



May 21, 2024

Tomás Aragón, MD, DrPH
Director and Public Health Officer
California Department of Public Health (CDPH)
1615 Capitol Avenue, MS 0503
Sacramento, CA 95899-7377

Re: Updating CDPH Title 22 Medical Staffing Regulations To Provide Flexibility To California Hospitals, and To Promote Advanced Practice Nursing Leadership

Dear Dr. Aragón:

On behalf of the American Nurses Association\California (ANA\C), we petition for the amendment of the existing *Title 22 of California Code of Regulations* to include California advanced licensed providers such as Advanced Practice Registered Nurse in the hospital medical staff regulations. The term “Advanced Practice Registered Nurse” (APRNs) is an umbrella term that is defined in Business and Professions Code § 2725.5 that includes Nurse Practitioners (NP), Certified Registered Nurse Anesthesiology (CRNA), Certified Nurse Midwives (CNM), and Clinical Nurse Specialist (CNS). The provisions of Title 22 governing medical staff membership are outdated, do not reflect current state statues or related federal guidelines, and fundamentally limit medical staff membership.

ANA\C is a bi-partisan professional nursing organization representing the interests of more than 500,000 licensed registered nurses in California. Our mission is to optimize nursing contribution to the health and well-being of individuals, families, and communities. As a state-level professional advocacy organization, ANA\C has been extensively involved in legislative and regulatory efforts that are currently assisting in making California a place of *Nursing Excellence*.

Recognizing the need for a diversity of providers on the medical staff, California statutes give hospitals flexibility to determine the composition of their medical staffs. The law authorizes medical staff to include “physicians and surgeons and other licensed practitioners,” including non-physicians. Yet, California regulations continue to inhibit this flexibility by forcing hospitals to limit medical staff membership to physicians, dentists, podiatrists, and clinical psychologists. These outdated regulations directly conflict with AB 890 (Wood) and fail to recognize that NPs, CNMs, CRNAs, and CNSs are essential members of hospital and surgery center leadership.

At the federal level, the Centers for Medicare, and Medicaid Services (“CMS”) set forth the following policy statement:

[CMS] encourage[s] physicians and hospitals to enlist qualified non-physician practitioners to fully assist them in taking on the work of overseeing and protecting the health and safety of patients. This applies not only to the work of the medical staff but also to the everyday duties of caring for patients. [CMS] believe[s] that an interdisciplinary team approach to patient care is the best model for patients.¹

¹ Federal Register Vol.77, No 95, pgs. 29047-48 (emphasis added).



Medical staff membership is governed by California Business & Professions Code §§ 2282(b) and 2283(a), which both state:

[M]embership on the medical staff shall be restricted to physicians and surgeons and other licensed practitioners competent in their respective fields and worthy in professional ethics.

As of January 1, 2023, California Business & Professions Code § 2837.103(a)(3) created an independent pathway to hospital and outpatient nurse practitioner practice, and specifically **authorized** Nurse Practitioner inclusion as members of hospital medical staffs. In fact, the law requires NPs to adhere to all bylaws of the medical staff and governing body for the organization in which they work, to be eligible to serve on the medical staff and hospital committees, to be eligible to attend department meetings, and to vote on matters effecting NPs. Because there is a recognized conflict between the Title 22 regulations and newly signed law, Government Code § 11342.2 render the Title 22 regulations void and unenforceable until such time as they are brought into compliance with existing law.

Presently, Title 22 regulations prohibit California hospitals from appointing APRNs to their medical staff regardless of a hospital's individual situation or need. Many rural and underserved hospitals do not have enough physicians on staff but must rather rely on APRNs with clinical privileges. As a result, Title 22 stands in the way of medical staff including the expertise and experience of their only APRNs providers when they adopt direct patient care safeguards and policies.

It is of particular importance to hospitals and all APRNs that medical staff bylaws **be amended** to address California's recent changes to the composition of the medical staff. Although CDPH has authorized inclusion of non-physician practitioners on a case-by-case basis, this process risks wasting essential resources and time of both hospitals and CDPH. California hospitals need flexibility to appoint medical staff that reflect the realities and needs of their individual facilities.

For all these reasons, ANA\C calls on CDPH to amend Title 22 regulations to include advanced licensed practitioners, especially Advanced Practice Registered Nurses, on inpatient and outpatient medical staff.

Should you have any questions or concerns, please do not hesitate to reach out to me.

Respectfully,

Dr. Marketa Houskova, DNP, MAIA, BA, RN
Chief Executive Officer