

AB 890*

An Overview

AB 890 will create two new categories of nurse practitioners (NPs) to function independently within a defined scope of practice without standardized procedures. Organizations may continue their current arrangements of NP practice, supervision, and standardized procedures for NPs who do not meet the qualifications of the two categories of NPs or choose not to pursue independent NP practice. Education, training, national certification, regulatory, and medical staff governance requirements for these two NP categories are defined in AB 890. In order for NPs to be eligible to practice independently under these two categories, certain provisions of the law need to be further refined through the promulgation of regulations by the Board of Registered Nursing (BRN). A summary of key provisions of the law with a description of the pre-requisite work is described below.

THE “103 NP”

The 103 NPs are so named in reference to the Business and Professions Code (BPC) Section 2837.103. 103 NPs are eligible to practice pursuant to a defined scope of practice without standardized procedures who 1) work in one of the settings below in which one or more physicians practice, and 2) satisfy the following requirements. Many of the requirements below need governmental action by the BRN and other state agencies before 103 NPs can practice. A description of the governmental action is listed in the table.

103 NP Settings BPC §2837.103(a)(2)(A)-(F)
<p><u>Authorized Settings and Organizations</u></p> <p>Any of the following settings that has one or more physicians and surgeons:</p> <ul style="list-style-type: none"> • A clinic, as defined in Section 1200 of the Health and Safety Code. • A health facility, as defined in Section 1250 of the Health and Safety Code, except for the following described under Exempted Settings. • A facility described in Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code. • A medical group practice, including a professional medical corporation, as defined in Section 2406, another form of corporation controlled by physicians and surgeons, a medical partnership, a medical foundation exempt from licensure, or another lawfully organized group of physicians and surgeons that provides health care services. • A home health agency, as defined in Section 1727 of the Health and Safety Code. • A hospice facility licensed pursuant to Chapter 8.5 (commencing with Section 1745) of Division 2 of the Health and Safety Code. <p><u>Exempted Settings</u></p> <p>NPs will still need to practice under standardized procedures.</p> <ul style="list-style-type: none"> • A correctional treatment center, as defined in paragraph (1) of subdivision (j) of Section 1250 of the Health and Safety Code. • A state hospital, as defined in Section 4100 of the Welfare and Institutions Code.

103 NP Requirements		
Requirement	BPC Section	Governmental Action
The NP has passed a national NP board certification examination.	2837.103(a)(1)(A)	None.
If applicable, the NP must pass a supplemental examination developed by the Dept of Consumer Affairs Office of Professional Examination Services (OPES).	2837.103(a)(1)(A) and 2837.105(a)(1)-(2)	The BRN and OPES shall conduct an analysis of national NP certification examinations to see if the national NP certification aligns with the NP scope of practice in Bus. & Prof. Code §2837.103(c) <i>et seq.</i> ¹ If there are competencies that are not covered by the national NP certification exams, then the OPES will need to create a supplemental exam.
The NP holds a certification as an NP from a national certifying body accredited by the National Commission for Certifying Agencies or the American Board of Nursing Specialties and recognized by the BRN.	2837.103(a)(1)(B)	None. The BRN already recognizes these national certifications in Title 16 § 1482(a)(2).
The NP provides documentation that the NP education was consistent to already existing BRN regulations in BPC §2836.	2837.103(a)(1)(C)	None. This is already being address through the BRN NP application process.
The NP has completed a transition to practice (TTP) in California of a minimum of three full-time equivalent years of practice or 4600 hours.	2837.103(a)(1)(D)	The BRN shall define the minimum standards for transition to practice through promulgation of regulations mandated by BPC §2837.101(c).

THE “104 NP”

The 104 NPs are so named in reference to the Business and Professions Code (BPC) Section 2837.104. 104 NPs are eligible to practice independently pursuant to a defined scope of practice without standardized procedures in settings outside those listed in BPC Section 2837.103(a)(2)(A)-(F) if they meet the following criteria.² This means that an NP can open up their own practice/business pursuant to already existing laws such as, but not limited to, a nursing corporation. The BRN will issue a separate NP certificate once the NP completes all of the 104 NP requirements and submits an application to the BRN.³ BPC 2837.104 goes into effect starting January 1, 2023.⁴ Therefore, NPs will not be eligible to become a 104 NP until that date.

104 NP Requirements		
Requirement	BPC Section	Governmental Action
The 104 NP must meet all of the same requirements as the 103 NPs: <ul style="list-style-type: none"> National certification OPES exam, if applicable BRN-approved NP education TTP 	2837.104(a) and 2837.104(a)(1)	Same as the 103 NP requirements list above.
Holds a valid and active RN license and a master’s degree in nursing or other clinical field related to nursing or a doctoral degree in nursing.	2837.104(b)(1)(B)	None.

¹ “*et seq.*” is a legal abbreviation for *et sequentes* or *et sequentia* meaning “and the following [sections, pages, etc.]”

² BPC §2837.104(a)(1).

³ BPC §2837.104(b).

⁴ BPC §2837.104(a).

104 NP Requirements		
The NP has practiced as an NP in good standing for at least three years, not inclusive of the TTP. The BRN may, at its discretion, lower this requirement for an NP who holds a Doctorate of Nursing Practice (DNP) based on practice experience gained in the course of doctoral education.	2837.104(b)(1)(C)	The BRN may lower this requirement at its discretion.

BRN NP ADVISORY COMMITTEE

AB 890 directs the BRN to create a Nurse Practitioner Advisory Committee to advise and make recommendations on matters including, but not limited to, education, appropriate standard of care, and other matters specified by the BRN.⁵ The committee shall provide recommendations or guidance to the Board when the Board is considering disciplinary action against an NP. The committee shall consist of four qualified NPs, two physicians with demonstrated experience working with NPs, and one public member.⁶

SCOPE OF PRACTICE

NPs who meet the requirements of Sections 103⁷ and 104⁸ will be able to practice under the following scope of practice:

- Conduct an advanced assessment.
- Order, perform, and interpret diagnostic procedures.
 - For radiologic procedures, an NP can order diagnostic procedures and utilize the findings or results in treating the patient. An NP may perform or interpret clinical laboratory procedures that they are permitted to perform under BPC §1206 and under the federal Clinical Laboratory Improvement Act (CLIA).
- Establish primary and differential diagnoses.
- Prescribe, order, administer, dispense, procure, and furnish therapeutic measures, including, but not limited to the following:
 - Diagnose, prescribe, and institute therapy or referrals of patients to health care agencies, health care providers, and community resources.
 - Prescribe, administer, dispense, and furnish pharmacologic agents, including over-the-counter, legend, and controlled substances.
 - Plan and initiate a therapeutic regimen that includes ordering and prescribing nonpharmacological interventions, including, but not limited to, durable medical equipment, medical devices, nutrition, blood and blood products, and diagnostic and supportive services, including, but not limited to, home health care, hospice, and physical and occupational therapy.
- After performing a physical examination, certify disability pursuant to Section 2708 of the Unemployment Insurance Code.
- Delegate tasks to a medical assistant.

OBLIGATIONS

103 and 104 NPs must do the following:

- Verbally inform all new patients in a language understandable to the patient that an NP is not a physician. For Spanish language speakers, the NP shall use the standard phrase, “enfermera/o especializada/o.”⁹

⁵ BPC §2837.102(a).

⁶ BPC §2837.102(b).

⁷ BPC §2837.103(c) *et seq.*

⁸ BPC §2837.104(a)(1) and BPC §2837.104(b)(1).

⁹ BPC §2837.103(d) and BPC §2837.104(d).

- Post a notice in a conspicuous location accessible to public view that the NP is regulated by the BRN. The notice shall include the BRN's telephone number and internet website where the NP's license may be checked and complaints against an NP may be made.¹⁰
- Practice within their education and training and national certification.¹¹
- Refer patients to a physician or other health arts provider under certain circumstances or if the patient's condition is beyond the NP's education and training.¹²
- Carry liability insurance.¹³

TRANSITION TO PRACTICE

All 103 and 104 NPs will need to complete a "transition to practice" (TTP).¹⁴ AB890 directs the BRN to adopt, through regulation, minimum standards for the transition to practice. The TTP is three full-time equivalent years or 4,600 hours of additional clinical experience and mentorship intended to prepare an NP to practice independently.¹⁵ Topics that will be included in the TTP include, but are not limited to, managing a panel of patients, working within a complex health care setting, interpersonal communication, interpersonal collaboration and team-based care, professionalism, and business management of a practice.¹⁶ If clinical experience is obtained prior to January 1, 2021 and meets the TTP requirements established by the BRN, that experience may be counted towards the TTP. Therefore, before an NP can become a 103 or 104 NP, the BRN will need to create TTP regulations.

MEDICAL STAFF MEMBERSHIP, PRIVILEGES, VOTING RIGHTS, AND DISCIPLINE

103 NPs and 104 NPs are authorized for medical staff eligibility and rights differently under AB890.

103 NPs

In healthcare settings that have governing bodies as defined in Division 5 of Title 22 of the California Code of Regulations,¹⁷ the 103 NPs shall adhere to all applicable medical staff bylaws,¹⁸ be eligible to serve on medical staff and hospital committees,¹⁹ and be eligible to attend meetings of the department to which the 103 NP is assigned.²⁰ An NP shall not vote at department, division, or other meetings unless the vote is regarding the determination of NP privileges with the organization, peer review of NP clinical practice, whether a licensee's employment is in the best interest of the communities served by a hospital pursuant to BPC §2401, or the vote is otherwise allowed by applicable bylaws.²¹

104 NPs

104 NPs shall be eligible for membership of an organized medical staff.²² The 104 NP may vote at meetings of the department to which the 104 NP is assigned.²³

Discipline

If a medical staff executive or other administrator takes any of the following actions against a 103 NP or 104 NP as a result of peer review, the 103 NP or 104 NP will be reported to the BRN via an 805 report (referring to BPC §805):²⁴

¹⁰ BPC §2837.103(e) and BPC §2837.104(e).

¹¹ BPC §2837.103(f) and BPC §2837.104(c) *et seq.*

¹² BPC §2837.103(e) and BPC §2837.104(c) *et seq.*

¹³ BPC §2837.103(g) and BPC §2837.104(f).

¹⁴ BPC §2837.103(a)(1)(D) and BPC §2837.104(a)(1) and BPC §2837.104(b)(1)(A).

¹⁵ BPC §2837.103(a)(1)(D) and BPC §2837.104(a)(1) and BPC §2837.104(b)(1)(A).

¹⁶ BPC §2837.101(C).

¹⁷ BPC §2837.103(a)(3).

¹⁸ BPC §2837.103(a)(3)(A).

¹⁹ BPC §2837.103(a)(3)(B).

²⁰ BPC §2837.103(a)(3)(C).

²¹ BPC §2837.103(a)(3)(C).

²² BPC §2837.104(a)(2).

²³ BPC §2837.104(a)(3).

²⁴ BPC §805(b).

- A 103 NP or 104 NP's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.²⁵
- A 103 NP or 104 NP's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.²⁶
- Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.²⁷
- Resigns or takes a leave of absence from membership, staff privileges, or employment.²⁸
- Withdraws or abandons their application for staff privileges or membership.²⁹
- Withdraws or abandons their request for renewal of staff privileges or membership.³⁰

PROHIBITION OF CONTROL OVER NP PRACTICE

For 103 NPs who practice in the settings delineated in BPC §2837.103(a)(2)(A)-(F) which are, in general, facilities and organized settings, any entity in this section shall not interfere with, control, or otherwise direct the professional judgement of an NP.³¹

REFERRALS TO PHYSICIANS AND OTHER LICENSED HEALTH CARE PROVIDERS

103 NPs

103 NPs shall refer a patient to a physician or other licensed health care provider if a situation or condition of a patient is beyond the scope of the education and training of the 103 NP.³²

104 NPs

104 NPs shall consult and collaborate with other healing arts providers based on the clinical condition of the patient to whom health care is provided. Physician consultation shall be obtained as specified in the individual protocols and under the following circumstances:³³

- Emergent conditions requiring prompt medical intervention after initial stabilizing care has been started.³⁴
- Acute decompensation of patient situation.³⁵
- Problem which is not resolving as anticipated.³⁶
- History, physical, or lab findings inconsistent with the clinical perspective.³⁷
- Upon request of the patient.³⁸

104 NPs also shall establish a plan for referral of complex medical cases and emergencies to a physician or other appropriate healing arts provider and shall have an identified referral plan specific to the practice area that includes specific referral criteria. The referral plan shall address the following:³⁹

- Whenever situations arise which go beyond the competence, scope of practice, or experience of the NP.⁴⁰
- Whenever patient conditions fail to respond to the management plan as anticipated.⁴¹
- Any patient with acute decompensation or rare condition.⁴²

²⁵ BPC §805(b)(1).

²⁶ BPC §805(b)(2).

²⁷ BPC §805(b)(3).

²⁸ BPC §805(c)(1).

²⁹ BPC §805(c)(2).

³⁰ BPC §805(c)(3).

³¹ BPC §2837.103(b).

³² BPC §2837.103(f).

³³ BPC §2837.104(c)(2).

³⁴ BPC §2837.104(c)(2)(A).

³⁵ BPC §2837.104(c)(2)(B).

³⁶ BPC §2837.104(c)(2)(C).

³⁷ BPC §2837.104(c)(2)(D).

³⁸ BPC §2837.104(c)(2)(E).

³⁹ BPC §2837.104(c)(3).

⁴⁰ BPC §2837.104(c)(3)(A).

⁴¹ BPC §2837.104(c)(3)(B).

⁴² BPC §2837.104(c)(3)(C). Of note, the law has the word "decomposition". It has been changed to "decompensation" for the purposes of this document.

- Any patient conditions that do not fit the commonly accepted diagnostic pattern for a disease or disorder.⁴³
- All emergency situations after initial stabilizing care has been started.⁴⁴

PROHIBITION AGAINST SELF-REFERRAL

AB 890 makes self-referral prohibition under the Physician Ownership & Referral Act (PORA) applicable to 103 NPs and 104 NPs.⁴⁵

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⁴³ BPC §2837.104(c)(3)(D).

⁴⁴ BPC §2837.104(c)(3)(E).

⁴⁵ BPC §650.01.

Summary Overview of AB890

AB 890 (2019, Wood) was signed by Governor Newsom on September 29, 2020 and becomes law on January 1, 2021. The major provisions of the law are summarized here with reference to the particular statute. Of note, this document is intended to be an overview. There are many more details of the law than are delineated here. For more information, please seek consultation from a subject matter expert or legal counsel.

PRACTICE AREA	TOPIC AREA	EFFECTIVE DATE	BUS. & PROF. CODE (BPC) SECTION	EXPLANATION
ALL SETTINGS	Professional liability insurance	Jan 1, 2021	2837.103(g) and 2837.104(f)	The NP shall ¹ maintain professional liability insurance appropriate for the practice setting. If the practice setting covers the NP, that is sufficient. If the NP is not covered by an agency professional liability insurance policy, the NP must purchase their own.
	Posting notice of BRN contact information	Jan 1, 2021	2837.103(e) and 2837.104(e)	The NP shall post a notice in a conspicuous location accessible to public view that the NP is regulated by the Board of Registered Nursing and shall include the BRN's telephone number and internet site where the NP's license may be checked and complaints against the NP may be made. MDs, DOs, and physician assistants are currently required to do so.
	Advising new patients they are being seen by an NP including in Spanish	Jan 1, 2021	2837.103(d) and 2837.104(d)	The NP shall verbally inform all new patients in a language understandable to the patient that the NP is not a physician and surgeon ² . For purposes of Spanish language speakers, the NP shall use the standard phrase, "enfermera/o especializada/o."
	Self-referral restrictions	Jan 1, 2021	650.01, <i>et seq.</i> ³	<i>NPs are held to the same standards as other health professionals to the California "PORA" law (Physician Ownership and Referral Act of 1993).</i> ⁴ NPs are prohibited from referring a patient for laboratory, diagnostic nuclear medicine, home infusion therapy, among other goods and services if the licensee or an immediate family member has a "financial interest" in the entity receiving the referral unless a statutory exception is available.
	"805" peer review	Jan 1, 2021	805, <i>et seq.</i>	If after a peer review process in an agency has led to rejection or termination of the NP's privileges or medical staff membership for a medical disciplinary cause, or if restrictions on privileges, membership, or employment for more than 30 days in a 12-month period based on medical disciplinary cause or reason, the peer review body must file a 805 report with the BRN within 15 days. <i>This is a complex part of law and will need more explication than this short summary. Physicians, PAs and other providers are held to this law.</i>
	BRN NP Advisory Committee	TBD	2837.102(a)	The BRN will need to create the NP Advisory Committee, call for applicants, select and orient members, create a schedule of meetings. The BRN NP Advisory Committee will advise and make recommendations to the BRN on all matters relating to nurse practitioners, including, but not limited to, education, appropriate standard of care, and other matters specified by the BRN. The committee shall provide recommendations or guidance to the BRN when the BRN is considering disciplinary action against an NP.

¹ In legal terms, the word "shall" means that the activity is required and is not optional.

² The term "physician and surgeon" is the name of the license for physicians by the Medical Board of California and the Osteopathic Medical Board of California.

³ "*et seq.*" is a legal abbreviation for *et sequentes* or *et sequentia* meaning "and the following [sections, pages, etc.]."

⁴ Any *italicized* text is an interpretation, expert opinion, or other information that is outside of AB890.

PRACTICE AREA	TOPIC AREA	EFFECTIVE DATE	BUS. & PROF. CODE (BPC) SECTION	EXPLANATION
WITHIN SPECIFIED SETTINGS & ORGANIZATIONS – “103 NPs” BPC 2837.103, et seq.	“103 NPs” versus “104 NPs”	n/a	2837.103 and 2837.104	<i>For simplicity, in this section, we are calling these NPs as “103 NPs” because of the BPC Section 2837.103. The 103 NPs are different from the “104 NPs” (BPC Section 2837.104) in that the 103 NPs are employed in one of six settings (see next row below, “Authorized and exempted settings and organizations”). 104 NPs can work in any other setting outside the 103 NP settings. There are different requirements that apply to 103 NPs and 104 NPs.</i>
	Authorized and exempted settings and organizations	n/a	2837.103(a)(2)(A)-(F), 2837.103(h)	<p><u>Authorized Settings and Organizations</u> Any of the following settings that has one or more physicians and surgeons:</p> <ul style="list-style-type: none"> • A clinic, as defined in Section 1200 of the Health and Safety Code. • A health facility, as defined in Section 1250 of the Health and Safety Code, except for the following described under Exempted Settings. • A facility described in Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code. • A medical group practice, including a professional medical corporation, as defined in Section 2406, another form of corporation controlled by physicians and surgeons, a medical partnership, a medical foundation exempt from licensure, or another lawfully organized group of physicians and surgeons that provides health care services. • A home health agency, as defined in Section 1727 of the Health and Safety Code. • A hospice facility licensed pursuant to Chapter 8.5 (commencing with Section 1745) of Division 2 of the Health and Safety Code. <p><u>Exempted Settings</u> These settings will still need standardized procedures.</p> <ul style="list-style-type: none"> • A correctional treatment center, as defined in paragraph (1) of subdivision (j) of Section 1250 of the Health and Safety Code. • A state hospital, as defined in Section 4100 of the Welfare and Institutions Code.
	Scope of practice without standardized procedures ***Important***	TBD <ul style="list-style-type: none"> • BRN action required: TTP regulation. • OPES action required. Evaluation and possible construction of a new exam. 	2837.103(c) et seq.	<p>The scope of practice without standardized procedures will only go into effect after the following actions are completed:</p> <ul style="list-style-type: none"> • The NP has passed a national NP board certification examination. • The Department of Consumer Affairs, Office of Professional Examination Services (OPES) completes an occupational analysis of NPs performing the functions in the scope of practice statute (2837.103(c) et seq.). The OPES shall create a supplemental exam if they determine that the national board certification exams do not cover all functions in Section 2837.103(c) et seq. CANP’s preliminary review can be found in Figure 1 below. • The NP must hold or maintain national certification from a national certifying body accredited by the National Commission for Certifying Agencies or the American Board of Nursing Specialties and those national certifications need to be recognized by the BRN. See the Figure 1 for specific exams and the associated national certifying body.

PRACTICE AREA	TOPIC AREA	EFFECTIVE DATE	BUS. & PROF. CODE (BPC) SECTION	EXPLANATION
<p>WITHIN SPECIFIED SETTINGS & ORGANIZATIONS – “103 NPs” BPC 2837.103, et seq.</p>				<ul style="list-style-type: none"> • The NP provides documentation that the educational training was consistent with standards that have already been established by the BRN (Business and Professions Code Section 2836) and any applicable regulations as they specifically relate to requirements for clinical practice hours. Online educational programs that do not include mandatory clinical hours shall not meet this requirement in the new law. • The NP must complete a California-based transition to practice (TTP) of three full-time equivalent years or 4600 hours. The BRN will need to create the regulations and go through the regulation-making process to define the minimum standards for the TTP. Experience obtained before January 1, 2021 may count towards the TTP if those experiences meet the requirements established by the BRN. <ul style="list-style-type: none"> ○ <i>There is no grandparenting clause in AB890, so the BRN needs to create the regulations for the TTP.</i> <p>If the NP completes the 6 steps above and is working in one of the six settings or organizations, then the NP can practice within the scope of practice without standardized procedures:</p> <ul style="list-style-type: none"> • Conduct an advanced assessment. • Order, perform, and interpret diagnostic procedures. <ul style="list-style-type: none"> ○ For radiologic procedures, an NP can order diagnostic procedures and utilize the findings or results in treating the patient. An NP may perform or interpret clinical laboratory procedures that they are permitted to perform under BPC Section 1206 and under the federal Clinical Laboratory Improvement Act (CLIA). • Establish primary and differential diagnoses. • Prescribe, order, administer, dispense, procure, and furnish therapeutic measures, including, but not limited to the following: <ul style="list-style-type: none"> ○ Diagnose, prescribe, and institute therapy or referrals of patients to health care agencies, health care providers, and community resources ○ Prescribe, administer, dispense, and furnish pharmacologic agents, including over-the-counter, legend, and controlled substances. ○ Plan and initiate a therapeutic regimen that includes order and prescribing nonpharmacological interventions, including, but not limited to, durable medical equipment, medical devices, nutrition, blood and blood products, and diagnostic and supportive services, including but not limited to, home health care, hospice, and physical and occupational therapy • After performing a physical examination, certify disability pursuant to Section 2708 of the Unemployment Insurance Code. • Delegate tasks to a medical assistant.

PRACTICE AREA	TOPIC AREA	EFFECTIVE DATE	BUS. & PROF. CODE (BPC) SECTION	EXPLANATION
WITHIN SPECIFIED SETTINGS & ORGANIZATIONS – “103 NPs” BPC 2837.103, <i>et seq.</i>	National certification and possible additional exam	TBD <ul style="list-style-type: none"> BRN and OPES action required. 	2837.103(a)(1)(A) and 2837.105 <i>et seq.</i>	The NP must pass a national NP board certification examination. And, Office of Professional Examination Services (OPES) within the Department of Consumer Affairs completes an occupational analysis of NPs performing the functions in the scope of practice statute (2837.103(c) <i>et seq.</i>). The OPES shall create a supplemental exam if they determine that the national board certification exams do not cover all functions in 2837.103(c) <i>et seq.</i>
	Transition to Practice (TTP)	TBD <ul style="list-style-type: none"> BRN action required.⁵ 	2837.103(a)(1)(D)	The NP must complete a TTP in California of a minimum of three full-time equivalent years or 4600 hours. The BRN will need to define, in regulation, what the TTP will consist of, how the hours will be documented, and other logistics regarding the TTP. Any clinical experiences obtained prior to January 1, 2021 may be counted provided that those clinical experiences meet the BRN requirements. <i>There is no formal grandparenting clause.</i>
	Independent Practice	TBD <ul style="list-style-type: none"> BRN action required.⁴ 	2837.103(a)(2)	An NP that meets all of the requirements delineated in the “Scope of practice without standardized procedures” section above will be able to practice independently.
	Medical Staff Membership	TBD <ul style="list-style-type: none"> BRN action required.⁴ The CA Department of Health Care Services will have to revise related sections to Title 22. 	2837.103(a)(3)	This legislation allows the NP to be eligible to serve on medical staff and hospital committees and adhere to all applicable bylaws. Title 22 of the California Code of Regulations (22 CCR), Sections 70701 and 70703 pertain to general acute care hospitals. 22 CCR Sections 71501 and 71503 pertain to acute psychiatric hospitals. <i>Please refer to the row above, “Scope of practice without standardized procedures” in order for the NP to be eligible for a scope of practice without standardized procedures which will then allow the NP to be eligible for medical staff membership and committee work.</i>
	Medical Staff voting rights	TBD <ul style="list-style-type: none"> BRN action required.⁴ 	2837.103(a)(3)(C)	<ul style="list-style-type: none"> The NP shall be eligible to attend meetings of the department to which the NP is assigned. The NP shall <u>not</u> vote at department, division, or other meetings <u>unless</u> the vote is regarding the determination of: <ul style="list-style-type: none"> NP privileges with the organization, Peer review of the NP clinical practice, Whether a licensee’s employment is the best interest of the communities served by a hospital, or The vote is otherwise allowed by the applicable Medical Staff bylaws.

⁵ The BRN will need to complete the activities in the “Scope of practice without standardized procedures ***Important***” section above.

PRACTICE AREA	TOPIC AREA	EFFECTIVE DATE	BUS. & PROF. CODE (BPC) SECTION	EXPLANATION
"103 NPs" BPC 2837.103, et seq.	No interference, control, or otherwise direct the professional judgment of an NP	TBD <ul style="list-style-type: none"> BRN action required.⁴ 	2837.103(a)(2)(b)	None of the authorized settings and organizations shall interfere with, control, or otherwise direct the professional judgment of a NP functioning in a manner prohibited by BPC Section 2400 or any other law.
	Referral to physician or other health care professional	TBD <ul style="list-style-type: none"> BRN action required.⁴ 	2837.103(f)	An NP shall refer a patient to a physician and surgeon or other licensed health care provider if a situation or condition of a patient is beyond the scope of the education and training of the NP.

PRACTICE AREA	TOPIC AREA	EFFECTIVE DATE	BUS. & PROF. CODE (BPC) SECTION	EXPLANATION
ALL OTHER SETTINGS- "104 NPs" BPC 2837.104 et seq.	When will 104 NPs be able to start opening up their own practices	January 1, 2023	2837.104(a)	Beginning January 1, 2023, notwithstanding any other law, 104 NPs will be able function independently under a nursing or nurse practitioner corporation.
	Authorized and exempted settings and organizations	TBD but after 1/1/2023 <ul style="list-style-type: none"> BRN action required. Need to complete the activities in the "Scope of practice without standardized procedures" section above. 	2837.104(b)(1)	<p><u>Authorized Settings and Organizations</u> <i>This Section 2837.104, et seq. applies to all other settings outside of the ones listed in Section 2837.103(a)(2)(A)-(F). 2837.104 et seq. is for NP entrepreneurs. Some examples include, but are not limited to, an NP-owned business.⁶</i></p> <p><u>Exempted Settings and Organizations</u> NPs in correctional treatment centers or state hospitals are exempted (Section 2837.103(a)(2)(B)(i)-(ii) and Section 2837.103(h)).</p>

⁶ Seek legal advice on setting up a nurse corporation.

PRACTICE AREA	TOPIC AREA	EFFECTIVE DATE	BUS. & PROF. CODE (BPC) SECTION	EXPLANATION
ALL OTHER SETTINGS- "104 NPs" BPC 2837.104 et seq.	Scope of practice without standardized procedures	TBD but after 1/1/2023 <ul style="list-style-type: none"> BRN action required.⁴ 	2837.104(a)(1) and 2837.104(b)(1)	The 104 NP scope of practice without standardized procedures is the same as the 103 NP scope of practice without standardized procedures. The activities delineated in the "scope of practice without standardized procedures ***Important*** above need to occur before 104 NPs can practice.
	How to become a 104 NP and the "104 NP" certificate	TBD but after 1/1/2023 <ul style="list-style-type: none"> BRN action required⁴ BRN action required to potentially lower the time period for NPs "in good standing" 	2837.104(b)(1)(A)-(C) and 2837.104(b)(1)(C)(2)	<ul style="list-style-type: none"> 104 NPs need to meet all of the requirements specified in 2837.103(a)(1) <i>et seq.</i> above. 104 NPs need to hold a valid and active license as an RN in California and a master's degree in nursing or in a clinical field related to nursing or a doctoral degree in nursing. 104 NPs need to have practiced as an NP in good standing for at least 3 years (i.e., there is no discipline against the license) that is beyond the TTP period of three full-time equivalent years or 4600 hours. <ul style="list-style-type: none"> The BRN may, at its discretion, lower this requirement for NPs who have a Doctor of Nursing Practice (DNP) degree. The BRN will have to create regulations to address this. When a 104 NP satisfies all of the above requirements, the BRN will issue a separate certificate, and may charge a fee, to designate that the NP can practice outside of the 103 NP authorized settings and organizations. <ul style="list-style-type: none"> <i>This would be similar to what is currently happening with NP certificates and the NP Furnishing (NPF) certificate in that an NP could just be recognized by the BRN as an NP but it is not necessary for the NP to apply for an NPF certificate.</i>
	National certification and possible additional exam	TBD but after 1/1/2023 <ul style="list-style-type: none"> BRN action required⁴ 	2837.104(b)(1)(A)	The 104 NPs are held to the same standards as the 103 NPs (see above in the 103 NP section).
	Transition to Practice (TTP)	TBD but after 1/1/2023 <ul style="list-style-type: none"> BRN action required⁴ 	2837.104(b)(1)(A)	The 104 NPs are held to the same standard of TTP as the 103 NPs (see above in the 103 NP section).
	Independent Practice	TBD but after 1/1/2023 <ul style="list-style-type: none"> BRN action required⁴ 	2837.104(b)(1)	The 104 NPs will be able to have independent practice similar to the 103 NPs if all the requirements for passing and maintaining national certification (plus a possible additional exam) and TTP.
	Medical Staff Membership	January 1, 2023	2837.104(a)(2)	104 NPs shall be eligible for membership of an organized medical staff if the 104 NP has professional liability insurance and is subject to any applicable conflict of interest policies of the bylaws.
	Medical Staff voting rights	January 1, 2023	2837.104(a)(3)	104 NPs may vote at meetings of the department to which NPs are assigned provided the 104 NP has professional liability insurance and is subject to any applicable conflict of interest policies of the bylaws.

PRACTICE AREA	TOPIC AREA	EFFECTIVE DATE	BUS. & PROF. CODE (BPC) SECTION	EXPLANATION
ALL OTHER SETTINGS- "104 NPs" BPC 2837.104 et seq.	104 NPs practicing within applicable standards of care	January 1, 2023	2837.104(c)(1)	The 104 NP shall comply with applicable standards of care and shall not practice beyond the scope of their clinical and professional education and training, including specific areas of concentration and shall only practice within the limits of their knowledge and experience and national certification. <ul style="list-style-type: none"> ○ <i>There is currently no legal definition of a "specific area of concentration." More clarification to come in the future.</i>
	Consulting and collaborating with other healing arts providers	January 1, 2023	2837.104(c)(2) et seq.	The 104 NP shall consult and collaborate with other health arts providers based on the clinical condition of the patient to whom health care is provided. Physician consultation shall be obtained as specified in the individual protocols (<i>at the practice site, not for individual patients</i>) and under the following circumstances: <ul style="list-style-type: none"> ○ Emergent conditions requiring prompt medical intervention after initial stabilizing care has been started. ○ Acute decompensation of patient situation. ○ Problem which is not resolving as anticipated. ○ History, physical, or lab findings inconsistent with the clinical perspective. ○ Upon request of patient.
	Referral to physician or other health care professional	January 1, 2023	2837.104(c)(3) et seq.	The 104 NP shall establish a plan for the practice site for referral of complex medical cases and emergencies to a physician and surgeon or other appropriate healing arts providers. The NP shall have an identified referral plan specific to the practice area, that includes specific referral criteria. The referral plan of the practice site shall address the following: <ul style="list-style-type: none"> ● Whenever situations arise which go beyond the competence, scope of practice, or experience of the NP. ● Whenever patient conditions fail to respond to the management plan as anticipated. ● Any patient with acute decomposition or rare condition. ● Any patient conditions that do not fit the commonly accepted diagnostic patter for a disease or disorder. ● All emergency situations after initial stabilizing care has been started.
	Corporations and legal rights	January 1, 2023	2837.104(g)	A 104 NP corporation shall have no professional rights, privileges, or powers. This is related to the ban on the corporate practice of medicine. ⁵
	Situations when an NP is no longer a 104 NP	January 1, 2023	2837.104(h)(1)-(2)	A NP will stop functioning as a 104 NP when either of the following apply: <ul style="list-style-type: none"> ● The BRN "104 NP" certificate (correct name yet to be determined) is inactive, surrendered, revoked, or otherwise restricted by the BRN. ● The NP is employed by one of the 103 NP settings or organizations. In this situation, the NP will be functioning under the laws governing 103 NPs.

Figure 1: Preliminary comparison of national certification exams with the scope of practice (BPC 2837.103(c)) and the certifying agencies

2837.103(c) activity	ANCC (FNPⁱ, AGNP, AGANCP, PMHNP, PNP)	ANCC (PMHNPⁱⁱ)	AANP Cert Board (AGNPⁱⁱⁱ, FNP)	AACN Certification Corp (AGACNP)	Pediatric Nursing Certification Board (PNP-PC^{iv}, PNP- AC)	National Certification Corp (Neonatal^v)	National Certification Corporation (Women's Health^{vi})
(1) Conduct an advanced assessment	X	X	X	X	X	X	X
(2) Order, perform, and interpret diagnostic procedures	X ⁷	X ¹	X	X	X ⁸	X	X ⁹
(3) Establish primary and differential diagnoses	X	X	X	X	X	X	X
(4) Prescribe, order, administer, dispense, and furnish therapeutic measures including, but not limited to:	X	X	X	X	X	X	X
(A) Diagnose, prescribe, and institute therapy or referrals to health care agencies, health care providers, and community resources	X	X	X	X	X	X	X
(B) Prescribe, administer ¹⁰ , dispense, and furnish pharmacological agents...	X	X	X	X	X	X	X
(C) Plan and initiate a therapeutic regimen that includes ordering and prescribing nonpharmacological interventions...	X	X	X	X	X	X	X
(5) After performing a physical examination, certify disability pursuant to Section 2708 of the Unemployment Insurance Code	-	-	-	-	-	-	-
(6) Delegate tasks to a medical assistant...	-	-	-	-	-	-	-
American Board of Nursing Specialties recognized certifications ¹¹	FNP-BC PPCNP-BC AGACNP-BC AGPCNP-BC	PMHNP- BC	FNP A-GNP	n/a	CPNP-PC CPNP-AC	n/a	n/a
National Corporation of Certifying Agencies recognized certifications ^{12,13}	n/a	n/a	FNP A-GNP ENP	ACNPC-AG	CPNP-PC CPNP-AC	NNP	WHNP

⁷ Ordering and interpreting are clearly stated. Not so clearly stated, but could be inferred is performing diagnostic procedures.

⁸ Ordering and interpreting are clearly stated. For Primary Care, “perform” is not clearly stated. For Acute Care, “perform” is clearly stated (listed under Therapeutic Interventions, Perform Procedures as Indicated.)

⁹ Ordering and interpreting are clearly stated. Not so clearly stated, but could be inferred is performing diagnostic procedures by “obtaining diagnostic studies...and laboratory tests.” For example, in order to obtain a cervical tissue sample in gynecology, you must do a colposcopy which is a diagnostic procedure if a PAP smear comes back abnormal.

¹⁰ Administering pharmacologic agents is in the Nurse Practice Act (§2725.3(a)(1)). The acts of “administering” and “dispensing” are not found in the various exam content outlines.

¹¹ <https://www.nursingcertification.org/absnc/programs> accessed on 7/27/2020.

¹² <https://www.credentialingexcellence.org/nccadirectory> accessed on 7/27/2020.

¹³ There are two specialty NP certifications, the Emergency Nurse Practitioner and the Advanced Oncology Nurse Practitioner, that are also recognized by the National Corporation of Certifying Agencies. The AONP is certified through the Oncology Nursing Certification Corporation.

ⁱ Used the ANCC FNP as the physical health example, didn't look at all the exams: <https://www.nursingworld.org/~48f9cc/globalassets/certification/certification-specialty-pages/resources/test-content-outlines/familynp-tco-may-222.pdf>

ⁱⁱ Separated Psych/Mental Health from the physical health exams: https://www.nursingworld.org/~49eb43/globalassets/certification/certification-specialty-pages/resources/test-content-outlines/exam-35-pmhnp-tco-10-15-2018_for-webposting.pdf

ⁱⁱⁱ Used the AGNP exam as the example: <https://www.aanpcert.org/certs/agnp>

^{iv} Used the Primary Care as the example: https://www.pncb.org/sites/default/files/resources/2018_CPNP-PC_Exam_Content_Outline_FINAL.pdf

^v https://www.nccwebsite.org/content/documents/cms/np-candidate_guide.pdf

^{vi} https://www.nccwebsite.org/content/documents/cms/whnp-candidate_guide.pdf