

AMENDED IN ASSEMBLY APRIL 17, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1276**

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**Introduced by Assembly Member Karnette**

February 23, 2007

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An act to amend Section 4076 of, and to add Section 4079 to, the Business and Professions Code, relating to pharmacies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1276, as amended, Karnette. Pharmacies: prescription containers: labels.

Existing law, the Pharmacy Law, makes the California State Board of Pharmacy responsible for the regulation of the practice 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 eliminate the labeling requirement pertaining to the condition for which the drug was prescribed, and would instead require the container to be labeled with the intended purpose, as defined, of the drug if indicated on the prescription. The bill would, ~~except for veterinarians~~ *on and after January 1, 2009*, require a person who is authorized to write or issue a prescription, *other than a veterinarian*, to ask ~~the~~ *a* patient or his or her authorized representative whether to indicate the intended purpose of the prescription on the prescription's

label, and would subject a person who violates this requirement for a 2nd or subsequent time to a citation and an administrative fine.

Because the bill would specify additional requirements under the Pharmacy Law, 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 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 functions
- 9 pursuant to a standardized procedure described in Section 2836.1,
- 10 or protocol, the physician assistant who functions pursuant to
- 11 Section 3502.1, the naturopathic doctor who functions pursuant
- 12 to a standardized procedure or protocol described in Section
- 13 3640.5, or the pharmacist who functions pursuant to a policy,
- 14 procedure, or protocol pursuant to either paragraph (4) of
- 15 subdivision (a) of Section 4052.1 or paragraph (4) of subdivision
- 16 (a) of Section 4052.2 orders otherwise, either the manufacturer's
- 17 trade name of the drug or the generic name and the name of the
- 18 manufacturer. Commonly used abbreviations may be used.
- 19 Preparations containing two or more active ingredients may be
- 20 identified by the manufacturer's trade name or the commonly used
- 21 name or the principal active ingredients.
- 22 (2) The directions for the use of the drug.
- 23 (3) The name of the patient or patients.
- 24 (4) The name of the prescriber or, if applicable, the name of the
- 25 certified 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, the naturopathic doctor  
5 who functions pursuant to a standardized procedure or protocol  
6 described in Section 3640.5, or the pharmacist who functions  
7 pursuant to a policy, procedure, or protocol pursuant to either  
8 paragraph (4) of subdivision (a) of Section 4052.1 or paragraph  
9 (4) of subdivision (a) of Section 4052.2.

10 (5) The date of issue.

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

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

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

15 (9) The expiration date of the effectiveness of the drug  
16 dispensed.

17 (10) The intended purpose of the drug or drugs, if indicated on  
18 the prescription. As used in this section, “purpose” means a concise  
19 description of the symptom or symptoms that the drug is, or the  
20 drugs are, intended to treat.

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

25 (i) Prescriptions dispensed by a veterinarian.

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

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

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

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

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

38 (b) If a pharmacist dispenses a prescribed drug by means of a  
39 unit dose medication system, as defined by administrative  
40 regulation, for a patient in a skilled nursing, intermediate care, or

1 other health care facility, the requirements of this section will be  
 2 satisfied if the unit dose medication system contains the  
 3 aforementioned information or the information is otherwise readily  
 4 available at the time of drug administration.

5 (c) If a pharmacist dispenses a dangerous drug or device in a  
 6 facility licensed pursuant to Section 1250 of the Health and Safety  
 7 Code, it is not necessary to include on individual unit dose  
 8 containers for a specific patient, the name of the certified  
 9 nurse-midwife who functions pursuant to a standardized procedure  
 10 or protocol described in Section 2746.51, the nurse practitioner  
 11 who functions pursuant to a standardized procedure described in  
 12 Section 2836.1, or protocol, the physician assistant who functions  
 13 pursuant to Section 3502.1, the naturopathic doctor who functions  
 14 pursuant to a standardized procedure or protocol described in  
 15 Section 3640.5, or the pharmacist who functions pursuant to a  
 16 policy, procedure, or protocol pursuant to either paragraph (4) of  
 17 subdivision (a) of Section 4052.1 or paragraph (4) of subdivision  
 18 (a) of Section 4052.2.

19 (d) If a pharmacist dispenses a prescription drug for use in a  
 20 facility licensed pursuant to Chapter 2 (commencing with Section  
 21 1250) of Division 2 of the Health and Safety Code, it is not  
 22 necessary to include the information required in paragraph (11) of  
 23 subdivision (a) when the prescription drug is administered to a  
 24 patient by a person licensed under the Medical Practice Act  
 25 (Chapter 5 (commencing with Section 2000)), the Nursing Practice  
 26 Act (Chapter 6 (commencing with Section 2700)), or the  
 27 Vocational Nursing Practice Act (Chapter 6.5 (commencing with  
 28 Section 2840)), who is acting within his or her scope of practice.

29 SEC. 2. Section 4079 is added to the Business and Professions  
 30 Code, to read:

31 4079. (a) A person described in paragraph (2) of subdivision  
 32 (a) of Section 4040 shall ask the patient, or the patient's authorized  
 33 representative if the patient is either incapacitated or a minor who  
 34 cannot provide informed consent, whether to indicate the intended  
 35 purpose of the prescription on the prescription's label. This section  
 36 does not apply to prescriptions dispensed by veterinarians.

37 (b) *A prescriber who violates this section for a second or*  
 38 *subsequent time may be cited and assessed an administrative fine.*  
 39 *No citation shall be issued and no fine shall be assessed upon a*  
 40 *first violation.*

1     (c) *This section shall become operative on January 1, 2009.*

2     SEC. 3. No reimbursement is required by this act pursuant to  
3 Section 6 of Article XIII B of the California Constitution because  
4 the only costs that may be incurred by a local agency or school  
5 district will be incurred because this act creates a new crime or  
6 infraction, eliminates a crime or infraction, or changes the penalty  
7 for a crime or infraction, within the meaning of Section 17556 of  
8 the Government Code, or changes the definition of a crime within  
9 the meaning of Section 6 of Article XIII B of the California  
10 Constitution.

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