

AMENDED IN ASSEMBLY AUGUST 4, 2016
AMENDED IN ASSEMBLY JUNE 29, 2016
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 Hueso
(Principal coauthor: Senator Block)
(Coauthor: Senator Stone)
(Coauthor: Assembly Member Nazarian)

February 26, 2015

An act to amend Sections ~~3640 and 3640.5~~ 3640, 3640.5, and 3640.7 of the Business and Professions Code, relating to naturopathic doctors.

LEGISLATIVE COUNSEL'S DIGEST

SB 538, as amended, Hueso. 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 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. *The bill would require the period of supervision of a naturopathic doctor for the administering, furnishing, ordering, or prescribing of Schedule III and Schedule IV drugs to be 12 months, after which the naturopathic doctor would be authorized to prescribe independently. The bill would waive from that supervision requirement a naturopathic doctor who has completed a residency program, as specified, or who has practiced for at least 12 months in another state where independent prescribing is within a naturopathic doctor’s scope of practice.*

(3) Existing law, notwithstanding any provision of the Naturopathic Doctors Act, authorizes a naturopathic doctor to independently prescribe and administer certain things, including, among others, epinephrine to treat anaphylaxis.

This bill would additionally authorize a naturopathic doctor to independently prescribe and administer all legend drugs and Schedule V controlled substances after 12 months of supervision, residency, or practice in a state that allows a naturopathic doctor to prescribe medications independently.

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:

1 (1) Food, extracts of food, nutraceuticals, vitamins, amino acids,
2 minerals, enzymes, botanicals and their extracts, botanical
3 medicines, homeopathic medicines, all dietary supplements and
4 nonprescription drugs as defined by the Federal Food, Drug, and
5 Cosmetic Act, consistent with the routes of administration
6 identified in subdivision (d).

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

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

15 (4) Health education and health counseling.

16 (5) Repair and care incidental to superficial lacerations and
17 abrasions, except suturing.

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

19 (d) A naturopathic doctor may utilize routes of administration
20 that include oral, nasal, auricular, ocular, rectal, vaginal,
21 transdermal, intradermal, subcutaneous, intravenous, and
22 intramuscular.

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

26 (f) This section shall not exempt a naturopathic doctor from
27 meeting applicable licensure requirements for the performance of
28 clinical laboratory tests, including the requirements imposed under
29 Chapter 3 (commencing with Section 1200).

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

32 3640.5. (a) Except as set forth in this section, nothing in this
33 chapter or any other law shall be construed to prohibit a
34 naturopathic doctor from administering, furnishing, ordering, or
35 prescribing drugs when functioning pursuant to this section.

36 (b) Schedule III and Schedule IV controlled substances under
37 the California Uniform Controlled Substances Act (Division 10
38 (commencing with Section 11000) of the Health and Safety Code)
39 shall be administered, furnished, ordered, and prescribed by a
40 naturopathic doctor in accordance with standardized procedures

1 or protocols developed by the naturopathic doctor and his or her
2 supervising physician and surgeon.

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

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

20 (e) (1) The administering, furnishing, ordering, or prescribing
21 of Schedule III and Schedule IV drugs by a naturopathic doctor
22 shall occur under physician and surgeon supervision. Physician
23 and surgeon supervision shall not be construed to require the
24 physical presence of the physician, but does include all of the
25 following:

26 (1)

27 (A) Collaboration on the development of the standardized
28 procedure.

29 (2)

30 (B) Approval of the standardized procedure.

31 (3)

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

34 (2) *The period of supervision under this subdivision shall last*
35 *12 months, after which the naturopathic doctor may prescribe*
36 *independently.*

37 (3) *The supervision requirement under this subdivision shall be*
38 *waived if either:*

39 (A) *The naturopathic doctor has completed a residency program*
40 *of at least 12 months that is approved by the National Council on*

1 *Naturopathic Medical Education or any other agency approved*
2 *by the committee.*

3 (B) *The naturopathic doctor has practiced for at least 12 months*
4 *in another state where independent prescribing is within the scope*
5 *of practice of a naturopathic doctor.*

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

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

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

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

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

36 (1) Ordering a drug in accordance with the standardized
37 procedure.

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

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

6 (l) Notwithstanding any other law, all of the following shall
7 apply:

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

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

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

18 *SEC. 3. Section 3640.7 of the Business and Professions Code*
19 *is amended to read:*

20 3640.7. Notwithstanding the requirements of Section 3640.5
21 or any other provision of this chapter, a naturopathic doctor may
22 independently prescribe and administer the following:

23 (a) Epinephrine to treat anaphylaxis.

24 (b) Natural and synthetic hormones.

25 (c) Vitamins, minerals, amino acids, glutathione, botanicals and
26 their extracts, homeopathic medicines, electrolytes, sugars, and
27 diluents that may be administered utilizing routes of administration,
28 pursuant to subdivision (d) of Section 3640, only when such
29 substances are chemically identical to those for sale without a
30 prescription.

31 (d) *All legend drugs and Schedule V controlled substances after*
32 *12 months of supervision, residency, or practice in another state*
33 *that allows a naturopathic doctor to prescribe medications*
34 *independently.*