

AMENDED IN SENATE APRIL 17, 2001

**SENATE BILL**

**No. 298**

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**Introduced by Senators Figueroa and Escutia**

February 16, 2001

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An act to amend Sections 2725.1, 2746.51, 4040, 4060, 4061, 4076, 4170, and 4175 of the Business and Professions Code, and to amend Sections 11026 and 11150 of the Health and Safety Code, relating to nurse-midwives.

LEGISLATIVE COUNSEL'S DIGEST

SB 298, as amended, Figueroa. Drugs and devices.

Existing law permits a certified nurse-midwife who meets certain qualifications, to furnish drugs or medical devices pursuant to standardized procedures. Existing law does not authorize a certified nurse-midwife to order drugs or devices and prohibits him or her from furnishing controlled substances.

This bill would ~~permit~~ *authorize* a certified nurse-midwife ~~to order drugs and devices under certain conditions. The bill would permit a certified nurse-midwife to furnish or order specified controlled substances under certain conditions. The bill would define the term "furnishing" to include the ordering of a drug or device pursuant to a standardized procedure or protocol and the transmitting of an order of a supervising physician and surgeon.~~

Because a willful violation of the bill's requirements with respect to the ordering of dangerous drugs or devices would be a crime, this bill would impose a state-mandated local program by creating a new crime.

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. The Legislature finds and declares the  
2 following:

3 (a) Certified nurse-midwives have provided controlled  
4 substances, under the supervision of a physician and surgeon, to  
5 patients in licensed facilities for over 20 years. In this role,  
6 certified nurse-midwives have served and continue to serve as  
7 valuable members of the health care team.

8 (b) To provide controlled substances, certified nurse-midwives  
9 must register with the United States Drug Enforcement  
10 Administration and provide, as required, documentation related to  
11 controlled substances. Certified nurse-midwives are also required,  
12 in providing controlled substances, to operate under standardized  
13 procedures or protocols developed through collaboration among  
14 organized health care systems, administrators, and health  
15 professionals, including physicians and surgeons and nurses.

16 (c) These standardized procedures and protocols are developed  
17 by the health care team, physicians and surgeons, certified  
18 nurse-midwives, and health care facility administrators as needed  
19 and appropriate for the dynamic health care system to allow the  
20 health care team to provide patient care.

21 (d) This act is intended to codify ~~current practice where~~  
22 ~~certified nurse-midwives care for patients and provide controlled~~  
23 ~~substances according to standardized procedures and protocols.~~  
24 *existing furnishing practices in accordance with the interpretation*  
25 *by the Board of Registered Nursing in its document entitled*  
26 *“Administering, Furnishing, and Prescribing Drugs in Modern*  
27 *Medical and Nursing Practice” of the Nursing Practice Act*  
28 *(Chapter 6 (commencing with Section 2700) of Division 2 of the*  
29 *Business and Professions Code). Nothing in this act is intended to*  
30 *increase the scope of practice of certified nurse-midwives.*



1 SEC. 2. Section 2725.1 of the Business and Professions Code  
2 is amended to read:

3 2725.1. Notwithstanding any other provision of law, a  
4 registered nurse may dispense drugs or devices upon an order by  
5 a licensed physician and surgeon if the nurse is functioning within  
6 a licensed clinic as defined in paragraphs (1) and (2) of subdivision  
7 (a) of Section 1204 of, or within a clinic as defined in subdivision  
8 (b) or (c) of Section 1206, of the Health and Safety Code.

9 No clinic shall employ a registered nurse to perform dispensing  
10 duties exclusively. No registered nurse shall dispense drugs in a  
11 pharmacy, keep a pharmacy, open shop, or drugstore for the  
12 retailing of drugs or poisons. No registered nurse shall compound  
13 drugs. Dispensing of drugs by a registered nurse, except a certified  
14 nurse-midwife who functions pursuant to a standardized  
15 procedure or protocol described in Section 2746.51 or a nurse  
16 practitioner who functions pursuant to a standardized procedure  
17 described in Section 2836.1, or protocol, shall not include  
18 substances included in the California Uniform Controlled  
19 Substances Act (Division 10 (commencing with Section 11000) of  
20 the Health and Safety Code). Nothing in this section shall exempt  
21 a clinic from the provisions of Article 13 (commencing with  
22 Section 4180) of Chapter 9.

23 SEC. 3. Section 2746.51 of the Business and Professions  
24 Code is amended to read:

25 2746.51. (a) Neither this chapter nor any other provision of  
26 law shall be construed to prohibit a certified nurse-midwife from  
27 furnishing or ordering drugs or devices, *including controlled*  
28 *substances classified in Schedule III, IV, or V under the California*  
29 *Uniform Controlled Substances Act (Division 10 (commencing*  
30 *with Section 11000) of the Health and Safety Code),* when all of the  
31 following apply:

32 ~~(a) The drugs or devices are furnished or ordered by a certified~~  
33 ~~nurse-midwife in accordance with standardized procedures or~~  
34 ~~protocols developed by the certified nurse-midwife and his or her~~  
35 ~~supervising physician and surgeon under any of the following~~  
36 ~~circumstances:~~

37 ~~(1) When furnished or ordered incidentally to the provision of~~  
38 ~~family planning services, as defined in Section 14503 of the~~  
39 ~~Welfare and Institutions Code.~~



- 1     ~~(2) When furnished or ordered incidental to the provision of~~  
2 ~~routine health care or prenatal care.~~
- 3     ~~(3) When rendered to essentially healthy persons.~~
- 4     ~~(b) The certified nurse midwife is functioning pursuant to a~~  
5 ~~standardized procedure, as defined by Section 2725, or protocol.~~  
6 ~~The standardized procedure or protocol shall be developed and~~  
7 ~~approved by the supervising physician and surgeon, the certified~~  
8 ~~nurse midwife, and the facility administrator or his or her~~  
9 ~~designee.~~
- 10    ~~(c) The standardized procedure or protocol covering the~~  
11 ~~furnishing of drugs or devices shall specify which certified~~  
12 ~~nurse midwife may furnish or order drugs or devices, which drugs~~  
13 ~~or devices may be furnished or ordered, under what circumstances,~~  
14 ~~the extent of physician and surgeon supervision, the method of~~  
15 ~~periodic review of the certified nurse midwife's competence,~~  
16 ~~including peer review, and review of the provisions of the~~  
17 ~~standardized procedure or protocol.~~
- 18    ~~(d) The furnishing of drugs or devices by a certified~~  
19 ~~nurse midwife occurs under physician and surgeon supervision.~~  
20 ~~Physician and surgeon supervision shall not be construed to~~  
21 ~~require the physical presence of the physician, but does include (1)~~  
22 ~~collaboration on the development of the standardized procedure or~~  
23 ~~protocol, (2) approval of the standardized procedure or protocol,~~  
24 ~~and (3) availability by telephonic contact at the time of patient~~  
25 ~~examination by the certified nurse midwife.~~
- 26    ~~(e) For purposes of this section, no physician and surgeon shall~~  
27 ~~supervise more than four certified nurse midwives at one time.~~
- 28    ~~(f) Drugs or devices furnished or ordered by a certified~~  
29 ~~nurse midwife may include Schedule II through Schedule V~~  
30 ~~controlled substances under the California Uniform Controlled~~  
31 ~~Substances Act, (Division 10 (commencing with Section 11000)~~  
32 ~~of the Health and Safety Code) and shall be further limited to those~~  
33 ~~drugs agreed upon by the certified nurse midwife and physician~~  
34 ~~and surgeon and specified in the standardized procedure or~~  
35 ~~protocol. When Schedule II controlled substances, as defined in~~  
36 ~~Section 11055 of the Health and Safety Code, or Schedule III~~  
37 ~~controlled substances, as defined in Section 11056 of the Health~~  
38 ~~and Safety Code, are furnished or ordered by a certified~~  
39 ~~nurse midwife, the controlled substances shall be furnished or~~  
40 ~~ordered in accordance with a patient-specific protocol approved~~



1 ~~by the treating or supervising physician and surgeon. A copy of the~~  
2 ~~section of the nurse-midwife's standardized procedure or protocol~~  
3 ~~relating to controlled substances shall be provided upon request to~~  
4 ~~any licensed pharmacist who dispenses drugs or devices, if there~~  
5 ~~is uncertainty about the certified nurse-midwife furnishing the~~  
6 ~~order.~~

7 ~~(g) The board has certified in accordance with subdivision (h)~~  
8 ~~that the certified nurse-midwife has satisfactorily completed (1) at~~  
9 ~~least six month's physician and surgeon supervised experience in~~  
10 ~~the furnishing or ordering of drugs or devices and (2) a course in~~  
11 ~~pharmacology covering the drugs or devices to be furnished or~~  
12 ~~ordered under this section. The board shall establish the~~  
13 ~~requirements for satisfactory completion of this subdivision.~~

14 ~~(h) The furnishing or ordering of drugs or devices by certified~~  
15 ~~nurse-midwives is conditional on the issuance by the board of a~~  
16 ~~number to the applicant who has successfully completed the~~  
17 ~~requirements of subdivision (g). The number shall be included on~~  
18 ~~all transmittals of orders for drugs or devices by the certified~~  
19 ~~nurse-midwife. The board shall make the list available to the~~  
20 ~~California State Board of Pharmacy. The board shall charge the~~  
21 ~~applicant fees for application, renewal, and penalty for failure to~~  
22 ~~timely renew that are equal to the fees charged to nurse~~  
23 ~~practitioners pursuant to Section 2836.3.~~

24 ~~(i) Every certified nurse-midwife who is authorized pursuant to~~  
25 ~~this section to furnish or issue a drug order for a controlled~~  
26 ~~substance shall register with the United States Drug Enforcement~~  
27 ~~Administration.~~

28 ~~(j)~~

29 *(1) The drugs or devices are furnished incidentally to the*  
30 *provision of: family planning services, as defined in Section 14503*  
31 *of the Welfare and Institutions Code, or are furnished incidentally*  
32 *to the provision of routine health care or perinatal care, as defined*  
33 *in subdivision (d) of Section 123485 of the Health and Safety Code,*  
34 *rendered to essentially healthy persons within a facility specified*  
35 *in subdivision (a), except in the case of sole practitioners, and*  
36 *subdivision (b), (c), (d), (i), or (j) of Section 1206 of the Health and*  
37 *Safety Code, a clinic as specified in Section 1204 of the Health and*  
38 *Safety Code, a general acute care hospital as defined in*  
39 *subdivision (a) of Section 1250 of the Health and Safety Code, a*  
40 *licensed birth center as defined in Section 1204.3 of the Health and*



1 *Safety Code, or a special hospital specified as a maternity hospital*  
2 *in subdivision (f) of Section 1250 of the Health and Safety Code.*

3 (2) *The drugs or devices are furnished or ordered by a certified*  
4 *nurse-midwife in accordance with standardized procedures. For*  
5 *purposes of this section, standardized procedure means a*  
6 *document, including protocols, developed and approved by the*  
7 *supervising physician and surgeon, the certified nurse-midwife,*  
8 *and the facility administrator or his or her designee. The*  
9 *standardized procedure covering the furnishing of drugs or*  
10 *devices shall specify which certified nurse-midwife may furnish or*  
11 *order drugs or devices, which drugs or devices may be furnished*  
12 *or ordered, under what circumstances, the extent of physician and*  
13 *surgeon supervision, the method of periodic review of the certified*  
14 *nurse-midwife's competence, including peer review, and review of*  
15 *the provisions of the standardized procedure. When Schedule III*  
16 *controlled substances, as defined in Section 11056 of the Health*  
17 *and Safety Code, are furnished or ordered by a certified*  
18 *nurse-midwife, the controlled substances shall be furnished or*  
19 *ordered in accordance with a patient-specific protocol approved*  
20 *by the treating or supervising physician and surgeon.*

21 (3) *The furnishing of drugs or devices by a certified*  
22 *nurse-midwife occurs under physician and surgeon supervision.*  
23 *Physician and surgeon supervision shall not be construed to*  
24 *require the physical presence of the physician, but does include:*  
25 *(A) collaboration on the development of the standardized*  
26 *procedure; (B) approval of the standardized procedure; and (C)*  
27 *availability by telephonic contact at the time of patient*  
28 *examination by the certified nurse-midwife.*

29 (4) *For purposes of this section, no physician and surgeon shall*  
30 *supervise more than four certified nurse-midwives at one time.*

31 (5) *The furnishing or ordering of drugs or devices by a certified*  
32 *nurse-midwife is conditional on the issuance by the board of a*  
33 *number to the applicant who has successfully completed the*  
34 *requirements of paragraph (6). The number shall be included on*  
35 *all transmittals of orders for drugs or devices by the certified*  
36 *nurse-midwife. The board shall maintain a list of the certified*  
37 *nurse-midwives that it has certified pursuant to this paragraph and*  
38 *the number it has issued to each one. The board shall make the list*  
39 *available to the California State Board of Pharmacy upon its*  
40 *request. Every certified nurse-midwife who is authorized pursuant*



1 to this section to furnish or issue a drug order for a controlled  
2 substance shall register with the United States Drug Enforcement  
3 Administration.

4 (6) The board has certified in accordance with paragraph (5)  
5 that the certified nurse-midwife has satisfactorily completed at  
6 least six month's physician and surgeon supervised experience in  
7 the furnishing or ordering of drugs or devices and a course in  
8 pharmacology covering the drugs or devices to be furnished or  
9 ordered under this section. The board shall establish the  
10 requirements for satisfactory completion of this paragraph.

11 (7) A copy of the section of the nurse-midwives standardized  
12 procedure relating to controlled substances shall be provided upon  
13 request to any licensed pharmacist who dispenses drugs or devices  
14 if there is uncertainty about the certified nurse-midwife furnishing  
15 order.

16 (b) Drugs or devices furnished or ordered by a certified  
17 nurse-midwife may include Schedule II controlled substances  
18 under the California Uniform Controlled Substances Act,  
19 (Division 10 (commencing with Section 11000) of the Health and  
20 Safety Code) under the following conditions:

21 (1) The drugs and devices are furnished or ordered in a hospital  
22 as described in subdivision (a) of Section 1250 of the Health and  
23 Safety Code and are furnished or ordered in accordance with  
24 requirements referenced in paragraphs (2) to (7), inclusive, of  
25 subdivision (a).

26 (2) When Schedule II controlled substances, as defined in  
27 Section 11055 of the Health and Safety Code, are furnished or  
28 ordered by a certified nurse-midwife, the controlled substances  
29 shall be furnished or ordered in accordance with a patient-specific  
30 protocol approved by the treating or supervising physician and  
31 surgeon.

32 (c) Furnishing of drugs or devices by a certified nurse-midwife  
33 means the act of making a pharmaceutical agent or agents available  
34 to the patient in strict accordance with a standardized procedure or  
35 protocol. Use of the term "furnishing" in this section, ~~in a~~  
36 ~~specialty clinic defined in paragraph (4) of subdivision (b) of~~  
37 ~~Section 1204 of the Health and Safety Code that is licensed by the~~  
38 ~~state or in a health facility defined in subdivisions (b), (c), (d), (e),~~  
39 ~~and (i) of Section 1250 of the Health and Safety Code, shall include~~  
40 shall include (1) the ordering of a drug or device in accordance



1 with the standardized procedure or protocol and (2) transmitting  
2 an order of a supervising physician and surgeon.

3 ~~(k)~~

4 (d) “Drug order” or “order” for purposes of this section  
5 means an order for medication *or for a drug or device* that is  
6 dispensed to or for an ultimate user, issued by a nurse-midwife as  
7 an individual practitioner, within the meaning of Section 1306.03  
8 of Title 21 of the Code of Federal Regulations. Notwithstanding  
9 any other provision of law, (1) a drug order issued pursuant to this  
10 section shall be treated in the same manner as a prescription of the  
11 supervising physician; (2) all references to “prescription” in this  
12 code and the Health and Safety Code shall include drug orders  
13 issued by certified nurse-midwives; and (3) the signature of a  
14 certified nurse-midwife on a drug order issued in accordance with  
15 this section shall be deemed to be the signature of a prescriber for  
16 purposes of this code and the Health and Safety Code.

17 ~~(l)~~

18 (e) Nothing in this section, nor any other provision of law, shall  
19 be construed to authorize a nurse-midwife in solo practice to  
20 furnish drugs or devices, under any circumstances.

21 SEC. 4. Section 4040 of the Business and Professions Code  
22 is amended to read:

23 4040. (a) “Prescription” means an oral, written, or  
24 electronic transmission order that is both of the following:

25 (1) Given individually for the person or persons for whom  
26 ordered that includes all of the following:

27 (A) The name or names and address of the patient or patients.

28 (B) The name and quantity of the drug or device prescribed and  
29 the directions for use.

30 (C) The date of issue.

31 (D) Either rubber stamped, typed, or printed by hand or typeset,  
32 the name, address, and telephone number of the prescriber, his or  
33 her license classification, and his or her federal registry number,  
34 if a controlled substance is prescribed.

35 (E) A legible, clear notice of the condition for which the drug  
36 is being prescribed, if requested by the patient or patients.

37 (F) If in writing, signed by the prescriber issuing the order, or  
38 the certified nurse-midwife, nurse practitioner, or physician  
39 assistant who issues a drug order pursuant to Section 2746.51,  
40 2836.1, or 3502.1.



1 (2) Issued by a physician, dentist, optometrist, podiatrist, or  
2 veterinarian; or, if a drug order is issued pursuant to Section  
3 2746.51, 2836.1, or 3502.1, by a certified nurse-midwife, nurse  
4 practitioner, or physician assistant licensed in this state.

5 (b) Notwithstanding subdivision (a), a written order of the  
6 prescriber for a dangerous drug, except for any Schedule II  
7 controlled substance, that contains at least the name and signature  
8 of the prescriber, the name ~~or names~~ and address of the patient ~~or~~  
9 ~~patients~~ in a manner consistent with paragraph (3) of subdivision  
10 (b) of Section 11164 of the Health and Safety Code, the name and  
11 quantity of the drug prescribed, directions for use, and the date of  
12 issue may be treated as a prescription by the dispensing pharmacist  
13 as long as any additional information required by subdivision (a)  
14 is readily retrievable in the pharmacy. In the event of a conflict  
15 between this subdivision and Section 11164 of the Health and  
16 Safety Code, Section 11164 of the Health and Safety Code shall  
17 prevail.

18 (c) “Electronic transmission prescription” includes both  
19 image and data prescriptions. “Electronic image transmission  
20 prescription” means any prescription order for which a facsimile  
21 of the order is received by a pharmacy from a licensed prescriber.  
22 “Electronic data transmission prescription” means any  
23 prescription order, other than an electronic image transmission  
24 prescription, that is electronically transmitted from a licensed  
25 prescriber to a pharmacy.

26 (d) The use of commonly used abbreviations shall not  
27 invalidate an otherwise valid prescription.

28 (e) Nothing in the amendments made to this section (formerly  
29 Section 4036) at the 1969 Regular Session of the Legislature shall  
30 be construed as expanding or limiting the right that a chiropractor,  
31 while acting within the scope of his or her license, may have to  
32 prescribe a device.

33 SEC. 5. Section 4060 of the Business and Professions Code  
34 is amended to read:

35 4060. No person shall possess any controlled substance,  
36 except that furnished to a person upon the prescription of a  
37 physician, dentist, podiatrist, or veterinarian, or furnished  
38 pursuant to a drug order issued by a certified nurse-midwife  
39 pursuant to Section 2746.51, a nurse practitioner pursuant to  
40 Section 2836.1, or a physician assistant pursuant to Section



1 3502.1. This section shall not apply to the possession of any  
2 controlled substance by a manufacturer, wholesaler, pharmacy,  
3 physician, podiatrist, dentist, veterinarian, certified  
4 nurse-midwife, nurse practitioner, or physician assistant, when in  
5 stock in containers correctly labeled with the name and address of  
6 the supplier or producer.

7 Nothing in this section authorizes a certified nurse-midwife, a  
8 nurse practitioner, or a physician assistant to order his or her own  
9 stock of dangerous drugs and devices.

10 SEC. 6. Section 4061 of the Business and Professions Code  
11 is amended to read:

12 4061. No manufacturer's sales representative shall distribute  
13 any dangerous drug or dangerous device as a complimentary  
14 sample without the written request of a physician, dentist,  
15 podiatrist, or veterinarian. However, a certified nurse-midwife  
16 who functions pursuant to a standardized procedure ~~or protocol~~  
17 described in Section 2746.51, a nurse practitioner who functions  
18 pursuant to a standardized procedure described in Section 2836.1,  
19 or protocol, or a physician assistant who functions pursuant to  
20 Section 3502.1, may sign for the delivery or receipt of  
21 complimentary samples of a dangerous drug or dangerous device  
22 that has been requested in writing by his or her supervising  
23 physician. Each written request shall contain the names and  
24 addresses of the supplier and the requester, the name and quantity  
25 of the specific dangerous drug desired, the name of the certified  
26 nurse-midwife, nurse practitioner, or physician assistant, if  
27 applicable, receiving the samples pursuant to this section, the date  
28 of receipt, and the name and quantity of the dangerous drugs or  
29 dangerous devices provided. These records shall be preserved by  
30 the supplier with the records required by Section 4059.

31 SEC. 7. Section 4076 of the Business and Professions Code  
32 is amended to read:

33 4076. (a) A pharmacist shall not dispense any prescription  
34 except in a container that meets the requirements of state and  
35 federal law and is correctly labeled with all of the following:

36 (1) Except where the prescriber or the certified nurse-midwife  
37 who functions pursuant to a standardized procedure ~~or protocol~~  
38 described in Section 2746.51, the nurse practitioner who functions  
39 pursuant to a standardized procedure described in Section 2836.1,  
40 or protocol, or the physician assistant who functions pursuant to



1 Section 3502.1 orders otherwise, either the manufacturer's trade  
2 name of the drug or the generic name and the name of the  
3 manufacturer. Commonly used abbreviations may be used.  
4 Preparations containing two or more active ingredients may be  
5 identified by the manufacturer's trade name or the commonly used  
6 name or the principal active ingredients.

7 (2) The directions for the use of the drug.

8 (3) The name of the patient or patients.

9 (4) The name of the prescriber and, if applicable, the certified  
10 nurse-midwife who functions pursuant to a standardized  
11 procedure ~~or protocol~~ described in Section 2746.51, the nurse  
12 practitioner who functions pursuant to a standardized procedure  
13 described in Section 2836.1, or protocol, or the physician assistant  
14 who functions pursuant to Section 3502.1.

15 (5) The date of issue.

16 (6) The name and address of the pharmacy, and prescription  
17 number or other means of identifying the prescription.

18 (7) The strength of the drug or drugs dispensed.

19 (8) The quantity of the drug or drugs dispensed.

20 (9) The expiration date of the effectiveness of the drug  
21 dispensed.

22 (10) The condition for which the drug was prescribed if  
23 requested by the patient and the condition is indicated on the  
24 prescription.

25 (b) If a pharmacist dispenses a prescribed drug by means of a  
26 unit dose medication system, as defined by administrative  
27 regulation, for a patient in a skilled nursing, intermediate care, or  
28 other health care facility, the requirements of this section will be  
29 satisfied if the unit dose medication system contains the  
30 aforementioned information or the information is otherwise  
31 readily available at the time of drug administration.

32 (c) If a pharmacist dispenses a dangerous drug or device in a  
33 facility licensed pursuant to Section 1250 of the Health and Safety  
34 Code, it is not necessary to include on individual unit dose  
35 containers for a specific patient, the name of the certified  
36 nurse-midwife who functions pursuant to a standardized  
37 procedure ~~or protocol~~ described in Section 2746.51, the nurse  
38 practitioner who functions pursuant to a standardized procedure  
39 described in Section 2836.1, or protocol, or the physician assistant  
40 who functions pursuant to Section 3502.1.



1 SEC. 8. Section 4170 of the Business and Professions Code  
2 is amended to read:

3 4170. (a) No prescriber shall dispense drugs or dangerous  
4 devices to patients in his or her office or place of practice unless  
5 all of the following conditions are met:

6 (1) The dangerous drugs or dangerous devices are dispensed to  
7 the prescriber's own patient, and the drugs or dangerous devices  
8 are not furnished by a nurse or physician attendant.

9 (2) The dangerous drugs or dangerous devices are necessary in  
10 the treatment of the condition for which the prescriber is attending  
11 the patient.

12 (3) The prescriber does not keep a pharmacy, open shop, or  
13 drugstore, advertised or otherwise, for the retailing of dangerous  
14 drugs, dangerous devices, or poisons.

15 (4) The prescriber fulfills all of the labeling requirements  
16 imposed upon pharmacists by Section 4076, all of the  
17 recordkeeping requirements of this chapter, and all of the  
18 packaging requirements of good pharmaceutical practice,  
19 including the use of childproof containers.

20 (5) The prescriber does not use a dispensing device unless he  
21 or she personally owns the device and the contents of the device,  
22 and personally dispenses the dangerous drugs or dangerous  
23 devices to the patient packaged, labeled, and recorded in  
24 accordance with paragraph (4).

25 (6) The prescriber, prior to dispensing, offers to give a written  
26 prescription to the patient that the patient may elect to have filled  
27 by the prescriber or by any pharmacy.

28 (7) The prescriber provides the patient with written disclosure  
29 that the patient has a choice between obtaining the prescription  
30 from the dispensing prescriber or obtaining the prescription at a  
31 pharmacy of the patient's choice.

32 (8) A certified nurse-midwife who functions pursuant to a  
33 standardized procedure ~~or protocol~~ described in Section 2746.51,  
34 a nurse practitioner who functions pursuant to a standardized  
35 procedure described in Section 2836.1, or protocol, or a physician  
36 assistant who functions pursuant to Section 3502.1, may hand to  
37 a patient of the supervising physician and surgeon a properly  
38 labeled prescription drug prepackaged by a physician and surgeon,  
39 a manufacturer as defined in this chapter, or a pharmacist.



1 (b) The Medical Board of California, the State Board of  
2 Optometry, the Dental Board of California, the Osteopathic  
3 Medical Board of California, the Board of Registered Nursing, and  
4 the Physician Assistant Committee shall have authority with the  
5 California State Board of Pharmacy to ensure compliance with this  
6 section, and those boards are specifically charged with the  
7 enforcement of this chapter with respect to their respective  
8 licensees.

9 (c) “Prescriber,” as used in this section, means a person, who  
10 holds a physician’s and surgeon’s certificate, a license to practice  
11 optometry, a license to practice dentistry, or a certificate to practice  
12 podiatry, and who is duly registered as such by the Medical Board  
13 of California, the State Board of Optometry, the Dental Board of  
14 California, or the Board of Osteopathic Examiners of this state.

15 SEC. 9. Section 4175 of the Business and Professions Code  
16 is amended to read:

17 4175. (a) The California State Board of Pharmacy shall  
18 promptly forward to the appropriate licensing entity, including the  
19 Medical Board of California, the Dental Board of California, the  
20 State Board of Optometry, the Osteopathic Medical Board of  
21 California, the Board of Registered Nursing, or the Physician  
22 Assistant Committee, all complaints received related to dangerous  
23 drugs or dangerous devices dispensed by a prescriber, certified  
24 nurse-midwife, nurse practitioner, or physician assistant pursuant  
25 to Section 4170.

26 (b) All complaints involving serious bodily injury due to  
27 dangerous drugs or dangerous devices dispensed by prescribers,  
28 certified nurse-midwives, nurse practitioners, or physician  
29 assistants pursuant to Section 4170 shall be handled by the Medical  
30 Board of California, the Dental Board of California, the State  
31 Board of Optometry, the Osteopathic Medical Board of California,  
32 the Board of Registered Nursing, or the Physician Assistant  
33 Committee as a case of greatest potential harm to a patient.

34 SEC. 10. Section 11026 of the Health and Safety Code is  
35 amended to read:

36 11026. “Practitioner” means any of the following:

37 (a) A physician, dentist, veterinarian, podiatrist, or pharmacist  
38 acting within the scope of a project authorized under Article 1  
39 (commencing with Section 128125) of Chapter 3 of Part 3 of  
40 Division 107, a registered nurse acting within the scope of a project



1 authorized under Article 1 (commencing with Section 128125) of  
2 Chapter 3 of Part 3 of Division 107, a certified nurse-midwife  
3 acting within the scope of Section 2746.51 of the Business and  
4 Professions Code, a nurse practitioner acting within the scope of  
5 Section 2836.1 of the Business and Professions Code, or a  
6 physician assistant acting within the scope of a project authorized  
7 under Article 1 (commencing with Section 128125) of Chapter 3  
8 of Part 3 of Division 107 or Section 3502.1 of the Business and  
9 Professions Code, or an optometrist acting within the scope of  
10 Section 3041 of the Business and Professions Code.

11 (b) A pharmacy, hospital, or other institution licensed,  
12 registered, or otherwise permitted to distribute, dispense, conduct  
13 research with respect to, or to administer, a controlled substance  
14 in the course of professional practice or research in this state.

15 (c) A scientific investigator, or other person licensed,  
16 registered, or otherwise permitted, to distribute, dispense, conduct  
17 research with respect to, or administer, a controlled substance in  
18 the course of professional practice or research in this state.

19 SEC. 11. Section 11150 of the Health and Safety Code is  
20 amended to read:

21 11150. No person other than a physician, dentist, podiatrist, or  
22 veterinarian, or pharmacist acting within the scope of a project  
23 authorized under Article 1 (commencing with Section 128125) of  
24 Chapter 3 of Part 3 of Division 107, a registered nurse acting  
25 within the scope of a project authorized under Article 1  
26 (commencing with Section 128125) of Chapter 3 of Part 3 of  
27 Division 107, a certified nurse-midwife acting within the scope of  
28 Section 2746.51 of the Business and Professions Code, a nurse  
29 practitioner acting within the scope of Section 2836.1 of the  
30 Business and Professions Code, a physician assistant acting within  
31 the scope of a project authorized under Article 1 (commencing  
32 with Section 128125) of Chapter 3 of Part 3 of Division 107 or  
33 Section 3502.1 of the Business and Professions Code, or an  
34 optometrist acting within the scope of Section 3041 of the  
35 Business and Professions Code, or an out-of-state prescriber  
36 acting pursuant to Section 4005 of the Business and Professions  
37 Code shall write or issue a prescription.

38 SEC. 12. No reimbursement is required by this act pursuant  
39 to Section 6 of Article XIII B of the California Constitution  
40 because the only costs that may be incurred by a local agency or



1 school district will be incurred because this act creates a new crime  
2 or infraction, eliminates a crime or infraction, or changes the  
3 penalty for a crime or infraction, within the meaning of Section  
4 17556 of the Government Code, or changes the definition of a  
5 crime within the meaning of Section 6 of Article XIII B of the  
6 California Constitution.

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