

AMENDED IN SENATE APRIL 16, 2013

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SENATE BILL

No. 491

Introduced by Senator Hernandez

February 21, 2013

An act to amend Sections 2835.5, 2835.7, 2836.1, 2836.2, and 2836.3 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 491, as amended, Hernandez. Nurse practitioners.

Existing law, the Nursing Practice Act, provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing. Existing law requires an applicant for initial qualification or certification as a nurse practitioner who has never been qualified or certified as a nurse practitioner in California or in any other state to meet specified requirements, including possessing a master's degree in nursing, a master's degree in a clinical field related to nursing, or a graduate degree in nursing, and to have satisfactorily completed a nurse practitioner program approved by the board. Existing law authorizes the implementation of standardized procedures that authorize a nurse practitioner to perform certain acts, including, among others, ordering durable medical equipment, and, in consultation with a physician and surgeon, ~~approve, sign, modify, or add~~ *approving, signing, modifying, or adding* to a plan of treatment or plan for an individual receiving home health services or personal care services.

This bill would revise these provisions by deleting the requirement that those acts be performed pursuant to a standardized procedure or in consultation with a physician and surgeon. The bill would also authorize a nurse practitioner to perform specified additional acts, including,

among others, ~~diagnosing patients, performing therapeutic procedures, examining patients and establishing a medical diagnosis~~ and prescribing drugs and devices. The bill would require that, on and after July 1, 2016, an applicant for initial qualification or certification as a nurse practitioner hold a national certification as a nurse practitioner from a national certifying body recognized by the board.

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. The Legislature finds and declares all of the
2 following:

3 (a) Nurse practitioners are a longstanding, vital, safe, effective,
4 and important part of the state's health care delivery system. They
5 are especially important given California's shortage of physicians,
6 with just 16 of 58 counties having the federally recommended ratio
7 of physicians to residents.

8 (b) Nurse practitioners will play an especially important part in
9 the implementation of the federal Patient Protection and Affordable
10 Care Act, which will bring an estimated five million more
11 Californians into the health care delivery system, because they
12 will provide for greater access to primary care services in all areas
13 of the state. This is particularly true for patients in medically
14 underserved urban and rural communities.

15 (c) Due to the excellent safety and efficacy record that nurse
16 practitioners have earned, the Institute of Medicine of the National
17 Academy of Sciences has recommended full independent practice
18 for nurse practitioners. Currently, 17 states allow nurse practitioners
19 to practice to the full extent of their training and education with
20 independent practice.

21 (d) Furthermore, nurse practitioners will assist in addressing
22 the primary care provider shortage by removing delays in the
23 provision of care that are created when dated regulations require
24 a physician's signature or protocol before a patient can initiate
25 treatment or obtain diagnostic tests that are ordered by a nurse
26 practitioner.

27 SEC. 2. Section 2835.5 of the Business and Professions Code
28 is amended to read:

1 2835.5. (a) A registered nurse who is holding himself or herself
2 out as a nurse practitioner or who desires to hold himself or herself
3 out as a nurse practitioner shall, within the time prescribed by the
4 board and prior to his or her next license renewal or the issuance
5 of an initial license, submit educational, experience, and other
6 credentials and information as the board may require for it to
7 determine that the person qualifies to use the title “nurse
8 practitioner,” pursuant to the standards and qualifications
9 established by the board.

10 (b) Upon finding that a person is qualified to hold himself or
11 herself out as a nurse practitioner, the board shall appropriately
12 indicate on the license issued or renewed, that the person is
13 qualified to use the title “nurse practitioner.” The board shall also
14 issue to each qualified person a certificate evidencing that the
15 person is qualified to use the title “nurse practitioner.”

16 (c) A person who has been found to be qualified by the board
17 to use the title “nurse practitioner” prior to January 1, 2005, shall
18 not be required to submit any further qualifications or information
19 to the board and shall be deemed to have met the requirements of
20 this section.

21 (d) On and after January 1, 2008, an applicant for initial
22 qualification or certification as a nurse practitioner under this article
23 who has not been qualified or certified as a nurse practitioner in
24 California or any other state shall meet the following requirements:

25 (1) Hold a valid and active registered nursing license issued
26 under this chapter.

27 (2) Possess a master’s degree in nursing, a master’s degree in
28 a clinical field related to nursing, or a graduate degree in nursing.

29 (3) Satisfactorily complete a nurse practitioner program
30 approved by the board.

31 (e) On and after July 1, 2016, an applicant for initial
32 qualification or certification as a nurse practitioner shall, in
33 addition, hold a national certification as a nurse practitioner from
34 a national certifying body recognized by the board.

35 SEC. 3. Section 2835.7 of the Business and Professions Code
36 is amended to read:

37 2835.7. (a) Notwithstanding any other law, in addition to any
38 other practices authorized in statute or regulation, a nurse
39 practitioner may do any of the following:

- 1 (1) Order durable medical equipment. Notwithstanding that
- 2 authority, nothing in this paragraph shall operate to limit the ability
- 3 of a third-party payer to require prior approval.
- 4 (2) After performance of a physical examination by the nurse
- 5 practitioner, certify disability pursuant to Section 2708 of the
- 6 Unemployment Insurance Code.
- 7 (3) For individuals receiving home health services or personal
- 8 care services, approve, sign, modify, or add to a plan of treatment
- 9 or plan of care.
- 10 (4) Assess patients, synthesize and analyze data, and apply
- 11 principles of health care ~~at an advanced level~~.
- 12 (5) Manage the physical and psychosocial health status of
- 13 patients.
- 14 (6) Analyze multiple sources of data, identify alternative
- 15 possibilities as to the nature of a health care problem, and select,
- 16 implement, and evaluate appropriate treatment.
- 17 ~~(7) Make independent decisions in treating health conditions.~~
- 18 ~~(8) Diagnose patients and perform diagnostic and therapeutic~~
- 19 ~~procedures.~~
- 20 (7) *Examine patients and establish a medical diagnosis by client*
- 21 *history, physical examination, and other criteria.*
- 22 (9)
- 23 (8) Order, furnish, or prescribe drugs or devices pursuant to
- 24 Section 2836.1.
- 25 ~~(10)~~
- 26 (9) Refer patients to other health care providers ~~when~~
- 27 ~~appropriate due to the limits of the nurse practitioner's knowledge,~~
- 28 ~~experience, or educational preparation.~~ *as provided in subdivision*
- 29 *(b).*
- 30 ~~(11)~~
- 31 (10) Delegate to a medical assistant.
- 32 ~~(12)~~
- 33 (11) Perform additional acts that require education and training
- 34 and that are recognized by the nursing profession as proper to be
- 35 performed by a nurse practitioner.
- 36 ~~(13)~~
- 37 (12) Order hospice care as appropriate.
- 38 ~~(14)~~
- 39 (13) Perform procedures that are necessary and consistent with
- 40 the nurse practitioner's training and education.

1 (b) A nurse practitioner shall refer a patient to a physician or
2 another licensed health care provider if the referral will protect
3 the health and welfare of the patient, and shall consult with a
4 physician or other licensed health care provider if a situation or
5 condition occurs in a patient that is beyond the nurse practitioner's
6 knowledge and experience.

7 ~~(b)~~

8 (c) A nurse practitioner shall maintain medical malpractice
9 insurance.

10 SEC. 4. Section 2836.1 of the Business and Professions Code
11 is amended to read:

12 2836.1. (a) Neither this chapter nor any other provision of
13 law shall be construed to prohibit a nurse practitioner from
14 furnishing, ordering, or prescribing drugs or devices when ~~all~~ both
15 of the following apply:

16 ~~(a)~~

17 (1) The drugs or devices that are furnished, ordered, or
18 prescribed are consistent with the practitioner's educational
19 preparation or for which clinical competency has been established
20 and maintained.

21 ~~(b)(1)~~

22 (2) (A) The board has certified in accordance with Section
23 2836.3 that the nurse practitioner has satisfactorily completed a
24 course in pharmacology covering the drugs or devices to be
25 furnished, ordered, or prescribed under this section.

26 ~~(2)~~

27 (B) Nurse practitioners who are certified by the board and hold
28 an active furnishing number and who are registered with the United
29 States Drug Enforcement Administration, shall complete, as part
30 of their continuing education requirements, a course including
31 Schedule II controlled substances based on the standards developed
32 by the board. The board shall establish the requirements for
33 satisfactory completion of this subdivision.

34 ~~(e)~~

35 (b) A nurse practitioner shall not furnish, order, or prescribe a
36 dangerous drug, as defined in Section 4022, without an appropriate
37 prior examination and a medical indication, unless one of the
38 following applies:

39 (1) The nurse practitioner was a designated practitioner serving
40 in the absence of the patient's physician and surgeon, podiatrist,

1 or nurse practitioner, as the case may be, and if the drugs were
2 prescribed, dispensed, or furnished only as necessary to maintain
3 the patient until the return of his or her practitioner, but in any case
4 no longer than 72 hours.

5 (2) The nurse practitioner transmitted the order for the drugs to
6 a registered nurse or to a licensed vocational nurse in an inpatient
7 facility, and if both of the following conditions exist:

8 (A) The nurse practitioner had consulted with the registered
9 nurse or licensed vocational nurse who had reviewed the patient’s
10 records.

11 (B) The nurse practitioner was designated as the practitioner to
12 serve in the absence of the patient’s physician and surgeon,
13 podiatrist, or nurse practitioner, as the case may be.

14 (3) The nurse practitioner was a designated practitioner serving
15 in the absence of the patient’s physician and surgeon, podiatrist,
16 or nurse practitioner, as the case may be, and was in possession
17 of or had utilized the patient’s records and ordered the renewal of
18 a medically indicated prescription for an amount not exceeding
19 the original prescription in strength or amount or for more than
20 one refill.

21 (4) The licensee was acting in accordance with subdivision (b)
22 of Section 120582 of the Health and Safety Code.

23 ~~(d)~~

24 (c) Use of the term “furnishing” in this section, in health
25 facilities defined in Section 1250 of the Health and Safety Code,
26 shall include the ordering of a drug or device.

27 ~~(e)~~

28 (d) “Drug order” or “order” for purposes of this section means
29 an order for medication which is dispensed to or for an ultimate
30 user, issued by a nurse practitioner as an individual practitioner,
31 within the meaning of Section 1306.02 of Title 21 of the Code of
32 Federal Regulations. Notwithstanding any other provision of law,
33 (1) all references to “prescription” in this code and the Health and
34 Safety Code shall include drug orders issued by nurse practitioners;
35 and (2) the signature of a nurse practitioner on a drug order issued
36 in accordance with this section shall be deemed to be the signature
37 of a prescriber for purposes of this code and the Health and Safety
38 Code.

39 SEC. 5. Section 2836.2 of the Business and Professions Code
40 is amended to read:

1 2836.2. All nurse practitioners who are authorized pursuant to
2 Section 2836.1 to prescribe, furnish, or issue drug orders for
3 controlled substances shall register with the United States Drug
4 Enforcement Administration.

5 SEC. 6. Section 2836.3 of the Business and Professions Code
6 is amended to read:

7 2836.3. (a) The furnishing of drugs or devices by nurse
8 practitioners is conditional on issuance by the board of a number
9 to the nurse applicant who has successfully completed the
10 requirements of *paragraph (2) of subdivision (b) of Section 2836.1*.
11 The number shall be included on all transmittals of orders for drugs
12 or devices by the nurse practitioner. The board shall make the list
13 of numbers issued available to the Board of Pharmacy. The board
14 may charge the applicant a fee to cover all necessary costs to
15 implement this section.

16 (b) The number shall be renewable at the time of the applicant's
17 registered nurse license renewal.

18 (c) The board may revoke, suspend, or deny issuance of the
19 numbers for incompetence or gross negligence in the performance
20 of functions specified in Sections 2836.1 and 2836.2.