

AMENDED IN ASSEMBLY APRIL 29, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1536

Introduced by Committee on Business and Professions

February 19, 2021

An act to amend Sections 2841, 2841.3, 2847.1, 2847.3, 2859, 2860.5, 2860.7, 2866, 2867, 2867.6, 2876, 2878.1, 4501, ~~and 4503~~ of 4502.1, 4502.2, 4502.3, 4503, 4510, and 4521.2 of, and to add Section 2881.2 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1536, as amended, Committee on Business and Professions. Board of Vocational Nursing and Psychiatric Technicians of the State of ~~California~~. *California: vocational nursing and psychiatric technicians.*

Existing law, until January 1, 2022, establishes the Board of Vocational Nursing and Psychiatric Technicians of the State of California to license and regulate vocational nurses and psychiatric technicians. Existing law requires the board to discipline the holder of any license whose default has been entered or who has been heard by the board and found guilty.

Existing law, prior to January 1, 2018, required the board to appoint an executive officer to perform duties delegated by the board. Existing law, beginning January 1, 2018, and until January 1, 2022, instead requires the Governor to appoint an executive officer, and, commencing January 1, 2022, requires the executive officer to again be appointed by the board. Existing law repeals the authority to appoint an executive officer on January 1, 2023.

This bill would require the board to delegate to the executive officer the authority to adopt a decision entered by default and to adopt a stipulation for surrender of a license. The bill would make various other additional nonsubstantive ~~changes to related provisions establishing the board and appointing the executive officer.~~ changes.

Existing law, the Vocational Nursing Practice Act, provides for the licensure and regulation of vocational nurses by the board. That act, among other things, authorizes a licensed vocational nurse to withdraw blood, administer medications, and start and superimpose intravenous fluids, as described, when directed by a physician and surgeon. That act also authorizes a licensed vocational nurse to perform certain tests and immunization techniques, as described, when acting under the direction of a physician and requires the physician to fulfill certain requirements when authorizing the nurse to perform those tests or techniques.

This bill would instead impose those requirements on licensed physicians and surgeons, and would provide authorization to licensed vocational nurses to take the above-described actions upon or under the direction of a licensed physician and surgeon.

The Vocational Nursing Practice Act requires an applicant for a vocational nursing license to pay the required fees upon filing of the application. Under the act, the board is also required to prepare and maintain a list of approved schools of vocational nursing in this state whose graduates, if they have the other necessary qualifications, shall be eligible to apply for a vocational nursing license.

This bill would require the vocational nursing license application to be on a form prescribed by the board. The bill would also require the board to maintain a list of inactive vocational nursing schools and programs seeking board approval and would impose additional requirements on those schools and programs. The bill would provide that a vocational nursing school or program seeking board approval that remains on the inactive list for 90 days shall be taken out of consideration for a new program and may only reapply after 6 months.

Existing law, the Psychiatric Technicians Law, provides for the licensure and regulation of psychiatric technicians (PTs) by the board. That law, among other things, authorizes a psychiatric technician to perform certain activities, withdraw blood, and administer medications when prescribed by a physician and surgeon.

This bill would specify that a psychiatric technician is authorized to take these actions when prescribed by a licensed physician and surgeon.

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. Section 2841 of the Business and Professions
2 Code is amended to read:
3 2841. (a) There is in the Department of Consumer Affairs a
4 Board of Vocational Nursing and Psychiatric Technicians of the
5 State of California, which consists of 11 members.
6 (b) As used in this chapter, “board” means the Board of
7 Vocational Nursing and Psychiatric Technicians of the State of
8 California.
9 (c) This section shall remain in effect only until January 1, 2022,
10 and as of that date is repealed.
11 SEC. 2. Section 2841.3 of the Business and Professions Code
12 is amended to read:
13 2841.3. If the board is made inoperative or is repealed, the
14 director may, until December 31, 2024, assume the duties, powers,
15 purposes, responsibilities, and jurisdiction of the board and its
16 executive officer that are not otherwise repealed or made
17 inoperative.
18 SEC. 3. Section 2847.1 of the Business and Professions Code
19 is amended to read:
20 2847.1. (a) The board shall select an executive officer who
21 shall perform duties as are delegated by the board and who shall
22 be responsible to it for the accomplishment of those duties.
23 (b) The executive officer shall not be a member of the board.
24 (c) With the approval of the Director of Finance, the board shall
25 fix the salary of the executive officer.
26 (d) The executive officer shall be entitled to traveling and other
27 necessary expenses in the performance of their duties. The
28 executive officer shall make a statement, certified before a duly
29 authorized person, that the expenses have been actually incurred.
30 (e) Commencing January 1, 2018, the executive officer
31 appointed by the board pursuant to subdivision (a) is abolished.
32 Thereafter, until January 1, 2022, the executive officer shall be
33 appointed as set forth in Section 2847.3. Commencing January 1,
34 2022, the executive officer shall, again, be appointed by the board
35 as set forth in subdivision (a).

1 (f) This section shall remain in effect only until January 1, 2023,
2 and as of that date is repealed.

3 SEC. 4. Section 2847.3 of the Business and Professions Code
4 is amended to read:

5 2847.3. (a) Commencing January 1, 2018, the executive officer
6 position established pursuant to subdivision (a) of Section 2847.1
7 is temporarily abolished. Commencing January 1, 2018, the
8 Governor shall appoint an executive officer who shall perform
9 duties as are delegated by the board and who shall be responsible
10 for the accomplishment of those duties. The executive officer shall
11 exercise all powers, discharge all responsibilities, and administer
12 and enforce all laws pursuant to this chapter and Chapter 10
13 (commencing with Section 4500) of Division 2 that are necessary
14 to perform the duties delegated by the board.

15 (b) The executive officer shall serve at the pleasure of the
16 Governor and the Governor shall fix the salary of the executive
17 officer.

18 (c) The executive officer shall not be a member of the board.

19 (d) The executive officer shall be entitled to traveling and other
20 necessary expenses in the performance of their duties.

21 (e) This section shall remain in effect only until January 1, 2022,
22 and as of that date is repealed.

23 SEC. 5. Section 2859 of the Business and Professions Code is
24 amended to read:

25 2859. (a) The practice of vocational nursing within the
26 meaning of this chapter is the performance of services requiring
27 those technical, manual skills acquired by means of a course in an
28 approved school of vocational nursing, or its equivalent, practiced
29 under the direction of a licensed ~~physician~~, *physician and surgeon*,
30 or registered ~~professional~~ nurse, as defined in Section 2725.

31 ~~A~~

32 (b) A vocational nurse, within the meaning of this chapter, is a
33 person who has met all the legal requirements for a license as a
34 vocational nurse in this state and who for compensation or personal
35 profit engages in vocational ~~nursing as the same is hereinabove~~
36 ~~defined~~ *nursing, as defined under subdivision (a).*

37 SEC. 6. Section 2860.5 of the Business and Professions Code
38 is amended to read:

39 2860.5. A licensed vocational nurse when directed by a *licensed*
40 physician and surgeon may do all of the following:

1 (a) Administer medications by hypodermic injection.

2 (b) Withdraw blood from a patient, if ~~prior thereto such the~~
3 *licensed vocational nurse* has been instructed by a *licensed*
4 physician and surgeon and has demonstrated competence to ~~such~~
5 *the licensed* physician and surgeon in the proper procedure to be
6 employed when withdrawing blood, or has satisfactorily completed
7 a prescribed course of instruction approved by the board, or has
8 demonstrated competence to the satisfaction of the board.

9 (c) Start and superimpose intravenous fluids if all of the
10 following additional conditions exist:

11 (1) The *licensed vocational nurse* has satisfactorily completed
12 a prescribed course of instruction approved by the board or has
13 demonstrated competence to the satisfaction of the board.

14 (2) The procedure is performed in an organized health care
15 system in accordance with the written standardized procedures
16 adopted by the organized health care system as formulated by a
17 committee which includes representatives of the medical, nursing,
18 and administrative staffs. "Organized health care system," as used
19 in this section, includes facilities licensed pursuant to Section 1250
20 of the Health and Safety Code, clinics, home health agencies,
21 physician's offices, and public or community health services.
22 Standardized procedures so adopted will be reproduced in writing
23 and made available to total medical and nursing staffs.

24 *SEC. 7. Section 2860.7 of the Business and Professions Code*
25 *is amended to read:*

26 2860.7. (a) A licensed vocational nurse, acting under the
27 direction of a *licensed physician and surgeon* may perform:

28 (1) tuberculin skin tests, coccidioidin skin tests, and histoplasmin
29 skin tests, providing such administration is within the course of a
30 tuberculosis control program, and (2) immunization techniques,
31 providing such administration is upon standing orders of a
32 supervising ~~physician~~, *licensed physician and surgeon*, or pursuant
33 to written guidelines adopted by a hospital or medical group with
34 whom the supervising *licensed physician and surgeon* is associated.

35 (b) The supervising *licensed physician and surgeon* under whose
36 direction the licensed vocational nurse is acting pursuant to
37 subdivision (a) shall require ~~such the licensed vocational nurse to~~
38 *to do all of the following:*

39 (1) Satisfactorily demonstrate competence in the administration
40 of immunizing agents, including knowledge of all indications and

1 contraindications for the administration of such agents, and in the
 2 recognition and treatment of any emergency reactions to such
 3 agents which constitute a danger to the health or life of the person
 4 receiving the ~~immunization~~; and *immunizations*.

5 (2) Possess such medications and equipment as required, in the
 6 medical judgment of the supervising *licensed* physician and
 7 surgeon, to treat any emergency conditions and reactions caused
 8 by the immunizing agents and which constitute a danger to the
 9 health or life of the person receiving the immunization, and to
 10 demonstrate the ability to administer such medications and to
 11 utilize such equipment as necessary.

12 (c) Nothing in this section shall be construed to require physical
 13 presence of a directing or supervising ~~physician~~; *licensed physician*
 14 *and surgeon*, or the examination by a *licensed* physician *and*
 15 *surgeon* of persons to be tested or immunized.

16 *SEC. 8. Section 2866 of the Business and Professions Code is*
 17 *amended to read:*

18 2866. An applicant for a ~~licensed~~ vocational nurse license shall
 19 comply with each of the following:

- 20 (a) Be at least 17 years of age.
- 21 (b) Have successfully completed at least an approved course of
 22 study through the 12th grade or the equivalent thereof as specified
 23 by the board.
- 24 (c) Have successfully completed the prescribed course of study
 25 in an approved school of vocational nursing or have graduated
 26 from a school which, in the opinion of the board, maintains and
 27 gives a course which is equivalent to the minimum requirements
 28 for an approved school of vocational nursing in this state.

29 (d) Not be subject to denial of licensure under Section 480.

30 *SEC. 9. Section 2867 of the Business and Professions Code is*
 31 *amended to read:*

32 2867. An applicant for a license authorizing ~~him to the~~ practice
 33 of vocational nursing in this State under this chapter, upon the
 34 filing of ~~his~~ *an application for a vocational nurse license on a form*
 35 *prescribed by the board*, shall pay the fee required by this chapter.

36 *SEC. 10. Section 2867.6 of the Business and Professions Code*
 37 *is amended to read:*

38 2867.6. After receiving the results of having passed the
 39 examination and upon receipt of the initial license fee required by
 40 subdivision ~~(e)~~ *(h)* of Section 2895, the board shall issue a receipt

1 or temporary certificate which will serve as a valid permit for the
2 licensee to practice under this chapter.

3 ~~SEC. 5.~~

4 *SEC. 11.* Section 2876 of the Business and Professions Code
5 is amended to read:

6 2876. (a) The board shall discipline the holder of any license,
7 whose default has been entered or who has been heard by the board
8 and found guilty, by any of the following methods:

9 (1) Suspending judgment.

10 (2) Placing the licensee on probation.

11 (3) Suspending the licensee's right to practice vocational nursing
12 for a period not exceeding one year.

13 (4) Revoking the licensee's license.

14 (5) Taking such other action in relation to disciplining the
15 licensee as the board in its discretion may deem proper.

16 (b) The board shall delegate to its executive office the authority
17 to adopt a decision entered by default and a stipulation for
18 surrender of a license.

19 *SEC. 12.* Section 2878.1 of the Business and Professions Code
20 is amended to read:

21 2878.1. (a) If a licensed vocational nurse has knowledge that
22 another person has committed any act prohibited by Section 2878,
23 the licensed vocational nurse shall report this information to the
24 board in writing and shall cooperate with the board in furnishing
25 information or assistance as may be required.

26 (b) Any employer of a licensed vocational nurse shall report to
27 the board the suspension or termination for cause, or resignation
28 for cause, of any licensed vocational nurse in its employ. In the
29 case of licensed vocational nurses employed by the state, the report
30 shall not be made until after the conclusion of the review process
31 specified in Section ~~52.3~~ 52.6 of the California Code of Regulations
32 and *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194. This
33 required reporting shall not constitute a waiver of confidentiality
34 of medical records. The information reported or disclosed shall be
35 kept confidential except as provided in subdivision (d) and shall
36 not be subject to discovery in civil cases.

37 (c) An employment agency or nursing registry shall report to
38 the board the rejection from assignment of a licensed vocational
39 nurse by a health facility or home health care provider due to acts

1 that would be cause for suspension or termination as described in
2 subdivision (d).

3 (d) For purposes of the section, “suspension, termination, or
4 resignation for cause” or “rejection from assignment” are defined
5 as suspension, termination, or resignation from employment, or
6 rejection from assignment, for any of the following reasons:

7 (1) Use of controlled substances or alcohol to the extent that it
8 impairs the licensee’s ability to safely practice vocational nursing.

9 (2) Unlawful sale of a controlled substance or other prescription
10 items.

11 (3) Patient or client abuse, neglect, physical harm, or sexual
12 contact with a patient or client.

13 (4) Falsification of medical records.

14 (5) Gross negligence or incompetence.

15 (6) Theft from patients or clients, other employees, or the
16 employer.

17 (e) Failure of an employer to make a report required by this
18 section is punishable by an administrative fine not to exceed ten
19 thousand dollars (\$10,000) per violation.

20 (f) Pursuant to Section 43.8 of the Civil Code, no person shall
21 incur any civil penalty as a result of making any report required
22 by this chapter.

23 (g) The board shall implement this section contingent upon the
24 necessary funding in the annual Budget Act.

25 (h) For purposes of this section, “employer” includes
26 employment agencies and nursing registries.

27 *SEC. 13. Section 2881.2 is added to the Business and*
28 *Professions Code, to read:*

29 *2881.2. (a) The board shall maintain a list of inactive*
30 *vocational nursing schools and programs seeking board approval.*

31 *(b) A vocational nursing school or program seeking board*
32 *approval shall respond to the board within two weeks of each*
33 *inquiry or request during all phases. A school or program that*
34 *does not respond within two weeks shall be designated as inactive.*

35 *(c) A vocational nursing school or program seeking board*
36 *approval that remains on the inactive list for 90 days shall be taken*
37 *out of consideration for a new program and may only reapply after*
38 *six months.*

1 ~~SEC. 6.~~

2 *SEC. 14.* Section 4501 of the Business and Professions Code
3 is amended to read:

4 4501. (a) As used in this chapter, “board” means the Board of
5 Vocational Nursing and Psychiatric Technicians of the State of
6 California.

7 (b) This section shall remain in effect only until January 1, 2022,
8 and as of that date is repealed.

9 *SEC. 15. Section 4502.1 of the Business and Professions Code*
10 *is amended to read:*

11 4502.1. A psychiatric technician, working in a mental health
12 facility or developmental disability facility, when prescribed by a
13 *licensed* physician and surgeon, may administer medications by
14 hypodermic injection.

15 *SEC. 16. Section 4502.2 of the Business and Professions Code*
16 *is amended to read:*

17 4502.2. A psychiatric technician, when prescribed by a *licensed*
18 physician and surgeon, may withdraw blood from a patient with
19 a mental illness or developmental disability if the psychiatric
20 technician has received certification from the board that the
21 psychiatric technician has completed a prescribed course of
22 instruction approved by the board or has demonstrated competence
23 to the satisfaction of the board.

24 *SEC. 17. Section 4502.3 of the Business and Professions Code*
25 *is amended to read:*

26 4502.3. (a) A psychiatric technician, when prescribed by a
27 *licensed* physician and surgeon, may perform the following
28 activities on a patient with a mental illness or developmental
29 disability:

30 (1) Tuberculin, coccidioidin, and histoplasmin skin tests,
31 providing the administration is within the course of a tuberculosis
32 control program.

33 (2) Immunization techniques, providing the administration is
34 upon the standing orders of a supervising *licensed* physician and
35 surgeon or pursuant to written guidelines adopted by a hospital or
36 medical group with whom the supervising *licensed* physician and
37 surgeon is associated.

38 (b) In performing activities pursuant to subdivision (a), the
39 psychiatric technician shall satisfactorily demonstrate competence
40 in all of the following:

1 (1) Administering the testing or immunization agents, including
2 knowledge of all indications and contraindications for the
3 administration of the agents.

4 (2) Recognizing any emergency reactions to the agent that
5 constitute a danger to the health or life of the patient.

6 (3) Treating those emergency reactions by using procedures,
7 medication, and equipment within the scope of practice of the
8 psychiatric technician.

9 ~~SEC. 7.~~

10 *SEC. 18.* Section 4503 of the Business and Professions Code
11 is amended to read:

12 4503. (a) The board shall administer and enforce the provisions
13 of this chapter.

14 (b) This section shall remain in effect only until January 1, 2022,
15 and as of that date is repealed.

16 *SEC. 19.* Section 4510 of the Business and Professions Code
17 is amended to read:

18 4510. (a) The board shall issue a psychiatric technician’s
19 license to each applicant who qualifies ~~therefor~~, and, if required
20 to take it, successfully passes the examination given pursuant to
21 this chapter. The board shall also issue a psychiatric technician’s
22 license to each holder of a psychiatric technician license who
23 qualifies for renewal pursuant to this chapter and who applies for
24 renewal.

25 ~~After~~

26 (b) *After* the applicant passes the examination and upon receipt
27 by the board of the initial license fee required by subdivision ~~(e)~~
28 (h) of Section 4548, the board may issue a receipt or temporary
29 certificate that shall serve as a valid permit for the licensee to
30 practice under this chapter.

31 *SEC. 20.* Section 4521.2 of the Business and Professions Code
32 is amended to read:

33 4521.2. (a) If a psychiatric technician has knowledge that
34 another person has committed any act prohibited by Section 4521,
35 the psychiatric technician shall report this information to the board
36 in writing and shall cooperate with the board in furnishing
37 information or assistance as may be required.

38 (b) Any employer of a psychiatric technician shall report to the
39 board the suspension or termination for cause, or resignation for
40 cause, of any psychiatric technician in their employ. In the case

1 of psychiatric technicians employed by the state, the report shall
2 not be made until after the conclusion of the review process
3 specified in Section ~~52.3~~ 52.6 of Title 2 of the California Code of
4 Regulations and *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d
5 194. The reporting required herein shall not constitute a waiver of
6 confidentiality of medical records. The information reported or
7 disclosed shall be kept confidential except as provided in
8 subdivision (d), and shall not be subject to discovery in civil cases.

9 (c) An employment agency or nursing registry shall report to
10 the board the rejection from assignment of a licensed psychiatric
11 technician by a health facility or home health care provider due to
12 acts that would be cause for suspension or termination as described
13 in subdivision (d).

14 (d) For purposes of this section, “suspension, termination, or
15 resignation for cause” or “rejection from assignment” are defined
16 as suspension, termination, or resignation from employment, or
17 rejection from assignment, for any of the following reasons:

18 (1) Use of controlled substances or alcohol to such an extent
19 that it impairs the licensee’s ability to safely practice as a
20 psychiatric technician.

21 (2) Unlawful sale of controlled substances or other prescription
22 items.

23 (3) Patient or client abuse, neglect, physical harm, or sexual
24 contact with a patient or client.

25 (4) Falsification of medical records.

26 (5) Gross negligence or incompetence.

27 (6) Theft from patients or clients, other employees, or the
28 employer.

29 (e) Failure of an employer to make a report required by this
30 section is punishable by an administrative fine not to exceed ten
31 thousand dollars (\$10,000) per violation.

32 (f) Pursuant to Section 43.8 of the Civil Code, no person shall
33 incur any civil penalty as a result of making any report required
34 by this chapter.

35 (g) The board shall implement this section contingent upon
36 necessary funding being provided in the annual Budget Act.

37 (h) For purposes of this section, “employer” includes
38 employment agencies and nursing registries.

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