

BOARD OF REGISTERED NURSING

Executive Officer: Dr. Joseph Morris, Ph.D., MSN, RN ♦ (916) 322–3350 ♦ Internet: www.rn.ca.gov

Protection of the public shall be the highest priority for the Board of Registered Nursing in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

— Business and Professions Code § 2708.1

The Board of Registered Nursing (BRN) is a consumer protection agency within the state Department of Consumer Affairs (DCA). Pursuant to the Nursing Practice Act, Business and Professions Code section 2700 et seq., BRN licenses registered nurses (RNs), and certifies advanced practice nurses, which include certified nurse-midwives (CNMs), nurse practitioners (NPs), registered nurse anesthetists (CRNAs), clinical nurse specialists (CNSs), and public health nurses (PHNs). In addition to licensing and certification, BRN establishes accreditation requirements for California nursing schools and reviews nursing school criteria; receives and investigates complaints against its licensees; and takes disciplinary action as appropriate. BRN's regulations implementing the Nursing Practice Act are codified in Division 14, Title 16 of the California Code of Regulations (CCR). As of early 2018, BRN licenses over 440,000 RNs and certifies approximately 100,000 advanced practice nurses.

By law, the [nine-member Board](#) consists of four public members and five licensees. The licensee members include two direct-patient care nurses, an advanced practice nurse, a nurse administrator, and a nurse educator. Seven of the members (including all of the RN members) are appointed by the Governor and two of the public members are appointed by

the legislature. The Nursing Practice Act also requires BRN's Executive Officer to be a BRN licensee, a unique requirement among all DCA boards.

On July 18, 2018, the Governor [appointed](#) Cynthia Cipres Klein, BSN, RN, as the Direct Patient Care Member of the Board. Ms. Klein is a registered nurse in the Internal Medicine/Subspecialty Department with Kaiser Permanente Medical Group in Riverside, California. Also on July 18, 2018, the Governor appointed Elizabeth Woods, RN, FNP, MSN, as the Advanced Practice Member of the Board. Ms. Woods is a volunteer Nurse Practitioner at the Jewish Community Free Clinic in Rohnert Park, California, which serves the uninsured population in Sonoma County.

MAJOR PROJECTS

Fee Increase

On October 15, 2018, the Office of Administrative Law (OAL) [approved](#) the Board's proposal to amend section 1417, Title 16 of the CCR to increase the Board's licensing and application fees pursuant to [SB 1039 \(Hill\) \(Chapter 799, Statutes of 2016\)](#), which imposed new statutory fee ranges and required the Board to set fees within a prescribed range. The Board initially published [notice](#) of its intent to amend the regulations on March 9, 2018 [[23:2 CRLR 99-100](#)], and held a public hearing on April 23, 2018. At its meeting, the Board considered public comments received, voted to adopt the [final language](#), and authorized staff to finalize the rulemaking file for submission to OAL. The new regulations became effective on the date of approval, October 15, 2018.

Advanced Practice Registered Nurses

On May 15, 2018, BRN published [notice](#) that it released its [fourth modified text](#) to the Board’s proposed regulations to update its standards for nurse practitioners. With its fourth modification, the Board proposes to amend sections 1417, and 1480–1484, and adopt sections 1483.1, 1483.2, and 1486, Title 16 of the California Code of CCR. The Board’s efforts to amend its regulations to update its standards of practice for Advanced Practice Registered Nurses (APRN) has been ongoing for over two years, and OAL [rejected](#) the Board’s original proposal on December 13, 2017, finding that the regulatory package lacked the requisite consistency, clarity, and necessity standards of the Administrative Procedure Act, and also found that the Board failed to follow procedural requirements in adopting the proposed regulations. [\[23:2 CRLR 96-98\]](#)

At its May 9, 2018 [meeting](#), Board staff reported that they had received two comments from the California Nurses Association (CNA) in response to the Board’s release of its third modified text, which the Board released following OAL’s rejection of its original rulemaking proposal after consultation with OAL and DCA counsel to address OAL’s concerns. [\[23:2 CRLR 96-98\]](#) As a result of the new comments, staff [recommended](#) that the Board amend the language of sections 1480, 1483.1, and 1486 to clarify that both California based and Non-California based nurse practitioner programs must offer a graduate degree “in Nursing,” or a graduate level certificate “in Nursing.” The Board voted to approve staff’s recommendations, which were then released as the fourth modified text.

At its September 27, 2018 [meeting](#), Board staff reported that they sent the completed rulemaking file to the DCA Legal Office for review on June 8, 2018. Since the review process was taking longer than expected, the Board sent a request to OAL for a

second extension to submit the rulemaking file. OAL [granted](#) the Board a second 120-day extension on July 16, 2018.

Staff also reported to the Board that the Business, Consumer Services and Housing Agency had requested additional changes to the proposed language before the agency would approve the rulemaking package for final submission to OAL. Specifically, the agency recommended that the Board amend section 1480(a) in the definitions section to strike the term “health” from the term “primary care” to align with the change already made in section 1480(b). The agency also recommended adding subdivision (t) to section 1480 to add a definition for the term “clinical field related to nursing,” to specify statutory language set forth in section 2835.5 of the Business and Professions Code and amend page four of the Nurse Practitioner Furnishing Number Application to clarify language relating to legal requirements. The Board voted to approve the agency’s recommendation and released its [fifth modified text](#) on October 1, 2018. The public comment period expired on October 15, 2018.

The Board must submit its final rulemaking package to OAL by December 10, 2018.

Previous Military Education and Experience Credit Regulations

On October 8, 2018, OAL [approved](#) the Board’s proposed regulations to adopt sections 1423.1 and 1423.2 and amend sections 1418, 1424, 1426, and 1430, Title 16 of the CCR to incorporate credit for military education and experience toward the education requirements for licensure as an RN. These regulations are BRN’s attempt to implement [SB 466 \(Hill\) \(Chapter 489, Statutes of 2015\)](#), which requires the Board to adopt

regulations requiring nursing schools seeking Board approval to have a process to evaluate and grant credit for military education and experience. OAL rejected BRN's initial proposal in a September 2017 [Decision of Disapproval of Regulatory Action](#), finding that the Board failed to comply with the clarity and necessity standards of the (Administrative Procedure Act) APA, as well as certain APA procedural requirements, pursuant to Government Code sections 11349, 11349.1, and 11346.2. [[23:1 CRLR 90](#); [23:2 CRLR 98-99](#)] The Board's proposed changes to the proposed text are set forth in its [Addendum to the Final Statement of Reasons](#). The new regulations became effective on October 8, 2018.

CURES Implementation

At its September 2018 [meeting](#), the Board discussed the implementation of the Controlled Substance Utilization Review and Evaluation System (CURES). The Department of Justice certified "CURES 2.0" for statewide use on April 2, 2018. Pursuant to section 11165.4 of the Health and Safety Code, effective October 2, 2018, all health care practitioners authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances, including Registered Nurse Practitioners, and Registered Certified Nurse Midwives, are now required to consult the CURES database prior to prescribing, ordering, administering, or furnishing these drugs, for the first time, and at least every four months thereafter, if the controlled substance remains part of the patient's treatment plan.

LEGISLATION

[AB 2143 \(Caballero\)](#), as amended June 11, 2018, and as it relates to BRN, would have amended section 128454 of the Health and Safety Code to expand eligibility for the

Licensed Mental Health Service Provider Education Program within the Health Professions Education Foundation to include psychiatric mental health nurse practitioners.

Governor Brown [vetoed](#) this bill on September 17, 2018, stating that, “the loan repayment fund referenced in this bill lacks the necessary funding to pay for the hundreds of applications it currently receives. Adding more applicants as this bill requires just compounds the problem.”

[SB 1480 \(Hill\)](#), as amended August 24, 2018, as it relates to BRN, is an omnibus bill that amends section 2816 of the Business and Professions Code to amend the minimum statutory fee that nurses must pay for an evaluation of his or her qualifications in order to use the title “Public Health Nurse” (PHN). The bill reduces the minimum amount for such evaluations from \$500 to \$300, and requires BRN to reimburse any registered nurse who paid more than \$300 for an evaluation between April 5, 2018, and December 31, 2018. At its June 2018 [meeting](#), Board staff advised the Board that there was an error “in the PHN section of the Business and Professions Code section 2816(o) which pointed to the Nurse Practitioner initial application fee of \$500.”

Governor Brown signed SB 1480 on September 19, 2018 (Chapter 571, Statutes of 2018). The proposed statutory fee changes will become effective on January 1, 2019.

[SB 1288 \(Levva\)](#), as amended August 24, 2018, would have amended sections 1279 and 1280.3 of the Health and Safety Code to require the Department of Public Health to conduct periodic inspections of hospitals to ensure compliance staffing ratios and establish administrative penalties for violations.

Governor Brown [vetoed](#) this bill on September 30, 2018, stating that, “[n]urse-to-patient ratios are a vital part of the state’s regulatory scheme. Hospitals, however, are best

evaluated in a comprehensive manner and I am reluctant to start singling out specific violations for a separate penalty.”

[SB 1109 \(Bates\)](#), as amended August 24, 2018, and as it relates to BRN, amends sections 2746.51 and 2836.1 of the Business and Professions Code and adds section 11158.1 to the Health and Safety Code to impose additional requirements on nurse midwives and nurse practitioners pertaining to opioid addiction. The bill includes the following legislative findings and declarations as to the purpose for enacting this legislation:

(a) Addiction, misuse, and overdose of prescription opioids is a public health crisis affecting both adults and children; (b) Urgent measures are needed to better inform the public of the risks associated with both the long-term and short-term use of opioids in an effort to address this problem; (c) Both short-term and long-term prescriptions of opioids to minors fall within situations that require counseling of patients and their parents or guardians by their prescribers; (d) it is the intent of the Legislature to ensure that health care providers and young athletes receive necessary education on this topic.

Existing law requires CNMs to comply with a host of requirements in order to furnish or order drugs, including a pharmacology course covering the drugs to be furnished. This bill amends section 2746.51 to require the pharmacology course to include “the risks of addiction and neonatal abstinence syndrome associated with the use of opioids.” Similarly, existing law requires NPs to complete specified continuing education requirements, including a course regarding schedule II substances in order to furnish drugs to patients. This bill also amends section 2836.1 to clarify that the course regarding Schedule II substances must also include “the risks of addiction associated with their use,” based on standards developed by the Board.

Finally, new section 11158.1 of the Health and Safety Code requires prescribers, including CNMs and NPs, to discuss specific information with the minor, or an adult

authorized to consent to the minor’s medical treatment, before directly dispensing or issuing for a minor the first prescription in a single course of treatment for a controlled substance containing an opioid. Specifically, the bill requires that prescribers must discuss: “(1) [t]he risks of addiction and overdose associated with the use of opioids”; “(2) [t]he increased risk[s] of addiction to an opioid” for someone “who is suffering from both mental and substance abuse disorders”; “(3) [t]he danger of taking an opioid with...central nervous system depressant[s]”; and “(4) [a]ny other information required by law.” There are limited exceptions to this new section, including certain situations involving “the treatment of addicts,” “a diagnosis of chronic intractable pain,” a treatment for a minor undergoing emergency care, or a scenario where the counseling “would be detrimental to the minor’s health or safety, or in violation of the minor’s legal rights regarding confidentiality.”

Governor Brown signed SB 1109 on September 22, 2018 (Chapter 693, Statutes of 2018).

[SB 501 \(Glazer\)](#), as amended August 24, 2018, and as it relates to BRN, amends section 2827 of the Business and Professions Code to broadly enact the recommendations of the Dental Board of California’s [2016 Pediatric Anesthesia Study](#). This study was undertaken in response to a tragedy in which an otherwise healthy child died while under sedation for a dental procedure. [\[23:1 CRLR 7\]](#) As it applies to nurse anesthetists, this bill specifies the conditions under which the acute care facility administration or the dental offices for which they work may conduct these services.

Governor Brown signed this bill on September 29, 2018 (Chapter 929, Statutes of 2018).

RECENT MEETINGS

At the Board's June 2018 [meeting](#), Board Chairperson, Elizabeth Woods, reported on the Nursing Practice Committee. The Board discussed possible action regarding the Board of Pharmacy's Emergency Regulatory Action, 16 CCR section 1735.2(i) on Compounding Drug Preparations. At this meeting, the Board also discussed a study that the California Research Bureau (CRB) is conducting "[a]s a result of SB 799" to review reporting requirements in relation to complaints against licensees. [SB 799 \(Hill\) \(Chapter 520, Statutes of 2017\)](#) amends Business and Professions Code section 2811.5 to require the Board to deliver a report "detailing a comprehensive plan for approving and disapproving continuing education opportunities" to the legislature by January 1, 2019. [\[23:2 CRLR 103-104\]](#)

Also at its June 2018 [meeting](#), the Board discussed its call center, which "supports a population of over 435,000 licensees and over 35,000 applicants." The supervisor and manager of the call center are "working with staff to increase the number of calls answered per hour." Additionally, the Board discussed its new fingerprint requirement, which gives licensees 60 days to submit fingerprints to the DOJ and provide proof of fingerprint submission to the Board "before possible disciplinary actions are taken." Licensees receive a second reminder letter 30 days after the initial letter, which reminds them to comply with the requirements if they have not already done so.