owned by licensees of the Board may be impacted the Board does not maintain data relating to the number of licensees who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Interested persons are invited to present statements or arguments orally or in writing relevant to the above determinations at any scheduled hearing or during the written comment period to the Contact Person below.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons, proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the person designated in the Notice under Contact Person or by accessing the Board's website, www.rn.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Board may, after considering all timely and relevant comments, upon its own motion or at the request of any interested party, may thereafter adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 business days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit

written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AVAILABILITY OF FINAL STATEMENT OF REASONS

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Persons named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Marissa Clark
Address: Board of Registered
Nursing 1747 N. Market
Blvd., Suite 150
Sacramento, CA 95834
Telephone: 916-574-7438
Fax No: 916-574-7700
E-Mail Address: brn.regulations@dca.ca.gov

The backup contact person is:

Name: Ras Siddiqui
Address: Board of Registered Nursing
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834
Telephone No.: 916-574-7922
Fax No.: 916-574-7700
E-Mail Address: brn.regulations@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process on the Board's website. Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations can be accessed at: <https://www.bn.ca.gov/regulations/proposed.shtml>