

ASSEMBLY BILL

No. 76

**Introduced by Assembly Members Frommer and Chan
(Coauthors: Assembly Members Bass, Evans, Gordon, Koretz,
Nava, and Pavley)**

January 3, 2005

An act to amend Section 12803 of, to add Part 5.4 (commencing with Section 14570) to, and to repeal Chapter 12 (commencing with Section 14977) of Part 5.5 of, Division 3 of Title 1 of, the Government Code, relating to pharmaceuticals.

LEGISLATIVE COUNSEL'S DIGEST

AB 76, as introduced, Frommer. Office of Pharmaceutical Purchasing.

Existing law authorizes the Department of General Services to enter into contracts on a bid or negotiated basis with manufacturers and suppliers of single source or multisource drugs, and authorizes the department to obtain from them discounts, rebates, or refunds as permissible under federal law. Existing law requires 4 state agencies to participate in the program and authorizes other state, local, and public agency governmental entities to elect to participate in the program. Existing law grants the Department of General Services authority with respect to contracting with a pharmaceutical benefits manager or other entity and exploring additional strategies for managing drug costs.

This bill would repeal these provisions. The bill would instead establish within the California Health and Human Services Agency the Office of Pharmaceutical Purchasing with authority and duties to purchase prescription drugs for state agencies similar to that granted to the Department of General Services under the above-described

provisions. The bill would also, however, require the office to be the purchasing agent for additional state entities and the bill would authorize the office to conduct specified activities in order to negotiate the lowest prices possible for prescription drugs. The bill would require the office, on or before February 1, 2007, to submit a report containing specified information to certain committees of the Legislature regarding the program.

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 12803 of the Government Code is
2 amended to read:

3 12803. (a) The California Health and Human Services
4 Agency consists of the following departments: Health Services;
5 Mental Health; Developmental Services; Social Services;
6 Alcohol and Drug Abuse; Aging; Rehabilitation; and Community
7 Services and Development.

8 (b) The agency also includes the Office of Statewide Health
9 Planning and Development and the State Council on
10 Developmental Disabilities.

11 (c) The Department of Child Support Services is hereby
12 created within the agency commencing January 1, 2000, and
13 shall be the single organizational unit designated as the state's
14 Title IV-D agency with the responsibility for administering the
15 state plan and providing services relating to the establishment of
16 paternity or the establishment, modification, or enforcement of
17 child support obligations as required by Section 654 of Title 42
18 of the United States Code. State plan functions shall be
19 performed by other agencies as required by law, by delegation of
20 the department, or by cooperative agreements.

21 (d) *The Office of Pharmaceutical Purchasing is hereby*
22 *established within the agency and shall purchase prescription*
23 *drugs for state agencies pursuant to Part 5.4 (commencing with*
24 *Section 14570).*

25 SEC. 2. Part 5.4 (commencing with Section 14570) is added
26 to Division 3 of Title 1 of the Government Code, to read:

1 PART 5.4. OFFICE OF PHARMACEUTICAL PURCHASING

2
3 14570. As used in this part, “office” means the Office of
4 Pharmaceutical Purchasing within the California Health and
5 Human Services Agency.

6 14571. (a) Notwithstanding any other provision of law, the
7 office may enter into exclusive or nonexclusive contracts on a
8 bid or negotiated basis with manufacturers and suppliers of single
9 source or multisource drugs. The office may obtain from those
10 manufacturers and suppliers, discounts, rebates, or refunds based
11 on quantities purchased insofar, as permissible under federal law.
12 Contracts entered into pursuant to this part may include price
13 discounts, rebates, refunds, or other strategies aimed at managing
14 escalating prescription drug prices.

15 (b) Contracts under this part shall be exempt from Chapter 2
16 (commencing with Section 10290) of Part 2 of Division 2 of the
17 Public Contract Code.

18 (c) To the extent permitted by federal law, and subject to any
19 necessary federal approvals or waivers, the State Department of
20 Health Services may require prior authorization in the Medi-Cal
21 program pursuant to Section 1927 of the federal Social Security
22 Act (42 U.S.C. Sec. 1396r-8) for any drug of a manufacturer that
23 does not agree to provide rebates to the office for prescription
24 drugs purchased under this part.

25 14572. (a) The office shall be the purchasing agent for
26 prescription drugs for all of the following state entities:

- 27 (1) State Department of Health Services.
- 28 (2) Department of Corrections.
- 29 (3) State Department of Mental Health.
- 30 (4) Department of the Youth Authority.
- 31 (5) State Department of Developmental Services.
- 32 (6) Department of Veterans Affairs.
- 33 (7) California State University.
- 34 (8) Any other state agency as directed by the Governor.

35 (b) Any state, district, county, city, municipal, or public
36 agency governmental entity, other than a state entity specified in
37 subdivision (a), may elect to participate in the coordinated
38 purchasing program.

1 14573. (a) In order to negotiate the lowest prices possible for
2 prescription drugs for purposes of this part, the office may do all
3 of the following:

4 (1) Establish a formulary or formularies for state programs in
5 consultation with the affected agencies.

6 (2) Pursue all opportunities for the state to achieve savings
7 through the federal 340B program, as established under Section
8 340B of the Public Health Service Act (42 U.S.C. Sec. 256b),
9 including the development of cooperative agreements with
10 entities covered under the 340B program that increase access to
11 340B program prices for individuals receiving prescription drugs
12 through programs in departments described in Section 14572.

13 (3) Develop an outreach program to ensure that hospitals,
14 clinics, and other eligible entities participate in the program
15 authorized under Section 340B of the Public Health Service Act
16 (42 U.S.C. Sec. 256b).

17 (b) The office, in consultation with the agencies listed in
18 subdivision (a) of Section 14572, may investigate and implement
19 other options and strategies to achieve the greatest savings on
20 prescription drugs with prescription drug manufacturers and
21 wholesalers.

22 14574. The office may appoint and contract with a
23 pharmaceutical benefits manager or other entity for purposes of
24 the prescription drugs purchased under this part. The
25 pharmaceutical benefits manager or other entity may do all of the
26 following:

27 (a) Negotiate price discounts, rebates, or other options that
28 achieve the greatest savings on prescription drugs with
29 prescription drug manufacturers and wholesalers.

30 (b) Purchase prescription drugs for participating state, district,
31 county, or municipal governmental entities.

32 (c) Act as a consultant to the office.

33 14575. The department may explore additional strategies for
34 managing the increasing costs of prescription drugs, including,
35 but not limited to, all of the following:

36 (a) Coordinating programs offered by pharmaceutical
37 manufacturers that provide prescription drugs for free or at
38 reduced prices.

1 (b) Studying the feasibility and appropriateness of including in
2 the bulk purchasing programs entities in the private sector,
3 including employers, providers, and individual consumers.

4 (c) Implementing other strategies, as permitted under state and
5 federal law, aimed at managing escalating prescription drug
6 prices.

7 14576. On or before February 1, 2007, the office shall submit
8 a report to the appropriate policy and fiscal committees of the
9 Legislature on activities that have been or will be undertaken
10 pursuant to this part. The report shall include, but not be limited
11 to, all of the following:

12 (a) The number and a description of contracts entered into with
13 manufacturers and suppliers of drugs pursuant to Section 14571,
14 including any discounts, rebates, or refunds obtained.

15 (b) The number and a description of entities that elect to
16 participate in the coordinated purchasing program pursuant to
17 subdivision (b) of Section 14572.

18 (c) Other options and strategies that have been or will be
19 implemented pursuant to Sections 14573 and 14575.

20 (d) Estimated costs and savings attributable to activities that
21 have been or will be undertaken pursuant to this part.

22 SEC. 3. Chapter 12 (commencing with Section 14977) of Part
23 5.5 of Division 3 of Title 1 of the Government Code is repealed.