

SB 994 and AB 2685: California's New Naturopathic Doctors' Laws

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By Michael H. Cohen

California, in 2022, passed two laws that affect naturopathic doctors – SB 994 and AB 2685.

SB 994 allows naturopathic doctors to hire licensed vocational nurses (LVNs).

AB 2685, Prior law, created *"the Naturopathic Medicine Committee within the Osteopathic Medical Board of California for the licensure and regulation of naturopathic doctors."* AB 2685, titled the Naturopathic Doctors Act, renames the Naturopathic Medicine Committee as the *"California Board of Naturopathic Medicine"* and places the Board within the Department of Consumer Affairs. AB 2685 specifies that any reference in any law or regulation to the Bureau of Naturopathic Medicine or the Naturopathic Medicine Committee refers to the California Board of Naturopathic Medicine.

The Naturopathic Doctors Act prohibits the board from *"incurring any costs as a result of its name change beyond what is absorbable within existing resources."*

What is naturopathic medicine?

The Association of Accredited Naturopathic Medical Colleges defines naturopathic medicine as a field or practice *"that combines the wisdom of nature with the rigors of modern science. Naturopathic doctors (NDs) are trained as primary care providers who diagnose, treat and manage patients with acute and chronic conditions, while addressing disease and dysfunction at the level of body, mind and spirit."*

"NDs concentrate on whole patient wellness through health promotion and disease prevention, while addressing the underlying cause of the patient's condition. Naturopathic physicians care for patients of all ages and genders, and practice in settings ranging from private clinics to integrative medical centers, urgent care clinics and hospitals." NDs "provide individualized, evidence-informed therapies that balance the least harmful and most effective approaches in order to help facilitate the body's inherent ability to restore and maintain optimal health. Naturopathic doctors are experts in natural medicine, and naturopathic medical education is the most efficient and direct way to train as a primary care doctor who specializes in natural medicine."

FAQs about SB 994 and AB 2685

The American Association of Naturopathic Physicians provides the following questions and answers about licensed vocational nurses who now, in California, can be hired by naturopathic doctors.

What is a Licensed Vocational Nurse (LVN)?

A California LVN is licensed and governed by the Board of Vocational Nursing and Psychiatric Technicians (BVNPT). LVNs have finished an approved practical nursing program. LVNs, through the direction of a California licensed Registered Nurse (RN), Nurse Practitioners (NPs), physicians, and other authorized healthcare providers – provide skilled nursing care and execute nursing interventions. SB 994 now provides that licensed naturopathic doctors in California can, effective January 1, 2023, direct LVNs in the same care and interventions.

What is the scope of practice for an LVN working under the supervision of a California Licensed Naturopathic Doctor?

An LVN in California is directed by a licensed ND, NP, RN, or physician – in the manual and technical skills learned in an approved school of vocational nursing.

In addition to performing the same tasks as a naturopathic assistant, an LVN can:

- Administer IV therapy (vitamins, minerals and blood products only – no medications or herbs)
- Treat patients *“carrying out the ND’s treatment orders without the ND needing to be present in the office at all times.”*

When directed and supervised by a naturopathic doctor, an LVN can also:

- *“Administer medications by hypodermic injection.”*
- Withdraw blood from a patient, if prior thereto such LVN has satisfactorily completed a prescribed course of instruction approved by the Board of Vocational Nursing and Psychiatric Technicians (BVNPT). *“The LVN must have a certificate from a training provider approved by the BVNPT for both phlebotomy and IV therapy prior to performing these functions.”*
- *“Start and superimpose intravenous fluids under the supervision of a Naturopathic Doctor after completing a BVNPT-approved IV therapy certification course.”* An LVN must be Board certified to perform IV therapy and blood withdrawal.
 - *“Important note: LVNs can be trained to draw blood in an office setting by an MD or DO, but not by an ND. Any LVN that [an ND] hires must take a BVNPT-approved IV and blood draw training. As a result of the passage of AB 2685, the LVN can obtain an Intravenous Therapy (IVT) Specialty license from the California Board of Naturopathic Medicine (formerly the Naturopathic Medicine Committee).”*

Can LVNs perform IV therapy?

Yes – provided that the:

- LVN has the property Intravenous Therapy Specialty License
- The LVN has completed an IV certification course approved by the Board of Vocational Nursing and Psychiatric Technicians (BVNPT)
- *“The supervising ND has ordered the IV treatment. (In other words, a new patient cannot just walk into the office and receive an IV treatment without the ND conducting an initial appropriate prior examination and ordering the IV with specific ingredients and dosages). The initial exam need not be performed before each IV – just before the first IV treatment – “and again if the patient’s health changes or the IV ingredients change and at appropriate intervals.”*

LVNs can only carry out an ND’s treatment decisions. LVNs cannot take over the care of a patient.

Generally, provided the above requirements are met, LVNs can prepare IVs. LVNs can also start IVs – *“but only peripheral lines. They cannot access ports.”*

What can LVNs infuse?

“LVNs can infuse fluids, vitamins, minerals, nutrients and blood products.

LVNs CANNOT infuse medications or herbs – so this means, for example, LVNs cannot infuse chelating agents, Zofran, curcumin, or other medications or herbs.”

Can an ND give an order to an LVN to give someone medication or an injection or to perform an IV at a patient’s home?

No, not at a patient’s home. The patient must be in the physician’s office or a health care setting, like a skilled nursing facility.

Can LVNs give IM and SC injections?

Yes.

*“LVNs can give IM and SC injections, such as vitamins and hormones under the supervision of a California licensed ND (*Note this does not include hormone pellets). However, the LVN cannot give IM and SC injections of any other medications unless the supervising ND has a supervising California physician (MD/DO) to allow the ND to prescribe such medications. In other words, the LVN cannot administer medications that the supervising ND is not authorized to prescribe or administer. Additionally, LVNs CANNOT inject glutathione.”*

There are additional options and requirements if the ND has a supervising MD/DO.

Can an LVN administer vaccines?

Yes.

“Pursuant to the standing orders of the Naturopathic Doctor, if the Naturopathic Doctor has a supervision agreement in place with an MD/DO for prescribing vaccines. And the Naturopathic Doctor must ensure that the LVN demonstrates competence in the administration of the vaccines and knowledge of all the indications and contraindications and recognition and treatment of any emergency reactions.”

Does the ND need to be in the office when the LVN is taking care of patients?

Generally, the answer is no. However, the supervising naturopathic doctor *“MUST be available by phone at all times that the LVN is providing patient care and must always be the one that does all diagnosis and ordering of treatments.”* The LVN can’t determine what care to provide. Their job is just to carry out the supervising ND’s orders.

Can LVNs do triage or answer a patient’s questions about their care?

“No. Unlike NPs and RNs with appropriate standardized procedures, LVNs cannot triage patients or do assessments.”

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What Are the Legal Risks Involved With An IV Therapy Business?

Doctors, registered nurses and EMTs should review with an experienced healthcare attorney – corporate practice of medicine issues, medical and business practices, and other legal issues before [...]

What Are the Legal Risks Involved with An IV Therapy Business? Part Two

IV therapy owners and practitioners need to discuss with experienced healthcare lawyers who can prescribe IV therapy, who can prepare the solution, and who can administer the therapy.

Additional requirements for naturopathic doctors who hire LVNs

The LVN must be a supervising ND's employee. There must be a written supervision protocol in place. This protocol can *"be part of the LVN's employment agreement or can be a standalone document separate from their employment agreement."* The written supervision protocol must:

- Describe the LVN's duties and responsibilities
- Set forth specific policies and procedures that ensure adequate supervision of the LVN. These policies should include, among other policies, a communication line between the Naturopathic Doctor and LVN, *"availability of supervision, location(s) of where services are to be provided, and availability of consultations between the Naturopathic Doctor and LVN regarding the services provided."* The policies and procedures should also set forth the training methods and *"continuing evaluation of the competency and qualifications of the LVN."*

What is LVN prohibited from doing?

LVNs are NOT permitted to:

- Administer any botulinum toxin, dermal filler or glutathione injections
- Perform platelet rich plasma treatments
- Remove skin growths
- Perform any other cosmetic treatments outside of the scope of an LVN
- Administer laser, light, steam, or UV treatment therapies unless directed by the ND for a medically necessary purpose (not cosmetic)

NDs can hire LVNs starting on January 1st, 2023.

Can an ND hire an RN (registered nurse) and have the RN do only the things listed as in the scope of an LVN?

"No, an ND cannot hire, direct or supervise an RN or NP under any circumstances." "RNs can only perform patient care services ordered by and within the scope of licensure of a physician, dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health and Safety Code."

AB-2685 Naturopathic Doctors Act: California Board of Naturopathic Medicine and licensing requirements

AB 2685, in addition to renaming the "Naturopathic Medicine Committee" as the "California Board of Naturopathic Medicine, placing the board within the Department of Consumer Affairs, and other provisions we discussed above; updates the requirements and prohibitions for appointing healthcare professionals to the new Board.

According to Open States, AB 2685

AB 2685 also changes current law regarding naturopathic medicine as follows:

- The California Board of Naturopathic Medicine will be required to hire a full-time employee whose duties would include

enforcement against violations of the new law. That staff position will be under the direction of the executive officer.

- Expand the current requirement that applicants for licensure *“pass the Naturopathic Physicians Licensing Examination (NPLEX) or an equivalent examination approved by the North American Board of Naturopathic Examiners to pass any NPLEX elective examinations relevant to a licensee’s scope of practice in California.”*
- Expands how applicants could meet their continuing education requirements.
- Expands the requirements for a naturopathic doctor to be certified for the specialty practice of naturopathic childbirth attendance.

The law extends *“the operation of the act until January 1, 2027, and would also make nonsubstantive changes to those provisions.”*

California recently passed two laws that affect the ability of naturopathic doctors to practice medicine. The first grants NDs the right to hire licensed vocational nurses. The second creates the California Board of Naturopathic Medicine. Healthcare professionals who work in these fields need to understand the new compliance issues for each profession including what tasks LVNs can and cannot perform. Naturopathic doctors can take pride in the creation of a new Board for their professions but need to understand the duties and obligations of their new Board.

California’s New Scope of Practice Law for Nurse Practitioners – Part Two

California passed a new law, effective January 1, 2023, that permits nurse practitioners in specific settings to provide care (under certain conditions) that does not meet “standardized procedures.”

Naturopathic doctors, licensed vocational nurses, and other healthcare providers should contact Cohen Healthcare Law Group, PC to discuss the current federal, state, and medical board compliance requirements for their type of practice and scope of employment. Our experienced healthcare attorneys advise doctors, nurses, and other types of healthcare providers about healthcare compliance laws and regulations.

Contact our healthcare law and FDA attorneys for legal advice relevant to your healthcare venture.