

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 154**

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**Introduced by Assembly Member Atkins**

January 22, 2013

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~~An act relating to reproductive health care.~~ *An act to amend Section 2253 of, and to add Sections 734, 2725.4, and 3502.4 to, the Business and Professions Code, and to amend Section 123468 of the Health and Safety Code, relating to healing arts.*

LEGISLATIVE COUNSEL'S DIGEST

AB 154, as amended, Atkins. ~~Healing arts: reproductive health care.~~ *Abortion.*

Existing law makes it a public offense, punishable by a fine not exceeding \$10,000 or imprisonment, or both, for a person to perform or assist in performing a surgical abortion if the person does not have a valid license to practice as a physician and surgeon, or to assist in performing a surgical abortion without a valid license or certificate obtained in accordance with some other law that authorizes him or her to perform the functions necessary to assist in performing a surgical abortion. Existing law also makes it a public offense, punishable by a fine not exceeding \$10,000 or imprisonment, or both, for a person to perform or assist in performing a nonsurgical abortion if the person does not have a valid license to practice as a physician and surgeon or does not have a valid license or certificate obtained in accordance with some other law authorizing him or her to perform or assist in performing the functions necessary for a nonsurgical abortion. Under existing law, nonsurgical abortion includes termination of pregnancy through the use of pharmacological agents.

Existing law, the Nursing Practice Act, provides for the licensure and regulation of registered nurses, including nurse practitioners and certified nurse-midwives, by the Board of Registered Nursing. Existing law, the Physician Assistant Practice Act, provides for the licensure and regulation of physician assistants by the Physician Assistant Committee of the Medical Board of California.

~~Existing law authorizes the Office of Statewide Health Planning and Development to designate experimental health workforce projects as approved projects that, among other things, teach new skills to existing categories of health care personnel. The office has designated a pilot project, known as the Access through Primary Care Project, relating to the provision of health care services involving pregnancy.~~

~~This bill would state that it is the intent of the Legislature to enact legislation that would expand access to reproductive health care in California by allowing qualified health care professionals to perform early abortions.~~

*This bill would instead make it a public offense, punishable by a fine not exceeding \$10,000 or imprisonment, or both, for a person to perform an abortion if the person does not have a valid license to practice as a physician and surgeon, except that it would not be a public offense for a person to perform an abortion by medication or aspiration techniques in the first trimester of pregnancy if he or she holds a license or certificate authorizing him or her to perform the functions necessary for an abortion by medication or aspiration techniques. The bill would also require a nurse practitioner, certified nurse-midwife, or physician assistant to complete training, as specified, in order to perform an abortion by aspiration techniques, and would indefinitely authorize a nurse practitioner, certified nurse-midwife, or physician assistant who completed a specified training program and achieved clinical competency to continue to perform abortions by aspiration techniques. The bill would delete the references to a nonsurgical abortion and would delete the restrictions on assisting with abortion procedures. The bill would also make technical, nonsubstantive changes.*

*Because the bill would change the definition of crimes, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 734 is added to the Business and  
2 Professions Code, to read:

3 734. It is unprofessional conduct for any nurse practitioner,  
4 certified nurse midwife, or physician assistant to perform an  
5 abortion pursuant to Section 2253, without prior completion of  
6 training and validation of clinical competency.

7 SEC. 2. Section 2253 of the Business and Professions Code is  
8 amended to read:

9 2253. (a) Failure to comply with the Reproductive Privacy  
10 Act (Article 2.5 (commencing with Section 123460) of Chapter 2  
11 of Part 2 of Division 106 of the Health and Safety Code) ~~in~~  
12 ~~performing, assisting, procuring or aiding, abetting, attempting,~~  
13 ~~agreeing, or offering to procure an illegal abortion~~ constitutes  
14 unprofessional conduct.

15 (b) (1) ~~A~~ *Except as provided in paragraph (2), a person is*  
16 ~~subject to Sections Section 2052 and 2053 if he or she performs~~  
17 ~~or assists in performing a surgical an abortion, and at the time of~~  
18 ~~so doing, does not have a valid, unrevoked, and unsuspended~~  
19 ~~license to practice as a physician and surgeon as provided in this~~  
20 ~~chapter, or if he or she assists in performing a surgical abortion~~  
21 ~~and does not have a valid, unrevoked, and unsuspended license or~~  
22 ~~certificate obtained in accordance with some other provision of~~  
23 ~~law that authorizes him or her to perform the functions necessary~~  
24 ~~to assist in performing a surgical abortion.~~

25 (2) A person ~~is~~ *shall not be* subject to ~~Sections Section 2052~~  
26 ~~and 2053 if he or she performs or assists in performing a~~  
27 ~~nonsurgical abortion, an abortion by medication or aspiration~~  
28 ~~techniques in the first trimester of pregnancy, and at the time of~~  
29 ~~so doing, does not have a valid, unrevoked, and unsuspended~~  
30 ~~license to practice as a physician and surgeon as provided in this~~  
31 ~~chapter, or does not have~~ *has* a valid, unrevoked, and unsuspended  
32 license or certificate obtained in accordance with some other  
33 provision of law, *including, but not limited to, the Nursing Practice*

1 Act (Chapter 6 (commencing with Section 2700)) or the Physician  
 2 Assistant Practice Act (Chapter 7.7 (commencing with Section  
 3 3500)), that authorizes him or her to perform or assist in performing  
 4 the functions necessary for a nonsurgical abortion: an abortion by  
 5 medication or aspiration techniques.

6 ~~(e) For purposes of this section, “nonsurgical abortion” includes~~  
 7 ~~termination of the use of pharmacological agents.~~

8 (c) In order to perform an abortion by aspiration techniques  
 9 pursuant to paragraph (2) of subdivision (b), a person shall comply  
 10 with Section 2725.4 or 3502.4.

11 SEC. 3. Section 2725.4 is added to the Business and Professions  
 12 Code, to read:

13 2725.4. (a) In order to perform an abortion by aspiration  
 14 techniques, a person with a license or certificate to practice as a  
 15 nurse practitioner or a certified nurse-midwife shall complete  
 16 training recognized by the Board of Registered Nursing. Beginning  
 17 January 1, 2014, and until January 1, 2016, the competency-based  
 18 training protocols established by Health Workforce Pilot Project  
 19 (HWPP) No. 171 through the Office of Statewide Health Planning  
 20 and Development shall be used.

21 (b) A nurse practitioner or certified nurse-midwife who has  
 22 completed training and achieved clinical competency through  
 23 HWPP No. 171 shall be authorized to perform abortions by  
 24 aspiration techniques.

25 SEC. 4. Section 3502.4 is added to the Business and Professions  
 26 Code, to read:

27 3502.4. (a) In order to receive authority from his or her  
 28 supervising physician and surgeon to perform an abortion by  
 29 aspiration techniques, a physician assistant shall complete training  
 30 either through training programs approved by the Physician  
 31 Assistant Board pursuant to Section 3513 or by training to perform  
 32 medical services which augment his or her current areas of  
 33 competency pursuant to Section 1399.543 of Title 16 of the  
 34 California Code of Regulations. Beginning January 1, 2014, and  
 35 until January 1, 2016, the training and clinical competency  
 36 protocols established by Health Workforce Pilot Project (HWPP)  
 37 No. 171 through the Office of Statewide Health Planning and  
 38 Development shall be used as training and clinical competency  
 39 guidelines to meet this requirement.

1 (b) *The training protocols established by HWPP No. 171 shall*  
2 *be deemed to meet the standards of the Physician Assistant Board.*  
3 *A physician assistant who has completed training and achieved*  
4 *clinical competency through HWPP No. 171 shall be authorized*  
5 *to perform abortions by aspiration techniques.*

6 *SEC. 5. Section 123468 of the Health and Safety Code is*  
7 *amended to read:*

8 123468. The performance of an abortion is unauthorized if  
9 either of the following is true:

10 (a) ~~The person performing or assisting in performing the~~  
11 ~~abortion is not a health care provider authorized to perform or~~  
12 ~~assist in performing an abortion pursuant to Section 2253 of the~~  
13 ~~Business and Professions Code.~~

14 (b) The abortion is performed on a viable fetus, and both of the  
15 following are established:

16 (1) In the good faith medical judgment of the physician, the  
17 fetus was viable.

18 (2) In the good faith medical judgment of the physician,  
19 continuation of the pregnancy posed no risk to life or health of the  
20 pregnant woman.

21 *SEC. 6. No reimbursement is required by this act pursuant to*  
22 *Section 6 of Article XIII B of the California Constitution because*  
23 *the only costs that may be incurred by a local agency or school*  
24 *district will be incurred because this act creates a new crime or*  
25 *infraction, eliminates a crime or infraction, or changes the penalty*  
26 *for a crime or infraction, within the meaning of Section 17556 of*  
27 *the Government Code, or changes the definition of a crime within*  
28 *the meaning of Section 6 of Article XIII B of the California*  
29 *Constitution.*

30 ~~SECTION 1. It is the intent of the Legislature to enact~~  
31 ~~legislation that would expand access to reproductive health care~~  
32 ~~in California by allowing qualified health care professionals to~~  
33 ~~perform early abortions, provided that the functions are within the~~  
34 ~~scope of their licenses.~~