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**SENATE COMMITTEE ON  
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**

Senator Dr. Aisha Wahab, Chair  
2025 - 2026 Regular

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<b>Bill No:</b>	SB 1304	<b>Hearing Date:</b>	4/20/2026
<b>Author:</b>	Wahab		
<b>Version:</b>	April 15, 2026		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Anna Billy		

**Subject:** Respiratory Care Practice Act

**SUMMARY:** The sunset bill for the Board of Respiratory Care (RCB or Board); makes various changes to the regulation of licensed respiratory care practitioners (RCPs) by RCB stemming from the joint sunset review oversight of the RCB.

**Existing law:**

- 1) Establishes, until January 1, 2027, the RCB responsible for the licensing and enforcement of the respiratory care profession in California. (Business & Professions Code (BPC) § 3700 et seq.)

**This bill:**

- 1) Extends the operations of RCB and its authority for RCB to appoint an executive officer (EO) from January 1, 2027, to January 1, 2031.
- 2) Increases the renewal ceiling fee to \$375 and permanently eliminates the license fee for applicants applying for licensure.
- 3) Provides a technical name change to the national examination title to consolidate both the National Board for Respiratory Care's multiple-choice exam and the clinical exam.
- 4) Adds additional exempt practice settings licensed vocational nurses (LVNs) may perform respiratory care services, as specified; requires LVN's to complete patient-specific training satisfactory to their employer on or before January 1, 2028 and before the provision of care; and on or after January 1, 2028 requires LVN's, in accordance with guidelines that shall be promulgated by the RCB and in collaboration with the Board of Vocational Nurses and Psychiatric Technicians (BVNPT), to complete task-specific training on each respiratory task or service the LVN will perform; specifies that training may be provided by the employer directly or through the California Association of Medical Suppliers (CAMPS), the California Society for Respiratory Care (CSRC), or another organization identified by the Board; and requires LVN's complete patient-specific training provided by their employer.
- 5) Provides the RCB with authorization to grant automatic license suspension upon felony conviction for specified offenses and automatic license revocation for

licensees convicted of specified felonies involving sexual misconduct or serious violence.

**FISCAL EFFECT:** Unknown. This bill is keyed fiscal by Legislative Counsel.

**COMMENTS:**

1. **Purpose.** This bill is one of five sunset bills sponsored by the Author. According to the Author, “This bill is necessary to make changes to the Board of Respiratory Care to improve oversight of the regulated professions under the jurisdiction of the Board.”
2. **Oversight Hearings and Sunset Review of Licensing Boards and Programs.** In March 2026, the Senate Business, Professions and Economic Development Committee and the Assembly Committee on Business and Professions (Committees) began their comprehensive sunset review oversight of 10 regulatory entities including the RCB. The Committees conducted three oversight hearings. This bill and the accompanying sunset bills are intended to implement legislative changes as recommended by the staff of the Committees, and which are reflected in the Background Papers prepared by the Committee staff for each agency and program reviewed this year.

**Background on RCB.** RCB licenses and regulates Respiratory Care Practitioners. RCPs are one of three licensed health care professionals who work at patients’ bedsides, the other two being physicians and nurses. RCPs work under the direction of a medical director and specialize in evaluating and treating patients with breathing difficulties as a result of heart, lung, and other disorders, as well as providing diagnostic, educational, and rehabilitation services. RCPs are utilized in virtually all health care settings.

RCPs provide services to patients ranging from premature infants to older adults. RCPs provide treatments for patients who have breathing difficulties and care for those who are dependent upon life support and cannot breathe on their own. RCPs treat patients with acute and chronic diseases including chronic obstructive pulmonary disease (COPD), trauma victims, and surgery patients. Common RCP patients include individuals suffering from:

- Asthma
- Bronchitis
- Heart attack
- Cystic fibrosis
- Emphysema
- Stroke
- Lung cancer
- Premature infants and infants with birth defects
- High-risk influenza/COVID-19

The Board currently issues over 1,200 new licenses and renews over 10,000 licenses each year. As of June 30, 2025, the Board had 21,390 active licensees, 2,799 delinquent licensees, and 891 current but inactive licensees. Of these licensees, 1,536 live out of the state or country. An additional 1,474 licenses have been placed in retirement status as of June 30, 2025.

Business and Professions Code (BPC) § 3710.1 states that the protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions.

3. **Sunset Review Oversight of RCB.** The following are select issues pertaining to the RCB that will be addressed in this bill moving forward, along with background information concerning the particular issue.

- a) **Increase the License Renewal Fee and Renewal Ceiling Fee and Permanently Eliminate the Initial License Fee**

Background: The authority for the Board's fees is established in BPC § 3775 and provides either a ceiling for the fee amount or an actual amount. This section also provides the Board with some flexibility, authorizing it to reduce the amount of any fee at its discretion.

The Board pays pro rata from its fund, most of the revenue for which comes from licensing and renewal fees. After two decades of not raising fees, the Board raised renewal fees over a four-year period from \$230-\$330 primarily due to increases in pro rata costs, hence threatening the stability of the fund. Following fee increases, the fund condition stabilized. The Board does not expect to increase fees in the foreseeable future as the Board's fund for FY 2022/23 and beyond is stable and the Board has no plans in the immediate future to raise expenditures. The statutory cap for renewal fees is set at \$330. The Board is recommending increasing the license renewal fee from \$230 to \$330 and capping the renewal ceiling fee at \$375.

However, as a proactive measure the Board is recommending a modest statutory increase to the renewal ceiling fee to establish a safeguard against potential future developments, including legislative or regulatory mandates, unanticipated fee increases imposed by other agencies, or potential expenses arising from significant enforcement actions or unforeseen litigation. The Board notes that having an increased statutory fee ceiling already in place allows a regulatory fee adjustment to be implemented in less than a year, if the Board experiences a financial burden, ensuring the Board remains financially stable.

In 2012, the Board eliminated charging applicants its initial license fee in order to reduce application processing times and increased the application fee from \$200-\$300. The Board is recommending to permanently eliminate the initial license fee to prevent any additional financial burden on applicants.

The Board also proposes to repeal provisions in BPC § 3775, which prohibits the Board from maintaining a fund reserve balance that is greater than six months of the annual authorized expenditures of the Board in any FY. In the last four years

the Board reports a fund reserve balance averaging over the six-month authorized limit. The Board states that the six-month reserve is no longer sufficient, and defers to BPC § 128.5 (b), which prohibits boards and bureaus from having a fund reserve greater than two-years operating budget in any FY. If the fund reserve equals or exceeds its operating budget in a FY, the board must reduce its licensing fees accordingly. For all other boards and bureaus under the DCA, excluding the Contractors State License Board, they abide by BPC § 128.5.

This bill will provide the Board with statutory authority to increase the renewal licensing fee and the renewal ceiling fee while permanently eliminating the initial license fee.

#### **b) Revise the National Board of Respiratory Care Examinations Title**

Background: The Board currently utilizes the National Board for Respiratory Care's (NBRC) Registered Respiratory Therapist (RRT) examinations, which include both the Therapist Multiple-Choice (TMC) Examination and the Clinical Stimulation Examination (CSE), as the basis for licensure.

Beginning in January 2027, the NBRC will launch a redesigned examination pathway aimed at simplifying the process for individuals entering the respiratory care field, while preserving the profession's high standards. The updated approach will merge existing examinations to lessen obstacles for recent graduates and broaden access. In addition, the NBRC will embed clinical judgment testing within an expanded multiple-choice structure, providing a more comprehensive measure of knowledge, critical thinking, and practice readiness.

This bill will revise the NBRC examinations title to reflect the consolidation of the current examinations required for licensure.

#### **c) Provide Clarification for Individuals in Specified Settings and Under Certain Circumstances to be Authorized to Provide Limited Respiratory Care Services Without Facing Sanctions for the Unlicensed Practice of Respiratory Therapy**

Background: For over 20 years, the Board and BVNPT have differed in their view of whether LVNs are legally authorized to provide certain respiratory services, including mechanical ventilator care, and have long discussed the difference in education and training between LVNs and RCPs. BVNPT maintains that because LVNs learn about the respiratory system, they are trained and educated to provide respiratory services, regardless of the fact that the LVN practice act does not confer any authority for the LVN "to practice medicine or surgery, to provide respiratory care services and treatment, or to undertake the prevention, treatment, or cure of disease, pain, injury, deformity, or mental or physical condition in violation of any provision of law" pursuant to BPC § 2860 (a). At one point, BVNPT issued guidance to its licensees saying that according to that board, they were authorized to adjust ventilator settings and do various related respiratory tasks, despite not having any statutory or regulatory authority to support that administrative guidance. The RCB has remained concerned about the patient safety implications of this messaging, noting that BVNPT has failed to revoke the policy even though there is no

accompanying legal justification for it. The Board notes that LVNs performing services beyond the basic care they are authorized to engage in has led to adverse incidents resulting in death or serious harm that the Board is made aware of via requirements to take enforcement action for unlicensed practice.

The Board and BVNPT began to work collaboratively again in 2019 and issued a joint statement clarifying RCP and LVN roles relating to patient care, particularly for patients reliant on mechanical ventilators. In 2022, SB 1436 (Roth, Chapter 624, Statutes of 2022), amended the Vocational Nursing Practice Act to reiterate that LVN's do not possess independent authority to perform respiratory care services or treatments that are not specifically identified by the RCB. SB 1436 authorized LVNs with appropriate training, to perform only those basic respiratory tasks expressly identified by the Board. The Board-authorized tasks must be manual or technical in nature or involve data collection and must not require any form of respiratory assessment. This was intended to ensure that LVN involvement in respiratory care is restricted to narrowly defined, non-clinical activities that do not overlap with the specialized judgement and skills of RCPs.

The bill recognized the unique care needs in home settings and provided clarifications to ensure LVNs performing certain tasks pursuant to employer training would not be considered the practice of respiratory care, ensuring that the LVN would not face unlicensed activity enforcement under narrow circumstances. By the time SB 1436 took effect, the Board had presented the topic and issue at numerous public board meetings and the language in the bill had been considered at numerous public Legislative hearings.

Since the passage of SB 1436, the Board became aware of other licensed home and community-based facilities and patients not covered in the exemptions outlined by that bill. Settings with only one or a few patients requiring respiratory services make it unfeasible to hire a full-time RCP and the Board sought to find balance to ensure patients would not be re-institutionalized or lose access to daily living services. In response to stakeholder concerns, the Board conducted extensive research to identify additional types of facilities, like small facilities outside of acute care facilities and independent providers who provide for transport and/or overseeing care of patients during daily activities, such as an outing, attending school, or providing a few hours of relief for parents' in-home care.

SB 1451 (Ashby, Chapter 480, Statutes of 2024) further amended the Act to add new exemptions for LVNs working in additional community-based settings to clarify that those individuals would not be considered to be practicing respiratory care and subject to RCB oversight. SB 1451 provided that LVNs employed by exempt home health agencies or working in designated home and community based exempt settings may perform additional respiratory tasks, beyond basic level, if they have received appropriate task and patient specific employer training and obtained valid competency certification for each respiratory task from a board-recognized organization.

In March 2024, the Board initiated the first of several new regulatory packages to define Board-approved basic respiratory tasks and services that LVNs may lawfully perform, in accordance with requirements for the Board to undertake this work. The

regulatory language, discussed extensively at public meetings, explicitly listed the tasks that could be considered “basic”, while also clarifying the limits of LVN practice. The Office of Administrative Law approved the regulation defining basic respiratory tasks and services that may be performed by LVNs to require manual, technical skills, or data collection without conducting a respiratory assessment. The regulation became effective on October 1, 2025.

While the basic respiratory tasks and services regulation provided clarity for licensed health care facilities, it erroneously did not include the additional exempt settings as added by SB 1451. This oversight prompted questions and concerns regarding the level of care permitted in home health and community-based settings where LVNs have historically provided respiratory care beyond respiratory care services. To address these concerns, on January 12, 2026, the OAL approved an emergency amendment that clarified that the LVNs performing respiratory care services identified by the RCB while working in the specified home and community based exempt settings are not engaging in respiratory care.

The Board continued to receive questions from stakeholders specifically related to how its regulatory definition of basic respiratory services impacts suctioning-related tasks involving oral, nasal and tracheostomy-related care. According to the Board, the questions generally related to tasks that were typically viewed as basic nursing or caregiving functions and were not intended to be regulated as respiratory care services by RCB. To address this concern, on January 23, 2026, the Board held a Professional Qualifications Committee (PQC) meeting to discuss stakeholder feedback, examine how certain suctioning tasks are described and categorized under CCR, Title 16, §1399.365 and consider whether additional clarification is necessary. As discussed during the PQC meeting, the Board’s regulatory concerns were focused on suctioning that involves *entry into the airway* and carries associated respiratory risks, such as bronchospasm, hypoxemia, mucosal trauma, or hemodynamic instability. The Board states that the regulation was structured to address suctioning procedures that rise to the level of respiratory care because they involve airway entry and require clinical respiratory assessment.

The PQC has determined that superficial nasal suctioning, within the nasal cavity only, is commonly treated as a basic nursing or caregiver task and does not involve airway entry, and therefore, does not rise to the level of requiring a clinical respiratory assessment. Nasal suctioning becomes a respiratory task when it enters the pharynx or airway therefore requiring a clinical respiratory assessment.

The PQC has determined that suctioning that remains confined to the interior of the tracheostomy tube and does not pass beyond the distal end of the tube is commonly treated as a basic nursing or caregiver task and does not involve airway entry, and therefore, does not rise to the level of requiring a clinical respiratory assessment.

The regulation does not address oral suctioning. Currently, oral suctioning is permissible when it is limited to the visible oral cavity and does not enter the airway or the oropharynx. The PQC has determined that oral suctioning becomes a respiratory task when it enters beyond the oral cavity into the oropharynx or airway therefore requiring a clinical respiratory assessment.

At the March 2025, Board meeting initial conceptual regulatory language was presented for three proposed sections to CCR Title 16, §§ 1399.361, 1399.362 and 1399.363, implementing the statutory framework created by SB 1451. The Board was provided with detailed feedback from board members and stakeholders to help refine the draft language. The clarified task lists aligned the terminology with national respiratory care standards, and separated the rulemaking package into three coordinated components:

- 1399.361 - Define the scope of respiratory care tasks and services LVNs may perform in home health and community-based settings.
- 1399.362 – Establish training guidelines (to be developed in collaboration with the BVNPT) including certification requirements, for LVNs practicing under the new exemptions.
- 1399.363 - Set forth guidelines for Demonstrated Limited-Competency Certification issued by the California Society for Respiratory Care, California Association of Medical Suppliers or another organization identified by the Board.

This framework was designed to ensure that any expansion of LVN performance of respiratory care is coupled with consistent training, supervision, and competency safeguards as required per statute. At the November 2025, board meeting the regulatory language clarifying the scope of respiratory tasks that LVNs may perform in exempt settings was approved. The rulemaking process is anticipated to be completed by January 2027. The RCB reports that board staff have initiated coordination with training providers and will continue working closely with the BVNPT and other stakeholders to refine the regulatory language establishing corresponding training standards. The final regulatory package is expected to be completed and adopted by or prior to the existing January 1, 2028, implementation date, barring any unforeseen obstacles.

This bill updates the exempt settings that LVN's may perform respiratory care services, as specified, and requires LVN's complete patient-specific and task-specific training, and competency standards, as specified.

**d) Allow the Board to automatically suspend and revoke licenses for certain felony convictions.**

Background: The Board currently has disciplinary authority in statute pursuant to BPC §§ 3750 – 3755. This disciplinary authority allows the Board to establish general grounds for suspensions, revocation or probation of a license for unprofessional conduct, guilty pleas, guilty verdicts or no contest pleas that result in a conviction, crimes involving bodily injury or attempted bodily injury, sexual misconduct or attempted sexual misconduct whether with or without a patient and to establish mandatory license revocation for sexual misconduct with patients or certain offenses.

The Board reports that their overall goal for all cases to be completed from the date the complaint is filed to final adjudication is 540 days or 18 months. In FY 2021-22 through FY 2024-25, the Board notes the adjudication process for cases

was completed in an average of 444 days well under its target processing goals. The only exception is for cases that are referred to the OAG and are out of the Board's control. The Board acknowledges that the OAG has made significant progress in reducing processing times and is largely responsible for the marked improvements enabling the Board to largely meet its target goals over the last four years. As noted in the Board's 2026 Sunset Review report, 76% of cases in which formal discipline of a license or denial of an application pursued through the OAG were closed in one year.

As previously stated, licensees may still practice during the administrative process, putting vulnerable patients at risk. Allowing licensees convicted of serious felony offenses to continue practicing during extended administrative proceedings undermines public trust and jeopardizes patient safety.

To bridge this gap in enforcement, the Board is recommending a legislative proposal modeled after the Medical Board of California statute which would authorize automatic license suspension upon felony conviction for specified offenses and automatic license revocation for licensees convicted of specified felony offenses involving sexual misconduct or serious violence. The Board states this proposal balances protecting patients with an enforceable mechanism while maintaining due process for licensees through limited hearings on procedural issues.

This bill allows the RCB to automatically suspend and revoke licenses for certain felony convictions.

4. **Arguments in Support.** The Respiratory Care Board of California writes in support, "SB 1304 includes several targeted updates that improve patient safety and regulatory effectiveness including establishing mandatory suspension and subsequent revocation of a license upon conviction of specified serious felonies, ensuring individuals who pose a risk are promptly removed from patient care settings, while preserving due process if a conviction is overturned; modernizes licensure requirements by aligning the examination standard with the National Board of Respiratory Care's Registered Respiratory Therapist credential, ensuring new licensees meet current national competency expectations; clarifies and expands the role of licensed vocational nurses in defined settings by updating exemptions and reinforcing training and competency standards; and increases the renewal ceiling fee and outdated fee provisions, and authorizes future updates within reasonable limits to maintain fiscal stability, support enforcement activities, and ensure continued service levels."

#### **SUPPORT AND OPPOSITION:**

##### Support:

Respiratory Care Board of California

##### Opposition:

None received

**-- END --**