

AMENDED IN SENATE AUGUST 19, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1116

Introduced by Assembly Member Carter

February 27, 2009

An act to add Sections 1638.2 and 2259.8 to the Business and Professions Code, relating to cosmetic surgery.

LEGISLATIVE COUNSEL'S DIGEST

AB 1116, as amended, Carter. Cosmetic surgery.

Existing law, the Dental Practice Act, establishes the Dental Board of California in the Department of Consumer Affairs, which licenses dentists and regulates their practice, including dentists who hold a permit to perform oral and maxillofacial surgery. Existing law, the Medical Practice Act, establishes the Medical Board of California in the Department of Consumer Affairs, which licenses physicians and surgeons and regulates their practice.

The Medical Practice Act requires specified disclosures to patients undergoing procedures involving collagen injections, and also requires the Medical Board of California to adopt extraction and postoperative care standards in regard to body liposuction procedures performed by a physician and surgeon outside of a general acute care hospital. Existing law makes a violation of these provisions a misdemeanor.

This bill would enact the Donda West Law, which would prohibit the performance of an elective cosmetic surgery procedure on a patient unless, *within 48 hours* prior to surgery, the patient has received ~~a~~ *an appropriate* physical examination by, and has received written clearance for the procedure from, ~~the a~~ *a* licensed physician and surgeon ~~or dentist performing the cosmetic surgery or another licensed physician and~~

surgeon, or, a certified nurse practitioner, or a licensed physician assistant, as specified, *or, as applied to elective facial cosmetic surgery, a licensed dentist or licensed physician and surgeon.* The bill would require the physical examination to include the taking of ~~a complete~~ *an appropriate* medical history. The bill would also provide that a violation of these provisions would not constitute a crime.

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

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

- 1 SECTION 1. This act shall be known and may be cited as the
2 Donda West Law.
- 3 SEC. 2. Section 1638.2 is added to the Business and Professions
4 Code, to read:
- 5 1638.2. (a) Notwithstanding any other provision of law, a
6 person licensed pursuant to Section 1634 who holds a permit to
7 perform elective facial cosmetic surgery issued pursuant to this
8 article may not perform elective facial cosmetic surgery on a
9 patient, unless the patient has received ~~a,~~ *within 48 hours prior to*
10 *surgery, an appropriate* physical examination by, and written
11 clearance for the procedure from, either of the following:
- 12 (1) A licensed physician and surgeon.
- 13 (2) ~~The~~ A person licensed pursuant to Section 1634 who holds
14 a permit to perform elective facial cosmetic surgery issued pursuant
15 to this article ~~and who will be performing the surgery.~~
- 16 (b) The physical examination described in subdivision (a) shall
17 include the taking of ~~a complete~~ *an appropriate* medical history.
- 18 (c) A violation of this section shall not constitute a crime.
- 19 SEC. 3. Section 2259.8 is added to the Business and Professions
20 Code, to read:
- 21 2259.8. (a) Notwithstanding any other provision of law, a
22 cosmetic surgery procedure may not be performed on a patient
23 unless, ~~prior to surgery,~~ the patient has received ~~a,~~ *within 48 hours*
24 *prior to surgery, an appropriate* physical examination by, and
25 written clearance for the procedure from, any of the following:
- 26 (1) The physician and surgeon who will be performing the
27 surgery.
- 28 (2) Another licensed physician and surgeon.

1 (3) A certified nurse practitioner, in accordance with a certified
2 nurse practitioner's scope of practice, unless limited by protocols
3 or a delegation agreement.

4 (4) A licensed physician assistant, in accordance with a licensed
5 physician assistant's scope of practice, unless limited by protocols
6 or a delegation agreement.

7 (b) The physical examination described in subdivision (a) shall
8 include the taking of ~~a complete~~ *an appropriate* medical history.

9 (c) "Cosmetic surgery" means an elective surgery that is
10 performed to alter or reshape normal structures of the body in order
11 to improve the patient's appearance, including, but not limited to,
12 liposuction and elective facial cosmetic surgery.

13 (d) Section 2314 shall not apply to this section.