

Introduced by Senator PavleyFebruary 23, 2015

An act to amend Sections 3501, 3502, and 3502.1 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 337, as introduced, Pavley. Physician assistants.

Existing law, the Physician Assistant Practice Act, provides for regulation of physician assistants and authorizes a physician assistant to perform medical services as set forth by regulations when those services are rendered under the supervision of a licensed physician and surgeon, as specified. The act requires the supervising physician and surgeon to review, countersign, and date a sample consisting of, at a minimum, 5 percent of the medical records of patients treated by the physician assistant functioning under adopted protocols within 30 days of the date of treatment by the physician assistant. The act requires the supervising physician and surgeon to select for review those cases that by diagnosis, problem, treatment, or procedure represent, in his or her judgment, the most significant risk to the patient. A violation of those supervision requirements is a misdemeanor.

This bill would require that the medical record for each episode of care for a patient, identify the physician and surgeon who is responsible for the supervision of the physician assistant. The bill would require a physician assistant who transmits an oral order to identify the name of the supervising physician and surgeon responsible for the patient. The bill would delete those medical record review provisions, and, instead, require the supervising physician and surgeon to use one or more of described review mechanisms. By adding these new requirements, the

violation of which would be a crime, this bill would impose a state-mandated local program by changing the definition of a crime.

The act authorizes a physician assistant, while under prescribed supervision of a physician and surgeon, to administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication or medical device. The act prohibits a physician assistant from administering, providing, or issuing a drug order to a patient for Schedule II through Schedule V controlled substances without advance approval by a supervising physician and surgeon for that particular patient unless the physician assistant has completed an education course that covers controlled substances and that meets approved standards. The act requires that the medical record of any patient cared for by a physician assistant for whom a physician assistant's Schedule II drug order has been issued or carried out to be reviewed, countersigned, and dated by a supervising physician and surgeon within 7 days.

This bill would delete that review and countersignature requirement for a physician assistant's Schedule II drug order, and, instead, require that the supervising physician and surgeon use one of 2 described mechanisms to ensure adequate supervision of the administration, provision, or issuance by a physician assistant of a drug order to a patient for Schedule II controlled substances.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Section 3501 of the Business and Professions
- 2 Code is amended to read:
- 3 3501. (a) As used in this chapter:
- 4 (1) "Board" means the Physician Assistant Board.
- 5 (2) "Approved program" means a program for the education of
- 6 physician assistants that has been formally approved by the board.
- 7 (3) "Trainee" means a person who is currently enrolled in an
- 8 approved program.

1 (4) “Physician assistant” means a person who meets the
2 requirements of this chapter and is licensed by the board.

3 (5) “Supervising physician” means a physician and surgeon
4 licensed by the Medical Board of California or by the Osteopathic
5 Medical Board of California who supervises one or more physician
6 assistants, who possesses a current valid license to practice
7 medicine, and who is not currently on disciplinary probation for
8 improper use of a physician assistant.

9 (6) “Supervision” means that a licensed physician and surgeon
10 oversees the activities of, and accepts responsibility for, the medical
11 services rendered by a physician assistant.

12 (7) “Regulations” means the rules and regulations as set forth
13 in Chapter 13.8 (commencing with Section 1399.500) of Title 16
14 of the California Code of Regulations.

15 (8) “Routine visual screening” means uninvasive
16 nonpharmacological simple testing for visual acuity, visual field
17 defects, color blindness, and depth perception.

18 (9) “Program manager” means the staff manager of the diversion
19 program, as designated by the executive officer of the board. The
20 program manager shall have background experience in dealing
21 with substance abuse issues.

22 (10) “Delegation of services agreement” means the writing that
23 delegates to a physician assistant from a supervising physician the
24 medical services the physician assistant is authorized to perform
25 consistent with subdivision (a) of Section 1399.540 of Title 16 of
26 the California Code of Regulations.

27 (11) “Other specified medical services” means tests or
28 examinations performed or ordered by a physician assistant
29 practicing in compliance with this chapter or regulations of the
30 Medical Board of California promulgated under this chapter.

31 (12) *“Medical records review meeting” means a meeting*
32 *between the supervising physician and the physician assistant*
33 *during which a sample of medical records is reviewed to ensure*
34 *adequate supervision of the physician assistant functioning under*
35 *protocols. The number of medical records and the specific issues*
36 *to be reviewed shall be established in the delegation of services*
37 *agreement.*

38 (b) A physician assistant acts as an agent of the supervising
39 physician when performing any activity authorized by this chapter
40 or regulations adopted under this chapter.

1 SEC. 2. Section 3502 of the Business and Professions Code is
2 amended to read:

3 3502. (a) Notwithstanding any other ~~provision of~~ law, a
4 physician assistant may perform those medical services as set forth
5 by the regulations adopted under this chapter when the services
6 are rendered under the supervision of a licensed physician and
7 surgeon who is not subject to a disciplinary condition imposed by
8 the Medical Board of California prohibiting that supervision or
9 prohibiting the employment of a physician assistant. *The medical*
10 *record, for each episode of care for a patient, shall identify the*
11 *physician and surgeon who is responsible for the supervision of*
12 *the physician assistant. When a physician assistant transmits an*
13 *oral order, he or she shall also identify the name of the supervising*
14 *physician and surgeon responsible for the patient.*

15 (b) (1) Notwithstanding any other ~~provision of~~ law, a physician
16 assistant performing medical services under the supervision of a
17 physician and surgeon may assist a doctor of podiatric medicine
18 who is a partner, shareholder, or employee in the same medical
19 group as the supervising physician and surgeon. A physician
20 assistant who assists a doctor of podiatric medicine pursuant to
21 this subdivision shall do so only according to patient-specific orders
22 from the supervising physician and surgeon.

23 ~~The~~
24 (2) *The* supervising physician and surgeon shall be physically
25 available to the physician assistant for consultation when ~~such~~ *that*
26 assistance is rendered. A physician assistant assisting a doctor of
27 podiatric medicine shall be limited to performing those duties
28 included within the scope of practice of a doctor of podiatric
29 medicine.

30 (c) (1) A physician assistant and his or her supervising physician
31 and surgeon shall establish written guidelines for the adequate
32 supervision of the physician assistant. This requirement may be
33 satisfied by the supervising physician and surgeon adopting
34 protocols for some or all of the tasks performed by the physician
35 assistant. The protocols adopted pursuant to this subdivision shall
36 comply with the following requirements:

37 (A) A protocol governing diagnosis and management shall, at
38 a minimum, include the presence or absence of symptoms, signs,
39 and other data necessary to establish a diagnosis or assessment,

1 any appropriate tests or studies to order, drugs to recommend to
2 the patient, and education to be provided to the patient.

3 (B) A protocol governing procedures shall set forth the
4 information to be provided to the patient, the nature of the consent
5 to be obtained from the patient, the preparation and technique of
6 the procedure, and the followup care.

7 (C) Protocols shall be developed by the supervising physician
8 and surgeon or adopted from, or referenced to, texts or other
9 sources.

10 (D) Protocols shall be signed and dated by the supervising
11 physician and surgeon and the physician assistant.

12 ~~(2) The supervising physician and surgeon shall review,~~
13 ~~countersign, and date a sample consisting of, at a minimum, 5~~
14 ~~percent of the medical records of patients treated by the physician~~
15 ~~assistant functioning under the protocols within 30 days of the date~~
16 ~~of treatment by the physician assistant. The physician and surgeon~~
17 ~~shall select for review those cases that by diagnosis, problem,~~
18 ~~treatment, or procedure represent, in his or her judgment, the most~~
19 ~~significant risk to the patient.~~

20 *(2) (A) The supervising physician and surgeon shall use one*
21 *or more of the following mechanisms to ensure adequate*
22 *supervision of the physician assistant functioning under the*
23 *protocols:*

24 *(i) The supervising physician and surgeon reviews, countersigns,*
25 *and dates a sample consisting of, at a minimum, 5 percent of the*
26 *medical records of patients treated by the physician assistant*
27 *functioning under the protocols within 30 days of the date of*
28 *treatment by the physician assistant.*

29 *(ii) The supervising physician and surgeon and physician*
30 *assistant conduct and document a medical records review meeting*
31 *at least once each quarter during the calendar year.*

32 *(iii) The supervising physician and surgeon supervises the care*
33 *provided by the physician assistant through a review of those cases*
34 *or patients deemed appropriate by the supervising physician. The*
35 *review methods used shall be identified in the delegation of services*
36 *agreement, and may occur in person, by telephone, by electronic*
37 *messaging, or using video conferencing technology.*

38 *(B) In complying with subparagraph (A), the supervising*
39 *physician and surgeon shall select for review those cases that by*

1 *diagnosis, problem, treatment, or procedure represent, in his or*
2 *her judgment, the most significant risk to the patient.*

3 (3) Notwithstanding any other ~~provision of law~~, the Medical
4 Board of California or *the board* may establish other alternative
5 mechanisms for the adequate supervision of the physician assistant.

6 (d) No medical services may be performed under this chapter
7 in any of the following areas:

8 (1) The determination of the refractive states of the human eye,
9 or the fitting or adaptation of lenses or frames for the aid thereof.

10 (2) The prescribing or directing the use of, or using, any optical
11 device in connection with ocular exercises, visual training, or
12 orthoptics.

13 (3) The prescribing of contact lenses for, or the fitting or
14 adaptation of contact lenses to, the human eye.

15 (4) The practice of dentistry or dental hygiene or the work of a
16 dental auxiliary as defined in Chapter 4 (commencing with Section
17 1600).

18 (e) This section shall not be construed in a manner that shall
19 preclude the performance of routine visual screening as defined
20 in Section 3501.

21 *(f) Compliance by a physician assistant and supervising*
22 *physician and surgeon with this section shall be deemed*
23 *compliance with Section 1399.546 of Title 16 of the California*
24 *Code of Regulations.*

25 SEC. 3. Section 3502.1 of the Business and Professions Code
26 is amended to read:

27 3502.1. (a) In addition to the services authorized in the
28 regulations adopted by the Medical Board of California, and except
29 as prohibited by Section 3502, while under the supervision of a
30 licensed physician and surgeon or physicians and surgeons
31 authorized by law to supervise a physician assistant, a physician
32 assistant may administer or provide medication to a patient, or
33 transmit orally, or in writing on a patient's record or in a drug
34 order, an order to a person who may lawfully furnish the
35 medication or medical device pursuant to subdivisions (c) and (d).

36 (1) A supervising physician and surgeon who delegates authority
37 to issue a drug order to a physician assistant may limit this authority
38 by specifying the manner in which the physician assistant may
39 issue delegated prescriptions.

1 (2) Each supervising physician and surgeon who delegates the
2 authority to issue a drug order to a physician assistant shall first
3 prepare and adopt, or adopt, a written, practice specific, formulary
4 and protocols that specify all criteria for the use of a particular
5 drug or device, and any contraindications for the selection.
6 Protocols for Schedule II controlled substances shall address the
7 diagnosis of illness, injury, or condition for which the Schedule II
8 controlled substance is being administered, provided, or issued.
9 The drugs listed in the protocols shall constitute the formulary and
10 shall include only drugs that are appropriate for use in the type of
11 practice engaged in by the supervising physician and surgeon.
12 When issuing a drug order, the physician assistant is acting on
13 behalf of and as an agent for a supervising physician and surgeon.

14 (b) “Drug order,” for purposes of this section, means an order
15 for medication that is dispensed to or for a patient, issued and
16 signed by a physician assistant acting as an individual practitioner
17 within the meaning of Section 1306.02 of Title 21 of the Code of
18 Federal Regulations. Notwithstanding any other provision of law,
19 (1) a drug order issued pursuant to this section shall be treated in
20 the same manner as a prescription or order of the supervising
21 physician, (2) all references to “prescription” in this code and the
22 Health and Safety Code shall include drug orders issued by
23 physician assistants pursuant to authority granted by their
24 supervising physicians and surgeons, and (3) the signature of a
25 physician assistant on a drug order shall be deemed to be the
26 signature of a prescriber for purposes of this code and the Health
27 and Safety Code.

28 (c) A drug order for any patient cared for by the physician
29 assistant that is issued by the physician assistant shall either be
30 based on the protocols described in subdivision (a) or shall be
31 approved by the supervising physician and surgeon before it is
32 filled or carried out.

33 (1) A physician assistant shall not administer or provide a drug
34 or issue a drug order for a drug other than for a drug listed in the
35 formulary without advance approval from a supervising physician
36 and surgeon for the particular patient. At the direction and under
37 the supervision of a physician and surgeon, a physician assistant
38 may hand to a patient of the supervising physician and surgeon a
39 properly labeled prescription drug prepackaged by a physician and

1 surgeon, manufacturer as defined in the Pharmacy Law, or a
2 pharmacist.

3 (2) A physician assistant ~~may~~ *shall* not administer, provide, or
4 issue a drug order to a patient for Schedule II through Schedule V
5 controlled substances without advance approval by a supervising
6 physician and surgeon for that particular patient unless the
7 physician assistant has completed an education course that covers
8 controlled substances and that meets standards, including
9 pharmacological content, approved by the board. The education
10 course shall be provided either by an accredited continuing
11 education provider or by an approved physician assistant training
12 program. If the physician assistant will administer, provide, or
13 issue a drug order for Schedule II controlled substances, the course
14 shall contain a minimum of three hours exclusively on Schedule
15 II controlled substances. Completion of the requirements set forth
16 in this paragraph shall be verified and documented in the manner
17 established by the board prior to the physician assistant's use of a
18 registration number issued by the United States Drug Enforcement
19 Administration to the physician assistant to administer, provide,
20 or issue a drug order to a patient for a controlled substance without
21 advance approval by a supervising physician and surgeon for that
22 particular patient.

23 (3) Any drug order issued by a physician assistant shall be
24 subject to a reasonable quantitative limitation consistent with
25 customary medical practice in the supervising physician and
26 surgeon's practice.

27 (d) A written drug order issued pursuant to subdivision (a),
28 except a written drug order in a patient's medical record in a health
29 facility or medical practice, shall contain the printed name, address,
30 and telephone number of the supervising physician and surgeon,
31 the printed or stamped name and license number of the physician
32 assistant, and the signature of the physician assistant. Further, a
33 written drug order for a controlled substance, except a written drug
34 order in a patient's medical record in a health facility or a medical
35 practice, shall include the federal controlled substances registration
36 number of the physician assistant and shall otherwise comply with
37 ~~the provisions of~~ Section 11162.1 of the Health and Safety Code.
38 Except as otherwise required for written drug orders for controlled
39 substances under Section 11162.1 of the Health and Safety Code,
40 the requirements of this subdivision may be met through stamping

1 or otherwise imprinting on the supervising physician and surgeon's
2 prescription blank to show the name, license number, and if
3 applicable, the federal controlled substances registration number
4 of the physician assistant, and shall be signed by the physician
5 assistant. When using a drug order, the physician assistant is acting
6 on behalf of and as the agent of a supervising physician and
7 surgeon.

8 ~~(e) The medical record of any patient cared for by a physician
9 assistant for whom the physician assistant's Schedule II drug order
10 has been issued or carried out shall be reviewed and countersigned
11 and dated by a supervising physician and surgeon within seven
12 days.~~

13 *(e) The supervising physician and surgeon shall use either of
14 the following mechanisms to ensure adequate supervision of the
15 administration, provision, or issuance by a physician assistant of
16 a drug order to a patient for Schedule II controlled substances:*

17 *(1) The medical record of any patient cared for by a physician
18 assistant for whom the physician assistant's Schedule II drug order
19 has been issued or carried out shall be reviewed, countersigned,
20 and dated by a supervising physician and surgeon within seven
21 days.*

22 *(2) If the physician assistant has documentation evidencing the
23 successful completion of an education course that covers controlled
24 substances, and that controlled substance education course (A)
25 meets the standards, including pharmacological content, approved
26 by the board, (B) is provided either by an accredited continuing
27 education provider or by an approved physician assistant training
28 program, and (C) satisfies Sections 1399.610 and 1399.612 of
29 Title 16 of the California Code of Regulations, the supervising
30 physician and surgeon shall review, countersign, and date, within
31 seven days, a sample consisting of the medical records of at least
32 20 percent of the patients cared for by the physician assistant for
33 whom the physician assistant's Schedule II drug order has been
34 issued or carried out. Completion of the requirements set forth in
35 this paragraph shall be verified and documented in the manner
36 established in Section 1399.612 of Title 16 of the California Code
37 of Regulations. Physician assistants who have a certificate of
38 completion of the course described in paragraph (2) of subdivision
39 (c) shall be deemed to have met the education course requirement
40 of this subdivision.*

1 (f) All physician assistants who are authorized by their
2 supervising physicians to issue drug orders for controlled
3 substances shall register with the United States Drug Enforcement
4 Administration (DEA).

5 (g) The board shall consult with the Medical Board of California
6 and report during its sunset review required by ~~Division 1.2~~
7 ~~(commencing with Section 473)~~ *Article 7.5 (commencing with*
8 *Section 9147.7) of Chapter 1.5 of Part 1 of Division 2 of Title 2*
9 *of the Government Code* the impacts of exempting Schedule III
10 and Schedule IV drug orders from the requirement for a physician
11 and surgeon to review and countersign the affected medical record
12 of a patient.

13 SEC. 4. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.