

AMENDED IN ASSEMBLY MAY 22, 2015

AMENDED IN SENATE APRIL 27, 2015

SENATE BILL

No. 464

Introduced by Senator Hernandez

February 25, 2015

An act to amend ~~add~~ Section 2242.1 of 2242.2 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 464, as amended, Hernandez. Healing arts: self-reporting tools.

The Medical Practice Act provides for licensure and regulation of physicians and surgeons by the Medical Board of California, and authorizes a physician and surgeon to, among other things, use drugs or devices in or upon human beings. *The Medical Practice Act makes it unprofessional conduct for a physician and surgeon to prescribe, dispense, or furnish dangerous drugs without an appropriate prior examination and medical indication.* The act prohibits, with specified exceptions, a person or entity from prescribing, dispensing, or furnishing, or causing to be prescribed, dispensed, or furnished, dangerous drugs or dangerous devices on the Internet for delivery to a person in California without an appropriate prior examination and medical indication.

The Nursing Practice Act provides for the licensure and regulation of registered nurses, including nurse practitioners and certified nurse-midwives, by the Board of Registered Nursing within the Department of Consumer Affairs. The Nursing Practice Act authorizes a registered nurse to dispense self-administered hormonal contraceptives, as specified, in accordance with standardized procedures, including demonstration of competency in providing the

appropriate prior examination comprised of checking blood pressure, weight, and patient and family health history, including medications taken by the patient. The Nursing Practice Act also authorizes certified nurse-midwives and nurse practitioners to furnish or order drugs or devices, as specified.

The Physician Assistant Practice Act provides for the licensure and regulation of physician assistants by the Physician Assistant Board within the jurisdiction of the Medical Board of California, and authorizes a physician assistant to administer or provide medication to a patient or to transmit a drug order, as specified.

The Pharmacy Law provides for the licensing and regulation of pharmacists by the California State Board of Pharmacy within the Department of Consumer Affairs, and authorizes a pharmacist to furnish self-administered hormonal contraceptives in accordance with standardized procedures and protocols. The Pharmacy Law requires the standardized procedures and protocols to require a patient to use a self-screening tool that will identify patient risk factors for the use of self-administered hormonal contraceptives, as specified.

This bill, notwithstanding any other law, would authorize the board to consider the use of self-reporting tools by licensees, as that use may be allowed by law: a physician and surgeon, a registered nurse acting in accordance with the authority of the Nursing Practice Act, a certified nurse-midwife acting within the scope of specified existing law relating to nurse-midwives, a nurse practitioner acting within the scope of specified existing law relating to nurse practitioners, a physician assistant acting within the scope of specified existing law relating to physician assistants, or a pharmacist acting within the scope of a specified existing law relating to pharmacists to use a self screening tool that will identify patient risk factors for the use of self-administered hormonal contraceptives by a patient, and, after an appropriate prior examination, prescribe, furnish, or dispense, as applicable, self-administered hormonal contraceptives to the patient. The bill would authorize blood pressure, weight, height, and patient health history to be self-reported using the self-screening tool.

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

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

1 SECTION 1. Section 2242.2 is added to the Business and
2 Professions Code, to read:

3 2242.2. Notwithstanding any other law, a physician and
4 surgeon, a registered nurse acting in accordance with Section
5 2725.2, a certified nurse-midwife acting within the scope of Section
6 2746.51, a nurse practitioner acting within the scope of Section
7 2836.1, a physician assistant acting within the scope of Section
8 3502.1, and a pharmacist acting within the scope of Section 4052.3
9 may use a self-screening tool that will identify patient risk factors
10 for the use of self-administered hormonal contraceptives by a
11 patient, and, after an appropriate prior examination, prescribe,
12 furnish, or dispense, as applicable, self-administered hormonal
13 contraceptives to the patient. Blood pressure, weight, height, and
14 patient health history may be self-reported using the self-screening
15 tool that identifies patient risk factors.

16 SECTION 1. Section 2242.1 of the Business and Professions
17 Code is amended to read:

18 2242.1. (a) No person or entity may prescribe, dispense, or
19 furnish, or cause to be prescribed, dispensed, or furnished,
20 dangerous drugs or dangerous devices, as defined in Section 4022,
21 on the Internet for delivery to any person in this state, without an
22 appropriate prior examination and medical indication, except as
23 authorized by Section 2242.

24 (b) Notwithstanding any other provision of law, a violation of
25 this section may subject the person or entity that has committed
26 the violation to either a fine of up to twenty-five thousand dollars
27 (\$25,000) per occurrence pursuant to a citation issued by the board
28 or a civil penalty of twenty-five thousand dollars (\$25,000) per
29 occurrence.

30 (c) The Attorney General may bring an action to enforce this
31 section and to collect the fines or civil penalties authorized by
32 subdivision (b).

33 (d) For notifications made on and after January 1, 2002, the
34 Franchise Tax Board, upon notification by the Attorney General
35 or the board of a final judgment in an action brought under this
36 section, shall subtract the amount of the fine or awarded civil
37 penalties from any tax refunds or lottery winnings due to the person
38 who is a defendant in the action using the offset authority under

1 Section 12419.5 of the Government Code, as delegated by the
2 Controller, and the processes as established by the Franchise Tax
3 Board for this purpose. That amount shall be forwarded to the
4 board for deposit in the Contingent Fund of the Medical Board of
5 California.

6 (e) If the person or entity that is the subject of an action brought
7 pursuant to this section is not a resident of this state, a violation
8 of this section shall, if applicable, be reported to the person's or
9 entity's appropriate professional licensing authority.

10 (f) Nothing in this section shall prohibit the board from
11 commencing a disciplinary action against a physician and surgeon
12 pursuant to Section 2242.

13 (g) The board may consider the use of self-screening tools by
14 a licensee, as that use may be allowed by law.