

Date of Hearing: July 2, 2025

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
SB 389 (Ochoa Bogh) – As Amended April 24, 2025

[Note: This bill is double referred to the Assembly Business and Professions Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]

SENATE VOTE: 34-0

SUBJECT: Pupil health: individuals with exceptional needs: respiratory services: licensed vocational nurses

SUMMARY: Authorizes a licensed vocational nurse (LVN) to provide basic respiratory services, under the supervision of a credentialed school nurse, to a student with exceptional needs who requires specialized health care services during the schoolday. Specifically, **this bill:**

- 1) Authorizes a LVN to provide basic respiratory services, under the supervision of a credentialed school nurse, to a student with exceptional needs who requires specialized health care services during the schoolday.

EXISTING LAW:

- 1) Authorizes LVNs to perform nursing functions under the direction of a physician or registered nurse (RN), including certain specialized procedures if trained and supervised. (Business and Professions Code (BPC) 2860.5)
- 2) Allows school personnel to assist students with specialized physical health care services, provided they are trained and supervised according to state guidelines. (Education Code (EC) 49423.5)
- 3) Defines a credentialed school nurse as a RN currently licensed under the Nursing Practices Act, and who has completed the additional educational requirements for, and possesses a current credential issued by the Commission on Teacher Credentialing (CTC) in school nursing. (EC 49426)
- 4) Provides conditions under which LVNs employed by a home health agency may perform respiratory tasks and services identified by the Respiratory Care Board (RCB). Before January 1, 2028, an LVN may perform these tasks if they have completed patient-specific training satisfactory to their employer. After January 1, 2028, an LVN must complete training in accordance with guidelines developed by the RCB in collaboration with the Board of Vocational Nursing and Psychiatric Technicians and obtain a certification of competency for each respiratory task performed. (BPC 3765)

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

Need for the bill. According to the author, “SB 389 will simply clarify that the language in Education Code Section 49423.5 will continue to apply to LVNs working in educational settings under the supervision of a credentialed school nurse, regardless of future changes to the Business and Professions Code. Since 2001, qualified designated LVNs in educational settings have been trained to provide suctioning and trach care to students and are competent to continue meeting the healthcare needs of the student body. Clearing up the confusion guarantees that students with special healthcare needs will not experience any disruption in their medical care. SB 389 simply makes clear that, regardless of any other laws, LVNs specifically working in a school setting and under the supervision of a credentialed school nurse, can continue to provide these services to students who need them.”

Nurse-to-student ratios remains low, but is improving. There has been a long standing shortage of school nurses in California, and many California students do not have regular access to a school nurse. According to the CTC, there are 5,939 credentialed school nurses with active credentials. The number of school nurse credentials issued in 2023-24 was 675, an increase from the prior year.

Fiscal Year	# School Nurse Credentials Issued by the CTC
2019-20	424
2020-21	426
2021-22	691
2022-23	591
2023-24	675

Data from the California Department of Education (CDE) identifies 2,944 full-time equivalent school nurse positions in California schools in the 2023-24 school year. Given that there are almost 10,000 schools in California, it is clear that not every school has access to a credentialed school nurse. In some districts a single school nurse may be responsible for several thousand students across multiple schools. With over 5.8 million students, the statewide nurse-to-student ratio for 2023-24 was 1,982:1.

The National Association of School Nurses recommends guidelines of 1:750 for students in general population; 1:225 in the student population that may require daily professional school nursing services or intervention; and 1:125 in student population with complex health care needs. They recommend that school districts should provide a full-time professionally prepared RN all day, every day in each building. Also recommended is additional school nurse staff to accommodate other student health needs including, but not limited to, special education evaluations, nursing services included in individualized education program (IEPs), nursing services for students with Section 504 Plans, and schools with large populations and large numbers of students with mental or social concerns.

Credentialed school nursing requirements. Under current law, a school nurse is required to have a Bachelor of Science (BS) in nursing, be an RN, and hold a school nurse credential. A preliminary credential is issued for five years, and an individual qualifies for a clear credential after successfully completing two years of service as a school nurse and by completing a CTC-approved school nurse program. School nursing certificates require an additional 15-30 units of education above a BS. Requirements from the CTC make the school nursing credential

standards-based, thereby allowing schools the ability to offer the credential in a variety of formats.

Registered nurses and licensed vocational nurses. According to the Legislative Analyst's Office, all RNs in the state must have a license issued by the California Board of Registered Nursing (BRN). To obtain a license, students must complete a number of steps, including graduating from an approved nursing program and passing the national licensing examination. In California, there are four types of prelicensure educational programs available to persons seeking to become a RN. All four types are generally full-time programs, and each combines classroom instruction and "hands-on" training in a lab with clinical placement in a hospital or other health facility. The first two options are for students to enroll in either an associate degree in nursing program at a two-year college or a four-year bachelor's degree in nursing program at a university. In addition, individuals who are already LVNs may choose to enroll in an accelerated nursing program at a two-year college. Finally, students who already hold a bachelor's or higher degree in a non-nursing field are eligible to apply for an entry-level master's program at a university.

LVNs are licensed by the California Board of Vocational Nursing and Psychiatric Technicians (BVNPT). To obtain a license, students must pass the licensure exam and either graduate from an accredited Vocational Nursing Program or complete the equivalent education and experience. LVN's skills are developed in medical-surgical, maternity and pediatric nursing. LVNs practice under the direction of a physician or a RN, and only LVNs and RNs are allowed to use the title "nurse." According to the BVNPT, there are currently approximately 130,000 LVNs in California.

Ongoing regulatory work of the respiratory care board (RCB). The RCB is responsible for assessing the scope of practice for respiratory care and determining under what conditions LVNs may provide such services. To date, these efforts have largely focused on medical environments and did not explicitly address the role of LVNs in schools. As a result, school districts have expressed uncertainty about whether LVNs can continue to provide respiratory care services to students, particularly those with specialized health care needs.

This bill takes a permanent approach by ensuring that LVNs will continue to play a role in providing specialized physical health care services in schools under the supervision of a credentialed school nurse, regardless of future regulatory changes.

Prior legislative efforts to define LVN respiratory care authority. Over the past several years, the Legislature has taken steps to clarify the limited circumstances under which LVNs can provide respiratory care services. SB 1436 (Roth) Chapter 624, Statutes of 2022, allowed LVNs to perform specific manual and technical respiratory tasks that did not require a respiratory assessment, provided they received appropriate training and demonstrated competency to their employer. This effort provided much-needed guidance but was later refined by SB 1451 (Ashby) Chapter 481, Statutes of 2024, which extended LVN authorization for these tasks through 2028 and introduced new certification requirements thereafter. These measures reinforced that LVNs must operate within carefully defined parameters when performing respiratory care tasks, subject to appropriate oversight and training. While these efforts addressed the broader role of LVNs in clinical and home health settings, they did not directly clarify the application of these rules in school settings.

Arguments in support. The California School Nurses Organization (CSNO) writes, “On behalf of the CSNO, we write as the proud sponsors of, and to express our strong support for, SB 389 which seeks to remedy an unintended consequence of Senate Bill 1436 (Roth, 2022). SB 1436 inadvertently impacted LVNs who provide medically necessary suctioning support and tracheostomy care to children in educational settings.

California’s schools serve 5.8 million students across more than a thousand school districts. While only 10-12% of these students have special healthcare needs, approximately 1-3% require suctioning support or tracheostomy care. Unfortunately, the changes made by SB 1436, which authorized the Respiratory Care Board to promulgate future regulations for LVNs, could unintentionally prevent LVNs from continuing to provide these critical services in the educational setting. Limiting access to trained LVNs could prevent students from receiving the medical care necessary to ensure their right to a free and appropriate education in the least restrictive environment.

SB 389 will provide much-needed clarification by ensuring that the language in Education Code Section 49423.5 continues to apply to LVNs working in educational settings under the supervision of a credentialed school nurse, regardless of any future changes to the BPC. For years, LVNs with proper training and under the supervision of a credentialed school nurse have provided suctioning and tracheostomy care and remain competent in meeting the healthcare needs of students. By clarifying this provision, SB 389 will prevent disruptions in student medical care and ensure that students with special healthcare needs receive uninterrupted support from trained LVNs.”

Related legislation. SB 1451 (Ashby) Chapter 481, Statutes of 2024, expressly authorizes LVNs who have completed additional training to perform certain respiratory care services in specified settings.

AB 1722 (Megan Dahle) Chapter 853, Statutes of 2023, authorizes, until January 1, 2029, a local educational agency (LEA) to employ a LVN who is supervised by a credentialed school nurse employed by a different LEA.

SB 1436 (Roth) Chapter 624, Statutes of 2022, extends until January 1, 2027, the provisions establishing the Respiratory Care Board, revises mandatory reporting requirements, and permits LVNs to perform specified respiratory care services.

AB 815 (Luz Rivas), Chapter 668, Statutes of 2021, authorizes the CTC to approve a clear credential program offered by a LEA for school nursing; and, requires the CTC to apply the standards for approval of a program of professional preparation offered by a postsecondary educational institution to a program of professional preparation offered by a LEA.

SB 1239 (Wolk) of the 2013-14 Session would have required school districts that are eligible to receive concentration funding under the Local Control Funding Formula (LCFF) to employ at least one school nurse as a supervisor of health, as specified. This bill was held in the Senate Appropriations Committee.

AB 2454 (Torlakson) of the 2009-10 Session would have required, commencing July 1, 2020, the governing board of a school district to employ at least one school nurse, registered nurse, or licensed vocational nurse for every 750 pupils. This bill was held in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County Office of Education
Association of California School Administrators
Board of Vocational Nursing and Psychiatric Technicians
California County Superintendents
California School Nurses Organization
California Teachers Association
Disability Rights California
Easterseals Northern California
Office of the Riverside County Superintendent of Schools
San Bernardino County District Advocates for Better Schools
San Diego Unified School District
SCDD
SELPA Administrators of CA
Small School Districts Association

Opposition

None on file

Analysis Prepared by: Debbie Look / ED. / (916) 319-2087