

AMENDED IN SENATE MAY 21, 2013

AMENDED IN SENATE MAY 1, 2013

AMENDED IN SENATE APRIL 16, 2013

AMENDED IN SENATE APRIL 1, 2013

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, 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, ~~examining patients and establishing a medical diagnosis~~ *physical diagnoses* 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

1 treatment or obtain diagnostic tests that are ordered by a nurse
2 practitioner.

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

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

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

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

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

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

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

33 (3) Satisfactorily complete a nurse practitioner program
34 approved by the board.

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

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

1 2835.7. (a) Notwithstanding any other law, in addition to any
2 other practices authorized in statute or regulation, a nurse
3 practitioner may do any of the following:

4 (1) Order durable medical equipment. Notwithstanding that
5 authority, nothing in this paragraph shall operate to limit the ability
6 of a third-party payer to require prior approval.

7 (2) After performance of a physical examination by the nurse
8 practitioner, certify disability pursuant to Section 2708 of the
9 Unemployment Insurance Code.

10 (3) For individuals receiving home health services or personal
11 care services, approve, sign, modify, or add to a plan of treatment
12 or plan of care.

13 (4) Assess patients, synthesize and analyze data, and apply
14 principles of health care.

15 (5) Manage the physical and psychosocial health status of
16 patients.

17 (6) Analyze multiple sources of data, identify alternative
18 possibilities as to the nature of a health care problem, and select,
19 implement, and evaluate appropriate treatment.

20 (7) ~~Examine patients and establish a medical~~ *Establish a*
21 *physical* diagnosis by client history, physical examination, and
22 other criteria, *consistent with this section*.

23 (8) Order, furnish, or prescribe drugs or devices pursuant to
24 Section 2836.1.

25 (9) Refer patients to other health care providers as provided in
26 subdivision (b).

27 (10) Delegate tasks to a medical assistant pursuant to
28 standardized procedures and protocols developed by the nurse
29 practitioner and medical assistant, that are within the medical
30 assistant's scope of practice.

31 (11) Perform additional acts that require education and training
32 and that are recognized by the nursing profession as proper to be
33 performed by a nurse practitioner.

34 (12) Order hospice care as appropriate.

35 (13) Perform procedures that are necessary and consistent with
36 the nurse practitioner's scope of practice.

37 (b) A nurse practitioner shall refer a patient to a physician or
38 another licensed health care provider if the referral will protect the
39 health and welfare of the patient, and shall consult with a physician
40 or other licensed health care provider if a situation or condition

1 ~~occurs in a patient that~~ *of a patient* is beyond the nurse
2 practitioner's ~~knowledge and experience~~ *education, training, or*
3 *certification.*

4 (c) A nurse practitioner shall maintain ~~medical malpractice~~
5 *professional liability* insurance *that is appropriate for his or her*
6 *practice setting.*

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

9 2836.1. (a) Neither this chapter nor any other provision of law
10 shall be construed to prohibit a nurse practitioner from furnishing,
11 ordering, or prescribing drugs or devices when both of the
12 following apply:

13 (1) The drugs or devices that are furnished, ordered, or
14 prescribed are consistent with the practitioner's educational
15 preparation or for which clinical competency has been established
16 and maintained.

17 (2) (A) The board has certified in accordance with Section
18 2836.3 that the nurse practitioner has satisfactorily completed a
19 course in pharmacology covering the drugs or devices to be
20 furnished, ordered, or prescribed under this section.

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

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

32 (1) The nurse practitioner was a designated practitioner serving
33 in the absence of the patient's physician and surgeon, podiatrist,
34 or nurse practitioner, as the case may be, and if the drugs were
35 prescribed, dispensed, or furnished only as necessary to maintain
36 the patient until the return of his or her practitioner, but in any case
37 no longer than 72 hours.

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

1 (A) The nurse practitioner had consulted with the registered
2 nurse or licensed vocational nurse who had reviewed the patient's
3 records.

4 (B) The nurse practitioner was designated as the practitioner to
5 serve in the absence of the patient's physician and surgeon,
6 podiatrist, or nurse practitioner, as the case may be.

7 (3) The nurse practitioner was a designated practitioner serving
8 in the absence of the patient's physician and surgeon, podiatrist,
9 or nurse practitioner, as the case may be, and was in possession
10 of or had utilized the patient's records and ordered the renewal of
11 a medically indicated prescription for an amount not exceeding
12 the original prescription in strength or amount or for more than
13 one refill.

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

16 (c) Use of the term "furnishing" in this section, in health
17 facilities defined in Section 1250 of the Health and Safety Code,
18 shall include the ordering of a drug or device.

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

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

32 2836.2. All nurse practitioners who are authorized pursuant to
33 Section 2836.1 to prescribe, furnish, or issue drug orders for
34 controlled substances shall register with the United States Drug
35 Enforcement Administration.

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

38 2836.3. (a) The furnishing of drugs or devices by nurse
39 practitioners is conditional on issuance by the board of a number
40 to the nurse applicant who has successfully completed the

1 requirements of paragraph (2) of subdivision ~~(b)~~ (a) of Section
2 2836.1. The number shall be included on all transmittals of orders
3 for drugs or devices by the nurse practitioner. The board shall
4 make the list of numbers issued available to the *California State*
5 Board of Pharmacy. The board may charge the applicant a fee to
6 cover all necessary costs to implement this section.

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

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