

AMENDED IN SENATE APRIL 13, 2015

SENATE BILL

No. 337

Introduced by Senator Pavley

February 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 amended, 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~~ 5% 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~~, *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.

1 (3) “Trainee” means a person who is currently enrolled in an
2 approved program.

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

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

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

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

18 (8) “Routine visual screening” means uninvase
19 nonpharmacological simple testing for visual acuity, visual field
20 defects, color blindness, and depth perception.

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

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

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

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

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

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

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

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

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

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

39 (A) A protocol governing diagnosis and management shall, at
40 a minimum, include the presence or absence of symptoms, signs,

1 and other data necessary to establish a diagnosis or assessment,
2 any appropriate tests or studies to order, drugs to recommend to
3 the patient, and education to be provided to the patient.

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

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

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

13 (2) (A) The supervising physician and surgeon shall use one
14 or more of the following mechanisms to ensure adequate
15 supervision of the physician assistant functioning under the
16 protocols:

17 (i) The supervising physician and surgeon ~~reviews, countersigns,~~
18 ~~and dates~~ *shall review, countersign, and date* a sample consisting
19 of, at a minimum, 5 percent of the medical records of patients
20 treated by the physician assistant functioning under the protocols
21 within 30 days of the date of treatment by the physician assistant.

22 (ii) The supervising physician and surgeon and physician
23 assistant ~~shall conduct and document at least 10 times annually a~~
24 ~~medical records review meeting at least once each quarter during~~
25 ~~the calendar year.~~ *meeting, which may occur in person or by*
26 *electronic communication.*

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

35 (B) In complying with subparagraph (A), the supervising
36 physician and surgeon shall select for review those cases that by
37 diagnosis, problem, treatment, or procedure represent, in his or
38 her judgment, the most significant risk to the patient.

1 (3) Notwithstanding any other law, the Medical Board of
2 California or the board may establish other alternative mechanisms
3 for the adequate supervision of the physician assistant.

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

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

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

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

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

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

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

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

25 3502.1. (a) In addition to the services authorized in the
26 regulations adopted by the Medical Board of California, and except
27 as prohibited by Section 3502, while under the supervision of a
28 licensed physician and surgeon or physicians and surgeons
29 authorized by law to supervise a physician assistant, a physician
30 assistant may administer or provide medication to a patient, or
31 transmit orally, or in writing on a patient's record or in a drug
32 order, an order to a person who may lawfully furnish the
33 medication or medical device pursuant to subdivisions (c) and (d).

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

38 (2) Each supervising physician and surgeon who delegates the
39 authority to issue a drug order to a physician assistant shall first
40 prepare and adopt, or adopt, a written, practice specific, formulary

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

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

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

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

39 (2) A physician assistant shall not administer, provide, or issue
40 a drug order to a patient for Schedule II through Schedule V

1 controlled substances without advance approval by a supervising
2 physician and surgeon for that particular patient unless the
3 physician assistant has completed an education course that covers
4 controlled substances and that meets standards, including
5 pharmacological content, approved by the board. The education
6 course shall be provided either by an accredited continuing
7 education provider or by an approved physician assistant training
8 program. If the physician assistant will administer, provide, or
9 issue a drug order for Schedule II controlled substances, the course
10 shall contain a minimum of three hours exclusively on Schedule
11 II controlled substances. Completion of the requirements set forth
12 in this paragraph shall be verified and documented in the manner
13 established by the board prior to the physician assistant's use of a
14 registration number issued by the United States Drug Enforcement
15 Administration to the physician assistant to administer, provide,
16 or issue a drug order to a patient for a controlled substance without
17 advance approval by a supervising physician and surgeon for that
18 particular patient.

19 (3) Any drug order issued by a physician assistant shall be
20 subject to a reasonable quantitative limitation consistent with
21 customary medical practice in the supervising physician and
22 surgeon's practice.

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

1 assistant. When using a drug order, the physician assistant is acting
2 on behalf of and as the agent of a supervising physician and
3 surgeon.

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

8 (1) 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, countersigned,
11 and dated by a supervising physician and surgeon within seven
12 days.

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

32 (f) All physician assistants who are authorized by their
33 supervising physicians to issue drug orders for controlled
34 substances shall register with the United States Drug Enforcement
35 Administration (DEA).

36 (g) The board shall consult with the Medical Board of California
37 and report during its sunset review required by Article 7.5
38 (commencing with Section 9147.7) of Chapter 1.5 of Part 1 of
39 Division 2 of Title 2 of the Government Code the impacts of
40 exempting Schedule III and Schedule IV drug orders from the

1 requirement for a physician and surgeon to review and countersign
2 the affected medical record of a patient.

3 SEC. 4. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

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