

# Assembly Bill (AB) 890: A Fact Sheet for Physicians



CALIFORNIA ACADEMY OF  
FAMILY PHYSICIANS  
STRONG MEDICINE FOR CALIFORNIA

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Governor Gavin Newsom recently signed AB 890 into law to allow nurse practitioners (NPs) to practice with expanded authority under certain conditions. AB 890 does not prohibit the supervision of current NPs. It does, however, authorize two newly created types of NPs – “Section 103 NPs” and “Section 104 NPs”<sup>1</sup> – who would be allowed to perform certain functions without standardized procedures (i.e., physician supervision). Below is a summary of these two newly created types of NPs. Note that significant provisions of AB 890 are ambiguous, necessitating additional clarification and guidance from regulators.

## Section 103 NPs

### Requirements

To practice with expanded authority under Section 103, an NP must:

1. Pass a national NP board certification examination and any required supplemental examination (regulators will determine if additional testing should be required to practice with expanded authority);
2. Hold 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 Board of Registered Nursing (BRN);
3. Provide documentation that educational training and clinical hours were consistent with standards established by the BRN. Online educational programs that do not include mandatory clinical hours shall not meet this requirement;
4. Complete a transition to practice (see below for definition) in California of a minimum of three full-time equivalent years of practice or 4600 hours.

### Scope of Practice

An NP who meets the requirements above may perform the following functions without standardized procedures:

1. Conduct an advanced assessment;
2. Order, perform, and interpret diagnostic procedures, as specified with regard to radiologic and clinical laboratory procedures;
3. Establish primary and differential diagnoses;
4. Prescribe, order, administer, dispense, procure, and furnish therapeutic measures including referrals, pharmacological agents, and nonpharmacological interventions;
5. Certify disability for state disability benefits; and
6. Delegate tasks to a medical assistant.

The law requires a Section 103 NP to 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 NP. It is unclear how this determination is to be made and will need to be addressed through regulations.

<sup>1</sup> For ease of reference, we refer to Section 103 NPs when discussing NPs authorized by Business & Professions Code §2837.103 as adopted by AB 890; and Section 104 NPs when discussing NPs authorized by Business & Professions Code §2837.104 as adopted by AB 890.

## Settings in which a Section 103 NP can Practice with Expanded Authority

An NP who meets all of these requirements may perform these functions in one of the following settings as long as one or more physicians also practice in that setting with the NP:

1. A clinic;
2. A health facility, except for a correctional treatment center or state hospital;
3. A county medical facility;
4. A medical group practice;
5. A home health agency; and
6. A hospice facility.

While the law does not specify a date when Section 103 NPs can begin practice with expanded authority in these settings, they cannot do so until the regulations and guidance required by AB 890 become operative, including the transition to practice regulations and supplemental exam requirements.

## Section 104 NPs

### Requirements

Beginning January 1, 2023, Section 104 NPs can work in a setting without a practicing physician if they hold an active certification issued by the BRN by satisfying all of the following requirements:

1. Meet all of the requirements for Section 103 NPs;
2. Hold a valid and active license as a registered nurse in California and a master's degree in nursing or in a clinical field related to nursing or a doctoral degree in nursing;
3. Has practiced as an NP in good standing for at least three years, not inclusive of the transition to practice. The BRN may, at its discretion, lower this requirement for an NP holding a Doctorate of Nursing Practice degree (DNP) based on practice experience gained in the course of doctoral education experience.

### Scope of Practice

The same as Section 103 NPs discussed above.

## Settings in which a Section 104 NP can Practice with Expanded Authority

Unlike Section 103 NPs, Section 104 NPs are not limited to practice in the settings specified for Section 103 NPs.

### Physician Consultation

Section 104 NPs must consult and collaborate with other healing arts providers based on the clinical condition of their patient. Physician consultation shall be obtained as specified in the individual protocols and under the following circumstances:

1. Emergent conditions requiring prompt medical intervention after initial stabilizing care has been started;
2. Acute decompensation of patient situation;
3. A problem is not resolving as anticipated;
4. History, physical, or lab findings are inconsistent with the clinical perspective;
5. Upon request of the patient.

## Physician Referral

Section 104 NPs must establish a plan for referral of complex medical cases and emergencies to a physician 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 must describe how to address:

1. Situations which go beyond the competence, scope of practice, or experience of the NP;
2. Patient conditions that fail to respond to the management plan as anticipated;
3. Any patient with acute decomposition or rare condition;
4. Any patient conditions that do not fit the commonly accepted diagnostic pattern for a disease or disorder;
5. All emergency situations after initial stabilizing care has been started.

## Transition to Practice

A key component of AB 890 is the requirement that, to practice with expanded authority, an NP must complete a “transition to practice.” The new law directs the BRN to adopt by regulation minimum standards for the transition to practice. The transition to practice is a three-year period of additional clinical experience and mentorship, including, but not limited to, managing a panel of patients, working in a complex health care setting, interpersonal communication, interpersonal collaboration and team-based care, professionalism, and business management of a practice. Clinical experience may include experience obtained prior to January 1, 2021, if the experience meets the transition to practice requirements established by the BRN.

## Other Obligations of Section 103 and Section 104 NPs

AB 890 requires Section 103 and Section 104 NPs to do the following:

1. Verbally inform all new patients in a language understandable to the patient that the NP is not a physician;
2. Post a notice in a conspicuous location accessible to public view that the NP is regulated by the BRN, including information about how complaints can be made;
3. Practice only within the scope of their clinical and professional education and training; and
4. Carry professional liability insurance.

AB 890 specifies that the corporate bar applies to Section 103 and Section 104 NPs.

## Physician Supervision of Section 103 and Section 104 NPs

AB 890 does not prohibit physician supervision. Moreover, even if an NP who is authorized to practice as a Section 103 or 104 NP chooses to practice without standardized procedures, AB 890 assumes some degree of physician oversight or involvement. Additional guidance from the BRN and/or the Medical Board is necessary to determine what degree of physician involvement is required.

## Potential Physician Liability

Guidance from the Medical Board of California as to how it views the role of physicians under the AB 890 NP structure is necessary to better understand physicians’ liability risks created by AB 890.

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Reference - CMA Assembly Bill (AB 890): An Overview for Physicians