

AMENDED IN ASSEMBLY APRIL 30, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 154

Introduced by Assembly Member Atkins
(Principal coauthor: Senator Jackson)
(Coauthors: Assembly Members Mitchell and Skinner)

January 22, 2013

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. 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~~ *Board within the jurisdiction* of the Medical Board of California.

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, *and to comply with standardized procedures or protocols, 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: yes.
State-mandated local program: 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:~~

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

5 ~~SEC. 2.~~

6 *SECTION 1.* Section 2253 of the Business and Professions
7 Code is amended to read:

8 2253. (a) Failure to comply with the Reproductive Privacy
9 Act (Article 2.5 (commencing with Section 123460) of Chapter 2
10 of Part 2 of Division 106 of the Health and Safety Code) constitutes
11 unprofessional conduct.

12 (b) (1) Except as provided in paragraph (2), a person is subject
13 to Section 2052 if he or she performs an abortion, and at the time
14 of so doing, does not have a valid, unrevoked, and unsuspended
15 license to practice as a physician and surgeon.

16 (2) A person shall not be subject to Section 2052 if he or she
17 performs an abortion by medication or aspiration techniques in
18 the first trimester of pregnancy, and at the time of so doing, has a
19 valid, unrevoked, and unsuspended license or certificate obtained
20 in accordance with ~~some other provision of law, including, but not~~
21 ~~limited to,~~ the Nursing Practice Act (Chapter 6 (commencing with
22 Section 2700)) or the Physician Assistant Practice Act (Chapter
23 7.7 (commencing with Section 3500)), that authorizes him or her
24 to perform the functions necessary for an abortion by medication
25 or aspiration techniques.

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

29 ~~SEC. 3.~~

30 *SEC. 2.* Section 2725.4 is added to the Business and Professions
31 Code, to read:

32 2725.4. (a) In order to perform an abortion by aspiration
33 techniques *pursuant to Section 2253*, a person with a license or
34 certificate to practice as a nurse practitioner or a certified
35 nurse-midwife shall complete training recognized by the Board of
36 Registered Nursing. Beginning January 1, 2014, and until January
37 1, 2016, the competency-based training protocols established by
38 Health Workforce Pilot Project (HWPP) No. 171 through the Office
39 of Statewide Health Planning and Development shall be used.

1 (b) In order to perform an abortion by aspiration techniques
2 pursuant to Section 2253, a person with a license or certificate to
3 practice as a nurse practitioner or a certified nurse-midwife shall
4 adhere to standardized procedures developed in compliance with
5 subdivision (c) of Section 2725 that specify all of the following:

6 (1) The extent of supervision by a physician and surgeon with
7 relevant training and expertise.

8 (2) Procedures for transferring patients to the care of the
9 physician and surgeon or a hospital.

10 (3) Procedures for obtaining assistance and consultation from
11 a physician and surgeon.

12 (4) Procedures for providing emergency care until physician
13 assistance and consultation is available.

14 (5) The method of periodic review of the provisions of the
15 standardized procedures.

16 (b)

17 (c) A nurse practitioner or certified nurse-midwife who has
18 completed training and achieved clinical competency through
19 HWPP No. 171 shall be authorized to perform abortions by
20 aspiration techniques pursuant to Section 2253, in adherence to
21 standardized procedures described in subdivision (b).

22 (d) It is unprofessional conduct for any nurse practitioner or
23 certified nurse-midwife to perform an abortion by aspiration
24 techniques pursuant to Section 2253 without prior completion of
25 training and validation of clinical competency.

26 ~~SEC. 4.~~

27 *SEC. 3.* Section 3502.4 is added to the Business and Professions
28 Code, to read:

29 3502.4. (a) In order to receive authority from his or her
30 supervising physician and surgeon to perform an abortion by
31 aspiration techniques pursuant to Section 2253, a physician
32 assistant shall complete training either through training programs
33 approved by the ~~Physician Assistant Board~~ board pursuant to
34 Section 3513 or by training to perform medical services which
35 augment his or her current areas of competency pursuant to Section
36 1399.543 of Title 16 of the California Code of Regulations.
37 Beginning January 1, 2014, and until January 1, 2016, the training
38 and clinical competency protocols established by Health Workforce
39 Pilot Project (HWPP) No. 171 through the Office of Statewide

1 Health Planning and Development shall be used as training and
2 clinical competency guidelines to meet this requirement.

3 *(b) In order to receive authority from his or her supervising*
4 *physician and surgeon to perform an abortion by aspiration*
5 *techniques pursuant to Section 2253, a physician assistant shall*
6 *comply with protocols developed in compliance with Section 3502*
7 *that specify:*

8 *(1) The extent of supervision by a physician and surgeon with*
9 *relevant training and expertise.*

10 *(2) Procedures for transferring patients to the care of the*
11 *physician and surgeon or a hospital.*

12 *(3) Procedures for obtaining assistance and consultation from*
13 *a physician and surgeon.*

14 *(4) Procedures for providing emergency care until physician*
15 *assistance and consultation is available.*

16 *(5) The method of periodic review of the provisions of the*
17 *protocols.*

18 ~~(b)~~

19 *(c) The training protocols established by HWPP No. 171 shall*
20 *be deemed to meet the standards of the ~~Physician Assistant Board~~*
21 *board. A physician assistant who has completed training and*
22 *achieved clinical competency through HWPP No. 171 shall be*
23 *authorized to perform abortions by aspiration techniques pursuant*
24 *to Section 2253, in adherence to protocols described in subdivision*
25 *(b).*

26 *(d) It is unprofessional conduct for any physician assistant to*
27 *perform an abortion by aspiration techniques pursuant to Section*
28 *2253 without prior completion of training and validation of clinical*
29 *competency.*

30 ~~SEC. 5.~~

31 *SEC. 4.* Section 123468 of the Health and Safety Code is
32 amended to read:

33 123468. The performance of an abortion is unauthorized if
34 either of the following is true:

35 (a) The person performing the abortion is not a health care
36 provider authorized to perform an abortion pursuant to Section
37 2253 of the Business and Professions Code.

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

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

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

6 ~~SEC. 6.~~

7 *SEC. 5.* No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.