

AMENDED IN ASSEMBLY AUGUST 17, 2015

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)
(Coauthor: Assembly Member Nazarian)

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 and to order diagnostic imaging studies, 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.

This bill would, 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~~, *furnish* 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 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) Repair and care incidental to superficial lacerations and
31 abrasions, except suturing.

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

33 (d) A naturopathic doctor may utilize routes of administration
34 that include oral, nasal, auricular, ocular, rectal, vaginal,
35 transdermal, intradermal, subcutaneous, intravenous, and
36 intramuscular.

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

4 (f) ~~Nothing in this~~ This section shall *not* exempt a naturopathic
5 doctor from meeting applicable licensure requirements for the
6 performance of clinical laboratory tests, including the requirements
7 imposed under Chapter 3 (commencing with Section 1200).

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

10 3640.5. (a) Except as set forth in this section, nothing in this
11 chapter or any other provision of law shall be construed to prohibit
12 a naturopathic doctor from administering, furnishing, ordering, or
13 prescribing drugs when functioning pursuant to this section.

14 (b) Schedule III and Schedule IV controlled substances under
15 the California Uniform Controlled Substances Act (Division 10
16 (commencing with Section 11000) of the Health and Safety Code)
17 shall be administered, furnished, ordered, and prescribed by a
18 naturopathic doctor in accordance with standardized procedures
19 or protocols developed by the naturopathic doctor and his or her
20 supervising physician and surgeon.

21 (c) The naturopathic doctor shall function pursuant to a
22 standardized procedure, as defined by paragraphs (1) and (2) of
23 subdivision (c) of Section 2725, or protocol. The standardized
24 procedure or protocol shall be developed and approved by the
25 supervising physician and surgeon, the naturopathic doctor, and,
26 where applicable, the facility administrator or his or her designee.

27 (d) The standardized procedure or protocol covering the
28 administering, furnishing, ordering, or prescribing of Schedule III
29 and Schedule IV drugs shall specify which naturopathic doctors
30 may administer, furnish, order, or prescribe Schedule III and
31 Schedule IV drugs, which Schedule III through Schedule IV drugs
32 may be administered, furnished, ordered, or prescribed and under
33 what circumstances, the extent of physician and surgeon
34 supervision, the method of periodic review of the naturopathic
35 doctor's competence, including peer review, which shall be subject
36 to the reporting requirement in Section 805, and review of the
37 provisions of the standardized procedure.

38 (e) The administering, furnishing, ordering, or prescribing of
39 Schedule III and Schedule IV drugs by a naturopathic doctor shall
40 occur under physician and surgeon supervision. Physician and

1 surgeon supervision shall not be construed to require the physical
2 presence of the physician, but does include all of the following:

3 (1) Collaboration on the development of the standardized
4 procedure.

5 (2) Approval of the standardized procedure.

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

8 (f) When Schedule III controlled substances, as defined in
9 Section 11056 of the Health and Safety Code, are administered,
10 furnished, ordered, or prescribed by a naturopathic doctor, the
11 controlled substances shall be administered, furnished, ordered,
12 or prescribed in accordance with a patient-specific protocol
13 approved by the treating or supervising physician. A copy of the
14 section of the naturopathic doctor's standardized procedure or
15 protocol relating to controlled substances shall be provided, upon
16 request, to a licensed pharmacist who dispenses drugs when there
17 is uncertainty about the naturopathic doctor furnishing the order.

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

20 (h) Notwithstanding subdivision (c), drugs administered,
21 furnished, ordered, or prescribed by a naturopathic doctor without
22 the supervision of a physician and surgeon shall include Schedule
23 V controlled substances under the California Uniform Controlled
24 Substances Act (Division 10 (commencing with Section 11000)
25 of the Health and Safety Code) and any drug approved by the
26 federal Food and Drug Administration and labeled "for prescription
27 only" or words of similar import, except chemotherapeutics, that
28 is not classified.

29 (i) The committee shall certify that the naturopathic doctor has
30 satisfactorily completed adequate coursework in pharmacology
31 covering the drugs to be administered, furnished, ordered, or
32 prescribed under this section. The committee shall establish the
33 requirements for satisfactory completion of this subdivision.

34 (j) Use of the term "furnishing" in this section, in health facilities
35 defined in subdivisions (b), (c), (d), (e), and (i) of Section 1250 of
36 the Health and Safety Code, shall include both of the following
37 for Schedule III through Schedule IV controlled substances.

38 (1) Ordering a drug in accordance with the standardized
39 procedure.

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

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

8 (l) Notwithstanding any other law, all of the following shall
9 apply:

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

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

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