



AB 890 IMPLEMENTATION: FREQUENTLY ASKED QUESTIONS

REGULATORY QUESTIONS - 103s & 104s

What is the process of becoming a 103? 104?

Beginning January 1, 2023, NPs will be able to request immediate certification as a 103 NP if they meet all the requirements outlined in Business and Professions Code (BPC) Section 2837.103(a)(1). These requirements are:

- The NP provides documentation that the NP education was consistent to existing BRN regulations in BPC §2836.
- The NP has passed and continues to hold a national NP board certification examination 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
- The NP has completed a transition to practice (TTP) in California of a minimum of three full-time equivalent years of practice or 4,600 hours.
- The November 2022 proposed regulations further describe the TTP:
 - Completed in California.
 - Completed within five years prior to the date the applicant applies for certification as a 103 NP.
 - Completed after certification by the Board of Registered Nursing as a NP.
 - Completed in direct patient care in the role of a NP in the category listed in 16 CCR Section 1481(a) in which the applicant seeks certification as a 103 NP.

To become a 104 NP and practice independently, an NP must meet all the requirements outlined in BPC 2837.104(b)(1). These requirements include having practiced as a 103 NP in good standing for at least three full-time equivalent years or 4600 hours in direct patient care. *This means that the earliest an NP can apply to become certified as a 104 NP is **January 1, 2026**, unless the NP has a DNP (see below).*

How is the “3-years of good standing” time period affected if I have my DNP?

When the NP regulations get approved, BPC Section 1482.4(a)(14)(b) states that NPs who have a Doctorate of Nursing Practice can count any hours of direct patient care that the 104 NP applicant provided in the course of their doctoral education so long as the direct patient care is both (i) in the applicant’s area of National Certification and (ii) was provided during the doctoral part of the applicant’s doctoral education and not credited towards the applicant’s master’s degree.

Do I have an option to apply directly as a 104 even with over 6 years of experience?

No, the requirement to practice as a 103 NP in good standing for 3 full-time equivalent years or 4,600 hours, unless the NP has a DNP, prior to seeking certification as 104 NP and practicing independently is stated in BPC Section 2837.104(b)(1)(C). See the FAQ on DNPs and the “3-years of good standing” for more information on how DNPs do not need to wait the 3 years or 4,600 hours.

If I am a board-certified Family Nurse Practitioner (FNP) in Critical Care, can I stay under SPs or must I go back to school to get my Adult/Gerontology Acute Care Nurse Practitioner (AGACNP)?

An NP working under standardized procedures (i.e., non-103 NP/ non-104 NP) can practice in any setting and in any specialty that they are deemed competent for so long as it's in accordance with their standardized procedures. The physical setting in which an NP practices does not determine whether they are operating within their scope of practice. NPs who chose to leave the traditional NP role and progress to a 103 or 104 can only do so in whichever of the six NP categories outlined in 16 CCR 1481(a) they received their national certification and completed their transition to practice clinical experience and mentorship. Of the six NP categories identified in 16 CCR 1481(a), only adult-gerontology and pediatrics have a primary care or acute care designation. All other categories do not have a designation location and can work in any modality for delivery of care.

However, institutions may require that you have specific board certifications based on their institutional bylaws (see more on this below).

How do the bylaws of my organization impact my ability to apply for 103 or 104 status?

A health system's bylaws may also have to be updated to reflect the change in the law that eliminates the need for standardized procedures for NPs. This will take some networking by all of you to work with your organization leadership to update bylaws to identify and remove potential barriers.

All organizations will have to maintain standardized procedures (SP) for the NPs with less than 3 years' experience. Getting in front of the leadership at your institution to discuss this now would be a good idea. That way you can answer questions about NP practice and how nothing changes in NP scope just because they don't have SP.

Can an NP perform elective cosmetic procedures without being under the supervision of a physician as a 103? 104?

According to Business and Professions Code (BPC) Section 2837.103(a)(1)(B) and Section 2837.104(b), a 103 or 104 NP must hold a certification from a national certifying body accredited by the National Commission for Certifying Agencies (NCCA) or the American Board of Nursing Specialties (ABSNC) and recognized by the Board. Under the Advanced Practice Registered Nursing (APRN) Consensus Model, licensure occurs at the level of the population foci, as core competencies are aligned with role/population foci. Therefore, NPs who wish to progress to a

103 or 104 can only do so in whichever of the six NP categories outlined in 16 CCR 1481(a) in which they received their national certification.

This rulemaking does not alter the existing categories of NP, listed in 16 CCR 1481(a), as:

- (1) Family/individual across the lifespan;
- (2) Adult-gerontology, primary care or acute care;
- (3) Neonatal;
- (4) Pediatrics, primary care or acute care;
- (5) Women's health/gender-related;
- (6) Psychiatric-Mental Health across the lifespan.

When can I apply to become a 103?

Beginning January 1, 2023, NPs will be able to request immediate certification as a 103 NP if they meet all the requirements outlined in BPC Section 2837.103(a)(1).

Will the requirement that limits the number of NPs a MD can collaborate/supervise change?

The '103' and '104' NPs will not be limited because they are not supervised by a physician. The four "prescribing" NPs to one physician will remain in effect for NPs functioning under standardized procedures.

The BRN sent a notice that they are developing a BreZE application. The Board will send out a notice to all Nurse Practitioners and other affected parties with more information on eligibility and instructions on how to apply.

How long will it take to be identified as a 103/104 on the BRN website?

The BRN will work with the Department of Consumer Affairs (DCA) and BreZE Online Service. BreZE is DCA's licensing and enforcement system for consumers, licensees and applicants. BreZE enables consumers to verify a professional license or file a consumer complaint. Once you submit your attestation and the attestor verifies your practice time of 4,600 hours or 4 years FT of direct patient care, your status will be updated.

Do my attestors have to have a CA license?

This is not stated in the current regulations BUT because the NP must complete the 4600 hours within California, it follows that the physician you have worked with is licensed in CA as well.

What if my attestor is no longer practicing in CA or deceased ? What do I do ?

If you have a long-standing relationship in your current practice, you should approach physician leadership and ask them to support your attestation for 103 status.

Do you have any advice for the process of attesting hours to become a '103' NP?

1. Develop a good tracking system for your hours worked. This could be a timecard and paycheck stubs with the hours listed.
2. Educate your physician about their responsibility under SP and then as your attestor.
3. Educate your physician and entire office staff about NP practice- in primary care, you can typically do everything the physician can. Too many office staff (and physicians) think an NP cannot do things like casting, suturing, skin biopsies, etc.
4. Attend skills courses to solidify your skills and get signed off on these in your practice (and make sure they are included in your SP).

What is the Transition to Practice (TTP) identified by the BRN ?

The transition to practice provision in 16 CCR Section 1482.3 allows for the 4,600 hours or three full-time equivalent years of clinical practice experience and mentorship requirement to be met with experience that was obtained before January 1, 2023, so long as it meets the following criteria:

- Completed in California.
- Completed within five years prior to the date the applicant applies for certification as a nurse practitioner pursuant to Section 2837.103 of the code.
- Completed after certification by the Board of Registered Nursing as a nurse practitioner.
- Completed in direct patient care in the role of a nurse practitioner in the category listed in Section 1481(a) in which the applicant seeks certification

What if I am currently practicing as an NP outside one of the group settings?

The requirement to practice as a 103 NP in good standing for 3 years prior to becoming a 104 NP according to the proposed text at section 1482.4(a)(14). The 3-year practice requirement to become a 104 NP must occur once certification as a 103 NP is obtained, after completing the TTP. That requirement would apply for all 103 NPs who wish to transition to a 104 NP, regardless of whether they have already practiced outside of a group setting under standardized procedures.

What if I am practicing in another state? Can I qualify as a 103? 104?

The requirement for the 4,600 hours or three years of transition to practice experience to take place in California is codified in BPC 2837.103(a)(1)(D).

Do I have to take a supplemental exam as stated in AB 890?

As required by BPC Section 2837.105, as of October 2022, the Department of Consumer Affairs (DCA) Office of Professional Examination Services (OPES) has completed their occupational analysis and the results of the evaluation and linkage studies indicate that the existing NP certification examinations assess the critical competencies required to perform safe and effective independent NP practice in California. Although the national examinations do not assess knowledge related to California specific laws and regulations, OPES' final recommendation is that no supplemental examination is necessary to address additional competencies.

The BRN states that modifications to AB 890 can occur in another regulatory package? Do you anticipate this?

Any regulation can be modified by law and CANP continues to be the primary advocate for NP practice in CA, tracking new legislation and analyzing any potential impact on NP practice.

What if my institution doesn't recognize AB 890?

AB 890 is a state law. Any institution that chooses to not recognize or block implementation of a state regulation should be prepared to analyze the impact on their business operations and surveying bodies.

Can I sit on medical staff committees in my healthcare agency and have a vote? 103 vs 104?

For 103 NPs: NPs already have the ability to be appointed to a medical staff committee; the organization has the right to determine this and it may be delegated by the organization's medical staff bylaws. The '103' designation has created the legal eligibility to attend meetings of the department to which the NP is assigned. There are specific types of voting privileges outlined in AB 890 for 103 NPs such as determining NP privileges and peer review of NP clinical practice. 104 NPs will be eligible for membership on the medical staff. Membership commonly confers the ability to vote.

If I am forced to become a 103, will it change the conditions of my employment?

The conditions of your employment are governed by the type of employer you have and the type of employment document you have (i.e. contract, etc.). A '103' certificate allows for NPs to work in an organization that has at least one physician, and the NP must maintain national certification in order to work without standardized procedures.

LEGAL QUESTIONS

How will AB 890 affect billing and reimbursement for NP services provided by 103? 104 NPs?

It should not affect your billing services. However, 104 is still not predictable as far as insurance companies paying full practice NPs directly. That will have to be worked out in the future.

Will AB 890 allow me to be part of a panel with insurance companies?

Not necessarily, that will be up to the insurance company.

Can I open a clinic as a 103 NP? 104 NP?

As a 103, you must work in an organization with at least one physician (e.g., a clinic with physicians, a medical group, medical facility with physicians or a Medical Corporation). 103 allows you to work without standardized procedures and a collaborating physician if you meet the criteria as stated above and have an attestation from the BRN signed by you and the physician stating that you have been supervised for 3 years or 4,600 hours.

Do I need a collaborative physician to open up a clinic in CA?

A NP will not be able to open an independent clinic under 103. You will have to provide services for a physician, physician group, medical facility with physicians or Medical Corporation. Under 104, you should be able to but you will have to meet all the criteria under 104.

Can I apply for Medicare and Medi-Cal independently?

Yes, you have always been able to do that. 103 does not affect Medicare or Medi-Cal billing under NP NPI.

Can I admit patients in the hospital as a 103? 104?

That depends on the hospital. It is up to the hospital who they allow to admit patients. That does not change.

LEGISLATIVE QUESTIONS

Is there a bill to oppose AB 890?

Currently there is no active bill opposing AB 890.