

AMENDED IN ASSEMBLY JUNE 28, 2012

AMENDED IN ASSEMBLY JUNE 6, 2012

AMENDED IN SENATE MARCH 28, 2012

SENATE BILL

No. 1524

Introduced by Senator Hernandez

February 24, 2012

An act to amend Sections 2746.51 and 2836.1 of the Business and Professions Code, relating to nursing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1524, as amended, Hernandez. Nursing.

Existing law, the Nursing Practice Act, provides for the ~~licensing~~ *licensure* and regulation of nurse practitioners, and the certification and regulation of nurse-midwives. *the practice of nursing by the Board of Registered Nursing*. Existing law authorizes a nurse practitioner and a certified nurse-midwife to furnish or order drugs or devices under specified circumstances subject to physician and surgeon supervision, including, among other instances, when a nurse practitioner or certified nurse-midwife has completed specified supervised experience of at least 6 months' duration and a course in pharmacology.

This bill would delete the requirement for at least 6 months' duration of supervised experience. The bill would ~~specify that, with respect to nurse practitioners,~~ *authorize a physician and surgeon may to determine the extent of the supervision in connection with the furnishing or ordering of drugs and devices by a nurse practitioner or certified nurse-midwife.*

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 2746.51 of the Business and Professions
2 Code is amended to read:

3 2746.51. (a) Neither this chapter nor any other provision of
4 law shall be construed to prohibit a certified nurse-midwife from
5 furnishing or ordering drugs or devices, including controlled
6 substances classified in Schedule II, III, IV, or V under the
7 California Uniform Controlled Substances Act (Division 10
8 (commencing with Section 11000) of the Health and Safety Code),
9 when all of the following apply:

10 (1) The drugs or devices are furnished or ordered incidentally
11 to the provision of any of the following:

12 (A) Family planning services, as defined in Section 14503 of
13 the Welfare and Institutions Code.

14 (B) Routine health care or perinatal care, as defined in
15 subdivision (d) of Section 123485 of the Health and Safety Code.

16 (C) Care rendered, consistent with the certified nurse-midwife's
17 educational preparation or for which clinical competency has been
18 established and maintained, to persons within a facility specified
19 in subdivision (a), (b), (c), (d), (i), or (j) of Section 1206 of the
20 Health and Safety Code, a clinic as specified in Section 1204 of
21 the Health and Safety Code, a general acute care hospital as defined
22 in subdivision (a) of Section 1250 of the Health and Safety Code,
23 a licensed birth center as defined in Section 1204.3 of the Health
24 and Safety Code, or a special hospital specified as a maternity
25 hospital in subdivision (f) of Section 1250 of the Health and Safety
26 Code.

27 (2) The drugs or devices are furnished or ordered by a certified
28 nurse-midwife in accordance with standardized procedures or
29 protocols. For purposes of this section, standardized procedure
30 means a document, including protocols, developed and approved
31 by the supervising physician and surgeon, the certified
32 nurse-midwife, and the facility administrator or his or her designee.
33 The standardized procedure covering the furnishing or ordering
34 of drugs or devices shall specify all of the following:

35 (A) Which certified nurse-midwife may furnish or order drugs
36 or devices.

37 (B) Which drugs or devices may be furnished or ordered and
38 under what circumstances.

1 (C) The extent of physician and surgeon supervision.

2 (D) The method of periodic review of the certified
3 nurse-midwife's competence, including peer review, and review
4 of the provisions of the standardized procedure.

5 (3) If Schedule II or III controlled substances, as defined in
6 Sections 11055 and 11056 of the Health and Safety Code, are
7 furnished or ordered by a certified nurse-midwife, the controlled
8 substances shall be furnished or ordered in accordance with a
9 patient-specific protocol approved by the treating or supervising
10 physician and surgeon. For Schedule II controlled substance
11 protocols, the provision for furnishing the Schedule II controlled
12 substance shall address the diagnosis of the illness, injury, or
13 condition for which the Schedule II controlled substance is to be
14 furnished.

15 (4) The furnishing or ordering of drugs or devices by a certified
16 nurse-midwife occurs under physician and surgeon supervision.
17 For purposes of this section, no physician and surgeon shall
18 supervise more than four certified nurse-midwives at one time.
19 Physician and surgeon supervision shall not be construed to require
20 the physical presence of the physician, but does include all of the
21 following:

22 (A) Collaboration on the development of the standardized
23 procedure or protocol.

24 (B) Approval of the standardized procedure or protocol.

25 (C) Availability by telephonic contact at the time of patient
26 examination by the certified nurse-midwife.

27 (b) (1) The furnishing or ordering of drugs or devices by a
28 certified nurse-midwife is conditional on the issuance by the board
29 of a number to the applicant who has successfully completed the
30 requirements of paragraph (2). The number shall be included on
31 all transmittals of orders for drugs or devices by the certified
32 nurse-midwife. The board shall maintain a list of the certified
33 nurse-midwives that it has certified pursuant to this paragraph and
34 the number it has issued to each one. The board shall make the list
35 available to the California State Board of Pharmacy upon its
36 request. Every certified nurse-midwife who is authorized pursuant
37 to this section to furnish or issue a drug order for a controlled
38 substance shall register with the United States Drug Enforcement
39 Administration.

1 (2) The board has certified in accordance with paragraph (1)
2 that the certified nurse-midwife has satisfactorily completed a
3 course in pharmacology covering the drugs or devices to be
4 furnished or ordered under this section. The board shall establish
5 the requirements for satisfactory completion of this paragraph.

6 (3) *A physician and surgeon may determine the extent of*
7 *supervision necessary pursuant to this section in the furnishing or*
8 *ordering of drugs and devices.*

9 ~~(3)~~

10 (4) A copy of the standardized procedure or protocol relating
11 to the furnishing or ordering of controlled substances by a certified
12 nurse-midwife shall be provided upon request to any licensed
13 pharmacist who is uncertain of the authority of the certified
14 nurse-midwife to perform these functions.

15 ~~(4)~~

16 (5) Certified nurse-midwives who are certified by the board and
17 hold an active furnishing number, who are currently authorized
18 through standardized procedures or protocols to furnish Schedule
19 II controlled substances, and who are registered with the United
20 States Drug Enforcement Administration shall provide
21 documentation of continuing education specific to the use of
22 Schedule II controlled substances in settings other than a hospital
23 based on standards developed by the board.

24 (c) Drugs or devices furnished or ordered by a certified
25 nurse-midwife may include Schedule II controlled substances
26 under the California Uniform Controlled Substances Act (Division
27 10 (commencing with Section 11000) of the Health and Safety
28 Code) under the following conditions:

29 (1) The drugs and devices are furnished or ordered in accordance
30 with requirements referenced in paragraphs (2) to (4), inclusive,
31 of subdivision (a) and in paragraphs (1) to (3), inclusive, of
32 subdivision (b).

33 (2) When Schedule II controlled substances, as defined in
34 Section 11055 of the Health and Safety Code, are furnished or
35 ordered by a certified nurse-midwife, the controlled substances
36 shall be furnished or ordered in accordance with a patient-specific
37 protocol approved by the treating or supervising physician and
38 surgeon.

39 (d) Furnishing of drugs or devices by a certified nurse-midwife
40 means the act of making a pharmaceutical agent or agents available

1 to the patient in strict accordance with a standardized procedure
2 or protocol. Use of the term “furnishing” in this section shall
3 include the following:

4 (1) The ordering of a drug or device in accordance with the
5 standardized procedure or protocol.

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

8 (e) “Drug order” or “order” for purposes of this section means
9 an order for medication or for a drug or device that is dispensed
10 to or for an ultimate user, issued by a certified nurse-midwife as
11 an individual practitioner, within the meaning of Section 1306.03
12 of Title 21 of the Code of Federal Regulations. Notwithstanding
13 any other provision of law, (1) a drug order issued pursuant to this
14 section shall be treated in the same manner as a prescription of the
15 supervising physician; (2) all references to “prescription” in this
16 code and the Health and Safety Code shall include drug orders
17 issued by certified nurse-midwives; and (3) the signature of a
18 certified nurse-midwife on a drug order issued in accordance with
19 this section shall be deemed to be the signature of a prescriber for
20 purposes of this code and the Health and Safety Code.

21 SEC. 2. Section 2836.1 of the Business and Professions Code
22 is amended to read:

23 2836.1. Neither this chapter nor any other provision of law
24 shall be construed to prohibit a nurse practitioner from furnishing
25 or ordering drugs or devices when all of the following apply:

26 (a) The drugs or devices are furnished or ordered by a nurse
27 practitioner in accordance with standardized procedures or
28 protocols developed by the nurse practitioner and the supervising
29 physician and surgeon when the drugs or devices furnished or
30 ordered are consistent with the practitioner’s educational
31 preparation or for which clinical competency has been established
32 and maintained.

33 (b) The nurse practitioner is functioning pursuant to standardized
34 procedure, as defined by Section 2725, or protocol. The
35 standardized procedure or protocol shall be developed and
36 approved by the supervising physician and surgeon, the nurse
37 practitioner, and the facility administrator or the designee.

38 (c) (1) The standardized procedure or protocol covering the
39 furnishing of drugs or devices shall specify which nurse
40 practitioners may furnish or order drugs or devices, which drugs

1 or devices may be furnished or ordered, under what circumstances,
2 the extent of physician and surgeon supervision, the method of
3 periodic review of the nurse practitioner's competence, including
4 peer review, and review of the provisions of the standardized
5 procedure.

6 (2) In addition to the requirements in paragraph (1), for Schedule
7 II controlled substance protocols, the provision for furnishing
8 Schedule II controlled substances shall address the diagnosis of
9 the illness, injury, or condition for which the Schedule II controlled
10 substance is to be furnished.

11 (d) The furnishing or ordering of drugs or devices by a nurse
12 practitioner occurs under physician and surgeon supervision.
13 Physician and surgeon supervision shall not be construed to require
14 the physical presence of the physician, but does include (1)
15 collaboration on the development of the standardized procedure,
16 (2) approval of the standardized procedure, and (3) availability by
17 telephonic contact at the time of patient examination by the nurse
18 practitioner.

19 (e) For purposes of this section, no physician and surgeon shall
20 supervise more than four nurse practitioners at one time.

21 (f) (1) Drugs or devices furnished or ordered by a nurse
22 practitioner may include Schedule II through Schedule V controlled
23 substances under the California Uniform Controlled Substances
24 Act (Division 10 (commencing with Section 11000) of the Health
25 and Safety Code) and shall be further limited to those drugs agreed
26 upon by the nurse practitioner and physician and surgeon and
27 specified in the standardized procedure.

28 (2) When Schedule II or III controlled substances, as defined
29 in Sections 11055 and 11056, respectively, of the Health and Safety
30 Code, are furnished or ordered by a nurse practitioner, the
31 controlled substances shall be furnished or ordered in accordance
32 with a patient-specific protocol approved by the treating or
33 supervising physician. A copy of the section of the nurse
34 practitioner's standardized procedure relating to controlled
35 substances shall be provided, upon request, to any licensed
36 pharmacist who dispenses drugs or devices, when there is
37 uncertainty about the nurse practitioner furnishing the order.

38 (g) (1) The board has certified in accordance with Section
39 2836.3 that the nurse practitioner has satisfactorily completed a

1 course in pharmacology covering the drugs or devices to be
2 furnished or ordered under this section.

3 (2) A physician and surgeon may determine the extent of
4 supervision necessary pursuant to this section in the furnishing or
5 ordering of drugs and devices.

6 (3) Nurse practitioners who are certified by the board and hold
7 an active furnishing number, who are authorized through
8 standardized procedures or protocols to furnish Schedule II
9 controlled substances, and who are registered with the United
10 States Drug Enforcement Administration, shall complete, as part
11 of their continuing education requirements, a course including
12 Schedule II controlled substances based on the standards developed
13 by the board. The board shall establish the requirements for
14 satisfactory completion of this subdivision.

15 (h) Use of the term “furnishing” in this section, in health
16 facilities defined in Section 1250 of the Health and Safety Code,
17 shall include (1) the ordering of a drug or device in accordance
18 with the standardized procedure and (2) transmitting an order of
19 a supervising physician and surgeon.

20 (i) “Drug order” or “order” for purposes of this section means
21 an order for medication which is dispensed to or for an ultimate
22 user, issued by a nurse practitioner as an individual practitioner,
23 within the meaning of Section 1306.02 of Title 21 of the Code of
24 Federal Regulations. Notwithstanding any other provision of law,
25 (1) a drug order issued pursuant to this section shall be treated in
26 the same manner as a prescription of the supervising physician;
27 (2) all references to “prescription” in this code and the Health and
28 Safety Code shall include drug orders issued by nurse practitioners;
29 and (3) the signature of a nurse practitioner on a drug order issued
30 in accordance with this section shall be deemed to be the signature
31 of a prescriber for purposes of this code and the Health and Safety
32 Code.

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