

ASSEMBLY BILL

No. 2125

Introduced by Assembly Member Levine

February 18, 2004

An act to amend Section 4076 of, and to add Section 2242.2 to, the Business and Professions Code, relating to the healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2125, as introduced, Levine. Prescriptions: requisite information.

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under the act, a physician and surgeon is generally required to examine a patient prior to prescribing, dispensing, or furnishing a dangerous drug to him or her. The act makes a failure to comply with this requirement unprofessional conduct. Under the act, the board through its Division of Medical Quality, is required to take disciplinary action against a physician and surgeon for unprofessional conduct, which includes a violation of the act's regulatory provisions. The act also makes a violation of those provisions punishable as a crime. Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacy practices by the California State Board of Pharmacy. Under that law, a pharmacist is required to include specified information on the container label before dispensing a prescription including, if requested by the patient, the condition for which the drug was prescribed.

This bill would require a physician and surgeon, unless directed otherwise by the patient, to indicate the patient's diagnosis on each prescription. The bill would also require a pharmacist to include this

information on the container’s label, unless directed otherwise by the patient.

Because the bill would specify an additional regulatory requirement under the Medical Practice Act, the violation of which would be a crime, it would impose a state-mandated local program.

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. Section 2242.2 is added to the Business and
2 Professions Code, to read:

3 2242.2. A physician and surgeon shall indicate the patient’s
4 diagnosis on each prescription that he or she issues for a dangerous
5 drug, unless the patient directs the physician and surgeon not to
6 include this information on his or her prescription.

7 SEC. 2. Section 4076 of the Business and Professions Code
8 is amended to read:

9 4076. (a) A pharmacist shall not dispense any prescription
10 except in a container that meets the requirements of state and
11 federal law and is correctly labeled with all of the following:

12 (1) Except where the prescriber or the certified nurse-midwife
13 who functions pursuant to a standardized procedure or protocol
14 described in Section 2746.51, the nurse practitioner who functions
15 pursuant to a standardized procedure described in Section 2836.1,
16 or protocol, or the physician assistant who functions pursuant to
17 Section 3502.1 orders otherwise, either the manufacturer’s trade
18 name of the drug or the generic name and the name of the
19 manufacturer. Commonly used abbreviations may be used.
20 Preparations containing two or more active ingredients may be
21 identified by the manufacturer’s trade name or the commonly used
22 name or the principal active ingredients.

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

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



- 1 (4) The name of the prescriber and, if applicable, the certified
2 nurse-midwife who functions pursuant to a standardized
3 procedure or protocol described in Section 2746.51, the nurse
4 practitioner who functions pursuant to a standardized procedure
5 described in Section 2836.1, or protocol, or the physician assistant
6 who functions pursuant to Section 3502.1.
- 7 (5) The date of issue.
- 8 (6) The name and address of the pharmacy; and prescription
9 number or other means of identifying the prescription.
- 10 (7) The strength of the drug or drugs dispensed.
- 11 (8) The quantity of the drug or drugs dispensed.
- 12 (9) The expiration date of the effectiveness of the drug
13 dispensed.
- 14 (10) The condition for which the drug was prescribed if
15 ~~requested by the patient~~ and the condition is indicated on the
16 prescription, *unless the patient directs the pharmacist not to*
17 *include this information on the label.*
- 18 (11) (A) Commencing January 1, 2006, the physical
19 description of the dispensed medication, including its color, shape,
20 and any identification code that appears on the tablets or capsules,
21 except as follows:
- 22 (i) Prescriptions dispensed by a veterinarian.
- 23 (ii) An exemption from the requirements of this paragraph
24 shall be granted to a new drug for the first 120 days that the drug
25 is on the market and for the 90 days during which the national
26 reference file has no description on file.
- 27 (iii) Dispensed medications for which no physical description
28 exists in any commercially available database.
- 29 (B) This paragraph applies to outpatient pharmacies only.
- 30 (C) The information required by this paragraph may be printed
31 on an auxiliary label that is affixed to the prescription container.
- 32 (D) This paragraph shall not become operative if the board,
33 prior to January 1, 2006, adopts regulations that mandate the same
34 labeling requirements set forth in this paragraph.
- 35 (b) If a pharmacist dispenses a prescribed drug by means of a
36 unit dose medication system, as defined by administrative
37 regulation, for a patient in a skilled nursing, intermediate care, or
38 other health care facility, the requirements of this section will be
39 satisfied if the unit dose medication system contains the



1 aforementioned information or the information is otherwise
2 readily available at the time of drug administration.

3 (c) If a pharmacist dispenses a dangerous drug or device in a
4 facility licensed pursuant to Section 1250 of the Health and Safety
5 Code, it is not necessary to include on individual unit dose
6 containers for a specific patient, the name of the certified
7 nurse-midwife who functions pursuant to a standardized
8 procedure or protocol described in Section 2746.51, the nurse
9 practitioner who functions pursuant to a standardized procedure
10 described in Section 2836.1, or protocol, or the physician assistant
11 who functions pursuant to Section 3502.1.

12 (d) If a pharmacist dispenses a prescription drug for use in a
13 facility licensed pursuant to Section 1250 of the Health and Safety
14 Code, it is not necessary to include the information required in
15 paragraph (11) of subdivision (a) ~~when~~ if the prescription drug is
16 administered to a patient by a person licensed under the Medical
17 Practice Act (Chapter 5 (commencing with Section 2000)), the
18 Nursing Practice Act (Chapter 6 (commencing with Section
19 2700)), or the Vocational Nursing Practice Act (Chapter 6.5
20 (commencing with Section 2840)), who is acting within his or her
21 scope of practice.

22 SEC. 3. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.

