

AMENDED IN SENATE AUGUST 16, 1999

AMENDED IN SENATE JULY 6, 1999

AMENDED IN ASSEMBLY MAY 17, 1999

AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1545

**Introduced by Assembly Member Correa
(Coauthor: Assembly Member Honda)**

February 26, 1999

An act to amend Sections 2725.1, 4061, 4076, 4170, and 4175 of the Business and Professions Code, relating to health practitioners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1545, as amended, Correa. Health 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:

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 when the nurse
6 is functioning within a licensed clinic as defined in
7 paragraphs (1) and (2) of subdivision (a) of Section 1204
8 of, or within a clinic as defined in subdivision (b) or (c)
9 of Section 1206, of the Health and Safety Code.

10 No clinic shall employ a registered nurse to perform
11 dispensing duties exclusively. No registered nurse shall
12 dispense drugs in a pharmacy, keep a pharmacy, open
13 shop, or drugstore for the retailing of drugs or poisons. No
14 registered nurse shall compound drugs. Dispensing of
15 drugs by a registered nurse, except a nurse practitioner
16 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
20 11000) of the Health and Safety Code). Nothing in this
21 section shall exempt a clinic from the provisions of Article
22 3.5 (commencing with Section 4063) of Chapter 9.

23 SEC. 2. 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~~ *or*
29 *veterinarian.* *However, a nurse practitioner who*
30 *functions pursuant to a standardized procedure*
31 *described in Section 2836.1, or protocol, or physician*
32 *assistant who functions pursuant to Section 3502.1 may*
33 *sign for the delivery or receipt of complimentary samples*
34 *of a dangerous drug or dangerous device that has been*
35 *requested in writing by his or her supervising physician.*



1 Each written request shall contain the names and
2 addresses of the supplier and the requester, the name and
3 quantity of the specific dangerous drug desired, ~~and~~ *the*
4 *name of the nurse practitioner or physician assistant, if*
5 *applicable, receiving the samples pursuant to this section,*
6 *the date of receipt, and the name and quantity of the*
7 *dangerous drugs or dangerous devices provided. These*
8 *records* shall be preserved by the supplier with the
9 records required by Section 4059.

10 SEC. 3. Section 4076 of the Business and Professions
11 Code is amended to read:

12 4076. (a) A pharmacist shall not dispense any
13 prescription except in a container that meets the
14 requirements of state and federal law and is correctly
15 labeled with all of the following:

16 (1) Except where the prescriber, nurse practitioner
17 who functions pursuant to a standardized procedure
18 described in Section 2836.1, or protocol, or physician
19 assistant who functions pursuant to Section 3502.1 orders
20 otherwise, either the manufacturer's trade name of the
21 drug or the generic name and the name of the
22 manufacturer. Commonly used abbreviations may be
23 used. Preparations containing two or more active
24 ingredients may be identified by the manufacturer's
25 trade name or the commonly used name or the principal
26 active ingredients.

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

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

29 (4) The name of the prescriber and, if applicable, the
30 nurse practitioner who functions pursuant to a
31 standardized procedure described in Section 2836.1, or
32 protocol, or physician assistant who functions pursuant to
33 Section 3502.1.

34 (5) The date of issue.

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

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

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

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

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

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

14 (c) If a pharmacist dispenses a dangerous drug or
15 device in a facility licensed pursuant to Section 1250 of the
16 Health and Safety Code, it is not necessary to include *on*
17 *individual unit dose containers for a specific patient*, the
18 name of the nurse practitioner who functions pursuant to
19 a standardized procedure described in Section 2836.1, or
20 protocol, or physician assistant who functions pursuant to
21 Section 3502.1.

22 SEC. 4. Section 4170 of the Business and Professions
23 Code is amended to read:

24 4170. (a) No prescriber, or nurse practitioner who
25 functions pursuant to a standardized procedure
26 described in Section 2836.1, or protocol, or physician
27 assistant who functions pursuant to Section 3502.1 shall
28 dispense drugs or dangerous devices to patients in his or
29 her office or place of practice unless all of the following
30 conditions are met:

31 (1) The dangerous drugs or dangerous devices are
32 dispensed to the prescriber's, or nurse practitioner's or
33 physician assistant's own patient and the drugs or
34 dangerous devices are not furnished by a nurse, except a
35 nurse practitioner, or attendant.

36 (2) The dangerous drugs or dangerous devices are
37 necessary in the treatment of the condition for which the
38 prescriber, or nurse practitioner or physician assistant is
39 attending the patient.



1 (3) The prescriber, nurse practitioner, or physician
2 assistant does not keep a pharmacy, open shop, or
3 drugstore, advertised or otherwise, for the retailing of
4 dangerous drugs, dangerous devices, or poisons.

5 (4) The prescriber, nurse practitioner, or physician
6 assistant fulfills all of the labeling requirements imposed
7 upon pharmacists by Section 4076, all of the
8 recordkeeping requirements of this chapter, and all of the
9 packaging requirements of good pharmaceutical
10 practice, including the use of childproof containers.

11 (5) The prescriber, nurse practitioner, or physician
12 assistant does not use a dispensing device unless he or she
13 personally owns the device and the contents of the
14 device, and personally dispenses the dangerous drugs or
15 dangerous devices to the patient packaged, labeled, and
16 recorded in accordance with paragraph (4). *In the case*
17 *of a nurse practitioner or physician assistant, the nurse*
18 *practitioner or physician assistant may use a dispensing*
19 *device that is owned by the supervising physician, clinic,*
20 *or hospital only if the nurse practitioner or physician*
21 *assistant personally dispenses the dangerous drugs or*
22 *dangerous devices to the patient packaged, labeled, and*
23 *recorded in accordance with paragraph (4).*

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

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

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



1 (9) *Nothing in this article shall authorize a nurse*
2 *practitioner or a physician assistant to order or own his or*
3 *her own stock of dangerous drugs or dangerous devices.*

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

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

21 SEC. 5. Section 4175 of the Business and Professions
22 Code is amended to read:

23 4175. (a) The California State Board of Pharmacy
24 shall promptly forward to the appropriate licensing
25 entity, including the Medical Board of California, the
26 Board of Dental Examiners of California, the State Board
27 of Optometry, the Osteopathic Medical Board of
28 California, the Board of Registered Nursing, or the
29 Physician Assistant Committee, all complaints received
30 related to dangerous drugs or dangerous devices
31 dispensed by a prescriber, nurse practitioner, or
32 physician assistant pursuant to Section 4170.

33 (b) All complaints involving serious bodily injury due
34 to dangerous drugs or dangerous devices dispensed by
35 prescribers, nurse practitioners, or physician assistants
36 pursuant to Section 4170 shall be handled by the Medical
37 Board of California, the Board of Dental Examiners of
38 California, the State Board of Optometry, the
39 Osteopathic Medical Board of California, the Board of
40 Registered Nursing, or the Physician Assistant



1 Committee as a case of greatest potential harm to a
2 patient.

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