

# Policy At A Glance:

## AB 890: Nurse Practitioners: Scope of Practice: Practice without Standardized Procedures

*Signed by Governor Newsom on September 29, 2020, AB 890 expands the scope of practice for nurse practitioners (NPs) in California, creating two new categories of NPs. This brief provides an overview of the two new categories of NPs and additional directives by the new law.*

## Background Information

According to the California Future Health Workforce Commission (CFHWC), the state of California will face a shortfall of 4,100 primary care clinicians and 600,000 healthcare workers by 2030.<sup>1</sup> To meet this impending provider shortage and other challenges such as Health Professional Shortage Areas (HPSAs), CFHWC proposed 10 priority actions from its 27 recommendations.<sup>1</sup> One of the 10 priority actions was to “maximize the role of nurse practitioners as part of the care team to help fill gaps in primary care, helping to increase the number of nurse practitioners to 44,000 by 2028, and providing them with greater practice authority, with particular emphasis in rural and urban underserved communities.”<sup>2</sup>

As CFHWC released its final report and recommendations in February 2019, Assemblyman Jim Wood introduced AB 890 to expand the scope of practice for NPs, who are nurses with advance training and master’s or doctorate degrees in nursing.<sup>3</sup> After many committee hearings and some amendments, AB 890 passed out of the California Legislature on August 31, 2020, and was signed into law by Governor Gavin Newsom on September 29, 2020.<sup>3,4</sup>

### *Relevant Dates for AB 890*

- 2/20/2019** Introduced in the CA Assembly
- 1/27/2020** Passed by the CA Assembly
- 8/31/2020** Passed by the CA Senate with amendments and concurred by the Assembly on the Senate version
- 9/29/2020** Signed into law by the Governor
- 1/1/2023** Certification of the newly created NPs goes into effect

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# Creation of Two New Categories of NPs

AB 890 creates two new categories of NPs to function independently within a defined scope of practice without “standardized procedures” previously outlined in existing law, the Nursing Practice Act.<sup>5</sup> The two categories are Section 103 NPs and Section 104 NPs. While the framework of the law appears to authorize a Section 104 NP to practice as a Section 103 NP, the reverse is not true.

## Section 103 Nurse Practitioner

Section 103 NPs, named as such in reference to the Business and Professions Code (BPC) Section 2837.103, would be eligible to practice independently within a defined scope of practice without standardized procedures if they 1) work in one of the defined settings (see blue box below) in which one or more physicians and surgeons practice and 2) satisfy the following requirements<sup>5-7</sup>:

- Receive NP education from a school approved by the Board of Registered Nursing (BRN)
- Pass a national NP board certification exam
- Pass any applicable supplemental examination by the Department of Consumer Affairs Office of Professional Examination Services (OPES)
- Hold certification as an NP from a national certifying body
- Complete a transition to practice (TTP) in California for a minimum of 3 full-time equivalent years of practice or 4,600 hours. The TTP experience may include experience obtained before January 1, 2021, if the experience meets the requirements established by the BRN.

## Authorized Settings for Section 103 NPs

- A clinic, as defined in Section 1200 of the Health and Safety Code (HSC)
- A health facility, as defined in Section 1250 of HSC, except for a correctional treatment center or state hospital
- A facility described in Chapter 2.5 of Division 2 of HSC
- A medical group practice, including a professional medical corporation, as defined in Section 2406 of HSC
- A home health agency, as defined in Section 1727 of HSC
- A hospice facility licensed pursuant to Chapter 8.5 of Division 2 of HSC



## Section 104 Nurse Practitioner

Section 104 NPs, named as such in reference to the Business and Professions Code (BPC) Section 2837.104, would be eligible to practice independently within a defined scope of practice without standardized procedures in settings outside those listed for Section 103 NPs. In other words, Section 104 NPs can open up their own practice or business without physicians.

In addition to meeting all the requirements outlined for the 103 NPs, a 104 NP must hold a valid and active RN license in California; have a doctorate degree in nursing or a master's degree in nursing or in a clinical field related to nursing; and have practiced as an NP in good standing for at least 3 years, not including the TTP time. The BRN may, however, exercise its discretion to lower this 3 year requirement for an NP holding a Doctor of Nursing Practice (DNP) degree based on practice experience gained in the course of doctoral education. The section of the law that allows for the creation of the 104 NPs goes into effect on January 1, 2023, so NPs will not be eligible to become a 104 NP until that date.<sup>5-7</sup>

## Additional Directives

In addition to defining their scope of practice and obligations, AB 890 contains additional directives regarding these two new categories of NPs.<sup>5-7</sup>

**Nurse Practitioner Advisory Committee:** AB 890 directs the BRN to create a Nurse Practitioner

Advisory Committee to advise and make recommendations on matters relating to nurse practitioners, including education, appropriate standard of care and pending disciplinary actions. The committee should have 7 members: four qualified NPs, two physicians and one public member.

**Occupational analysis and supplemental exam:** AB 890 requires the Department of Consumer Affairs to perform an occupational analysis by January 1, 2023, in order to determine, along with the BRN, whether or not national nurse practitioner board certification is sufficient to determine competency of Section 103 and Section 104 NPs to perform the functions specified in the law. In the event these are insufficient, AB 890 directs the BRN to identify and develop a supplemental exam.

**Minimum standards for transition to practice (TTP):** AB 890 directs the BRN to define minimum standards for TTP. According to the law, TTP means additional clinical experience and mentorship provided to prepare an NP to practice independently. TTP includes, but is not limited to, managing a panel of patients, working in a complex health care setting, interpersonal communication, professionalism, interpersonal collaboration and team-based care, and business management of a practice.

**Prohibition against self-referral:** AB 890 makes the self-referral prohibition under the Physician Ownership & Referral Act (PORA) applicable to NPs as well.

## Conclusion

With the passage of AB 890, California joins 28 other states that already allow nurse practitioners to practice independently.<sup>8</sup> Undoubtedly, AB 890 has many implications for the future of healthcare in California. Only time will tell the story of its true impact on provider shortage (especially in Health Professional Shortage Areas), patient care, and healthcare institutions. As the BRN and the Nurse Practitioner Advisory Committee work to hammer out the details for the implementation of this new law, academic health science centers, other healthcare entities, and healthcare providers affected by this new law will need to keep up with any additional requirements regarding these new categories of nurse practitioners.

## References

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## Did you know?

There are over 290,000 licensed nurse practitioners in the United States and about 28,000 of them practice in the state of California.<sup>9,10</sup>



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