

AMENDED IN SENATE APRIL 17, 2024

**SENATE BILL**

**No. 1451**

**Introduced by Senator Ashby**

February 16, 2024

An act to amend Sections 1926, 2054, 2837.101, 2837.103, 2837.104, 2837.105, 3765, 7423, 8593, and 8593.1 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1451, as amended, Ashby. Professions and vocations.

(1) Existing law, the Dental Practice Act, establishes the Dental Hygiene Board of California to license and regulate dental hygienists. Existing law authorizes a registered dental hygienist in alternative practice to perform specified duties in dental health professional shortage areas, as certified by the Department of Health Care Access and Information, in accordance with specified guidelines.

This bill would authorize a registered dental hygienist in alternative practice with an existing practice in a dental health professional shortage area to continue to provide dental hygiene services if certification by the department is removed.

(2) *Existing law, the Medical Practice Act, establishes the Medical Board of California for the licensure and regulation of physicians and surgeons. Existing law makes it a misdemeanor for a person who is not licensed as a physician and surgeon under the act, except as specified, to use certain words, letters, and phrases or any other terms that imply that the person is authorized to practice medicine as a physician and surgeon.*

*This bill would add the initials "D.O." to the list of prohibited terms under that provision. The bill would also prohibit a person from using*

*the words “doctor” or “physician,” the letters or prefix “Dr.,” the initials “M.D.” or “D.O.,” or any other terms or letters indicating or implying that the person is a physician and surgeon, physician, surgeon, or practitioner in a health care setting that would lead a reasonable patient to determine that the person is a licensed “M.D.” or “D.O.”. By expanding the scope of a crime, this bill would impose a state-mandated local program.*

(2)

(3) Existing law, the Nursing Practice Act, provides for the licensure and certification of nurse practitioners by the Board of Registered Nursing. Existing law requires the Office of Professional Examination Services in the Department of Consumer Affairs, or an equivalent organization, to perform an occupational analysis of nurse practitioners performing specified functions, and requires the board and the office to assess the alignment of competencies tested in the national nurse practitioner certification examination with the occupational analysis.

This bill would make the provision requiring the assessment of the alignment of competencies inapplicable to a national nurse practitioner certification examination discontinued before January 1, 2017.

(4) *Existing law establishes the Nurse Practitioner Advisory Committee to advise and give recommendations to the board on matters relating to Nurse Practitioners. Existing law requires the board, by regulation, to define minimum standards for transition to practice, as defined, and provides that clinical experience may include experience obtained before January 1, 2021, if the experience meets requirements established by the board.*

*This bill would specify that, for purposes of transition to practice, clinical experience shall not be limited to experience in a single category in which a nurse practitioner may practice, as specified, and would prohibit experience obtained before a person is certified as a nurse practitioner from being considered clinical experience for purposes of transition to practice requirements.*

*Existing law authorizes a nurse practitioner to perform specified functions without standardized procedures if the nurse practitioner satisfies certain requirements, including having completed a transition to practice in California of 3 full-time equivalent years of practice, or 4,600 hours.*

*This bill would deem a nurse practitioner who has been practicing as a nurse practitioner for 3 full-time equivalent years or 4,600 hours within the last 5 years, as of January 1, 2023, to have satisfied this*

*requirement. The bill would require proof of completion of a transition to practice to be provided to the board as an attestation from either a licensed physician and surgeon or a nurse practitioner. The bill would prohibit the board from requiring a nurse practitioner to tell a patient that the patient has a right to see a physician and surgeon, and would delete a provision requiring a nurse practitioner to use a certain phrase to inform Spanish language speakers that the nurse practitioner is not a physician and surgeon.*

(3)

(5) Existing law, the Respiratory Care Practice Act, establishes the Respiratory Care Board of California to license and regulate the practice of respiratory care. Existing law authorizes a licensed vocational nurse who is employed by a home health agency to perform respiratory tasks and services identified by the board if, on or before January 1, 2025, the licensed vocational nurse has completed patient-specific training satisfactory to their employer, and, on and after January 1, 2025, the licensed vocational nurse has completed that training in accordance with guidelines promulgated by the Respiratory Care Board of California, in collaboration with the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

This bill would extend those dates to January 1, 2028. The bill, on and after January 1, 2028, would also authorize a licensed vocational nurse to perform respiratory care services identified by the board while practicing in certain settings identified in the bill if the license vocational nurse has completed patient-specific training satisfactory to their employer and holds a current and valid certification of competency for each respiratory task to be performed, as specified.

(4)

(6) Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology to license and regulate barbering and cosmetology, and establishes a hairstylist application and examination fee of \$50 or a fee determined by the board, not to exceed the reasonable cost of developing, purchasing, grading, and administering the examination.

This bill would instead require the hairstylist application and examination fee to be the actual cost to the board for developing, purchasing, grading, and administering the examination, and would establish that an initial licensee fee for a hairstylist shall be not more than \$50.

(5)

(7) Existing law establishes the Structural Pest Control Board in the Department of Consumer Affairs to license and regulate structural pest control operators, structural pest control field representatives, and structural pest control applicators. Existing law requires those licensees, as a condition of license renewal, to submit proof to the board that they have informed themselves of the developments in the field of pest control by completing continuing education courses or equivalent activity approved by the board, or taking and completing an examination given by the board, as specified.

This bill would delete the authorization for a licenseholder to take and complete an examination given by the board to satisfy that requirement.

(8) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1926 of the Business and Professions  
2 Code is amended to read:  
3 1926. In addition to practices authorized in Section 1925, a  
4 registered dental hygienist in alternative practice may perform the  
5 duties authorized pursuant to subdivision (a) of Section 1907,  
6 subdivision (a) of Section 1908, and subdivisions (a) and (b) of  
7 Section 1910 in the following settings:  
8 (a) Residences of the homebound.  
9 (b) Schools.  
10 (c) Residential facilities and other institutions and medical  
11 settings that a residential facility patient has been transferred to  
12 for outpatient services.  
13 (d) Dental health professional shortage areas, as certified by the  
14 Department of Health Care Access and Information in accordance  
15 with existing office guidelines. If the dental health professional  
16 shortage area certification is removed, a registered dental hygienist

1 in alternative practice with an existing practice in the area may  
2 continue to provide dental hygiene services.

3 (e) Dental offices.

4 *SEC. 2. Section 2054 of the Business and Professions Code is*  
5 *amended to read:*

6 2054. (a) Any person who uses in any sign, business card, or  
7 letterhead, or, in an advertisement, the words “doctor” or  
8 “physician,” the letters or prefix “Dr.,” the initials “~~M.D.~~,” “M.D.”  
9 or “D.O.,” or any other terms or letters indicating or implying that  
10 ~~he or she~~ *the person* is a physician and surgeon, physician, surgeon,  
11 or practitioner under the terms of this or any other law, or that ~~he~~  
12 ~~or she~~ *the person* is entitled to practice hereunder, or who  
13 represents or holds ~~himself or herself~~ *themselves* out as a physician  
14 and surgeon, physician, surgeon, or practitioner under the terms  
15 of this or any other law, without having at the time of so doing a  
16 valid, unrevoked, and unsuspended certificate as a physician and  
17 surgeon under this chapter, is guilty of a misdemeanor. *No person*  
18 *shall use the words “doctor” or “physician,” the letters or prefix*  
19 *“Dr.,” the initials “M.D.” or “D.O.,” or any other terms or letters*  
20 *indicating or implying that the person is a physician and surgeon,*  
21 *physician, surgeon, or practitioner in a health care setting that*  
22 *would lead a reasonable patient to determine that person is a*  
23 *licensed “M.D.” or “D.O.”.*

24 (b) Notwithstanding subdivision (a), any of the following  
25 persons may use the words “doctor” or “physician,” the letters or  
26 prefix “Dr.,” or the initials “~~M.D.~~,” “M.D.” or “D.O.”:

27 (1) A graduate of a medical *or an osteopathic medical* school  
28 approved or recognized by the *medical or osteopathic medical*  
29 board while enrolled in a postgraduate training program approved  
30 by the board.

31 (2) A graduate of a medical *or an osteopathic medical* school  
32 who does not have a certificate as a physician and surgeon under  
33 this chapter if ~~he or she~~ *the individual* meets all of the following  
34 requirements:

35 (A) If issued a license to practice medicine in any jurisdiction,  
36 has not had that license revoked or suspended by that jurisdiction.

37 (B) Does not otherwise hold ~~himself or herself~~ *themselves* out  
38 as a physician and surgeon entitled to practice medicine in this  
39 state except to the extent authorized by this chapter.

1 (C) Does not engage in any of the acts prohibited by Section  
2 2060.

3 (3) A person authorized to practice medicine under Section 2111  
4 or 2113 subject to the limitations set forth in those sections.

5 *SEC. 3. Section 2837.101 of the Business and Professions Code*  
6 *is amended to read:*

7 2837.101. For purposes of this article, the following terms have  
8 the following meanings:

9 (a) “Committee” means the Nurse Practitioner Advisory  
10 Committee.

11 (b) “Standardized procedures” has the same meaning as that  
12 term is defined in Section 2725.

13 (c) “Transition to practice” means additional clinical experience  
14 and mentorship provided to prepare a nurse practitioner to practice  
15 independently. “Transition to practice” includes, but is not limited  
16 to, managing a panel of patients, working in a complex health care  
17 setting, interpersonal communication, interpersonal collaboration  
18 and team-based care, professionalism, and business management  
19 of a practice. The board shall, by regulation, define minimum  
20 standards for transition to practice. ~~Clinical experience may include~~  
21 ~~experience obtained before January 1, 2021, if the experience~~  
22 ~~meets the requirements established by the board. For purposes of~~  
23 *the transition to practice:*

24 (1) *Clinical experience shall not be limited to experience in a*  
25 *single category that a nurse practitioner may practice in pursuant*  
26 *to Section 2836.*

27 (2) *Clinical experience may include experience obtained before*  
28 *January 1, 2021, but clinical experience obtained before a person*  
29 *is certified by the board as a nurse practitioner shall not be*  
30 *included.*

31 *SEC. 4. Section 2837.103 of the Business and Professions Code*  
32 *is amended to read:*

33 2837.103. (a) (1) Notwithstanding any other law, a nurse  
34 practitioner may perform the functions specified in subdivision  
35 (c) pursuant to that subdivision, in a setting or organization  
36 specified in paragraph (2) pursuant to that paragraph, if the nurse  
37 practitioner has successfully satisfied the following requirements:

38 (A) Passed a national nurse practitioner board certification  
39 examination and, if applicable, any supplemental examination

1 developed pursuant to paragraph (4) of subdivision (a) of Section  
2 2837.105.

3 (B) Holds a certification as a nurse practitioner from a national  
4 certifying body accredited by the National Commission for  
5 Certifying Agencies or the American Board of Nursing Specialties  
6 and recognized by the board.

7 (C) Provides documentation that educational training was  
8 consistent with standards established by the board pursuant to  
9 Section 2836 and any applicable regulations as they specifically  
10 relate to requirements for clinical practice hours. Online educational  
11 programs that do not include mandatory clinical hours shall not  
12 meet this requirement.

13 (D) Has completed a transition to practice in California *or*  
14 *another state* of a minimum of three full-time equivalent years of  
15 practice or 4600 hours. *A nurse practitioner who has been*  
16 *practicing as a nurse practitioner for a minimum of three full-time*  
17 *equivalent years or 4,600 hours within the last 5 years, as of*  
18 *January 1, 2023, may be deemed to have satisfied this requirement.*  
19 *For purposes of this subparagraph:*

20 (i) *Proof of completion of a transition to practice shall be*  
21 *provided to the board, on a form prescribed by the board, as an*  
22 *attestation from either a licensed physician and surgeon, a certified*  
23 *nurse practitioner practicing pursuant to this section, or a certified*  
24 *nurse practitioner practicing pursuant to Section 2837.104.*

25 (ii) *A licensed physician and surgeon or a certified nurse*  
26 *practitioner who attests to the completion of a transition to practice*  
27 *is not required to specialize in the same category as the applicant*  
28 *pursuant to Section 2836.*

29 (iii) *A licensed physician and surgeon or a certified nurse*  
30 *practitioner practicing pursuant to this section or Section 2837.104*  
31 *who attests to the completion of a transition to practice is not*  
32 *required to verify competence, clinical expertise, or any other*  
33 *standards related to the practice of the applicant and shall only*  
34 *attest to the completion of the transition to practice, as defined in*  
35 *Section 2837.101.*

36 (iv) *A licensed physician and surgeon or a certified nurse*  
37 *practitioner practicing pursuant to this section or Section 2837.104*  
38 *who attests to the completion of a transition to practice shall not*  
39 *be liable for any civil damages and shall not be subject to an*

1 *administrative action, sanction, or penalty for attesting only to the*  
2 *completion of a transition to practice.*

3 (2) A nurse practitioner who meets all of the requirements of  
4 paragraph (1) may practice, including, but not limited to,  
5 performing the functions authorized pursuant to subdivision (c),  
6 in one of the following settings or organizations in which one or  
7 more physicians and surgeons practice with the nurse practitioner  
8 without standardized procedures:

9 (A) A clinic, as defined in Section 1200 of the Health and Safety  
10 Code.

11 (B) A health facility, as defined in Section 1250 of the Health  
12 and Safety Code, except for the following:

13 (i) A correctional treatment center, as defined in paragraph (1)  
14 of subdivision (j) of Section 1250 of the Health and Safety Code.

15 (ii) A state hospital, as defined in Section 4100 of the Welfare  
16 and Institutions Code.

17 (C) A facility described in Chapter 2.5 (commencing with  
18 Section 1440) of Division 2 of the Health and Safety Code.

19 (D) A medical group practice, including a professional medical  
20 corporation, as defined in Section 2406, another form of  
21 corporation controlled by physicians and surgeons, a medical  
22 partnership, a medical foundation exempt from licensure, or another  
23 lawfully organized group of physicians and surgeons that provides  
24 health care services.

25 (E) A home health agency, as defined in Section 1727 of the  
26 Health and Safety Code.

27 (F) A hospice facility licensed pursuant to Chapter 8.5  
28 (commencing with Section 1745) of Division 2 of the Health and  
29 Safety Code.

30 (3) In health care agencies that have governing bodies, as  
31 defined in Division 5 of Title 22 of the California Code of  
32 Regulations, including, but not limited to, Sections 70701 and  
33 70703 of Title 22 of the California Code of Regulations, the  
34 following apply:

35 (A) A nurse practitioner shall adhere to all applicable bylaws.

36 (B) A nurse practitioner shall be eligible to serve on medical  
37 staff and hospital committees.

38 (C) A nurse practitioner shall be eligible to attend meetings of  
39 the department to which the nurse practitioner is assigned. A nurse  
40 practitioner shall not vote at department, division, or other meetings



1 unless the vote is regarding the determination of nurse practitioner  
2 privileges with the organization, peer review of nurse practitioner  
3 clinical practice, whether a licensee’s employment is in the best  
4 interest of the communities served by a hospital pursuant to Section  
5 2401, or the vote is otherwise allowed by the applicable bylaws.

6 (b) An entity described in subparagraphs (A) to (F), inclusive,  
7 of paragraph (2) of subdivision (a) shall not interfere with, control,  
8 or otherwise direct the professional judgment of a nurse practitioner  
9 functioning pursuant to this section in a manner prohibited by  
10 Section 2400 or any other law.

11 (c) In addition to any other practices authorized by law, a nurse  
12 practitioner who meets the requirements of paragraph (1) of  
13 subdivision (a) may perform the following functions without  
14 standardized procedures in accordance with their education and  
15 training:

16 (1) Conduct an advanced assessment.

17 (2) (A) Order, perform, and interpret diagnostic procedures.

18 (B) For radiologic procedures, a nurse practitioner can order  
19 diagnostic procedures and utilize the findings or results in treating  
20 the patient. A nurse practitioner may perform or interpret clinical  
21 laboratory procedures that they are permitted to perform under  
22 Section 1206 and under the federal Clinical Laboratory  
23 Improvement Act (CLIA).

24 (3) Establish primary and differential diagnoses.

25 (4) Prescribe, order, administer, dispense, procure, and furnish  
26 therapeutic measures, including, but not limited to, the following:

27 (A) Diagnose, prescribe, and institute therapy or referrals of  
28 patients to health care agencies, health care providers, and  
29 community resources.

30 (B) Prescribe, administer, dispense, and furnish pharmacological  
31 agents, including over-the-counter, legend, and controlled  
32 substances.

33 (C) Plan and initiate a therapeutic regimen that includes ordering  
34 and prescribing nonpharmacological interventions, including, but  
35 not limited to, durable medical equipment, medical devices,  
36 nutrition, blood and blood products, and diagnostic and supportive  
37 services, including, but not limited to, home health care, hospice,  
38 and physical and occupational therapy.

39 (5) After performing a physical examination, certify disability  
40 pursuant to Section 2708 of the Unemployment Insurance Code.

1 (6) Delegate tasks to a medical assistant pursuant to Sections  
 2 1206.5, 2069, 2070, and 2071, and Article 2 (commencing with  
 3 Section 1366) of Chapter 3 of Division 13 of Title 16 of the  
 4 California Code of Regulations.

5 (d) A nurse practitioner shall ~~verbally~~ inform all new patients  
 6 in a language understandable to the patient that a nurse practitioner  
 7 is not a physician and surgeon. ~~For purposes of Spanish language~~  
 8 ~~speakers, the nurse practitioner shall use the standardized phrase~~  
 9 ~~“enfermera especializada.”~~

10 (e) *A nurse practitioner shall not be required to tell a patient*  
 11 *the patient has a right to see a physician and surgeon.*

12 ~~(e)~~

13 (f) A nurse practitioner shall post a notice in a conspicuous  
 14 location accessible to public view that the nurse practitioner is  
 15 regulated by the Board of Registered Nursing. The notice shall  
 16 include the board’s telephone number and the internet website  
 17 where the nurse practitioner’s license may be checked and  
 18 complaints against the nurse practitioner may be made.

19 ~~(f)~~

20 (g) A nurse practitioner shall refer a patient to a physician and  
 21 surgeon or other licensed health care provider if a situation or  
 22 condition of a patient is beyond the scope of the education and  
 23 training of the nurse practitioner.

24 ~~(g)~~

25 (h) A nurse practitioner practicing under this section shall have  
 26 professional liability insurance appropriate for the practice setting.

27 ~~(h)~~

28 (i) Any health care setting operated by the Department of  
 29 Corrections and Rehabilitation is exempt from this section.

30 *SEC. 5. Section 2837.104 of the Business and Professions Code*  
 31 *is amended to read:*

32 2837.104. (a) Beginning January 1, 2023, notwithstanding  
 33 any other law, the following apply to a nurse practitioner who  
 34 holds an active certification issued by the board pursuant to  
 35 subdivision (b):

36 (1) The nurse practitioner may perform the functions specified  
 37 in subdivision (c) of Section 2837.103 pursuant to that subdivision  
 38 outside of the settings or organizations specified under  
 39 subparagraphs (A) to (F), inclusive, of paragraph (2) of subdivision  
 40 (a) of Section 2837.103.

1 (2) Subject to subdivision (f) and any applicable conflict of  
2 interest policies of the bylaws, the nurse practitioner shall be  
3 eligible for membership of an organized medical staff.

4 (3) Subject to subdivision (f) and any applicable conflict of  
5 interest policies of the bylaws, a nurse practitioner member may  
6 vote at meetings of the department to which nurse practitioners  
7 are assigned.

8 (b) The board shall issue a certificate to perform the functions  
9 specified in subdivision (c) of Section 2837.103 pursuant to that  
10 subdivision outside of the settings and organizations specified  
11 under subparagraphs (A) to (F), inclusive, of paragraph (2) of  
12 subdivision (a) of Section 2837.103, if the nurse practitioner  
13 satisfies all of the following requirements:

14 (1) Meets all of the requirements specified in paragraph (1) of  
15 subdivision (a) of Section 2837.103.

16 (2) Holds a valid and active license as a registered nurse in  
17 California and a master's degree in nursing or in a clinical field  
18 related to nursing or a doctoral degree in nursing.

19 (3) Has practiced as a nurse practitioner in good standing for at  
20 least three years, not inclusive of the transition to practice required  
21 pursuant to subparagraph (D) of paragraph (1) of subdivision (a)  
22 of Section 2837.103. The board may, at its discretion, lower this  
23 requirement for a nurse practitioner holding a Doctorate of Nursing  
24 Practice degree (DNP) based on practice experience gained in the  
25 course of doctoral education experience.

26 (c) A nurse practitioner authorized to practice pursuant to this  
27 section shall comply with all of the following:

28 (1) The nurse practitioner, consistent with applicable standards  
29 of care, shall not practice beyond the scope of their clinical and  
30 professional education and training, including specific areas of  
31 concentration and shall only practice within the limits of their  
32 knowledge and experience and national certification.

33 (2) The nurse practitioner shall consult and collaborate with  
34 other healing arts providers based on the clinical condition of the  
35 patient to whom health care is provided. Physician consultation  
36 shall be obtained as specified in the individual protocols and under  
37 the following circumstances:

38 (A) Emergent conditions requiring prompt medical intervention  
39 after initial stabilizing care has been started.

- 1 (B) Problem which is not resolving as anticipated after an
- 2 ongoing evaluation and management of the situation.
- 3 (C) History, physical, or lab findings inconsistent with the
- 4 clinical perspective.
- 5 (D) Upon request of patient.
- 6 (3) Nurse practitioner consultation with a physician and surgeon
- 7 alone shall not create a physician-patient relationship. The nurse
- 8 practitioner shall be solely responsible for the services they provide.
- 9 (4) The nurse practitioner shall establish a plan for referral of
- 10 complex medical cases and emergencies to a physician and surgeon
- 11 or other appropriate healing arts providers. The nurse practitioner
- 12 shall have an identified referral plan specific to the practice area,
- 13 that includes specific referral criteria. The referral plan shall
- 14 address the following:
- 15 (A) Whenever situations arise which go beyond the competence,
- 16 scope of practice, or experience of the nurse practitioner.
- 17 (B) Whenever patient conditions fail to respond or the patient
- 18 is acutely decompensating in a manner that is not consistent with
- 19 the progression of the disease and corresponding treatment plan.
- 20 (C) Any patient with a rare condition.
- 21 (D) Any patient conditions that do not fit the commonly accepted
- 22 diagnostic pattern for a disease or disorder.
- 23 (E) All emergency situations after initial stabilizing care has
- 24 been started.
- 25 (d) A nurse practitioner shall ~~verbally~~ inform all new patients
- 26 in a language understandable to the patient that a nurse practitioner
- 27 is not a physician and surgeon. ~~For purposes of Spanish language~~
- 28 ~~speakers, the nurse practitioner shall use the standardized phrase~~
- 29 ~~“enfermera especializada.”~~
- 30 (e) *A nurse practitioner shall not be required by the board to*
- 31 *tell a patient that the patient has a right to see a physician and*
- 32 *surgeon.*
- 33 (e)
- 34 (f) A nurse practitioner shall post a notice in a conspicuous
- 35 location accessible to public view that the nurse practitioner is
- 36 regulated by the Board of Registered Nursing. The notice shall
- 37 include the board’s telephone number and internet website where
- 38 the nurse practitioner’s license may be checked and complaints
- 39 against the nurse practitioner may be made.
- 40 (f)

1 (g) A nurse practitioner practicing pursuant to this section shall  
2 maintain professional liability insurance appropriate for the practice  
3 setting.

4 ~~(g)~~

5 (h) For purposes of this section, corporations and other artificial  
6 legal entities shall have no professional rights, privileges, or  
7 powers.

8 ~~(h)~~

9 ~~(i)~~ Subdivision ~~(g)~~ (h) shall not apply to a nurse practitioner if  
10 either of the following apply:

11 (1) The certificate issued pursuant to this section is inactive,  
12 surrendered, revoked, or otherwise restricted by the board.

13 (2) The nurse practitioner is employed pursuant to the  
14 exemptions under Section 2401.

15 ~~SEC. 2.~~

16 *SEC. 6.* Section 2837.105 of the Business and Professions Code  
17 is amended to read:

18 2837.105. (a) (1) The board shall request the department's  
19 Office of Professional Examination Services, or an equivalent  
20 organization, to perform an occupational analysis of nurse  
21 practitioners performing the functions specified in subdivision (c)  
22 of Section 2837.103 pursuant to that subdivision.

23 (2) The board, together with the Office of Professional  
24 Examination Services, shall assess the alignment of the  
25 competencies tested in the national nurse practitioner certification  
26 examination required by subparagraph (A) of paragraph (1) of  
27 subdivision (a) of Section 2837.103 with the occupational analysis  
28 performed according to paragraph (1). This paragraph shall not  
29 apply to a national nurse practitioner certification examination  
30 discontinued before January 1, 2017.

31 (3) The occupational analysis shall be completed by January 1,  
32 2023.

33 (4) If the assessment performed according to paragraph (2)  
34 identifies additional competencies necessary to perform the  
35 functions specified in subdivision (c) of Section 2837.103 pursuant  
36 to that subdivision that are not sufficiently validated by the national  
37 nurse practitioner board certification examination required by  
38 subparagraph (A) of paragraph (1) of subdivision (a) of Section  
39 2837.103, the board shall identify and develop a supplemental  
40 exam that properly validates identified competencies.

1 (b) The examination process shall be regularly reviewed  
2 pursuant to Section 139.

3 ~~SEC. 3.~~

4 *SEC. 7.* Section 3765 of the Business and Professions Code is  
5 amended to read:

6 3765. This act does not prohibit any of the following activities:

7 (a) The performance of respiratory care that is an integral part  
8 of the program of study by students enrolled in approved  
9 respiratory therapy training programs.

10 (b) Self-care by the patient or the gratuitous care by a friend or  
11 member of the family who does not represent or hold themselves  
12 out to be a respiratory care practitioner licensed under the  
13 provisions of this chapter.

14 (c) The respiratory care practitioner from performing advances  
15 in the art and techniques of respiratory care learned through formal  
16 or specialized training.

17 (d) The performance of respiratory care in an emergency  
18 situation by paramedical personnel who have been formally trained  
19 in these modalities and are duly licensed under the provisions of  
20 an act pertaining to their specialty.

21 (e) Temporary performance, by other health care personnel,  
22 students, or groups, of respiratory care services, as identified and  
23 authorized by the board, in the event of an epidemic, pandemic,  
24 public disaster, or emergency.

25 (f) Persons from engaging in cardiopulmonary research.

26 (g) Formally trained licensees and staff of child day care  
27 facilities from administering to a child inhaled medication as  
28 defined in Section 1596.798 of the Health and Safety Code.

29 (h) The performance by a person employed by a home medical  
30 device retail facility or by a home health agency licensed by the  
31 State Department of Public Health of specific, limited, and basic  
32 respiratory care or respiratory care related services that have been  
33 authorized by the board.

34 (i) The performance, by a vocational nurse licensed by the Board  
35 of Vocational Nursing and Psychiatric Technicians of the State of  
36 California who is employed by a home health agency licensed by  
37 the State Department of Public Health, of respiratory tasks and  
38 services identified by the board, if the licensed vocational nurse  
39 complies with the following:

1 (1) Before January 1, 2028, the licensed vocational nurse has  
2 completed patient-specific training satisfactory to their employer.

3 (2) On or after January 1, 2028, the licensed vocational nurse  
4 has completed patient-specific training by the employer in  
5 accordance with guidelines that shall be promulgated by the board  
6 no later than January 1, 2028, in collaboration with the Board of  
7 Vocational Nursing and Psychiatric Technicians of the State of  
8 California.

9 (j) The performance of respiratory care services identified by  
10 the board by a licensed vocational nurse who satisfies the  
11 requirements in paragraph (1) in the settings listed in paragraph  
12 (2).

13 (1) (A) The licensed vocational nurse is licensed pursuant to  
14 Chapter 6.5 (commencing with Section 2840).

15 (B) The licensed vocational nurse has completed patient-specific  
16 training satisfactory to their employer.

17 (C) The licensed vocational nurse holds a current and valid  
18 certification of competency for each respiratory task to be  
19 performed from the California Association of Medical Product  
20 Suppliers, the California Society for Respiratory Care, or another  
21 organization identified by the board.

22 (2) A licensed vocational nurse may perform the respiratory  
23 care services identified by the board pursuant to this subdivision  
24 in the following settings:

25 (A) At a congregate living health facility licensed by the State  
26 Department of Public Health that is designated as six beds or fewer.

27 (B) At an intermediate care facility licensed by the State  
28 Department of Public Health that is designated as six beds or fewer.

29 (C) At an adult day health care center licensed by the State  
30 Department of Public Health.

31 (D) As an employee of a home health agency licensed by the  
32 State Department of Public Health or an individual nurse provider  
33 working in a residential home.

34 (E) At a pediatric day health and respite care facility licensed  
35 by the State Department of Public Health.

36 (F) At a small family home licensed by the Department of Social  
37 Services that is designated as six beds or fewer.

38 (G) As a private duty nurse as part of daily transportation and  
39 activities outside a patient's residence or family respite for home-  
40 and community-based patients.

1 (3) This subdivision is operative on January 1, 2028.

2 (k) The performance of pulmonary function testing by persons  
3 who are currently employed by Los Angeles County hospitals and  
4 have performed pulmonary function testing for at least 15 years.

5 ~~SEC. 4.~~

6 *SEC. 8.* Section 7423 of the Business and Professions Code is  
7 amended to read:

8 7423. The amounts of the fees required by this chapter relating  
9 to licenses for individual practitioners are as follows:

10 (a) (1) Cosmetologist application and examination fee shall be  
11 the actual cost to the board for developing, purchasing, grading,  
12 and administering the examination.

13 (2) A cosmetologist initial license fee shall not be more than  
14 fifty dollars (\$50).

15 (b) (1) An esthetician application and examination fee shall be  
16 the actual cost to the board for developing, purchasing, grading,  
17 and administering the examination.

18 (2) An esthetician initial license fee shall not be more than forty  
19 dollars (\$40).

20 (c) (1) A manicurist application and examination fee shall be  
21 the actual cost to the board for developing, purchasing, grading,  
22 and administering the examination.

23 (2) A manicurist initial license fee shall not be more than  
24 thirty-five dollars (\$35).

25 (d) (1) A barber application and examination fee shall be the  
26 actual cost to the board for developing, purchasing, grading, and  
27 administering the examination.

28 (2) A barber initial license fee shall be not more than fifty dollars  
29 (\$50).

30 (e) (1) An electrologist application and examination fee shall  
31 be the actual cost to the board for developing, purchasing, grading,  
32 and administering the examination.

33 (2) An electrologist initial license fee shall be not more than  
34 fifty dollars (\$50).

35 (f) An apprentice application and license fee shall be not more  
36 than twenty-five dollars (\$25).

37 (g) The license renewal fee for individual practitioner licenses  
38 that are subject to renewal shall be not more than fifty dollars  
39 (\$50).



1 (h) A hairstylist application and examination fee shall be the  
2 actual cost to the board for developing, purchasing, grading, and  
3 administering the examination.

4 (i) A hairstylist’s initial license fee shall be no more than fifty  
5 dollars (\$50).

6 (j) Notwithstanding Section 163.5 the license renewal  
7 delinquency fee shall be 50 percent of the renewal fee in effect on  
8 the date of renewal.

9 ~~SEC. 5.~~

10 *SEC. 9.* Section 8593 of the Business and Professions Code is  
11 amended to read:

12 8593. (a) The board shall require as a condition to the renewal  
13 of each operator’s and field representative’s license that the holder  
14 submit proof satisfactory to the board that they have informed  
15 themselves of developments in the field of pest control either by  
16 completion of courses of continuing education in pest control  
17 approved by the board or equivalent activity approved by the board.

18 (b) The board shall develop a correspondence course or courses  
19 with any educational institution or institutions as it deems  
20 appropriate. This course may be used to fulfill the requirements  
21 of this section. The institution may charge a reasonable fee for  
22 each course.

23 ~~SEC. 6.~~

24 *SEC. 10.* Section 8593.1 of the Business and Professions Code  
25 is amended to read:

26 8593.1. The board shall require as a condition to the renewal  
27 of each applicator’s license that the holder thereof submit proof  
28 satisfactory to the board that they have completed courses of  
29 continuing education in pesticide application and use approved by  
30 the board or equivalent activity approved by the board.

31 *SEC. 11.* *No reimbursement is required by this act pursuant*  
32 *to Section 6 of Article XIII B of the California Constitution because*  
33 *the only costs that may be incurred by a local agency or school*  
34 *district will be incurred because this act creates a new crime or*  
35 *infraction, eliminates a crime or infraction, or changes the penalty*  
36 *for a crime or infraction, within the meaning of Section 17556 of*  
37 *the Government Code, or changes the definition of a crime within*

- 1 *the meaning of Section 6 of Article XIII B of the California*
- 2 *Constitution.*

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THIRD READING

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Bill No: SB 1451  
Author: Ashby (D)  
Amended: 4/17/24  
Vote: 21

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SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 4/22/24  
AYES: Ashby, Nguyen, Alvarado-Gil, Archuleta, Becker, Dodd, Eggman, Glazer,  
Niello, Roth, Smallwood-Cuevas, Wilk  
NO VOTE RECORDED: Menjivar

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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**SUBJECT:** Professions and vocations

**SOURCE:** Author

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**DIGEST:** This bill makes various changes to the operations of programs governed by practice acts in the Business and Professions Code and various professions regulated by these programs, stemming from prior sunset review oversight efforts.

**ANALYSIS:**

Existing law:

- 1) Provides for the licensure of registered dental hygienists in alternative practice (RDHAP), who must meet the same requirements as registered dental hygienists (RDHs) in addition to either meeting minimum experience and higher education requirements, or possessing a letter of acceptance into the employment utilization phase of the Health Workforce Pilot Project. Requires a RDHAP to provide the Dental Hygiene Board documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services. (Business and Professions Code (BPC) §§ 1922 and 1930)

- 2) Authorizes an RDHAP, in only limited settings including residences of the homebound; schools; residential facilities and other institutions; and, dental health professional shortage areas (DHPSA), as certified by the Department of Health Care Access and Information (HCAI) to perform specified, narrow services. (BPC § 1926)
- 3) Prohibits any person who does not have a valid, unrevoked, and unsuspended certificate as a physician and surgeon from the Medical Board of California (MBC) from using the words “doctor” or “physician,” the letters or prefix “Dr.,” the initials “M.D.,” or any other terms or letters indicating or implying that they are a physician and surgeon, with certain exceptions. (BPC § 2054)
- 4) Allows a person who has been issued a physician’s and surgeon’s certificate by the MBC to use the initials “M.D.” (BPC § 2055)
- 5) Makes it unlawful for any healing arts licensee to publically communicate a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services in connection with the professional practice or business for which they are licensed. (BPC § 651)
- 6) Makes it unlawful for any person to make or disseminate any statement in the advertising of services, professional or otherwise, which is untrue or misleading. (BPC § 17500)
- 7) Authorizes an independently practicing nurse practitioner (NP) to perform specified functions in a defined healthcare setting if the NP has met specified requirements and authorizes a NP who meets these requirements to practice in an outpatient health facility, except for a correctional treatment center or a state hospital; a health facility including a general acute care hospital; a county hospital; a medical group practice, including a professional medical corporation, as specified, another form of corporation controlled by physicians, a medical partnership, a medical foundation exempt from licensure, or another lawfully organized group of physicians that provide healthcare services; and a licensed hospice facility. (BPC §§ 2837.103, 2837.104)
- 8) Defines a transition to practice (TTP) for purposes of NP independent practice to mean “additional clinical experience and mentorship provided to prepare a NP to practice independently, and includes, but is not limited to, managing a panel of patients, working in a complex healthcare setting, interpersonal communication, interpersonal collaboration and team-based care,

professionalism and business management of a practice.” (BPC § 2837.101(c))

- 9) Defines “respiratory care” as a health care profession performed under the supervision of a medical director in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the pulmonary system and associated aspects of cardiopulmonary and other systems functions. (BPC § 3702)
- 10) Specifies various activities that are not prohibited by the Respiratory Care Practice Act, including a licensed vocational nurse (LVN) employed by a home health agency who has met certain training requirements performing Respiratory Care Board (RCB)-specified respiratory services. (BPC § 3765 (i))
- 11) Specifies that in order to become a licensed hairstylist, an applicant must be at least 17, complete 10th grade (or the equivalent of public school 10th grade), is not subject to denial based on having been convicted of a crime within a certain time frame that is substantially related to the qualifications, functions, or duties of being a hairstylist, and has either completed a course in hairstyling from a Board of Barbering and Cosmetology (BBC)-approved school or practiced hairstyling, as defined, in another state for a specified period of time. (BPC § 7322)

This bill:

- 1) Specifies that if the DHPSA certification is removed, a RDHAP with an existing practice in the area may continue to provide dental hygiene services.
- 2) Clarifies that no person shall use the words “doctor” or “physician,” the letters or prefix Dr., the initials M.D. or D.O., or any other terms or letters indicating or implying that the person is a physician and surgeon, physician, surgeon, or practitioner in a health care setting that would lead a reasonable patient to determine that person is a licensed M.D. or D.O.
- 3) Makes various changes to provisions in the Nursing Practice Act related to licensure of an NP practicing independently.
- 4) Clarifies that LVNs who have met specified requirements may perform specified respiratory care services as identified by the RCB in specified

settings and according to certain patient-specific training satisfactory to their employer.

- 5) Clarifies that BBC can only charge a hairstylist application and examination fee in an amount equal to BBC's actual costs for developing, purchasing, grading, and administering the examination. Limits a hairstylist's initial license to not more than \$50.
- 6) Replaces gendered language in the Structural Pest Control Act and eliminates the option for Structural Pest Control Board (SPCB) licensees to take challenge examinations in lieu of completing continuing education requirements.

## **Background**

- 1) *Registered Dental Hygienists in Alternative Practice.* As policymakers have explored opportunities to expand access to oral health care, it has continued to be argued that dental hygienists are underutilized and could play a larger role in delivering dental services to vulnerable communities. The issue of barriers to practice have been longstanding for RDHs, and particularly RDHAPs who are trained and authorized to provide unsupervised dental hygiene services in specified limited practice settings, settings that most likely result in a vulnerable and challenging patient populations - children, individuals with limited access to healthcare (and therefore likely with more advanced oral health conditions), and patients with compromised mobility or other health concerns that impede their ability to get dental care in more traditional settings. Currently, a RDHAP may establish a practice in a dental health professional shortage area, but once that shortage is deemed to no longer exist, the RDHAP must relocate his or her practice. Concerns remain that prohibiting a RDHAP from continuing to offer their narrow safe and effective services without supervision, as they can when a DHPSA designation is in place, once the designation is removed does not appear to benefit patients and the public. There is no change in the training, education, and skills the RDHAP receives and no adjustment to the fact that they still have to comply with scope of practice and standard of care laws – the only result of continued prohibition that these trained professionals serve patients once a designation is removed is further exacerbation of access to care challenges.
- 2) *Doctor Title Protection.* The Medical Practice Act currently prohibits any person from practicing or advertising as practicing medicine without a license. Statute specifically makes it a misdemeanor for any unlicensed person to use the words “doctor” or “physician,” the letters or prefix “Dr.,” the initials

“M.D.,” or any other terms or letters indicating or implying that the person is a licensed physician and surgeon on any sign, business card, or letterhead, or, in an advertisement. To use these words, prefixes, or initials, a person’s license must be valid, unrevoked, and unsuspended. The statute features three limited exceptions for individuals who are trained as physicians but not currently licensed in California.

General provisions governing health professional licensing boards make it unlawful for any healing arts licensee to publically communicate any false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of rendering professional services in connection with their licensed practice. Practitioners may advertise that they are certified or that they limit their practice to specific fields; however, the term “board certified” is reserved for physicians certified by an American Board of Medical Specialties member board. Additionally, Section 17500 of the Business and Professions Code makes it unlawful for any person to make any statement or advertisement with intent to perform services, professional or otherwise, that is untrue or misleading. While this code section covers a wide range of false advertisements by sellers of goods or services, its provisions would be applicable to health care licensees.

- 3) *Nurse Practitioners*. A NP is a registered nurse who has earned a postgraduate nursing degree, such as a Master’s or Doctorate degree, and has obtained a certificate from a national certifying body or Board of Registered Nursing (BRN)-approved educational program. In 2020, the Legislature passed, and the Governor signed, AB 890 (Wood, Chapter 256, Statutes of 2020) into law which set education and experience requirements for an NP to be eligible to practice independent of physician supervision. While AB 890 provided the definition of a TTP, it also required that the BRN define the minimum standards of the TTP through regulations by January 1, 2023. The BRN regulations further expanding on the TTP included requirements more stringent than AB 890 and which in some cases, do not include references that sync with current NP certification and the training and clinical experience of a NP.

While some categories have a corresponding physician specialty, such as pediatrics, a “women’s health” NP may have clinical experiences with a wide range of physician specialists and BRN regulations could leave those individuals without a physician to attest to their completion of the TTP.

The BRN regulations also narrowly define the TTP so that it must be completed in “direct patient care in the role of a [NP] in the category...in which the

applicant seeks certification as a NP...”. The BRN regulations were adopted in 2022 and effective at the beginning of 2023.

- 4) *Respiratory Care Services*. SB 1436 (Roth, Chapter 624, Statutes of 2022) resolved a serious and long-standing consumer safety issue regarding the safe practice of respiratory care in health care facilities by allowing the RCB to identify the basic respiratory tasks and services that could be safely delivered by LVNs. There is currently no legal path for LVNs to provide respiratory care services beyond basic care. Patients receiving home and community-based services often require advanced respiratory care. Respiratory care services are not “skilled nursing services.” Respiratory patients are often the most vulnerable of the home and community-based patient population with an overwhelming majority of those patients reliant upon Medi-Cal reimbursement.
- 5) *Barbering and Cosmetology Hairstylist License*. In 2021, SB 803 (Roth, Chapter 648, Statutes of 2021) continued the operations of the BBC until January 1, 2027 and made various technical changes, statutory improvements, and policy reforms to the Act based on the joint sunset review oversight of BBC by the Senate Business, Professions, and Economic Development Committee and Assembly Business and Professions Committee. SB 803 established a separate hairstylist license and outlined a specified practice of hairstyling that includes arranging, dressing, curling, cleansing, and shampooing, among other hair-specific beautification practices that utilize instruments or require chemical products to be applied.
- 6) *Structural Pest Control*. The Structural Pest Control Act requires that licensees fulfill continuing education (CE) requirements by completing industry-relevant courses to stay fluent with technology and accepted professional practices. Instead of completing CE courses, current law also provides an alternative option of taking and successfully completing an examination. Currently, BPC sections 8593 and 8593.1 require the SPCB offer examinations to its licensees to take in lieu of completing their CE requirements. On March 6, 2017, the United States Environmental Protection Agency (U.S. EPA) revised the federal rule for certification and recertification of applicators of restricted use pesticides under the Code of Federal Regulations Part 171 (40 CFR 171). This affects SPCB’s Field Representative and Operator license types because the federal rule specifies that if recertification is based upon written examination, the State must ensure the examination evaluates whether the licensee demonstrates the level of competencies.



## Comments

- 1) *Use of the term “Dr.” and potential unintended consequences.* Various health professional licensee practice acts authorize use of the term “Doctor” or “Dr.” under specified circumstances and limitations. For example, an acupuncturist can use the term in connection with the practice of acupuncture if they possess an earned doctorate degree in specific disciplines and the title is related to the authorized practice of an acupuncturist. An optometrist can use the title as a prefix but must use the word “optometrist” as a suffix and only if they hold an Opt. D or O.D. diploma. A physical therapist and an occupational therapist who has received a doctoral degree can use the term if they also specify they are a physical therapist or occupational therapist. A naturopathic doctor is authorized to use the designation “Dr.” if they also further identify themselves as a naturopathic doctor so long as they do not use any term that would indicate the practice of medicine other than naturopathic medicine. In order to ensure that licensed healthcare professionals authorized to utilize the title “Doctor” or “Dr.”, according to the specified requirements and limitations for the use of that term in various Business and Professions Code practice acts, are not in violation of the Medical Practice Act due to the changes in this bill, the Author is proposing to amend this bill moving forward to clarify that licensees whose practice act authorizes limited use of the title are not prevented from continuing to do so.
- 2) *RDHAP practice.* In order to ensure access to quality dental care for vulnerable patients, the Author is proposing to amend this bill moving forward to facilitate better connection and collaboration between RDHAPs who continue to operate a practice in a dental shortage area and dentists who can increase comprehensive care opportunities to those patients.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

**SUPPORT:** (Verified 5/6/24)

California Association for Nurse Practitioners  
California Association of Alcohol and Drug Program Executives, Inc.  
California Dental Hygienists’ Association  
California Dental Hygienists Association  
California Nurses Association  
Leading Age California

Little Lobbyists  
Pediatric Day Health Care Coalition  
Respiratory Care Board of California

**OPPOSITION:** (Verified 5/6/24)

California Dental Association  
The California Naturopathic Doctors Association

**ARGUMENTS IN SUPPORT:** The California Association for Nurse Practitioners says that the BRN refusal to approve applications from NPs certified by legacy boards hinders the goals of AB 890 by blocking access to care, rather than increasing access to care.

Organizations in support of this bill state that California is the largest and most diverse state in the nation, yet we have a severe health care provider gap, particularly among primary care and behavioral health providers...NPs are critical to addressing these shortages – not only do they accept greater numbers of uninsured, Medi-Cal, and Medicare patients compared to physicians, but NPs are also more likely to work in rural and underserved communities. Additionally, to address the urgent health needs of our state in a sustainable and equitable manner, organizations in support of this bill say that we must ensure NPs are able to close the provider gap. By providing clarifying guidance surrounding legacy certifications, this bill will help streamline the application process and enable California’s most experienced NPs to expand access to quality, affordable care.

According to the California Dental Hygienists’ Association, “The legislature’s goal is to increase access to oral healthcare in dental deserts. Therefore, it is essential amend the statute and allow APs to keep their practices open if the DHPSA designation is removed... This uncertainty in statute is impeding AP hygienists from investing in and opening dental hygiene practices in shortage areas. APs would be incentivized to invest in these shortage areas if the risk of losing their practice was removed.

The Respiratory Care Board of California notes that this bill “addresses the immediate need to ensure patients are not in jeopardy of having their lives severely disrupted by providing additional exemptions allowing LVNs with appropriate training to practice respiratory care in home and community-based settings where it is not feasible to employ a licensed RCP.”

**ARGUMENTS IN OPPOSITION:** The California Dental Association opposes allowing RDHAPs to continue their independent brick-and-mortar practices

outside of a DHPSA designation and has suggested changes such as ensuring that 30% of an RDHAP's brick and mortar practice's patient base be in service of Medi-Cal Dental patients in the unlikely scenario a DHPSA designation was removed. "This requirement is consistent with dentists and physicians receiving student loan repayment and would ensure access to dental care for the state's most vulnerable populations."

Prepared by: Sarah Mason / B., P. & E.D. /  
5/8/24 13:47:37

\*\*\*\* **END** \*\*\*\*