

AMENDED IN SENATE MARCH 31, 2016

SENATE BILL

No. 1454

Introduced by Senator Stone

February 19, 2016

An act to ~~amend Section 4001 of~~ *add Chapter 9.6 (commencing with Section 4450) to Division 2 of the Business and Professions Code, relating to healing arts.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1454, as amended, Stone. Pharmacy.

Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists and pharmacies by the California State Board of Pharmacy. Existing law imposes requirements on audits of pharmacy services provided to beneficiaries of a health benefit plan, as specified.

This bill would prohibit a pharmacy benefit manager, as defined, from requiring that a pharmacist or pharmacy provide reimbursement to the pharmacy benefit manager for the cost of any drug dispensed to a patient that was properly adjudicated, as defined, except upon a showing of fraud or malfeasance. The bill would require any improper reimbursement made under those provisions during a specified 5-year period to be refunded to the pharmacist or pharmacy, as specified.

~~The Pharmacy Law establishes in the Department of Consumer Affairs the California State Board of Pharmacy, which consists of 13 members.~~

~~This bill would make a nonsubstantive change to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 9.6 (commencing with Section 4450) is
2 added to Division 2 of the Business and Professions Code, to read:

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CHAPTER 9.6. PHARMACY BENEFITS MANAGEMENT

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4450. For purposes of this chapter, the following definitions shall apply:

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(a) "Improper reimbursement" means a pharmacy benefit manager has requested and received reimbursement from a pharmacist or pharmacy in its network for the cost of a drug dispensed to a patient that was previously authorized and properly adjudicated, in violation of subdivision (a) of Section 4451.

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(b) "Pharmacist" or "pharmacy" has the same meaning as set forth in Chapter 9 (commencing with Section 4000), and is a person or entity located in this state that participates in the network of a pharmacy benefit manager.

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(c) "Pharmacy benefit manager" means an entity that performs pharmacy benefits management.

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(d) "Pharmacy benefits management" means the administration or management of prescription drug benefits, including, but not limited to, the procurement of prescription drugs at a negotiated rate for dispensation within this state, the processing of prescription drug claims, and the administration of payments related to prescription drug claims.

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(e) "Properly adjudicated" means the pharmacist or pharmacy was explicitly authorized by the pharmacy benefit manager to dispense a drug to a patient through its network, and the pharmacist or pharmacy was entitled to the payment that was provided, at that point in time, by the pharmacy benefit manager, pursuant to that authorization.

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(f) "Reimbursement" means the amount that was previously paid by a pharmacy benefit manager to a contracted pharmacist or pharmacy for the cost of a drug dispensed to a patient that was authorized to be dispensed as a covered drug and properly adjudicated.

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4451. (a) Notwithstanding any other law, a pharmacy benefit manager is prohibited from requiring that a pharmacist or pharmacy provide reimbursement to the pharmacy benefit manager

1 *for the cost of any drug dispensed to a patient that was properly*
2 *adjudicated, except upon a showing of fraud or malfeasance.*

3 *(b) No contract entered into on or after January 1, 2017,*
4 *between a pharmacy benefit manager and a pharmacist or*
5 *pharmacy shall include a provision that conflicts with the*
6 *prohibition set forth in subdivision (a).*

7 *4452. (a) Notwithstanding any other law, a pharmacy benefit*
8 *manager that administers pharmacy benefits management in this*
9 *state that has requested and received any improper reimbursements*
10 *from a pharmacist or pharmacy pursuant to the prohibition set*
11 *forth in subdivision (a) of Section 4451 shall refund that payment*
12 *to the pharmacist or pharmacy.*

13 *(b) Subdivision (a) shall apply only to those improper*
14 *reimbursements that were received by the pharmacy benefit*
15 *manager between January 1, 2012, and January 1, 2017.*

16 ~~SECTION 1. Section 4001 of the Business and Professions~~
17 ~~Code is amended to read:~~

18 ~~4001. (a) There is in the Department of Consumer Affairs a~~
19 ~~California State Board of Pharmacy in which the administration~~
20 ~~and enforcement of this chapter is vested. The board is composed~~
21 ~~of 13 members.~~

22 ~~(b) The Governor shall appoint seven competent pharmacists~~
23 ~~who reside in different parts of the state to serve as members of~~
24 ~~the board. The Governor shall appoint four public members, and~~
25 ~~the Senate Committee on Rules and the Speaker of the Assembly~~
26 ~~shall each appoint a public member who shall not be a licensee of~~
27 ~~the board, any other board under this division, or any board referred~~
28 ~~to in Section 1000 or 3600.~~

29 ~~(c) At least five of the seven pharmacist appointees to the board~~
30 ~~shall be pharmacists who are actively engaged in the practice of~~
31 ~~pharmacy. Additionally, the membership of the board shall include~~
32 ~~at least one pharmacist representative from each of the following~~
33 ~~practice settings: an acute care hospital, an independent community~~
34 ~~pharmacy, a chain community pharmacy, and a long-term health~~
35 ~~care or skilled nursing facility. The pharmacist appointees shall~~
36 ~~also include a pharmacist who is a member of a labor union that~~
37 ~~represents pharmacists. For the purposes of this subdivision, a~~
38 ~~“chain community pharmacy” means a chain of 75 or more stores~~
39 ~~in California under the same ownership, and an “independent~~

1 community pharmacy” means a pharmacy owned by a person or
2 entity who owns no more than four pharmacies in California.
3 (d) Members of the board shall be appointed for a term of four
4 years. No person shall serve as a member of the board for more
5 than two consecutive terms. Each member shall hold office until
6 the appointment and qualification of his or her successor or until
7 one year shall have elapsed since the expiration of the term for
8 which the member was appointed, whichever first occurs.
9 Vacancies occurring shall be filled by appointment for the
10 unexpired term.
11 (e) Each member of the board shall receive a per diem and
12 expenses as provided in Section 103.
13 (f) This section shall remain in effect only until January 1, 2017,
14 and as of that date is repealed, unless a later enacted statute, that
15 is enacted before January 1, 2017, deletes or extends that date.
16 Notwithstanding any other provision of law, the repeal of this
17 section renders the board subject to review by the appropriate
18 policy committees of the Legislature.