

BOARD OF REGISTERED NURSING

Acting Executive Officer: Loretta Melby, MSN, RN ♦ (916) 322–3350 ♦ 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 2020, BRN licenses over 450,000 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 must include two direct-patient care nurses, an advanced practice nurse, a nurse administrator, and a nurse educator. Seven of the members (including all 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 DCA boards.

On January 21, 2020, Governor Newsom [appointed](#) two members to the Board: public member Karen Skelton, a political and policy strategist and founder and president of Skelton strategies; and licensee member Dolores Trujillo, RN, a neonatal ICU nurse at Kaiser Roseville, as a direct patient care member of the Board.

On February 14, 2020, Joseph Morris resigned as BRN’s Executive Officer in the midst of allegations that he had sexually harassed female employees and made racially discriminatory comments related to hiring practices within BRN (see HIGHLIGHTS). At its February 18, 2020 [Board Meeting](#), the Board selected Loretta Melby, MSN, RN, to serve as Acting Executive Officer effective February 20, 2020. Ms. Melby joined the BRN staff in 2014 as a nursing education consultant. The Board continues to work with DCA to recruit a permanent Executive Officer.

At this writing, there is one licensee Board member vacancy to be appointed by the Governor.

HIGHLIGHTS

BRN’s Executive Officer Resigns Amidst Sexual Harassment Allegations

On February 14, 2020, the Board’s Executive Officer, Dr. Joseph Morris, officially resigned, and the Board appointed Loretta Melby as the interim EO at its February 20, 2020 [Board meeting](#). The Sacramento Bee reported that the resignation occurred shortly after at least eight BRN employees sent a letter to BRN board members, claiming that Dr. Morris had sexually harassed female employees, and made racially discriminatory comments related to hiring practices within BRN. The Board held a [meeting](#) in closed session—apparently to discuss these complaints—on January 17, 2020.

At the February meeting, during open session, several BRN employees read aloud anonymous statements of the alleged victims, detailing accounts of their complaints, and claiming that the Board knew about the sexual harassment complaints, retaliated against those who formally complained, and attempted to cover up this information by holding a meeting to discuss it in closed session. When the employees were making these statements during the public meeting, several Board members left the room without comment. At this writing, the Board has not publicly responded to these allegations.

At its March 17, 2020 Board [meeting](#), the Board reviewed and finalized documents necessary to begin recruitment for a new Executive Officer. The Board officially released its recruitment announcement on March 20, 2020, and posted the application on its [website](#).

Two-Year Bill Seeking to Allow Nurse Practitioners to Perform Services Without Physician Supervision Stays Alive

[AB 890 \(Wood\)](#), as amended January 23, 2020, is a two-year bill that would add article 8.5 (commencing with section 2837.100), and would repeal section 2837.101, of the Business and Professions Code to authorize a NP to provide certain services without physician supervision or standardized procedures. The bill would require independently-practicing NPs to pass a validated national exam and complete a supervised, three-year transition-to-practice period. New article 8.5 would also establish a new Advanced Practice Registered Nursing (APRN) Board, and regulatory requirements to regulate NPs in independent practice.

New article 8.5 would also require NPs to inform all new patients the NP is not a physician or surgeon; in a language the patient understands. NPs would also be subject to consumer protection provisions applicable to physicians. Finally, article 8.5 would require the APRN Board

to work with DCA's Office of Professional Examination Services to conduct an occupational analysis of the NP practice, validate the required national certification exams, and provide supplemental exams if the national exam cannot be validated.

According to the author, this bill is intended to address California's severe shortage of primary care providers by allowing NPs to provide the same care without the supervisory requirement. The author cites to a [recommendation](#) by the California Health Workforce Commission to allow full practice authority for NPs as a means of improving California's ability to meet workforce demands.

The California Association for Nurse Practitioners, among others in their coalition, support this bill, claiming it would enable NPs to fully utilize their skills and education for the benefit of higher-quality care, more primary care providers, more providers for Medi-Cal and uninsured patients, and cost savings.

By contrast, The California Medical Association (CMA), California Nurses Association/National Nurses United, and the Board oppose this bill as amended. Specifically, CMA maintains its opposition due to a lack of details regarding the "standard of competency" the bill would require, the "undefined" scope of practice for unsupervised nurses, concern that this bill would not guarantee or incentivize access to care, and the "lack of a mechanism for grandfathering in experienced nurse practitioners." The Board and the California Nurses Association/National Nurses United both oppose the provisions of the bill related to the creating of a new APRN Board, citing concerns about which board (APRN or BRN) would enforce and regulate which nurses, consumer confusion, and significant additional costs and loss in revenue to BRN.

The bill was read in the Senate for the first time January 28, 2020, and at this writing still awaits referral to a policy committee.

Board Submits Progress Report to the Legislature Regarding Implementation of its Comprehensive Continuing Education Plan

On January 1, 2020, BRN submitted its [progress report](#) to the legislature on the Implementation of the Comprehensive Continuing Education Plan for Approving and Disapproving Continuing Education Opportunities. BRN submitted this report pursuant to section 2811.5 of the Business and Professions Code, added by [SB 799 \(Hill\) \(Chapter 520, Statutes of 2017\)](#), which requires the Board to update the legislative policy committees about its progress implementing its comprehensive plan for approving and disapproving continuing education opportunities on January 1, 2019, and again on January 1, 2020. See [[23:1 CRLR 92–93](#); [24:2 CRLR 72–73](#)]

The Board reported that staff met on a monthly basis throughout 2019 to work on the implementation of the continuing education plan and was working with the Office of Information Services to develop a technological platform to collect and analyze continuing education data. They also met with Enforcement Division staff to develop a plan to recruit, onboard, and support content evaluators for the Continuing Education Unit. BRN will use current staff, specifically the Supervising Nursing Education Consultant and Nursing Education Consultant to evaluate, approve, or disapprove continuing education opportunities while the Board evaluates the appropriate way to hire content evaluators given the recent passage of [AB 5 \(Gonzalez\) \(Chapter 296, Statutes of 2019\)](#) which governs the hiring and classification of independent contractors.

BRN also reported that it is working with DCA to revise its regulations for continuing education, specifically sections 1450–1459.1, Title 16 CCR, which are 30 years old. The report did not provide specifics as to the precise changes the Board is proposing to these regulations in

order to implement the comprehensive continuing education plan. BRN did specify, however, that it was also moving forward with proposed amendments to sections 1450 and 1451.2 to incorporate examples of implicit bias, and strategies to address these biases, into all continuing education courses pursuant to [AB 241 \(Kamlager-Dove\) \(Chapter 417, Statutes of 2019\)](#). Finally, as a separate rulemaking process, the Board reported that it was working with DCA’s regulatory counsel to address continuing education courses covering content that the Board considers “experimental medical procedures.” The Board provided proposed language in the report indicating that the Board would consider such courses “not relevant to the practice of nursing,” unless the efficacy of the procedure or treatment is supported by two peer-reviewed, publicly available scientific journals or studies, published in medical and scientific literature, and the treatment is generally accepted as effective by the medical community.

The next step in the continuing education plan is to present the proposed draft of regulations in 2020 to the Education & Licensing Committee (ELC). The ELC will then provide their recommendation for the proposed regulations to the full Board, who will vote to determine whether the regulations will be submitted to Office of Administrative Law (OAL) to commence the rulemaking process.

Finally, BRN reported that staff had created a new continuing education provider application, which requires the prospective provider to conduct a needs assessment, include a summary of course content, and provide references used to develop the report. Board staff is working with a contracted vendor to assess the work required to approve individual courses and instructors as well as conduct the required audits of the continuing education provider, and to align the appropriate fees. The Board expects the results of this fee audit to be available this year.

MAJOR PUBLICATIONS

The following reports or studies have been conducted by or about BRN during this reporting period:

- [*2019 Leadership Accountability Report*](#)—California Board of Registered Nursing, California Business, Consumer Services and Housing Agency, December 27, 2019 (Pursuant to the State Leadership Accountability Act, provides an in-depth review of the Board’s internal control and monitoring systems. The report evaluates various risks and controlling factors the Board faces, including funding and fiscal impact, efficient use of technology, and regulatory authority.)
- [*LAO Report: Analysis of California’s Physician Supervision Requirement for Certified Nurse Midwives*](#)—Legislative Analyst’s Office (LAO), March 11, 2020: (At the request of a member of the legislature, this report analyzes the impact that removing California’s current physician-supervision requirement for nurse midwives would have on health care outcomes and access to care for mothers and their infant; finds that the physician-supervision requirement is unlikely to be effective in achieving its objective of improving safety and quality and likely introduces trade-offs in terms of decreasing access and raising the cost of care; recommends that the legislature consider removing the state’s physician-supervision requirement for nurse midwives, while adding other alternative safeguards to ensure safety and quality.)
- [*Progress Report on the Implementation of the Comprehensive Continuing Education Plan for Approving and Disapproving Continuing Education Opportunities*](#)—California Board of Registered Nursing, Continuing Education Ad Hoc Committee, January 1,

2020 (pursuant to section 2811.5 of the Business and Professions Code, provides an in-depth analysis on how the Board is implementing the education plan (see HIGHLIGHTS)).

RULEMAKING

- *Unprofessional Conduct, Disciplinary Guidelines, and Criminal Conviction Substantial Relationship and Rehabilitation Criteria* (On March 12, 2020, BRN [noticed](#) its intent to amend sections 1441, 1444, 1444.5, and 1445, Title 16 of the CCR, to adopt “unprofessional conduct” and “substantial relationship criteria” for purposes of denying, suspending, or revoking licensure, “criteria for rehabilitation” to implement when considering discipline or denying licensure for a licensee or applicant convicted of a crime. According to the [Initial Statement of Reasons](#), the proposed regulations are the Board’s efforts to implement [AB 2138 \(Chiu\) \(Chapter 995, Statutes of 2018\)](#), which aims to reduce barriers to licensure for individuals with prior convictions. The written public comment period expires April 28, 2020, and the Board will hold a virtual public hearing via web-ex in light of the COVID-19 pandemic on April 29, 2020.)

LEGISLATION

- [AB 890 \(Wood\)](#), as amended January 23, 2020, is a two-year bill that would add article 8.5 (commencing with section 2837.100), and would repeal section 2837.101, of the Business and Professions Code to authorize a nurse practitioner to provide certain services without physician supervision or standardized procedures. The bill would require independently-practicing NPs to pass a validated national exam, and complete a supervised, three-year transition-to-practice period. New article 8.5 would also establish a new Advanced Practice Registered Nursing (APRN) Board, and regulatory requirements to regulate NPs in independent practice (see HIGHLIGHTS).

[S. RLS]

- [AB 2704 \(Ting\)](#), as introduced February 20, 2020, as it applies to BRN, would add section 502 to, and repeal section 2717 from, the Business and Professions Code to require the Board to collect specific demographic information, at least biennially, post that information to its website, and annually provide information to the Office of Statewide Health Planning and Development. The bill would require the Board to keep the information they receive confidential, and release information only in aggregate form. *[A. B&P]*
- [AB 3016 \(Dahle\)](#), as introduced February 21, 2020, would add section 2718 to the Business and Professions Code to require the Board to develop recommendations, in consultation with DCA, to implement the “Nursys” online license verification system in the licensure process, and implement such recommendations within a reasonable period of time. *[A. B&P]*
- [SB 1237 \(Dodd\)](#), as introduced February 20, 2020, and as it applies to BRN, would amend sections 2746.2, 2746.5, 2746.51, and 2746.52 of the Business and Professions code to redefine and expand nurse midwives’ scope of practice by removing the physician-supervision requirement and authorizing nurse midwives to perform more tasks relating to childbirth. *[S. BP&ED]*
- [SB 1053 \(Moorlach\)](#), as amended April 9, 2020, would add article 1.5, commencing with section 2720, to the Business and Professions code to enact the Nurse Licensure Compact. The Nurse Licensure Compact would: authorize the Board to issue multistate licenses that allow the holder to practice as an RN or Vocational Nurse, in states privileged with multistate licensure; would authorize the president of Board to act as administrator of the compact; and would authorize the commission to adopt rules that have the force of law. *[S. BP&ED]*