UNFINISHED BUSINESS

Bill No: SB 1304
Author: Wahab (D)
Amended: 8/17/26
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 10-0, 4/20/26
AYES: Wahab, Choi, Archuleta, Caballero, Grayson, Menjivar, Niello, Smallwood-Cuevas, Strickland, Umberg
NO VOTE RECORDED: Arreguín

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/14/26
AYES: Cervantes, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

SENATE FLOOR: 38-0, 5/18/26
AYES: 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
NO VOTE RECORDED: Niello, Padilla

ASSEMBLY FLOOR: Passed, 8/26/26

**SUBJECT:** Respiratory Care Practice Act

**SOURCE:** Author

**DIGEST:** This bill is the sunset bill for the Respiratory Care Board (RCB or Board) which makes various changes to the regulation of licensed respiratory care practitioners (RCPs) by RCB stemming from the comprehensive sunset review oversight of the RCB.

*Assembly Amendments* clarify in the Licensed Vocational Practice Act that basic respiratory tasks and services apply to all settings except the exempt settings, which are intended to have separate regulations that are not limited to basic

functions; authorize licensed vocational nurses (LVNs) to perform certain suctioning tasks, as specified; exempt clerical documentation and tasks that are not specifically identified by the Board and do not require a respiratory assessment, as specified; clarify whenever a task requires a respiratory assessment, it must be performed by an appropriately licensed practitioner, regardless of the patient's underlying diagnosis or the primary reason they are receiving care; define intermediate care facilities for the purpose of designating all qualified intermediate care facilities as exempt settings; define respiratory assessment; and make various technical changes to the Act.

**ANALYSIS:**

Existing law 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 makes various changes to the RCB in response to issues raised during the RCB sunset review oversight process including:

1) Extends the operations of RCB and its authority for RCB to appoint an executive officer from January 1, 2027, to January 1, 2031.

2) Clarifies in the Licensed Vocational Practice Act that basic respiratory tasks and services apply to all settings except the exempt settings, as specified.

3) Authorizes an LVN to perform certain suctioning tasks including oral suctioning performed within the oral cavity that does not enter the oropharynx or beyond; nasal suctioning performed within the nasal cavity that does not enter the nasopharynx or beyond; tracheostomy tube suctioning when the suctioning device remains within the tracheostomy tube and does not pass beyond the distal end of the tube; removal and replacement of an external speaking valve for purposes of suctioning the tracheostomy tube.

4) 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.

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.

6) Clarifies that the following are not considered the practice of respiratory care: documenting observations and gathering and reporting data to another health care provider, without analysis, interpretation, or independent clinical decision making; any tasks or services that are not specifically identified by the Board and do not require respiratory assessment.

7) Defines respiratory assessment 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 care of a patient.

8) Adds additional exempt practice settings LVNs may perform respiratory care services, as specified; requires LVNs 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 LVNs, 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, the California Society for Respiratory Care, or another organization identified by the Board; and requires LVNs complete patient-specific training provided by their employer.

9) Defines intermediate care facilities to include an intermediate care facility for the developmentally disabled that provides habilitative care, nursing care, or continuous nursing care.

10) Increases the renewal fee to $330, increases the renewal ceiling fee to $375 and permanently eliminates the license fee for applicants applying for licensure.

**Background**

The RCB licenses and regulates RCPs. 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.

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.

Current law, (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.

*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. The following are selected issues pertaining to the Board along with background information concerning the issue.

*Clarification for Individuals in Specified Settings and Under Certain Circumstances to be Authorized to Provide Limited Respiratory Care Services*. 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. 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.

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. This 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.

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.

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.

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 Office of Administrative Law 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. 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 Licensed Vocational Practice Act to clarify that basic respiratory tasks and services apply to all settings except exempt settings which are intended to have separate regulations that will be promulgated by the RCB on January 1, 2028. To address further concerns shared by stakeholders, this bill updates the exempt settings in which LVN's may perform respiratory care. This bill recognizes suctioning as a basic nursing or care giving task and authorizes an LVN to perform oral, nasal and tracheal suctioning tasks that do not permeate the airway, as specified. To dispel any further ambiguity for LVNs, this bill clarifies that clerical documentation and tasks that are not specifically identified by the Board and do not require a respiratory assessment are not considered a respiratory task or service and whenever a task requires a respiratory assessment, defined in the bill, it must be performed by an appropriately licensed practitioner, regardless of the patients underlying diagnosis or the primary reason that they are receiving care.

*Automatic license suspension and revocation for certain felony convictions*. Currently, licensees may still practice while the administrative enforcement process plays out, 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 recommended amendments similar to authority the Medical Board of California has to 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. This bill allows the RCB to automatically suspend and revoke licenses for certain felony convictions.

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

According to the Assembly Committee on Appropriations, the bill will result in costs of approximately $4.4 million per year to extend the operation of RCB. 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.

**SUPPORT:** (Verified 8/24/26)

California Assisted Living Association
California Association of Medical Product Suppliers
California Society for Respiratory Care
Pediatric Day Health Care Coalition
Respiratory Care Board of California

**OPPOSITION:** (Verified 8/24/26)

American Nurses Association/California
Association of California Healthcare Districts
California Association of Health Facilities
California Hospital Association
Leading Age California
One individual

**ARGUMENTS IN SUPPORT:** The California Assisted Living Association, The California Respiratory Care Board, the California Association of Medical Product Suppliers, and the Pediatric Day Health Care Coalition write in support stating that this bill streamlines and simplify the process whereby LVNs working for employers in exempted settings may perform specific respiratory care tasks and services, and ensures that there are adequate respiratory care services and providers in all care settings so that individuals with complex medical needs will continue to have the choice to safely reside in their homes or community based settings, maintain their independence and quality of life, and stay connected with their loved ones and communities.

**ARGUMENTS IN OPPOSITION:** Opposition to this bill states that establishing a different scope of practice for LVN's 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. They request this bill be amended to either delete the setting-specific framework in the existing SB 1304 or include additional settings where an LVN may perform respiratory care tasks to include skilled nursing facilities (SNFs), intermediate care facilities for the developmentally disable, and pediatric and adult subacute facilities and hospitals;

allow employers that operate both exempt and non-exempt settings, such as continuing care retirement communities that operate senior living, assisted living and SNF's 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; clarify that LVNs' may perform respiratory tasks as part of their formal training and education program and under the supervision of the training program in any setting; 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.

Prepared by: Anna Billy / B., P. & E.D. /
8/26/26 15:19:47

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