



Nurse-Midwifery Advisory Committee Meeting

MEETING MATERIALS

Nurse-Midwifery Advisory Committee (NMAC) Meeting | September 24, 2024

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Agenda Item 2.0

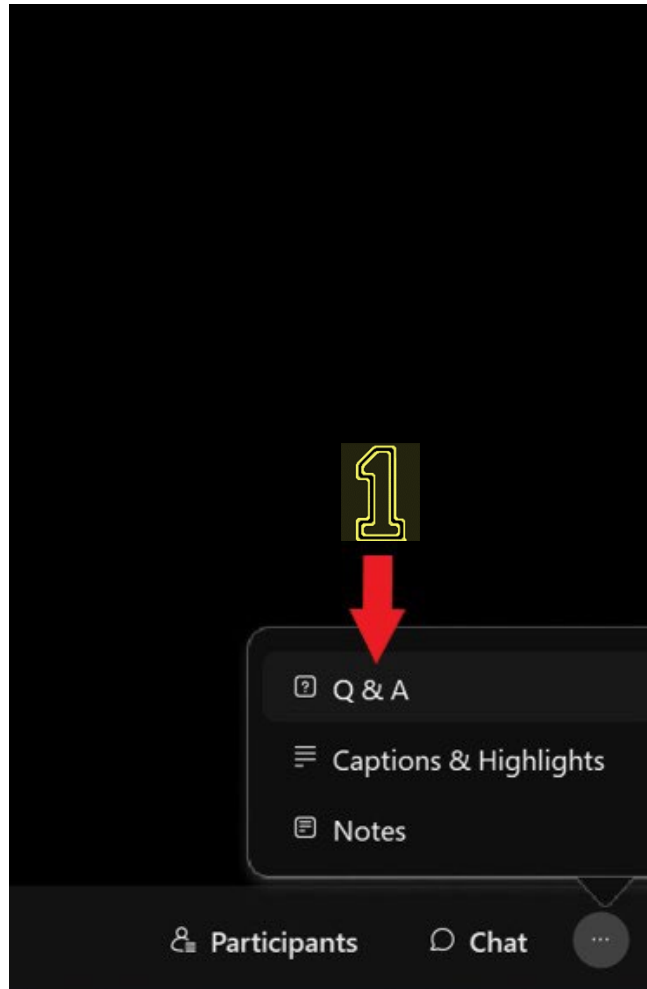
General instructions for the format of a teleconference meeting

Nurse-Midwifery Advisory Committee (NMAC) Meeting | September 24, 2024

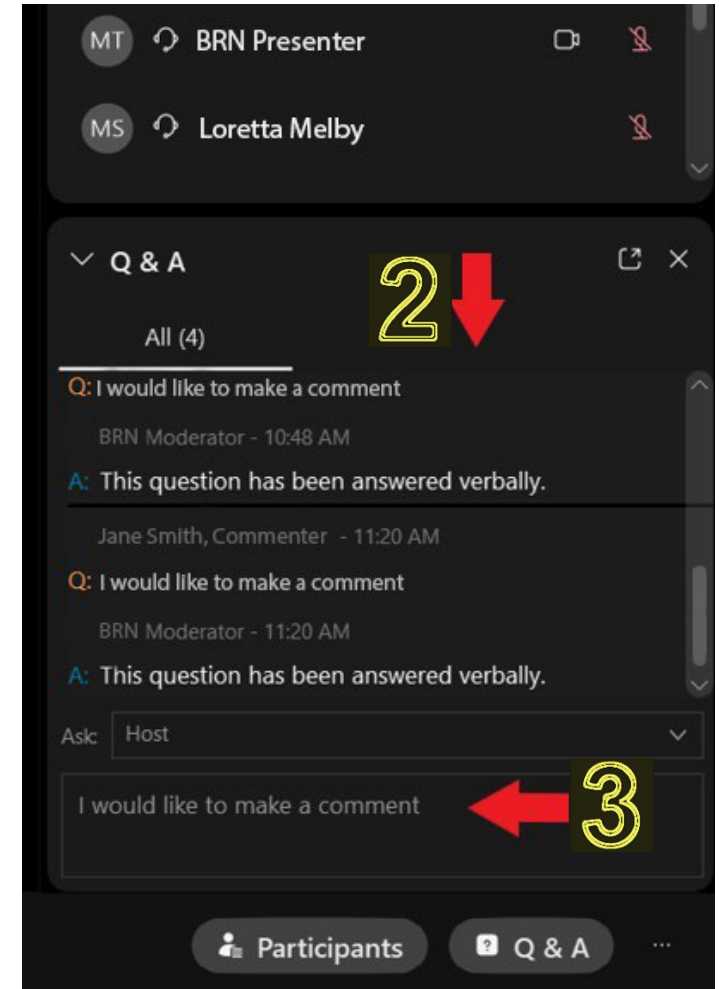
Participating During a Public Comment Period (if joining the meeting remotely via WebEx)

If you would like to make a public comment:

1. Click on the 'Q & A' button at the lower right of your WebEx session (you may need to click the three dots (...) to find this option).



2. The 'Q & A' panel will appear.



3. In the 'Q & A' panel, type "I would like to make a comment". You will be identified by the name or moniker you used to join the WebEx session, your line will be opened (click the 'Unmute me' button), and you will have **two (2) minutes** to provide comment. Every effort is made to take comments in the order which they are requested.

NOTE: Please submit a new request for each agenda item on which you would like to comment.



Agenda Item 4.0

Review and vote on whether to approve previous meeting's minutes.

Nurse-Midwifery Advisory Committee (NMAC) Meeting | March 26, 2024

**BOARD OF REGISTERED NURSING
NURSE-MIDWIFERY ADVISORY COMMITTEE
COMMITTEE MEETING MINUTES**

DRAFT

DATE: March 26, 2024

START TIME: 9:00 am

LOCATION: **NOTE:** A physical meeting location was not provided pursuant to the provisions of Government Code section 11133 (added by Assembly Bill No. 361 (Rivas), Reg. Sess. 2021-2022).

Physical meeting location in Sacramento

9:00 am **1.0**

Call to Order/Roll Call/Establishment of a Quorum

Loretta Melby, EO, called the meeting to order at 9:00 am. Quorum established at 9:01 am.

**Nurse-Midwifery
Advisory Committee
Members:**

Mary Phillips, PhD, CNM – Chair – Resigned Position, Absent
Jenna Shaw-Battista, PhD, RN, PHN, NP, CNM, FACNM – Vice Chair
James Byrne, MD
Kenneth James, MD
Rebecca DeSantis - Absent
Ruth Mielke, PhD, CNM, FACNM, WHNP-BC
Lilit Sarkisian, CNM, MSN, RNC-OB

**BRN Staff
Representatives:**

Loretta Melby, RN, MSN, Executive Officer
Reza Pejuhesh, DCA Legal Affairs, Attorney

9:04 pm **3.0**

Public comment for items not on the agenda; items for future agendas.

**Public Comment for
Agenda Item 3.0:**

No public members present in Sacramento. No public comments on WebEx.

9:06 am **4.0**

Review and vote on whether to approve previous meetings minutes

4.1 March 7, 2023

Discussion:

No comments or questions.

Motion: **James Byrne:** Motioned to approve the March 7, 2023, meeting minutes.

Second: Jenna Shaw-Battista

**Public Comment for
Agenda Item 4.0:**

No public comments.

Vote:

	JSB	JB	RD	RM	LS	KJ
Vote	Y	Y	AB	Y	Y	Y
<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB						

Motioned Passed

9:09 am

5.0

Discussion and possible action: Regarding election of Chair and Vice Chair positions

Discussion:

Loretta Melby opened the agenda item and explained that Mary Kay Phillips resigned her position and the committee is looking for a new chair. She thanked Mary Kay for her role in NMAC.

Ruth Mielke: Nominated Jenna Shaw-Battista for Chair.

Jenna Shaw-Battista: Accepted the nomination and nominated Ruth Mielke for Vice Chair.

Loretta Melby: Asked if there were any other nominations to which none were provided.

Motion: **Ruth Mielke:** Motioned to accept Jenna Shaw-Battista as Chair and Ruth Mielke as Vice Chair

Second: James Byrne

Public Comment for Agenda Item 5.0:

No public comments.

Vote:

	JSB	JB	RD	RM	LS	KJ
Vote	Y	Y	AB	Y	Y	Y
<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB						

Motion Passed

9:14 am

6.0

Discussion and possible action: Report from the four NMAC subcommittees: Public Engagement and Website; Nurse Midwifery Scope of Practice; Regulations; and Nurse Midwifery Education

Discussion:

James Byrne: Stated that SB 667 passed and was signed into law providing nurse midwives with the ability to perform common gynecological care which was long overdue. He asked if he could receive information from DCA staff about upcoming legislation.

Loretta Melby: Stated that James Byrne could go to www.leginfo.ca.gov and set up keywords to be notified about bills. She asked if there is any regulatory clarification needed for SB 667.

James Byrne: Stated that he did not think so.

Reza Pejuhesh: Explained about the subcommittee process and how information could and could not be shared so as not to violate Bagley-Keene.

Jenna Shaw-Battista: Asked for her and Ruth Mielke to meet with Loretta Melby to get more guidance with their sub-committee Nurse Midwifery Education as they were charged with goals including how to more proactively identify issues.

James Byrne: Appreciates the information from Reza to assist with conducting the subcommittees and assistance that can be provided by staff. James Byrne said Hillary Reyes was on his subcommittee and would like to know if there is any interest for any other members to join him on his subcommittee.

Loretta Melby: Explained there is a vacancy on the Regulations subcommittee as well as Public Engagement and Website subcommittee that was staffed with Mary Kay Phillips.

Lilit Sarkissian: Stated that she is interested in joining the Regulations subcommittee.

Motion: **James Byrne:** Motioned to add Lilit Sarkissian to the Regulations subcommittee.

Second: Jenna Shaw-Battista

Public Comment for Agenda Item 6.0: No public comments.

Vote:

	JSB	JB	RD	RM	LS	KJ
Vote	Y	Y	AB	Y	Y	Y

Key: Yes: Y | No: N | Abstain: A | Absent for Vote: AB

Motion Passed

9:27 am **7.0**

Discussion and possible action: Regarding input from NMAC on possible changes to the BRN Disciplinary Guidelines, to provide recommendations or guidance on care when the Board is considering disciplinary action against a certified nurse-midwife

Discussion: **Jenna Shaw-Battista:** Stated that she thinks it makes sense to have some specific language for people who are working in an independent fashion. She stated that she is surprised that none of the levels of supervision require direct observation of patient care and they seem super minimal and she did not realize this was the standard.

Loretta Melby: Explained that this is one small section in the Disciplinary Guidelines and there are other areas that address chart

audits, reviews, etc. She stated that maximum supervision has the monitor going into the patient's room and shadow full-time which is incredibly restrictive. She further stated that the language does not show shift work because this is an independent practitioner of all APRN specialty.

Jenna Shaw-Battista: Suggested adding “observing or directly supervising patient care.”

Marissa Clark: Clarified the language and asked if the new language being proposed needs to be adjusted.

Ruth Mielke: Asked about hiring someone to supervise a person and how that would work.

Loretta Melby: Explained that this is in the Medical Board and Osteopathic Board's Disciplinary Guidelines language. She asked Shannon Johnson to speak to how this works with the other Boards.

Shannon Johnson: Explained how supervision is handled for RNs and said the monitor would not be paid by the RN since it would be done by the employer and there cannot be a financial relationship between the nurse and the monitor. She spoke about the attestation between the employer and the nurse. Discussion continued as to how the monitor and oversight would happen for the independent practitioner versus the registered nurse.

Ruth Mielke and Jenna Shaw-Battista said the CNM is their own employer.

Shannon Johnson: Stated that if a CNM is working at different hospitals they may need to find multiple monitors.

Ruth Mielke: Asked if there is some type of letter explaining the definitions of monitoring and guidelines.

Shannon Johnson: Stated that the explanation is within the disciplinary order that can be provided to the monitor.

Ruth Mielke: Stated that there has to be some consideration for the independent practitioner.

James Byrne: Asked if this language mirrors other independent practitioners such as dentists or physicians as he wants to make sure the language is equitable to other independent practitioners.

Marissa Clark: Explained that this language originated with Medical Board of California, and she tried to balance equitableness with the other independent practitioners and how we treat existing licensees that may or may not be independent practice.

James Byrne: Asked for examples of minimal or moderate supervision since they have been focused on maximum.

Loretta Melby: Provided some examples of the various types of supervision.

James Byrne: Stated that it sounds like maximum is limited to where there's a clear and present danger to human beings such as drug diversion or drug use in the work setting and he hopes this is rare and more of these cases would be at the moderate and minimum levels. He further stated that he would like financial relationship included where it says no close familial relationship.

Shannon Johnson: Stated that would be in the attestation but not in the disciplinary guidelines.

Jenna Shaw-Battista: Asked who would pay for a monitor in a solo practice as this could be a huge financial implication with insurance.

Lilit Sarkissian: Asked how this is dealing with Nurse Midwifery practice - is it for the future or now. She stated that her experience has been working in a hospital and or working independently in her own practice, so she wonders how would the supervision be handled as well.

Loretta Melby: Explained that this language should address current and future practice. She stated that regulations are not one size fits all and the current disciplinary guidelines language does not allow for independent practice. She clarified that the monitor does not take over care of a patient, they are there to ensure patient care is safe.

Lilit Sarkissian: Asked if the supervisor must be a physician.

Loretta Melby: Explained that the monitor could be equal or higher level.

Lilit Sarkissian: Stated that she does not see a physician doing the monitoring without pay based on Ruth Mielke's comments earlier, so it would have to be a practitioner at the same level.

Jenna Shaw-Battista: Stated the monitor would be losing \$1,200 a day if they volunteer to monitor someone. She asked if the BRN has a mechanism to provide this kind of oversight for this kind of provider.

Loretta Melby: Stated that it would be a conflict of interest for the BRN.

Jenna Shaw-Battista: Stated that she doesn't want to confuse independent practice with solo practice because she thinks most nurse midwives are employed by a medical group and then contract

or are credentialed at a hospital. She explained that she sees this moving towards more solo practitioners who deal with low-risk patients running their own business and she feels that is different than an independent solo practitioner of medicine given the income to malpractice insurance ratios for a nurse midwife and an OBGYN. She stated that she doesn't know how to resolve this but she thinks there needs to be a maximum mechanism of supervision of a solo and independent midwife.

Loretta Melby: Stated that the alternative would be not to be a solo practice, but the language would be halted if this were to happen as the current guidelines require job change for probation of a solo practitioner.

James Byrne: Stated that this is a legitimate concern. He said if one works for a large employer health system then the system provides the oversight that is mandated. He is aware of a solo practitioner who has the massive burden relative to all their overhead and then meet Medical Board of California probation requirements who leaves their practice to take up employment practice elsewhere. He believes this is reserved for the most egregious cases where the behavior put humans at risk or potentially at risk.

Shannon Johnson: Explained that the purpose of probation is to rehabilitate and monitor to ensure a nurse can have an unencumbered license and return to practice. If their violation is as an independent practitioner then probation does not have a mechanism for them to function independently during probation, whether they're monitored or not accomplishing the BRN's goal because they have not been monitored as an independent practitioner.

Lilit Sarkissian: Asked Shannon if she had reviewed various scenarios and how it is done by the Medical Board of California which is closest in similarity with licensed midwives.

Loretta Melby: Stated that they contract with someone to do oversight.

Shannon Johnson: Explained that a lot of changes have happened in the last 20 years and language is needed to allow monitoring during probation.

Jenna Shaw-Battista: Asked about the contracted oversight for the licensed midwife if it was done by the Medical Board.

Loretta Melby: Stated that the licensee does the contracting for their probation with the Medical Board.

Kenneth James: Explained his work history as a solo practitioner and now as a group physician with several doctors, nurse midwives

and nurse practitioners. He stated that there is automatic supervision with the large variety of practitioners in his group for the new practitioners who join, not for disciplinary reasons. When he was a solo practitioner, he took responsibility for his midwives but as he was getting older he joined the group. He stated that as a solo practitioner you must take the good and the bad since you're responsible for everything and he asked if there is a business that can help support someone that is good.

Jenna Shaw-Battista: Asked about the data of 18 nurse midwives being disciplined in six years related to the total midwives. She asked if this is on par with the other licensee types.

Shannon Johnson: Stated that it is about one percent or less which is on par for all other APRNs.

James Byrne: Stated that is impressive given the high risk of maternal care.

Jenna Shaw-Battista: Asked for a general overview of issues so they can potentially monitor and she would like a breakdown of the 18 cases and what the outcomes were.

Lilit Sarkissian: Asked about the timeline based on an average of three years' probation.

Shannon Johnson: Explained the work requirements for probation and employment approval.

Marissa Clark: Summarized the changes discussed to include in amending the language.

Shannon Johnson: Explained that probation is for the RN license and any advance practice certification attached to it and the language needs to address these issues in a standard way.

Loretta Melby: Explained that this language will be addressed at the NPAC meeting which is scheduled to begin after this meeting. She further explained that the language can be brought back to NMAC after NPAC reviews and provides feedback and other levels of review. She stated that she appreciates NMACs discussion and she will share with NPAC as it is good for them to consider as well.

Motion: **Jenna Shaw-Battista:** Motioned to revisit the language at the next meeting to consider a new draft with the language proposed by Marissa Clark.

Second: **Kenneth James**

10:38 a.m. **Public Comment for Agenda Item 7.0:** There was discussion between Loretta Melby and Jenna Shaw-Battista about the public being able to make a public comment and how that is done in WebEx. It was learned that the public members

are watching the live stream Webcast published by DCA which is not interactive. Reza Pejuhesh suggested a break while the public moves to WebEx.

Break from 10:43 – 10:55 am
Quorum re-established at 10:59 am (minus Ruth Mielke)

Reza Pejuhesh: Stated that if there are any public members who are unable to make public comment can send an email to BRN.NMAC@dca.ca.gov.

Paris Maloof-Bury, CNMA President: She stated that she does not understand why there has to be an umbrella way to handle probation and would like the Board to consider specific regulations for each type of APRN. Community birth is an important option for people to have and because of the fractured patchwork, healthcare system in the US, there is no universal healthcare model. There's no safety net in this country for solo practitioners. She's interested in efforts or recommendations by the BRN and other consumer advocacy and protective services to investigate creating a model of healthcare in the US similar to the national health system in the UK where community midwives are integrated into the overall health system. There are endless barriers for freestanding birth centers. She also wanted to comment on the egregious potential transition of UCSF's midwifery program to DNP's as entry level to advanced practice nursing for California. She stated that with a huge deficiency in numbers of adequate providers, 46 labor and delivery units having closed in the last eight years because of inadequate providers. She would like the BRN's to encourage the program to not close.

Vote:

	JSB	JB	RD	RM	LS	KJ
Vote	Y	Y	AB	AB	Y	Y
<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB						

Motion Passed

11:22 am **8.0**

Adjournment: Loretta Melby adjourned the meeting at 11:22 am.

Submitted by:

Accepted by:

McCaulie Feusahrens
 Chief of Licensing
 Licensing Division
 California Board of Registered Nursing

Jenna Shaw Battista, PhD, RN, PHN, NP, CNM, FACNM
 Chair
 Nurse-Midwifery Advisory Committee

Loretta Melby, MSN, RN
 Executive Officer
 California Board of Registered Nursing



Agenda Item 5.0

Discussion and Possible Action: Regarding meeting dates for 2025

Nurse-Midwifery Advisory Committee (NMAC) Meeting | September 24, 2024

**BOARD OF REGISTERED NURSING
Nurse-Midwifery Advisory Committee Meeting
Agenda Item Summary**

AGENDA ITEM: 5.0

DATE: September 24, 2024

ACTION REQUESTED: **Discussion and Possible Action:** Regarding meeting dates for 2025.

REQUESTED BY: Loretta Melby, MSN, RN
Executive Officer

BACKGROUND:

The NMAC will meet twice per year. Meetings will be open to the public and adhere to the Bagley Keene Open Meeting Act requirements. Special meetings may be held at such times as the Board may elect, or on the call of the Board President or the Executive Officer.

A proposed schedule is included in the meeting materials.

RESOURCES:

NEXT STEPS:

FISCAL IMPACT, IF ANY: None

PERSON(S) TO CONTACT: McCaulie Feusahrens
Chief of the Licensing Division
California Board of Registered Nursing
mccaulie.feusahrens@dca.ca.gov

BRN Board, Committee, and Advisory Committee Meetings in 2025

January 16, 2025	Advisory Committees Clinical Nurse Specialist Advisory Committee (CNSAC) Certified Registered Nurse Anesthetist Advisory Committee (CRNAAC)
January 22, 2025	Board Committee Meetings Nursing Practice Committee Education/Licensing Committee Enforcement/Intervention Committee Legislative Committee
February 26-27, 2025	Board Meeting
March 5, 2025	Advisory Committee Nursing Education and Workforce Advisory Committee (NEWAC)
March 18, 2025	Advisory Committees Nurse-Midwifery Advisory Committee (NMAC) Nurse Practitioner Advisory Committee (NPAC)
April 23, 2025	Board Committee Meetings Nursing Practice Committee Education/Licensing Committee Enforcement/Intervention Committee Legislative Committee
May 21-22, 2025	Board Meeting
June 2025	No Scheduled Meetings
July 10, 2025	Board Committee Meetings Nursing Practice Committee Education/Licensing Committee Enforcement/Intervention Committee Legislative Committee
August 14, 2025	Advisory Committees Clinical Nurse Specialist Advisory Committee (CNSAC) Certified Registered Nurse Anesthetist Advisory Committee (CRNAAC)
August 20-21, 2025	Board Meeting
September 10, 2025	Advisory Committee Nursing Education and Workforce Advisory Committee (NEWAC)
September 23, 2025	Advisory Committees Nurse-Midwifery Advisory Committee (NMAC) Nurse Practitioner Advisory Committee (NPAC)
October 22, 2025	Board Committee Meetings Nursing Practice Committee Education/Licensing Committee Enforcement/Intervention Committee Legislative Committee
November 19-20, 2025	Board Meeting
December 2025	No Scheduled Meetings



Agenda Item 6.0

Information only: Data on final dispositions of disciplinary cases against Certified Nurse-Midwives (CNM).

Nurse-Midwifery Advisory Committee (NMAC) Meeting | September 24, 2024

**BOARD OF REGISTERED NURSING
Nurse-Midwifery Advisory Committee Meeting
Agenda Item Summary**

AGENDA ITEM: 6.0

DATE: September 24, 2024

ACTION REQUESTED: **Information only:** Data on final dispositions of disciplinary cases against Certified Nurse-Midwives (CNM).

REQUESTED BY: Jenna Shaw-Battista, PhD, RN, PHN, NP, CNM, FACNM
Chair

BACKGROUND:

The members of NMAC will discuss any trends/issues with final dispositions of disciplinary cases against CNMs. Discipline data for the past five (5) years are included in the two charts below:

Certified Nurse-Midwife (CNM) Discipline Statistics

Type of Discipline	2018	2019	2020	2021	2022	2023	2024 (as of 8/31/24)
Public Repeval	1	0	1	0	0	0	0
Probation	2	4	2	0	0	0	0
Surrender	1	1	1	0	1	0	1
Voluntary Surrender during Probation	1	1	1	1	0	2	0
Revocation	0	0	1	1	1	0	0
Reinstatement	0	0	0	0	0	0	0
Total	5	6	6	2	2	2	1

CNM Discipline Statistics – Violation Types

Violation Type	2018	2019	2020	2021	2022	2023	2024 (as of 8/31/24)
Practice	2	3	4	0	2	0	0
801 Practice	1	1	0	1	0	0	0
OSD	0	1	0	0	0	0	0
Conviction	1	0	1	0	0	0	1
SUD	0	0	0	0	0	0	0
Sexual Misconduct	0	0	0	0	0	0	0
Other	1	1	1	1	0	2	0
Total	5	6	6	2	2	2	1

RESOURCES:

BRN Disciplinary Guidelines: <https://www.rn.ca.gov/pdfs/enforcement/discguide.pdf>

NEXT STEPS:

FISCAL IMPACT, IF ANY: None

PERSON(S) TO CONTACT: McCaulie Feusahrens
 Chief of the Licensing Division
 California Board of Registered Nursing
mccaulie.feusahrens@dca.ca.gov



Agenda Item 7.0

Discussion and Possible Action: Regarding discussion of the following subcommittees: Public Engagement and Website, Nurse Midwifery Scope of Practice, Regulations, and Nurse Midwifery Education

Nurse-Midwifery Advisory Committee (NMAC) Meeting | September 24, 2024

BOARD OF REGISTERED NURSING
Nurse-Midwifery Advisory Committee Meeting
Agenda Item Summary

AGENDA ITEM: 7.0

DATE: September 24, 2024

ACTION REQUESTED: **Discussion and Possible Action:** Regarding discussion of the following subcommittees: Public Engagement and Website, Nurse-Midwifery Scope of Practice, Regulations, and Nurse-Midwifery Education

REQUESTED BY: Jenna Shaw-Battista, PhD, RN, PHN, NP, CNM, FACNM
Chair

BACKGROUND:

The four NMAC subcommittees will provide updates on work conducted and discuss the following subcommittees:

- Public Engagement and Website
- Nurse-Midwifery Scope of Practice
- Regulations
- Nurse-Midwifery Education

RESOURCES:

NEXT STEPS:

FISCAL IMPACT, IF ANY: None

PERSON(S) TO CONTACT: McCaulie Feusahrens
Chief of the Licensing Division
California Board of Registered Nursing
mccaulie.feusahrens@dca.ca.gov



Agenda Item 8.0

Discussion and possible action: California Nurse-Midwives Association (CNMA) requests to update the BRN website regarding the passage of SB 667 (Reg. Sess. 2022-2023).

Nurse-Midwifery Advisory Committee (NMAC) Meeting | September 24, 2024

**BOARD OF REGISTERED NURSING
Nurse-Midwifery Advisory Committee Meeting
Agenda Item Summary**

AGENDA ITEM: 8.0

DATE: September 24, 2024

ACTION REQUESTED: **Discussion and possible action:** California Nurse-Midwives Association (CNMA) requests to update the BRN website regarding the passage of SB 667 (Reg. Sess. 2022-2023).

REQUESTED BY: Jenna Shaw-Battista, PhD, RN, PHN, NP, CNM, FACNM
Chair

BACKGROUND:

In an email dated August 27, 2024, CNMA requested to discuss the passage of [SB 667](#) and the updates needed to the BRN website, including but not limited to:

- [California Nursing Practice Act](#)
- [Nurse Practitioners Laws and Regulations](#)
- [Frequently asked questions related to midwifery practice](#)
- Scope as described on the [Advanced Practice and Public Health Nurse Certification](#) page
- [Authorization for RNs to dispense drugs and devices](#)

RESOURCES:

Nursing Practice Act - Business and Professions Code, Division 2, Chapter 6, Article 2.5:
https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=2.&title=&part=&chapter=6.&article=2.5.

NEXT STEPS:

FISCAL IMPACT, IF ANY: None

PERSON(S) TO CONTACT: McCaulie Feusahrens
Chief of the Licensing Division
California Board of Registered Nursing
mccaulie.feusahrens@dca.ca.gov



Agenda Item 9.0

Discussion and possible action: Regarding input from NMAC on possible changes to the BRN Disciplinary Guidelines, to provide recommendations or guidance on care when the Board is considering disciplinary action against a CNM.

Nurse-Midwifery Advisory Committee (NMAC) Meeting | September 24, 2024

BOARD OF REGISTERED NURSING
Nurse-Midwifery Advisory Committee Meeting
Agenda Item Summary

AGENDA ITEM: 9.0

DATE: September 24, 2024

ACTION REQUESTED: **Discussion and possible action:** Regarding input from NMAC on possible changes to the BRN Disciplinary Guidelines, to provide recommendations or guidance on care when the Board is considering disciplinary action against a CNM.

REQUESTED BY: Loretta Melby, MSN, RN
Executive Officer

BACKGROUND:

The NMAC members will review the proposed regulation text to update Probation Condition #8 under the “Introductory Language and Standard Probation Conditions” section of the current [Disciplinary Guidelines](#) document.

The draft regulatory text is after this AIS on page 27-28 of these meeting materials.

RESOURCES:

BRN Disciplinary Guidelines: <https://www.rn.ca.gov/pdfs/enforcement/discguide.pdf>

[https://govt.westlaw.com/calregs/Document/IF5EF36F34C8111EC89E5000D3A7C4BC3?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/IF5EF36F34C8111EC89E5000D3A7C4BC3?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

§ 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), 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.

Notwithstanding the disciplinary guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any acts of sexual contact, as defined in subdivision (c) of Section 729 of the Business and Professions Code, with a patient, or has committed an act or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=BPC§ionNum=2746.2.

BPC 2746.2(b)(2):

The committee shall make recommendations to the board on all matters related to midwifery practice, education, appropriate standard of care, and other matters as specified by the board. The committee shall provide recommendations or guidance on care when the board is considering disciplinary action against a certified nurse-midwife.

Nursing Practice Act - Business and Professions Code, Division 2, Chapter 6:

https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=BPC&division=2.&title=&part=&chapter=6.&article=

NEXT STEPS:

FISCAL IMPACT, IF ANY: None

PERSON(S) TO CONTACT: McCaulie Feusahrens
Chief of the Licensing Division
California Board of Registered Nursing
mccaulie.feusahrens@dca.ca.gov

Probation Condition #8 – Supervision

(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.

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 Practitioner - If the Respondent is certified by the Board as an advanced practice registered nurse and authorized to practice without standardized procedures in an independent setting, the Board shall require the respondent, during probation, to establish a practice setting where a Board-approved advanced practice registered nurse or physician and surgeon can provide supervision to the Respondent. The Respondent shall not resume practice in an independent setting until the Board provides written approval of the proposed supervisor and plan of supervision.**

Within sixty (60) calendar days of the effective date of the Decision and Order, Respondent shall submit to the Board, for its approval, the name and qualifications of one or more proposed supervisors and a plan for each such supervisor by which Respondent would be supervised.

The Board shall advise Respondent within thirty (30) calendar days whether or not 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 *[(direct and require the physical presence of the supervising provider in the office during the time direct patient care is provided.)] [(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 proposed supervisor shall submit written reports to the Board on a regular basis (i.e. monthly or quarterly) verifying that supervision has taken place as required and include an evaluation of Respondent's performance. It shall be Respondent's responsibility to ensure that the required reports are filed in a timely manner. Each supervisor shall have been licensed in California for at least five (5) years and shall be trained in the same specialty or content area as the Respondent.

The supervisor shall not have a prior, current business, or close personal or familial relationship with the Respondent. The supervisor shall not have been subject to any prior disciplinary action by their licensing Board. 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.

If the supervisor terminates or is otherwise no longer available, Respondent shall not practice until a new supervisor has been approved by the Board. The Respondent must notify the Board, in writing, within seventy-two (72) hours of all supervision changes. All costs of the supervision shall be borne by Respondent.