SENATE THIRD READING
SB 1304 (Wahab)
As Amended July 1, 2026
Majority vote

SUMMARY

Makes updates, clarifications, and other changes to the regulation of licensed respiratory care practitioners (RCPs) and the practice of respiratory care by RCPs and licensed vocational nurses (LVNs) recommended as part of the joint sunset review oversight of the Respiratory Care Board of California (RCB).

Major Provisions

1) Authorizes LVNs to perform specified respiratory tasks identified by the RCB in specified congregate, day center, and home health settings.

2) Adds specified suctioning tasks to the practice of vocational nursing.

3) Extends the operation of the RCB until January 1, 2031.

4) Updates title of the national examination and makes a conforming change to the required cut-off level.

5) Authorizes the RCB to automatically suspend and revoke licenses for specified serious felony convictions.

6) Makes the following changes to the congregate, day center, and home health settings where LVNs may practice respiratory care:

   a) Changes the required training from patient-specific to task-specific.

   b) Combines the employer-provided training and the organization-based training into one list of options.

   c) Increases the bed limit for intermediate care facilities to 15 and removes the 6-bed limit for others.

   d) Deletes the home health employment pathway and instead adds home health agency to the list of settings licensed by the California Department of Public Health (CDPH) along with hospice agencies and hospice facilities.

   e) Expands the facilities licensed by the Department of Social Services to include adult residential facilities, adult residential facilities for persons with special health care needs, group homes, group homes for children with special health care needs, enhanced behavioral supports homes, community crisis homes, residential care facilities for the elderly, residential care facilities for the chronically ill, adult day programs, and therapeutic day services facilities.

   f) Adds medical foster homes for veterans approved by the United States Department of Veterans Affairs.

g) Adds family home agencies and regional centers.

7) Defines, for purposes of all respiratory care exempted from the Respiratory Care Act, "employer" as:

   a) A person, agency, facility, organization, or entity responsible for assigning, directing, or coordinating the care provided by the licensed vocational nurse.

   b) When applicable, a family member or legal guardian authorized under the patient's plan of care to perform that function.

8) Deletes the exemption to the Respiratory Care Practice Act (RC) Act for performance of pulmonary function testing by persons who are currently employed by Los Angeles County hospitals and have performed pulmonary function testing for at least 15 years.

   a) Deletes the $300 fee for issuance of an initial license.

   b) Increases the license renewal fee from $230 to $330 and authorizes the RCB to increase the fee to $375 through rulemaking.

9) Specifies that the practice of respiratory care, for purposes of licensure under the Respiratory Care Practice Act, does not include:

   a) Documenting observations and gathering and reporting data to another health care provider, without analysis, interpretation, or independent clinical decisionmaking.

   b) Any task that is not identified by the RCB and does not require a respiratory assessment at the time of the task.

10) Defines, "respiratory assessment," for purposes of non-respiratory tasks, to mean conducting analysis to make recommendations concerning the respiratory management, diagnosis, treatment, or care of a patient or as a means to perform any task in regard to the respiratory care of a patient.

COMMENTS

Background. Each year, the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions, and Economic Development hold joint sunset review oversight hearings to review the licensing entities under the Department of Consumer Affairs (DCA). The DCA boards, bureaus, and other entities are responsible for protecting consumers and the public and regulating the professionals they license. The sunset review process provides an opportunity for the legislature, DCA, licensing entities, and stakeholders to discuss the entities' performance and make recommendations for improvements.

Each licensing entity subject to review has an enacting statute with a repeal date, meaning their authority must be extended by the legislature before the repeal date. This bill is a "sunset" bill, intended to extend the repeal date of the RCB, as well as incorporate the recommendations from the sunset review oversight hearings. This year there are ten boards up for review, each with their own sunset bill. Five of those sunset review bills are authored by the chair of the Assembly

Committee on Business and Professions and the other five are authored by the chair of the Senate Committee on Business, Professions, and Economic Development.

RCB. The RCB is responsible for administering and enforcing the Respiratory Care Act, which establishes the board and contains the regulatory framework for the practice of respiratory care. According to the RCB:

> RCPs are one of three licensed healthcare professionals typically found at patients' bedsides, alongside physicians and nurses. RCPs work under the direction of a medical director and specialize in providing evaluation of, and treatment to, patients with breathing difficulties as a result of heart, lung, and other disorders, as well as providing diagnostic, educational, and rehabilitation services. RCPs are needed in virtually all health care settings.
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> On a daily basis, 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.

The RCB's primary function is to run the licensing, education, and disciplinary programs for RCPs. At the end of fiscal year (FY) 2024-25, the RCB reported a total of 21,390 active, in-state licensees. It also reported 36 respiratory care education programs in California that are approved by the RCB by virtue of their accreditation status.

The RCB's mission statement, as stated in its *2023-2027 Strategic Plan*, is: "To protect and serve consumers by licensing qualified respiratory care practitioners, enforcing the provisions of the Respiratory Care Practice Act, expanding the availability of respiratory care services, increasing public awareness of the profession, and supporting the development and education of respiratory care practitioners."

Sunset Review. The RCB is currently under sunset review. As part of that review, committee staff publish background papers that identify outstanding issues related to the entity being reviewed. This bill addresses some of the identified issues while others remain in active discussion. The issues are discussed further in the policy committee analysis.

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."

Arguments in Support
The *California Assisted Living Association* writes in support:

> The California Assisted Living Association (CALA), representing Residential Care Facilities for the Elderly (RCFEs) and Continuing Care Retirement Communities (CCRCs) throughout the state, is pleased to support [this bill].
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> Prior to implementation on October 1, 2025 of the Respiratory Care Board's regulations defining basic respiratory tasks, Licensed Vocational Nurses (LVNs) had been safely providing care in Assisted Living communities, among other settings, that generally included assisting residents with CPAP and BiPAP machines and with oxygen. While RCFEs are not

required to provide nurses, many choose to employ nurses for these types of basic services and for medication administration so that residents don't have to live in a skilled nursing facility simply due to the need for assistance with these basic tasks. The updated regulations created challenges for existing residents and prospective residents not capable of managing these systems on their own.

We appreciate the amendments to [this bill] that allow current staff working in RCFEs to resume providing these basic tasks, for which they have been adequately trained, and allow residents to remain in the least restrictive setting.

The *California Association of Medical Product Suppliers* writes in support:

We appreciate that [this bill], as amended on April 15, 2026, includes clear authorization for LVNs who have received training from their employer to continue performing intermediate tasks & services so as not to disrupt the continuity of care for medically fragile children and adults who choose to receive respiratory care services and the normalcy of life at home and in community-based settings with their families instead of in a hospital or other institutional setting.

With regard to the requirements that take effect on or after January 1, 2028, we ask that the Committee consider an amendment to give employers a 12 month "training and compliance window" after the release of the RCB's guidelines. This will allow a sufficient amount of time for LVNs to complete the required training, and for facility administrators to ensure full compliance and a smooth transition before implementation deadlines take effect. Establishing a "training and compliance window" will also enable facility administrators to coordinate schedules, maintain staffing levels, and minimize disruption to daily operations while LVNs under their employ work toward meeting the new training requirements.

To this end, we request that the date in Business and Professions Code Section (BPC) 3765 (a)(9)(B) be removed as we cannot be sure if the guidelines will be completed sooner or later than the data specified.

We note that Sections (C) (iv) and (iiv) allow for LVNs to provide respiratory care tasks and services for adults with developmental disabilities as part of services provided through a family home agency, as defined in Section 4689.1 of the Welfare and Institutions Code, and as part of supported living services provided pursuant to Section 4689 of the Welfare and Institutions Code.

The Legislature and Governor have consistently supported the expansion of home and community-based services which allow patients with complex medical conditions to remain in familiar environments with family and community members, promoting emotional well-being and stability alongside their medical treatment. Some examples include:

1) The California Program of All-Inclusive Care for the Elderly (PACE) program serves individuals with significant health needs with the intent to provide preventive, primary, acute, and LTC services so older individuals can continue living in the community and avoid hospitalization and skilled nursing facility (SNF) services. PACE organizations provide care for dually enrolled Medi-Cal and Medicare beneficiaries.

2) The Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program provides care for critically ill children in California suffering from complex medical conditions, such as spastic quadriplegic cerebral palsy, muscular dystrophy, and anoxic brain injury.

3) The "Home- and Community-Based Services" (HCBA) Waiver allows individuals who would medically qualify to receive hospital or skilled nursing facility care to instead receive similar services at home or in community settings.

   It is unclear whether [this bill] allows for LVNs to provide respiratory care tasks and services under these programs. Therefore we are requesting clarification to ensure the provisions of [this bill] cover the services provided in these programs in addition to the supported living services provided pursuant to Section 4689 and 4689.1 of the Welfare and Institutions Code.

The *California Society for Respiratory Care* writes in support:

> CSRC supports the RCB's efforts to clarify a pathway for LVNs to provide basic respiratory tasks for nonacute patients in certain settings. We look forward to working with the committee to resolve any outstanding issues on that topic.
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> CSRC supports the New Issues outlined in RCB's report. Particularly item #5 to create a cardiopulmonary specific graduate level practitioner, the Advanced Practice Respiratory Therapist (APRT).
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> The APRT continues to advance nationally. CoARC, the Commission on Accreditation of Respiratory Care, has already approved curriculum. Ohio State has a formal APRT program. The APRT would add a much-needed advanced practice provider already specialized in cardiopulmonology to care for patients with cardiopulmonary disease, and a new option within the respiratory care profession for those therapists and students who are already interested in a graduate position.
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> Respiratory care practitioners, already trained to manage complex cardiopulmonary conditions such as COPD, asthma, and respiratory failure, are uniquely positioned to help close critical gaps in care. Establishing the APRT role will create a pathway for graduate-level trained RCPs to serve as physician extenders, deliver advanced assessments, ordering and interpreting diagnostic tests, prescribing medications, managing treatment plans, and supporting patients with complex needs, particularly in critical care, pulmonary medicine, and underserved regions where workforce shortages are most acute.

The *Pediatric Day Health Care Coalition* writes in support:

> On behalf of the Pediatric Day Health Care Coalition [PDHCC], we would like to express our support for [this bill], as amended on 04/15/26. These amendments streamline and simplify the process whereby LVNs working for employers in exempted settings may perform specific respiratory care tasks and services ensuring competency through employer-based training.
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> Pediatric Day Health Care centers have provided skilled nursing, including respiratory care, to children with defined diagnoses that result in medically fragile and/or technology-dependent health conditions. LVNs have safely provided respiratory care for decades. We acknowledge

that some respiratory care tasks should only be performed by a respiratory care professional as indicated by the Respiratory Care Board of California [RCB].

The bill also requires the RCB to develop Training Guidelines for employers and other entities to use when training LVNs on task-specific and patient specific respiratory care. Under the current version of [this bill], the Board has until January 1, 2028, to release those Guidelines. However, the bill does not allow for time between this release and the effective date by which employers must review their curriculum, revise if necessary, and train nursing staff according to the Guidelines. We do have one suggestion to ensure smooth implementation. We also suggest that employers, in exempt settings, have six months after the release of the guidelines to review their curriculum using the guidelines, revise the curriculum and complete the training.

Arguments in Opposition
A coalition comprised of the *California Association of Health Facilities*, *LeadingAge California*, the *California Hospital Association*, the *Association of California Healthcare Districts*, and the *American Nurses Association\California* is opposed to this bill unless it is amended to:

1) Delete the setting-specific framework in the [existing law] that establishes different tasks that LVNs can do in different settings or include additional settings where an LVN may perform respiratory care tasks to include skilled nursing facilities (SNFs), intermediate care facilities for the developmentally disabled, pediatric and adult subacute facilities, and hospitals.

2) At a minimum, allow employers that operate both exempt and non-exempt settings, such as continuing care retirement communities that operate senior living, assisted living and SNFs on the same campus, to train LVNs that work in all the settings to provide respiratory care tasks to residents that move between settings as their care needs change.

3) Clarify that LVNs can perform respiratory tasks as part of their formal training and education program and under the supervision of the training program in any setting, as part of their required training.

4) Specify the basic respiratory tasks that are within the data collection and observation roles of their scope and can be performed by LVNs in any setting based on their existing licensure and without additional training.

More specifically, the coalition writes:

[This bill] does not authorize LVNs working in non-exempted settings, to perform respiratory care tasks in those settings even if they were to obtain the same training provided to LVNs practicing in exempted settings. Establishing a different scope of practice for LVNs based on the setting in which they are practicing is inconsistent with how scope of practice has been historically determined for other licensed health professionals….

The LVN scope of practice is defined in state law and oversight for LVN licensing is under the oversight of the [BVNPT]. LVNs are trained and licensed to perform a range of practical nursing tasks as part of a health care team under the direct supervision of registered nurses and physicians, regardless of setting type. As part of their scope of practice to provide direct patient

care, basic nursing care, and administer medications, LVNs are trained and have historically provided basic respiratory services related to oxygen delivery and tracheostomy care (suctioning, cleaning, etc.) consistent with their training. LVNs have been trained in and evaluated on all tasks, including basic respiratory care, in their scope of practice and have performed these tasks for decades.

Existing statute and regulations that authorize the RCB to oversee and enforce LVN scope of practice with regard to the performance of respiratory care tasks have resulted in confusion, major care disruptions, and unanticipated cost increases in health care, social service and educational settings. [This bill], through its delineation of expanded settings, does not address these issues. For example, an LVN that works for a hospice agency and provides hospice care to residents in a SNF, they would be able to perform basic respiratory tasks, but if that same LVN works directly for a SNF and receives the same employer-provided training in respiratory care, they would not be allowed to perform respiratory tasks. LVNs in licensed health facilities, such as SNFs and hospitals, practice under the close supervision of physicians and registered nurses in a highly regulated setting. Establishing a different LVN scope of practice that is more restricted than the scope of practice of an LVN working in a non-healthcare facility environment, is contrary to the State's goals for patient safety and public protection.

Increased costs to care for patients with respiratory care needs in non-exempt settings. Under the framework governing care provided by LVNs in non-exempt settings, employers would likely need to hire additional registered nurses (RNs) and/or respiratory therapists (RTs) to provide care that was previously provided by LVNs. Existing state and federal law does not require most SNFs to have 24-hour RN or RT availability, so SNFs commonly use a staffing mix of RNs and LVNs to deliver basic respiratory services. Based on the Q3 2025 Payroll Based Journal file from the Centers for Medicare and Medicaid Services, only 353 facilities out of 1,115 California nursing facilities have an average of 24-hour coverage of a combination of in-house and contract registered nurses and respiratory therapists. The additional Medi-Cal cost that would be incurred by nursing facilities is projected at $4.72 million if the facilities were able to provide the services with in-house respiratory care practitioners to $28.06 million if the facilities used in-house registered nurses. The cost would be higher if the facility was required to utilize contract services.

To comply with [this bill] and the existing RCB regulations without hiring additional staff, SNFs would need to assess patients and refrain from admitting patients that have any respiratory care needs, however basic, that might require 24-hour availability of additional RNs and RTs. For example, a patient recovering from a broken hip and normally would be discharged to a SNF for therapy, but who also may need assistance with putting on a CPAP mask or who may need help putting on an oxygen mask for comfort, would likely need to be redirected to another care setting for rehabilitation services. This would have downstream impacts on hospitals who may experience delays in discharging patients to post-acute care resulting in higher costs accrued to hospitals.

SNFs have already been cited by state regulatory agencies for failing to have 24-hour RN and RT availability when admitting patients who were later deemed to require respiratory care that could only be provided by an RN or RT. The increased risk of these types of citations will continue under SB 1304, such that employers will need to make decisions to adjust their patient mix to ensure that LVNs do not risk their professional licensure and facilities avoid these

citations. Ultimately, Medi-Cal costs will increase and patient access to appropriate post-acute care will be limited.

Existing framework for oversight of LVN respiratory tasks has not improved patient care. There have been serious negative impacts on patient safety and access to care in a wide range of healthcare and non-healthcare settings because of the impact of California Code of Regulations, Title 16, §1399.365, which significantly limited the basic respiratory tasks that LVNs could perform and negatively impacted health care delivery including:

5) Delays in addressing immediate breathing issues for vulnerable individuals.

6) Unnecessary denied admissions, transfers and discharges of patients from service settings that have not been able to hire additional RNs or RCPs to provide respiratory care previously provided by LVNs.

7) Inefficient reallocation of care workload that diverts RNs and other clinical staff to perform tasks that were previously performed by LVNs.

8) Increased costs and diversion of limited public funding to hire additional clinical staff to perform respiratory tasks previously performed by LVNs.

9) Disruptions in the health care workforce training pipeline for LVNs.

10) Confusion among LVNs, employers and other healthcare professionals about the legal scope of practice for LVNs.

We request that [this bill] be amended to allow LVNs in the requested licensed health facility settings to continue to provide critical patient care, including performing respiratory tasks in which they have been trained and evaluated, and across the wide variety of settings in which that they have historically practiced under appropriate clinical supervision.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

1) Costs of approximately $4.4 million per year to extend the operation of the RCB (Respiratory Care Fund).

2) The RCB notes that if all fees were set at the caps established by this bill, revenues for RCB would increase by up to approximately $450,000 per year; however, the RCB would be required to promulgate regulations to increase fees. The RCB also anticipates reduced costs of an unknown amount as a result of automatic license suspensions and revocations for practitioners convicted of certain felonies.

3) The Board of Vocational Nursing and Psychiatric Technicians anticipates potential costs of an unknown amount due to an increase in the number of complaints received and consequent workload and costs (Vocational Nursing and Psychiatric Technicians Fund).

VOTES

SENATE FLOOR: 38-0-2
YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Ochoa Bogh, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener
ABS, ABST OR NV: Niello, Padilla

ASM BUSINESS AND PROFESSIONS: 17-0-2
YES: Berman, Johnson, Addis, Ahrens, Alanis, Bauer-Kahan, Chen, Elhawary, Hadwick, Haney, Hart, Irwin, Jackson, Lowenthal, Macedo, Nguyen, Pellerin
ABS, ABST OR NV: Bains, Caloza

ASM APPROPRIATIONS: 14-0-1
YES: Wicks, Hoover, Arambula, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Tangipa
ABS, ABST OR NV: Ta

UPDATED

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