

Introduced by Senator BlockFebruary 26, 2015

An act to amend Sections 3640 and 3640.5 of the Business and Professions Code, relating to naturopathic doctors.

LEGISLATIVE COUNSEL'S DIGEST

SB 538, as introduced, Block. Naturopathic doctors.

(1) Existing law, the Naturopathic Doctors Act, provides for the licensure and regulation of naturopathic doctors by the Naturopathic Medicine Committee in the Osteopathic Medical Board of California. Existing law authorizes a naturopathic doctor to perform certain tasks, including physical and laboratory examinations for diagnostic purposes, and to order diagnostic imaging studies, as specified.

This bill would revise and recast those provisions and would expressly authorize a naturopathic doctor to order, perform, review, and interpret the results of diagnostic procedures commonly used by physicians and surgeons in general practice and to dispense, administer, order, prescribe, provide, furnish, or perform parenteral therapy and minor procedures, among other duties. The bill would include cervical routes of administration among the authorized routes of administration. The bill would define terms for those purposes.

(2) Existing law, the California Uniform Controlled Substances Act, classifies controlled substances into 5 designated schedules, with the most restrictive limitations generally placed on controlled substances classified in Schedule I, and the least restrictive limitation generally placed on controlled substances classified in Schedule V.

Existing law states that nothing in the Naturopathic Doctors Act or any other law shall be construed to prohibit a naturopathic doctor from furnishing or ordering drugs when, among other requirements, the

naturopathic doctor is functioning pursuant to standardized procedure, as defined, or protocol developed and approved, as specified, and the Naturopathic Medicine Committee has certified that the naturopathic doctor has satisfactorily completed adequate coursework in pharmacology covering the drugs to be furnished or ordered. Existing law requires that the furnishing or ordering of drugs by a naturopathic doctor occur under the supervision of a physician and surgeon. Existing law also authorizes a naturopathic doctor to furnish or order controlled substances classified in Schedule III, IV, or V of the California Uniform Controlled Substances Act, but limits this authorization to those drugs agreed upon by the naturopathic doctor and physician and surgeon as specified in the standardized procedure. Existing law further requires that drugs classified in Schedule III be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician.

This bill would instead provide that nothing in the provisions governing naturopathic doctors or any other law shall be construed to prohibit a naturopathic doctor from furnishing, prescribing, administering, or ordering drugs and would make a conforming change to the scope of the certification duties of the Naturopathic Medicine Committee. The bill would delete the other provisions described above restricting the authority of naturopathic doctors to furnish or order drugs, including the requirements that the naturopathic doctor function pursuant to a standardized procedure, or furnish or order drugs under the supervision of a physician and surgeon.

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

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

- 1 SECTION 1. Section 3640 of the Business and Professions
- 2 Code is amended to read:
- 3 ~~3640. (a) A naturopathic doctor may order and perform~~
- 4 ~~physical and laboratory examinations for diagnostic purposes,~~
- 5 ~~including, but not limited to, phlebotomy, clinical laboratory tests,~~
- 6 ~~speculum examinations, official examinations, and physiological~~
- 7 ~~function tests.~~
- 8 ~~(b)~~
- 9 3640. (a) A naturopathic doctor may order, *perform, review,*
- 10 *and interpret the results of diagnostic-imaging studies, including*

- 1 ~~X-ray, ultrasound, mammogram, bone densitometry, and others,~~
2 ~~consistent with naturopathic training as determined by the~~
3 ~~committee, but shall refer the studies to an appropriately licensed~~
4 ~~health care professional to conduct the study and interpret the~~
5 ~~results: procedures commonly used by physicians and surgeons in~~
6 ~~general practice, including:~~
- 7 (1) *Venipuncture.*
 - 8 (2) *Physical and orificial examinations.*
 - 9 (3) *Electrocardiograms.*
 - 10 (4) *Diagnostic imaging technique consistent with the practice*
11 *of naturopathic medicine.*
 - 12 (5) *Phlebotomy.*
 - 13 (6) *Clinical laboratory test and examinations, as described in*
14 *subdivision (e).*
 - 15 (7) *Obtaining samples of human tissue, consistent with the*
16 *practice of naturopathic medicine.*
- 17 ~~(e)~~
- 18 (b) A naturopathic doctor may dispense, administer, order,
19 prescribe, ~~and furnish~~ *provide, furnish,* or perform the following:
- 20 (1) Food, extracts of food, nutraceuticals, vitamins, amino acids,
21 minerals, enzymes, botanicals and their extracts, botanical
22 medicines, homeopathic medicines, all dietary supplements and
23 nonprescription drugs as defined by the federal Food, Drug, and
24 Cosmetic Act, consistent with the routes of administration
25 identified in subdivision (d).
 - 26 (2) Hot or cold hydrotherapy; naturopathic physical medicine
27 inclusive of the manual use of massage, stretching, resistance, or
28 joint play examination but exclusive of small amplitude movement
29 at or beyond the end range of normal joint motion; electromagnetic
30 energy; colon hydrotherapy; and therapeutic exercise.
 - 31 (3) Devices, including, but not limited to, therapeutic devices,
32 barrier contraception, and durable medical equipment *consistent*
33 *with naturopathic training as determined by the committee.*
 - 34 (4) Health education and health counseling.
 - 35 ~~(5) Repair and care incidental to superficial lacerations and~~
36 ~~abrasions, except suturing.~~
 - 37 ~~(6) Removal of foreign bodies located in the superficial tissues.~~
 - 38 (5) *Parenteral therapy.*
 - 39 (6) *Minor procedures.*
- 40 ~~(d)~~

1 (c) A naturopathic doctor may utilize routes of administration
 2 that include oral, nasal, auricular, ocular, *cervical*, rectal, vaginal,
 3 transdermal, intradermal, subcutaneous, intravenous, and
 4 intramuscular.

5 (e)

6 (d) The committee may establish regulations regarding ocular
 7 or intravenous routes of administration that are consistent with the
 8 education and training of a naturopathic doctor.

9 (f)

10 (e) Nothing in this section shall exempt a naturopathic doctor
 11 from meeting applicable licensure requirements for the performance
 12 of clinical laboratory tests, including the requirements imposed
 13 under Chapter 3 (commencing with Section 1200).

14 (f) *For purposes of this section:*

15 (1) “*Minor procedures*” means care and operative procedures
 16 relative to superficial laceration, lesions, and abrasions, and the
 17 removal of foreign bodies located in superficial structures and
 18 aspiration of joints, and the topical and parenteral use of
 19 substances consistent with the practice of naturopathic medicine,
 20 in accordance with rules established by the Naturopathic Medicine
 21 Committee.

22 (2) “*Parenteral therapy*” means the administration of
 23 substances by means other than through the gastrointestinal tract,
 24 including intravenous, subcutaneous and intramuscular,
 25 intravenous and other areas of the body excluding the ventral and
 26 dorsal body cavities.

27 SEC. 2. Section 3640.5 of the Business and Professions Code
 28 is amended to read:

29 3640.5. (a) Nothing in this chapter or any other provision of
 30 law shall be construed to prohibit a naturopathic doctor from
 31 furnishing or, *prescribing, administering, or ordering* drugs when
 32 all of the following apply:

33 (a) ~~The drugs are furnished or ordered by a naturopathic doctor~~
 34 ~~in accordance with standardized procedures or protocols developed~~
 35 ~~by the naturopathic doctor and his or her supervising physician~~
 36 ~~and surgeon.~~

37 (b) ~~The naturopathic doctor is functioning pursuant to~~
 38 ~~standardized procedure, as defined by subdivisions (a), (b), (d),~~
 39 ~~(e), (h), and (i) of Section 2836.1 and paragraph (1) of subdivision~~
 40 ~~(e) of Section 2836.1, or protocol. The standardized procedure or~~

1 ~~protocol shall be developed and approved by the supervising~~
2 ~~physician and surgeon, the naturopathic doctor, and, where~~
3 ~~applicable, the facility administrator or his or her designee.~~

4 ~~(e) The standardized procedure or protocol covering the~~
5 ~~furnishing of drugs shall specify which naturopathic doctors may~~
6 ~~furnish or order drugs, which drugs may be furnished or ordered~~
7 ~~under what circumstances, the extent of physician and surgeon~~
8 ~~supervision, the method of periodic review of the naturopathic~~
9 ~~doctor's competence, including peer review, and review of the~~
10 ~~provisions of the standardized procedure.~~

11 ~~(d) The furnishing or ordering of drugs by a naturopathic doctor~~
12 ~~occurs under physician and surgeon supervision. Physician and~~
13 ~~surgeon supervision shall not be construed to require the physical~~
14 ~~presence of the physician, but does include all of the following:~~

15 ~~(1) Collaboration on the development of the standardized~~
16 ~~procedure.~~

17 ~~(2) Approval of the standardized procedure.~~

18 ~~(3) Availability by telephonic contact at the time of patient~~
19 ~~examination by the naturopathic doctor.~~

20 ~~(e) For purposes of this section, a physician and surgeon shall~~
21 ~~not supervise more than four naturopathic doctors at one time.~~

22 ~~(f)~~

23 ~~(b) Drugs furnished or ordered by a naturopathic doctor may~~
24 ~~include Schedule III through Schedule V controlled substances~~
25 ~~under the California Uniform Controlled Substances Act (Division~~
26 ~~10 (commencing with Section 11000) of the Health and Safety~~
27 ~~Code) and shall be further limited to those drugs agreed upon by~~
28 ~~the naturopathic doctor and physician and surgeon as specified in~~
29 ~~the standardized procedure. When Schedule III controlled~~
30 ~~substances, as defined in Section 11056 of the Health and Safety~~
31 ~~Code, are furnished or ordered by a naturopathic doctor, the~~
32 ~~controlled substances shall be furnished or ordered in accordance~~
33 ~~with a patient-specific protocol approved by the treating or~~
34 ~~supervising physician. A copy of the section of the naturopathic~~
35 ~~doctor's standardized procedure relating to controlled substances~~
36 ~~shall be provided upon request, to a licensed pharmacist who~~
37 ~~dispenses drugs, when there is uncertainty about the naturopathic~~
38 ~~doctor furnishing the order. Code.~~

39 ~~(g)~~

1 (c) The committee ~~has certified~~ *shall certify* that the naturopathic
2 doctor has satisfactorily completed adequate coursework in
3 pharmacology covering the drugs to be furnished, *prescribed,*
4 *administered,* or ordered under this section. The committee shall
5 establish the requirements for satisfactory completion of this
6 subdivision.

7 ~~(h)~~

8 (d) Use of the term “furnishing” in this section, in health
9 facilities defined in subdivisions (b), (c), (d), (e), and (i) of Section
10 1250 of the Health and Safety Code, shall include ~~both of the~~
11 ~~following:~~

12 ~~(1) Ordering ordering and furnishing a drug in accordance with~~
13 ~~the standardized procedure drug.~~

14 ~~(2) Transmitting an order of a supervising physician and~~
15 ~~surgeon.~~

16 ~~(i)~~

17 (e) For purposes of this section, “drug order” or “order” means
18 an order for medication which is dispensed to or for an ultimate
19 user, issued by a naturopathic doctor as an individual practitioner,
20 within the meaning of Section 1306.02 of Title 21 of the Code of
21 Federal Regulations.

22 ~~(j)~~

23 (f) Notwithstanding any other provision of law, *both of* the
24 following *shall* apply:

25 ~~(1) A drug order issued pursuant to this section shall be treated~~
26 ~~in the same manner as a prescription of the supervising physician.~~

27 ~~(2)~~

28 (1) All references to prescription in this code and the Health
29 and Safety Code shall include drug orders issued by naturopathic
30 doctors.

31 ~~(3)~~

32 (2) The signature of a naturopathic doctor on a drug order issued
33 in accordance with this section shall be deemed to be the signature
34 of a prescriber for purposes of this code and the Health and Safety
35 Code.