

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE APRIL 16, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 538

**Introduced by Senator Block
(Coauthor: Senator Hueso)**

February 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 amended, 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, ~~purposes~~, and to order diagnostic imaging studies, ~~as specified~~. *consistent with naturopathic training as determined by the committee*. Under the act, a naturopathic doctor is authorized to dispense, administer, order, prescribe, furnish, or perform certain things, including health education and health counseling. ~~The act also authorizes a naturopathic doctor to utilize routes of administration that include, among others, intramuscular.~~

~~This bill would revise and recast those provisions and would expressly, instead, authorize a naturopathic doctor to perform certain tasks, consistent with the practice of naturopathic medicine, and would additionally authorize a naturopathic doctor to dispense, administer,~~

order, prescribe, provide, *or* furnish, ~~or perform parenteral therapy and minor procedures. The bill would define terms for those purposes. The bill would authorize a naturopathic doctor to use a cervical route of administration only for the purpose of administering barrier contraception. devices and durable medical equipment consistent with the naturopathic training as determined by the committee.~~

(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, except as specified, nothing in the provisions governing naturopathic doctors or any other law shall be construed to prohibit a naturopathic doctor from administering, furnishing, ordering, or prescribing drugs and would make a conforming change to the scope of the certification duties of the Naturopathic Medicine Committee. The bill would delete certain 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 for ~~Schedule IV through~~ Schedule V controlled substances and for any drug approved

by the federal Food and Drug Administration and labeled “for prescription only,” except chemotherapeutics, that is not classified.

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, orificial examinations, and physiological
7 function tests.

8 (b) A naturopathic doctor may order diagnostic imaging studies,
9 including X-ray, ultrasound, mammogram, bone densitometry,
10 and others, consistent with the practice of naturopathic medicine,
11 but shall refer the studies to an appropriately licensed health care
12 professional to conduct the study and interpret the results.

13 (c) A naturopathic doctor may dispense, administer, order,
14 prescribe, provide, furnish, or perform the following:

15 (1) Food, extracts of food, nutraceuticals, vitamins, amino acids,
16 minerals, enzymes, botanicals and their extracts, botanical
17 medicines, homeopathic medicines, all dietary supplements and
18 nonprescription drugs as defined by the Federal Food, Drug, and
19 Cosmetic Act, consistent with the routes of administration
20 identified in subdivision (d).

21 (2) Hot or cold hydrotherapy; naturopathic physical medicine
22 inclusive of the manual use of massage, stretching, resistance, or
23 joint play examination but exclusive of small amplitude movement
24 at or beyond the end range of normal joint motion; electromagnetic
25 energy; colon hydrotherapy; and therapeutic exercise.

26 (3) Devices, including, but not limited to, therapeutic devices,
27 barrier contraception, and durable medical equipment consistent
28 with the naturopathic training as determined by the committee.

29 (4) Health education and health counseling.

30 ~~(5) Parenteral therapy.~~

31 ~~(6) Minor procedures.~~

32 (5) *Repair and care incidental to superficial lacerations and*
33 *abrasions, except suturing.*

1 (6) *Removal of foreign bodies located in the superficial tissues.*

2 (d) A naturopathic doctor may utilize routes of administration
3 that include oral, nasal, auricular, ocular, rectal, vaginal,
4 transdermal, intradermal, subcutaneous, intravenous, and
5 intramuscular. ~~A naturopathic doctor may utilize a cervical route
6 of administration only for the purpose of administering barrier
7 contraception.~~

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

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

15 ~~(g) For purposes of this section, the following terms have the
16 following meanings:~~

17 ~~(1) "Minor procedures" means care and operative procedures
18 relative to superficial lacerations, superficial clinically benign
19 lesions less than one centimeter and not located on the face, and
20 superficial abrasions, and the removal of foreign bodies located
21 in superficial structures and the topical and parenteral use of
22 substances consistent with the practice of naturopathic medicine,
23 in accordance with rules established by the Naturopathic Medicine
24 Committee. A naturopathic doctor may obtain samples of
25 superficial human tissue by means of shave, punch, or excisional
26 biopsy consistent with the practice of naturopathic medicine.
27 "Minor procedures" does not include general or spinal anesthesia,
28 sclerotherapy, or procedures involving the eye.~~

29 ~~(2) "Parenteral therapy" means the administration of substances
30 by means other than through the gastrointestinal tract, including
31 intravenous, subcutaneous, intramuscular, and other areas of the
32 body, excluding the ventral and dorsal body cavities.~~

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

35 3640.5. (a) Except as set forth in this section, nothing in this
36 chapter or any other provision of law shall be construed to prohibit
37 a naturopathic doctor from administering, furnishing, ordering, or
38 prescribing drugs when functioning pursuant to this section.

39 (b) Schedule III *and* Schedule IV controlled substances under
40 the California Uniform Controlled Substances Act (Division 10

1 (commencing with Section 11000) of the Health and Safety Code)
2 shall be administered, furnished, ordered, and prescribed by a
3 naturopathic doctor in accordance with standardized procedures
4 or protocols developed by the naturopathic doctor and his or her
5 supervising physician and surgeon.

6 (c) The naturopathic doctor shall function pursuant to a
7 standardized procedure, as defined by paragraphs (1) and (2) of
8 subdivision (c) of Section 2725, or protocol. The standardized
9 procedure or protocol shall be developed and approved by the
10 supervising physician and surgeon, the naturopathic doctor, and,
11 where applicable, the facility administrator or his or her designee.

12 (d) The standardized procedure or protocol covering the
13 administering, furnishing, ordering, or prescribing of Schedule III
14 *and Schedule IV* drugs shall specify which naturopathic doctors
15 may administer, furnish, order, or prescribe Schedule III *and*
16 *Schedule IV* drugs, which Schedule III *through Schedule IV* drugs
17 may be administered, furnished, ordered, or prescribed and under
18 what circumstances, the extent of physician and surgeon
19 supervision, the method of periodic review of the naturopathic
20 doctor's competence, including peer review, which shall be subject
21 to the reporting requirement in Section 805, and review of the
22 provisions of the standardized procedure.

23 (e) The administering, furnishing, ordering, or prescribing of
24 Schedule III *and Schedule IV* drugs by a naturopathic doctor shall
25 occur under physician and surgeon supervision. Physician and
26 surgeon supervision shall not be construed to require the physical
27 presence of the physician, but does include all of the following:

28 (1) Collaboration on the development of the standardized
29 procedure.

30 (2) Approval of the standardized procedure.

31 (3) Availability by telephonic contact at the time of patient
32 examination by the naturopathic doctor.

33 (f) When Schedule III controlled substances, as defined in
34 Section 11056 of the Health and Safety Code, are administered,
35 furnished, ordered, or prescribed by a naturopathic doctor, the
36 controlled substances shall be administered, furnished, ordered,
37 or prescribed in accordance with a patient-specific protocol
38 approved by the treating or supervising physician. A copy of the
39 section of the naturopathic doctor's standardized procedure or
40 protocol relating to controlled substances shall be provided, upon

1 request, to a licensed pharmacist who dispenses drugs when there
2 is uncertainty about the naturopathic doctor furnishing the order.

3 (g) For purposes of this section, a physician and surgeon shall
4 not supervise more than four naturopathic doctors at one time.

5 (h) Notwithstanding subdivision (c), drugs administered,
6 furnished, ordered, or prescribed by a naturopathic doctor without
7 the supervision of a physician and surgeon shall include ~~Schedule~~
8 ~~IV through~~ Schedule V controlled substances under the California
9 Uniform Controlled Substances Act (Division 10 (commencing
10 with Section 11000) of the Health and Safety Code) and any drug
11 approved by the federal Food and Drug Administration and labeled
12 “for prescription only” or words of similar import, except
13 chemotherapeutics, that is not classified.

14 (i) The committee shall certify that the naturopathic doctor has
15 satisfactorily completed adequate coursework in pharmacology
16 covering the drugs to be administered, furnished, ordered, or
17 prescribed under this section. The committee shall establish the
18 requirements for satisfactory completion of this subdivision.

19 (j) Use of the term “furnishing” in this section, in health facilities
20 defined in subdivisions (b), (c), (d), (e), and (i) of Section 1250 of
21 the Health and Safety Code, shall include both of the following
22 for Schedule III *through* Schedule IV controlled substances.

23 (1) Ordering a drug in accordance with the standardized
24 procedure.

25 (2) Transmitting an order of a supervising physician and
26 surgeon.

27 (k) For purposes of this section, “drug order” or “order” means
28 an order for medication which is dispensed to or for an ultimate
29 user, issued by a naturopathic doctor as an individual practitioner,
30 within the meaning of Section 1306.02 of Title 21 of the Code of
31 Federal Regulations.

32 (l) Notwithstanding any other law, all of the following shall
33 apply:

34 (1) A Schedule III *through* Schedule IV drug order issued
35 pursuant to this section shall be treated in the same manner as a
36 prescription of the supervising physician.

37 (2) All references to prescription in this code and the Health
38 and Safety Code shall include drug orders issued by naturopathic
39 doctors.

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

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