

ASSEMBLY BILL

No. 1545

Introduced by Assembly Member Correa

February 26, 1999

An act to amend Sections 2725.1, 4040, 4060, 4061, 4076, 4077, 4170, 4171, 4172, and 4175 of the Business and Professions Code, relating to nurse practitioners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1545, as introduced, Correa. Nurse practitioners.

Under existing law, a nurse practitioner may not authorize the distribution of a complimentary sample of a dangerous drug or dangerous device; may not prescribe or direct a pharmacist to dispense a trade name or generic drug; personally furnish dangerous drugs prescribed by them; dispense drugs or dangerous devices to patients in his or her office or place of practice.

This bill would authorize a nurse practitioner to perform the above services, and would make corresponding changes.

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 2725.1 of the Business and
2 Professions Code is amended to read:
3 2725.1. Notwithstanding any other provision of law, a
4 registered nurse may dispense drugs or devices upon an
5 order by a licensed physician and surgeon *or nurse*

1 *practitioner* when the nurse is functioning within a
2 licensed clinic as defined in paragraphs (1) and (2) of
3 subdivision (a) of Section 1204 of, or within a clinic as
4 defined in subdivision (b) or (c) of Section 1206, of the
5 Health and Safety Code.

6 No clinic shall employ a registered nurse to perform
7 dispensing duties exclusively. No registered nurse shall
8 dispense drugs in a pharmacy, keep a pharmacy, open
9 shop, or drugstore for the retailing of drugs or poisons. No
10 registered nurse shall compound drugs. Dispensing of
11 drugs by a registered nurse, *except a nurse practitioner*,
12 shall not include substances included in the California
13 Uniform Controlled Substances Act (Division 10
14 commencing with Section 11000) of the Health and
15 Safety Code). Nothing in this section shall exempt a clinic
16 from the provisions of Article 3.5 (commencing with
17 Section 4063) of Chapter 9.

18 SEC. 2. Section 4040 of the Business and Professions
19 Code is amended to read:

20 4040. (a) "Prescription" means an oral, written, or
21 electronic transmission order that is both of the following:

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

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

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

28 (C) The date of issue.

29 (D) Either rubber stamped, typed, or printed by hand
30 or typeset, the name, address, and telephone number of
31 the prescriber *or nurse practitioner*, his or her license
32 classification, *his or her furnishing number (if*
33 *applicable)*, and ~~his or her~~ *the prescriber's or supervising*
34 *physician's* federal registry number, if a controlled
35 substance is prescribed.

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

39 (F) If in writing, signed by the prescriber *or nurse*
40 *practitioner* issuing the order.



1 (2) Issued by a physician, dentist, optometrist,
2 podiatrist, or veterinarian, *or nurse practitioner* licensed
3 in this state.

4 (b) Notwithstanding subdivision (a), a written order
5 of the prescriber *or nurse practitioner* for a dangerous
6 drug, except for any Schedule II controlled substance,
7 that contains at least the name and signature of the
8 prescriber *or nurse practitioner*, the name or names and
9 address of the patient or patients in a manner consistent
10 with paragraph (3) of subdivision (b) of Section 11164 of
11 the Health and Safety Code, the name and quantity of the
12 drug prescribed, directions for use, and the date of issue
13 may be treated as a prescription by the dispensing
14 pharmacist as long as any additional information required
15 by subdivision (a) is readily retrievable in the pharmacy.
16 In the event of a conflict between this subdivision and
17 Section 11164 of the Health and Safety Code, Section
18 11164 of the Health and Safety Code shall prevail.

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

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

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

36 SEC. 3. Section 4060 of the Business and Professions
37 Code is amended to read:

38 4060. No person shall possess any controlled
39 substance, except that furnished to a person upon the
40 prescription of a physician, dentist, podiatrist, or



1 veterinarian, *or an order furnished by a nurse*
2 *practitioner*. This section shall not apply to the possession
3 of any controlled substance by a manufacturer,
4 wholesaler, pharmacy, physician, podiatrist, dentist,—~~or~~
5 veterinarian, *or nurse practitioner* when in stock in
6 containers correctly labeled with the name and address
7 of the supplier or producer.

8 SEC. 4. Section 4061 of the Business and Professions
9 Code is amended to read:

10 4061. No manufacturer's sales representative shall
11 distribute any dangerous drug or dangerous device as a
12 complimentary sample without the written request of a
13 physician, dentist, podiatrist,—~~or~~ veterinarian, *or nurse*
14 *practitioner*. Each written request shall contain the
15 names and addresses of the supplier and the requester,
16 the name and quantity of the specific dangerous drug
17 desired, and shall be preserved by the supplier with the
18 records required by Section 4059.

19 SEC. 5. Section 4076 of the Business and Professions
20 Code is amended to read:

21 4076. (a) A pharmacist shall not dispense any
22 prescription except in a container that meets the
23 requirements of state and federal law and is correctly
24 labeled with all of the following:

25 (1) Except where the prescriber *or nurse practitioner*
26 orders otherwise, either the manufacturer's trade name
27 of the drug or the generic name and the name of the
28 manufacturer. Commonly used abbreviations may be
29 used. Preparations containing two or more active
30 ingredients may be identified by the manufacturer's
31 trade name or the commonly used name or the principal
32 active ingredients.

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

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

35 (4) The name of the prescriber *or nurse practitioner*.

36 (5) The date of issue.

37 (6) The name and address of the pharmacy, and
38 prescription number or other means of identifying the
39 prescription.

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



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

2 (9) The expiration date of the effectiveness of the drug
3 dispensed.

4 (10) The condition for which the drug was prescribed
5 if requested by the patient and the condition is indicated
6 on the prescription.

7 (b) If a pharmacist dispenses a prescribed drug by
8 means of a unit dose medication system, as defined by
9 administrative regulation, for a patient in a skilled
10 nursing, intermediate care, or other health care facility,
11 the requirements of this section will be satisfied if the unit
12 dose medication system contains the aforementioned
13 information or the information is otherwise readily
14 available at the time of drug administration.

15 SEC. 6. Section 4077 of the Business and Professions
16 Code is amended to read:

17 4077. (a) Except as provided in subdivisions (b) and
18 (c), no person shall dispense any dangerous drug upon
19 prescription except in a container correctly labeled with
20 the information required by Section 4076.

21 (b) Physicians, dentists, podiatrists,—~~and~~ veterinarians,
22 *and nurse practitioners* may personally furnish any
23 dangerous drug prescribed by them to the patient for
24 whom prescribed, provided that the drug is properly
25 labeled to show all information required in Section 4076
26 except the prescription number.

27 (c) Devices that bear the legend “Caution: federal law
28 restricts this device to sale by or on the order of a
29 _____,” or words of similar meaning, are exempt
30 from the requirements of Section 4076, and Section
31 111480 of the Health and Safety Code, when provided to
32 patients in skilled nursing facilities or intermediate care
33 facilities licensed pursuant to Chapter 2 (commencing
34 with Section 1250) of Division 2 of the Health and Safety
35 Code.

36 (d) The following notification shall be affixed to all
37 quantities of dimethyl sulfoxide (DMSO) prescribed by
38 a physician, or dispensed by a pharmacy pursuant to the
39 order of a physician in California: “Warning: DMSO may



1 be hazardous to your health. Follow the directions of the
2 physician who prescribed the DMSO for you.”

3 (e) The label of any retail package of DMSO shall
4 include appropriate precautionary measures for proper
5 handling and first aid treatment and a warning statement
6 to keep the product out of reach of children.

7 SEC. 7. Section 4170 of the Business and Professions
8 Code is amended to read:

9 4170. (a) No prescriber *or nurse practitioner* shall
10 dispense drugs or dangerous devices to patients in his or
11 her office or place of practice unless all of the following
12 conditions are met:

13 (1) The dangerous drugs or dangerous devices are
14 dispensed to the prescriber's *or nurse practitioner's* own
15 patient and the drugs or dangerous devices are not
16 furnished by a nurse, *except a nurse practitioner*, or
17 attendant.

18 (2) The dangerous drugs or dangerous devices are
19 necessary in the treatment of the condition for which the
20 prescriber *or nurse practitioner* is attending the patient.

21 (3) The prescriber *or nurse practitioner* does not keep
22 a pharmacy, open shop, or drugstore, advertised or
23 otherwise, for the retailing of dangerous drugs, dangerous
24 devices, or poisons.

25 (4) The prescriber *or nurse practitioner* fulfills all of
26 the labeling requirements imposed upon pharmacists by
27 Section 4076, all of the recordkeeping requirements of
28 this chapter, and all of the packaging requirements of
29 good pharmaceutical practice, including the use of
30 childproof containers.

31 (5) The prescriber *or nurse practitioner* does not use
32 a dispensing device unless he or she personally owns the
33 device and the contents of the device, and personally
34 dispenses the dangerous drugs or dangerous devices to
35 the patient packaged, labeled, and recorded in
36 accordance with paragraph (4).

37 (6) The prescriber *or nurse practitioner*, prior to
38 dispensing, offers to give a written prescription to the
39 patient that the patient may elect to have filled by the
40 prescriber or by any pharmacy.



1 (7) The prescriber *or nurse practitioner* provides the
2 patient with written disclosure that the patient has a
3 choice between obtaining the prescription from the
4 dispensing prescriber *or nurse practitioner* or obtaining
5 the prescription at a pharmacy of the patient's choice.

6 (b) The Medical Board of California, the State Board
7 of Optometry, the Board of Dental Examiners of
8 California, ~~and~~—the Osteopathic Medical Board of
9 California, *and the Board of Registered Nursing* shall
10 have authority with the California State Board of
11 Pharmacy to ensure compliance with this section, and
12 those boards are specifically charged with the
13 enforcement of this chapter with respect to their
14 respective licensees.

15 (c) "Prescriber," as used in this section, means a
16 person, who holds a physician's and surgeon's certificate,
17 a license to practice optometry, a license to practice
18 dentistry, or a certificate to practice podiatry, and who is
19 duly registered as such by the Medical Board of
20 California, the State Board of Optometry, the Board of
21 Dental Examiners of California, or the Board of
22 Osteopathic Examiners of this state.

23 SEC. 8. Section 4171 of the Business and Professions
24 Code is amended to read:

25 4171. (a) Section 4170 shall not prohibit the
26 furnishing of a limited quantity of samples by a prescriber
27 *or nurse practitioner*, if the prescriber *or nurse*
28 *practitioner* dispenses the samples to the patient in the
29 package provided by the manufacturer, no charge is
30 made to the patient therefor, and an appropriate record
31 is entered in the patient's chart.

32 (b) Section 4170 shall not apply to clinics, as defined in
33 subdivision (a) of Section 1204 or subdivision (b) or (c)
34 of Section 1206 of the Health and Safety Code, to
35 veterinarians furnishing drugs for the treatment of
36 animals, to programs licensed pursuant to Sections 11876,
37 11877, and 11877.5 of the Health and Safety Code, or to a
38 prescriber *or nurse practitioner* dispensing parenteral
39 chemotherapeutic agents, biologicals, or delivery systems
40 used in the treatment of cancer.



1 SEC. 9. Section 4172 of the Business and Professions
2 Code is amended to read:

3 4172. A prescriber *or nurse practitioner* who
4 dispenses drugs pursuant to Section 4170 shall store all
5 drugs to be dispensed in an area that is secure. The
6 Medical Board of California shall, by regulation, define
7 the term “secure” for purposes of this section.

8 SEC. 10. Section 4175 of the Business and Professions
9 Code is amended to read:

10 4175. (a) The California State Board of Pharmacy
11 shall promptly forward to the Medical Board of
12 California, the Board of Dental Examiners of California,
13 the State Board of Optometry,~~or~~ the Osteopathic
14 Medical Board of California, *or the Board of Registered*
15 *Nursing* all complaints received related to dangerous
16 drugs or dangerous devices dispensed by a prescriber *or*
17 *nurse practitioner* pursuant to Section 4170.

18 (b) All complaints involving serious bodily injury due
19 to dangerous drugs or dangerous devices dispensed by
20 prescribers *or nurse practitioners* pursuant to Section
21 4170 shall be handled by the Medical Board of California,
22 the Board of Dental Examiners of California, the State
23 Board of Optometry,~~or~~ the Osteopathic Medical Board
24 of California, *or the Board of Registered Nursing* as a case
25 of greatest potential harm to a patient.

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