

**ASSEMBLY BILL**

**No. 288**

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**Introduced by Assembly Member Mountjoy**

February 9, 2005

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An act to amend Section 4076 of the Business and Professions Code, relating to pharmacies.

LEGISLATIVE COUNSEL'S DIGEST

AB 288, as introduced, Mountjoy. Pharmacies: prescription containers: labels.

The existing Pharmacy Law provides for the licensing, regulation, and enforcement of the practice of pharmacy by the California State Board of Pharmacy. Existing law generally makes it a misdemeanor to knowingly violate the Pharmacy Law.

The Pharmacy Law prohibits a pharmacist from dispensing a prescription except in a container that meets the requirements of state and federal law and is correctly labeled with, among other things, the condition for which the drug was prescribed if requested by the patient and if the condition is indicated on the prescription.

This bill would revise this prescription container labeling requirement to, instead, require the container to be labeled with, among other things, the condition for which the drug was prescribed, unless the patient, physician, or a parent or legal guardian of a minor patient requests that the information be omitted. By revising the definition of a crime, this bill 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 4076 of the Business and Professions  
2 Code is amended to read:  
3 4076. (a) A pharmacist shall not dispense any prescription  
4 except in a container that meets the requirements of state and  
5 federal law and is correctly labeled with all of the following:  
6 (1) Except where the prescriber or the certified nurse-midwife  
7 who functions pursuant to a standardized procedure or protocol  
8 described in Section 2746.51, the nurse practitioner who  
9 functions pursuant to a standardized procedure described in  
10 Section 2836.1, or protocol, the physician assistant who functions  
11 pursuant to Section 3502.1, or the pharmacist who functions  
12 pursuant to a policy, procedure, or protocol pursuant to either  
13 subparagraph (D) of paragraph (4) of, or clause (iv) of  
14 subparagraph (A) of paragraph (5) of, subdivision (a) of Section  
15 4052 orders otherwise, either the manufacturer's trade name of  
16 the drug or the generic name and the name of the manufacturer.  
17 Commonly used abbreviations may be used. Preparations  
18 containing two or more active ingredients may be identified by  
19 the manufacturer's trade name or the commonly used name or  
20 the principal active ingredients.  
21 (2) The directions for the use of the drug.  
22 (3) The name of the patient or patients.  
23 (4) The name of the prescriber or, if applicable, the name of  
24 the certified nurse-midwife who functions pursuant to a  
25 standardized procedure or protocol described in Section 2746.51,  
26 the nurse practitioner who functions pursuant to a standardized  
27 procedure described in Section 2836.1, or protocol, the physician  
28 assistant who functions pursuant to Section 3502.1, or the  
29 pharmacist who functions pursuant to a policy, procedure, or  
30 protocol pursuant to either subparagraph (D) of paragraph (4) of,  
31 or clause (iv) of subparagraph (A) of paragraph (5) of,  
32 subdivision (a) of Section 4052.  
33 (5) The date of issue.

1 (6) The name and address of the pharmacy, and prescription  
2 number or other means of identifying the prescription.

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

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

5 (9) The expiration date of the effectiveness of the drug  
6 dispensed.

7 (10) The condition for which the drug was prescribed—~~if~~  
8 ~~requested by the patient and the condition is indicated on the~~  
9 ~~prescription, unless the patient, physician, or a parent or legal~~  
10 ~~guardian of a minor patient requests that the information be~~  
11 ~~omitted.~~

12 (11) (A) Commencing January 1, 2006, the physical  
13 description of the dispensed medication, including its color,  
14 shape, and any identification code that appears on the tablets or  
15 capsules, except as follows:

16 (i) Prescriptions dispensed by a veterinarian.

17 (ii) An exemption from the requirements of this paragraph  
18 shall be granted to a new drug for the first 120 days that the drug  
19 is on the market and for the 90 days during which the national  
20 reference file has no description on file.

21 (iii) Dispensed medications for which no physical description  
22 exists in any commercially available database.

23 (B) This paragraph applies to outpatient pharmacies only.

24 (C) The information required by this paragraph may be printed  
25 on an auxiliary label that is affixed to the prescription container.

26 (D) This paragraph shall not become operative if the board,  
27 prior to January 1, 2006, adopts regulations that mandate the  
28 same labeling requirements set forth in this paragraph.

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

36 (c) If a pharmacist dispenses a dangerous drug or device in a  
37 facility licensed pursuant to Section 1250 of the Health and  
38 Safety Code, it is not necessary to include on individual unit dose  
39 containers for a specific patient, the name of the certified  
40 nurse-midwife who functions pursuant to a standardized

1 procedure or protocol described in Section 2746.51, the nurse  
2 practitioner who functions pursuant to a standardized procedure  
3 described in Section 2836.1, or protocol, the physician assistant  
4 who functions pursuant to Section 3502.1, or the pharmacist who  
5 functions pursuant to a policy, procedure, or protocol pursuant to  
6 either subparagraph (D) of paragraph (4) of, or clause (iv) of  
7 subparagraph (A) of paragraph (5) of, subdivision (a) of Section  
8 4052.

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

19 SEC. 2. No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution because  
21 the only costs that may be incurred by a local agency or school  
22 district will be incurred because this act creates a new crime or  
23 infraction, eliminates a crime or infraction, or changes the  
24 penalty for a crime or infraction, within the meaning of Section  
25 17556 of the Government Code, or changes the definition of a  
26 crime within the meaning of Section 6 of Article XIII B of the  
27 California Constitution.