

AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

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 amended, 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; *or* dispense drugs or dangerous devices to patients in his or her office or place of practice.

This bill would authorize a nurse practitioner *or physician assistant* 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:

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

9 No clinic shall employ a registered nurse to perform
10 dispensing duties exclusively. No registered nurse shall
11 dispense drugs in a pharmacy, keep a pharmacy, open
12 shop, or drugstore for the retailing of drugs or poisons. No
13 registered nurse shall compound drugs. Dispensing of
14 drugs by a registered nurse, except a nurse practitioner
15 *or physician assistant acting in strict accordance with the*
16 *standardized procedure approved by the supervising*
17 *physician*, shall not include substances included in the
18 California Uniform Controlled Substances Act (Division
19 10 (commencing with Section 11000) of the Health and
20 Safety Code). Nothing in this section shall exempt a clinic
21 from the provisions of Article 3.5 (commencing with
22 Section 4063) of Chapter 9.

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

25 4040. (a) "Prescription" means an oral, written, or
26 electronic transmission order that is both of the following:

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

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

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

33 (C) The date of issue.

34 (D) Either rubber stamped, typed, or printed by hand
35 or typeset, the name, address, and telephone number of
36 the prescriber ~~or nurse practitioner~~ *and nurse*
37 *practitioner or physician assistant*, his or her license
38 classification, his or her furnishing number (if
39 applicable), and the prescriber's or supervising



1 physician's federal registry number, if a controlled
2 substance is prescribed.

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

6 (F) If in writing, signed by the prescriber ~~or nurse~~
7 ~~practitioner~~ *and nurse practitioner or physician assistant*
8 issuing the order.

9 (2) Issued by a physician, dentist, optometrist,
10 podiatrist, or veterinarian, ~~or nurse practitioner~~ *and*
11 *nurse practitioner or physician assistant* licensed in this
12 state.

13 (b) Notwithstanding subdivision (a), a written order
14 of the prescriber ~~or nurse practitioner~~ *and nurse*
15 *practitioner or physician assistant* for a dangerous drug,
16 except for any Schedule II controlled substance, that
17 contains at least the name and signature of the prescriber
18 ~~or nurse practitioner~~ *and nurse practitioner or physician*
19 *assistant*, the name or names and address of the patient or
20 patients in a manner consistent with paragraph (3) of
21 subdivision (b) of Section 11164 of the Health and Safety
22 Code, the name and quantity of the drug prescribed,
23 directions for use, and the date of issue may be treated as
24 a prescription by the dispensing pharmacist as long as any
25 additional information required by subdivision (a) is
26 readily retrievable in the pharmacy. In the event of a
27 conflict between this subdivision and Section 11164 of the
28 Health and Safety Code, Section 11164 of the Health and
29 Safety Code shall prevail.

30 (c) "Electronic transmission prescription" includes
31 both image and data prescriptions. "Electronic image
32 transmission prescription" means any prescription order
33 for which a facsimile of the order is received by a
34 pharmacy from a licensed prescriber ~~or nurse~~
35 ~~practitioner~~ *and nurse practitioner or physician assistant*.
36 "Electronic data transmission prescription" means any
37 prescription order, other than an electronic image
38 transmission prescription, that is electronically
39 transmitted from a licensed prescriber ~~or nurse~~



1 ~~practitioner~~ and nurse practitioner or physician assistant
2 to a pharmacy.

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

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

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

12 4060. No person shall possess any controlled
13 substance, except that furnished to a person upon the
14 prescription of a physician, dentist, podiatrist, or
15 veterinarian, or an order furnished by a nurse
16 practitioner or physician assistant. This section shall not
17 apply to the possession of any controlled substance by a
18 manufacturer, wholesaler, pharmacy, physician,
19 podiatrist, dentist, veterinarian, or ~~nurse practitioner and~~
20 nurse practitioner or physician assistant when in stock in
21 containers correctly labeled with the name and address
22 of the supplier or producer.

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

25 4061. No manufacturer's sales representative shall
26 distribute any dangerous drug or dangerous device as a
27 complimentary sample without the written request of a
28 physician, dentist, podiatrist, veterinarian, or nurse
29 practitioner or physician assistant acting in strict
30 accordance with the standardized procedure approved
31 by the supervising physician. Each written request shall
32 contain the names and addresses of the supplier and the
33 requester, the name and quantity of the specific
34 dangerous drug desired, and shall be preserved by the
35 supplier with the records required by Section 4059.

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

38 4076. (a) A pharmacist shall not dispense any
39 prescription except in a container that meets the



1 requirements of state and federal law and is correctly
2 labeled with all of the following:

3 (1) Except where the prescriber ~~or nurse practitioner,~~
4 *nurse practitioner, or physician assistant acting in strict*
5 *accordance with the standardized procedure approved*
6 *by the supervising physician* orders otherwise, either the
7 manufacturer's trade name of the drug or the generic
8 name and the name of the manufacturer. Commonly
9 used abbreviations may be used. Preparations containing
10 two or more active ingredients may be identified by the
11 manufacturer's trade name or the commonly used name
12 or the principal active ingredients.

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

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

15 (4) The name of the prescriber ~~or nurse practitioner~~
16 *and nurse practitioner or physician assistant.*

17 (5) The date of issue.

18 (6) The name and address of the pharmacy, and
19 prescription number or other means of identifying the
20 prescription.

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

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

23 (9) The expiration date of the effectiveness of the drug
24 dispensed.

25 (10) The condition for which the drug was prescribed
26 if requested by the patient and the condition is indicated
27 on the prescription.

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

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

38 4077. (a) Except as provided in subdivisions (b) and
39 (c), no person shall dispense any dangerous drug upon



1 prescription except in a container correctly labeled with
2 the information required by Section 4076.

3 (b) Physicians, dentists, podiatrists, veterinarians, and
4 nurse practitioners *or physician assistants acting in strict*
5 *accordance with the standardized procedure approved*
6 *by the supervising physician* may personally furnish any
7 dangerous drug prescribed by them to the patient for
8 whom prescribed, provided that the drug is properly
9 labeled to show all information required in Section 4076
10 except the prescription number.

11 (c) Devices that bear the legend “Caution: federal law
12 restricts this device to sale by or on the order of a
13 _____,” or words of similar meaning, are exempt
14 from the requirements of Section 4076, and Section
15 111480 of the Health and Safety Code, when provided to
16 patients in skilled nursing facilities or intermediate care
17 facilities licensed pursuant to Chapter 2 (commencing
18 with Section 1250) of Division 2 of the Health and Safety
19 Code.

20 (d) The following notification shall be affixed to all
21 quantities of dimethyl sulfoxide (DMSO) prescribed by
22 a physician, or dispensed by a pharmacy pursuant to the
23 order of a physician in California: “Warning: DMSO may
24 be hazardous to your health. Follow the directions of the
25 physician who prescribed the DMSO for you.”

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

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

32 4170. (a) No prescriber ~~or nurse practitioner~~, *or*
33 *nurse practitioner or physician assistant acting in strict*
34 *accordance with the standardized procedure approved*
35 *by the supervising physician* shall dispense drugs or
36 dangerous devices to patients in his or her office or place
37 of practice unless all of the following conditions are met:

38 (1) The dangerous drugs or dangerous devices are
39 dispensed to the prescriber’s ~~or nurse practitioner’s~~, *or*
40 *nurse practitioner’s or physician assistant’s* own patient



1 and the drugs or dangerous devices are not furnished by
2 a nurse, except a nurse practitioner, or attendant.

3 (2) The dangerous drugs or dangerous devices are
4 necessary in the treatment of the condition for which the
5 prescriber ~~or nurse practitioner~~, *or nurse practitioner or*
6 *physician assistant* is attending the patient.

7 (3) The prescriber ~~or nurse practitioner~~, *nurse*
8 *practitioner, or physician assistant* does not keep a
9 pharmacy, open shop, or drugstore, advertised or
10 otherwise, for the retailing of dangerous drugs, dangerous
11 devices, or poisons.

12 (4) The prescriber ~~or nurse practitioner~~, *nurse*
13 *practitioner, or physician assistant* fulfills all of the
14 labeling requirements imposed upon pharmacists by
15 Section 4076, all of the recordkeeping requirements of
16 this chapter, and all of the packaging requirements of
17 good pharmaceutical practice, including the use of
18 childproof containers.

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

26 (6) The prescriber ~~or nurse practitioner~~, *nurse*
27 *practitioner, or physician assistant*, prior to dispensing,
28 offers to give a written prescription to the patient that the
29 patient may elect to have filled by the prescriber or by
30 any pharmacy.

31 (7) The prescriber ~~or nurse practitioner~~, *nurse*
32 *practitioner, or physician assistant* provides the patient
33 with written disclosure that the patient has a choice
34 between obtaining the prescription from the dispensing
35 prescriber ~~or nurse practitioner~~, *nurse practitioner, or*
36 *physician assistant* or obtaining the prescription at a
37 pharmacy of the patient's choice.

38 (b) The Medical Board of California, the State Board
39 of Optometry, the Board of Dental Examiners of
40 California, the Osteopathic Medical Board of California,



1 ~~and~~ the Board of Registered Nursing, *and the Board of*
2 *Physician Assistants* shall have authority with the
3 California State Board of Pharmacy to ensure compliance
4 with this section, and those boards are specifically
5 charged with the enforcement of this chapter with
6 respect to their respective licensees.

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

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

17 4171. (a) Section 4170 shall not prohibit the
18 furnishing of a limited quantity of samples by a
19 prescriber, or nurse practitioner, ~~if the prescriber or~~
20 ~~nurse practitioner~~ *or physician assistant acting in strict*
21 *accordance with the standardized procedure approved*
22 *by the supervising physician if the prescriber, nurse*
23 *practitioner, or physician assistant acting in strict*
24 *accordance with the standardized procedure approved*
25 *by the supervising physician* dispenses the samples to the
26 patient in the package provided by the manufacturer, no
27 charge is made to the patient therefor, and an
28 appropriate record is entered in the patient's chart.

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

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



1 4172. A prescriber ~~or nurse practitioner~~, *nurse*
 2 *practitioner, or physician assistant* who dispenses drugs
 3 pursuant to Section 4170 shall store all drugs to be
 4 dispensed in an area that is secure. The Medical Board of
 5 California shall, by regulation, define the term “secure”
 6 for purposes of this section.

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

9 4175. (a) The California State Board of Pharmacy
 10 shall promptly forward to the Medical Board of
 11 California, the Board of Dental Examiners of California,
 12 the State Board of Optometry, the Osteopathic Medical
 13 Board of California, ~~or~~ the Board of Registered Nursing,
 14 *the Board of Physician Assistants* all complaints received
 15 related to dangerous drugs or dangerous devices
 16 dispensed by a prescriber ~~or nurse practitioner~~, *nurse*
 17 *practitioner, or physician assistant* pursuant to Section
 18 4170.

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

29 _____

30 CORRECTIONS

31 **Text — Page 9.**

32 _____

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