

AMENDED IN ASSEMBLY AUGUST 15, 2016

AMENDED IN ASSEMBLY AUGUST 4, 2016

AMENDED IN ASSEMBLY JUNE 29, 2016

AMENDED IN ASSEMBLY AUGUST 17, 2015

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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, 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. drugs. The bill would authorize a naturopathic doctor to administer, furnish, order, or prescribe Schedule III and Schedule IV controlled substances pursuant to a standardized procedure or protocol and under the supervision of a physician and surgeon, as specified.~~

(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 administer, furnish, order, or prescribe Schedule V controlled substances after 12 months of supervision, residency, or practice in a state that allows a naturopathic doctor to prescribe medications independently. and any drug approved by the federal Food and Drug Administration and labeled “for prescription only,” except chemotherapeutics, that is not classified, after the completion of 12 months of physician and surgeon supervision, as specified, and would waive that supervision requirement for a naturopathic doctor who has completed a residency program, as specified, or who has a license in good standing and practiced for at least 12 months in another state where independent prescribing is within a naturopathic doctor’s scope of practice in that other state.~~

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:

1 3640. (a) A naturopathic doctor may order and perform
2 physical and laboratory examinations for diagnostic purposes,
3 including, but not limited to, phlebotomy, clinical laboratory tests,
4 speculum examinations, orificial examinations, and physiological
5 function tests.

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

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

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

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

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

27 (4) Health education and health counseling.

28 (5) Repair and care incidental to superficial lacerations and
29 abrasions, except suturing.

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

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

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

38 (f) This section shall not exempt a naturopathic doctor from
39 meeting applicable licensure requirements for the performance of

1 clinical laboratory tests, including the requirements imposed under
2 Chapter 3 (commencing with Section 1200).

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

5 3640.5. (a) Except as set forth in this section, nothing in this
6 chapter or any other law shall be construed to prohibit a
7 naturopathic doctor from administering, furnishing, ordering, or
8 prescribing drugs when functioning pursuant to this section.

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

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

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

33 (e) ~~(1)~~—The administering, furnishing, ordering, or prescribing
34 of Schedule III and Schedule IV drugs by a naturopathic doctor
35 shall occur under physician and surgeon supervision. Physician
36 and surgeon supervision shall not be construed to require the
37 physical presence of the physician, but does include all of the
38 following:

39 (A)

1 (1) Collaboration on the development of the standardized
2 procedure.
3 ~~(B)~~
4 (2) Approval of the standardized procedure.
5 ~~(C)~~
6 (3) Availability by telephonic contact at the time of patient
7 examination by the naturopathic doctor.
8 ~~(2) The period of supervision under this subdivision shall last~~
9 ~~12 months, after which the naturopathic doctor may prescribe~~
10 ~~independently.~~
11 ~~(3) The supervision requirement under this subdivision shall be~~
12 ~~waived if either:~~
13 ~~(A) The naturopathic doctor has completed a residency program~~
14 ~~of at least 12 months that is approved by the National Council on~~
15 ~~Naturopathic Medical Education or any other agency approved by~~
16 ~~the committee.~~
17 ~~(B) The naturopathic doctor has practiced for at least 12 months~~
18 ~~in another state where independent prescribing is within the scope~~
19 ~~of practice of a naturopathic doctor.~~
20 (f) When Schedule III controlled substances, as defined in
21 Section 11056 of the Health and Safety Code, are administered,
22 furnished, ordered, or prescribed by a naturopathic doctor, the
23 controlled substances shall be administered, furnished, ordered,
24 or prescribed in accordance with a patient-specific protocol
25 approved by the treating or supervising physician. A copy of the
26 section of the naturopathic doctor's standardized procedure or
27 protocol relating to controlled substances shall be provided, upon
28 request, to a licensed pharmacist who dispenses drugs when there
29 is uncertainty about the naturopathic doctor furnishing the order.
30 (g) For purposes of this section, a physician and surgeon shall
31 not supervise more than four naturopathic doctors at one time.
32 ~~(h) Notwithstanding subdivision (c), drugs administered,~~
33 ~~furnished, ordered, or prescribed by a naturopathic doctor without~~
34 ~~the supervision of a physician and surgeon shall include Schedule~~
35 ~~V-controlled substances under the California Uniform Controlled~~
36 ~~Substances Act (Division 10 (commencing with Section 11000))~~
37 ~~of the Health and Safety Code) and any drug approved by the~~
38 ~~federal Food and Drug Administration and labeled "for prescription~~
39 ~~only" or words of similar import, except chemotherapeutics, that~~
40 ~~is not classified.~~

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

7 ~~(j)~~
 8 (i) Use of the term “furnishing” in this section, in health facilities
 9 defined in subdivisions (b), (c), (d), (e), and (i) of Section 1250 of
 10 the Health and Safety Code, shall include both of the following
 11 for Schedule III through Schedule IV controlled substances.

12 (1) Ordering a drug in accordance with the standardized
 13 procedure.

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

16 ~~(k)~~
 17 (j) 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 ~~(l)~~
 23 (k) Notwithstanding any other law, all of the following shall
 24 apply:

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

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

35 SEC. 3. Section 3640.7 of the Business and Professions Code
 36 is amended to read:

37 3640.7. (a) Notwithstanding the requirements of Section
 38 3640.5 or any other provision of this chapter, a naturopathic doctor
 39 may independently prescribe and administer the following:

40 ~~(a)~~

1 (1) Epinephrine to treat anaphylaxis.

2 ~~(b)~~

3 (2) Natural and synthetic hormones.

4 ~~(e)~~

5 (3) Vitamins, minerals, amino acids, glutathione, botanicals and
6 their extracts, homeopathic medicines, electrolytes, sugars, and
7 diluents that may be administered utilizing routes of administration,
8 pursuant to subdivision (d) of Section 3640, only when such
9 substances are chemically identical to those for sale without a
10 prescription.

11 ~~(d) All legend drugs and Schedule V controlled substances after~~
12 ~~12 months of supervision, residency, or practice in another state~~
13 ~~that allows a naturopathic doctor to prescribe medications~~
14 ~~independently.~~

15 (b) (1) *A naturopathic doctor may independently administer,*
16 *furnish, order, or prescribe Schedule V controlled substances*
17 *under the California Uniform Controlled Substances Act (Division*
18 *10 (commencing with Section 11000) of the Health and Safety*
19 *Code) and any drug approved by the federal Food and Drug*
20 *Administration and labeled “for prescription only” or words of*
21 *similar import, except chemotherapeutics, that is not classified,*
22 *after the completion of 12 consecutive months of supervision by a*
23 *physician and surgeon for the substances and drugs specified in*
24 *this subdivision. The supervision required by this subdivision shall*
25 *follow the same procedures or protocols as those described in*
26 *Section 3640.5 for other prescription medications.*

27 (2) *The supervision requirement under this subdivision shall be*
28 *waived if either:*

29 (A) *The naturopathic doctor has completed a residency program*
30 *of at least 12 months that is approved by the Council on*
31 *Naturopathic Medical Education or any other agency approved*
32 *by the committee.*

33 (B) *The naturopathic doctor has a license in good standing and*
34 *has practiced for at least 12 months in another state where*
35 *independent prescribing of the substances and drugs described in*
36 *this chapter is permitted for a licensed naturopathic doctor in that*
37 *other state.*

O