

Introduced by Senator Leslie

January 14, 1999

An act to amend Sections 4056 and 4074 of the Business and Professions Code, relating to drugs, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 188, as introduced, Leslie. Drugs: hospitals: physicians.

Existing law generally prohibits any person from selling or dispensing any dangerous drug, or dispensing any prescription, unless he or she is a licensed pharmacist. However, existing law permits a licensed hospital that contains 100 beds or fewer and does not employ a full-time pharmacist to purchase drugs at wholesale for administration, under the direction of a physician, to patients registered in the hospital or to emergency cases under treatment in the hospital. Existing law imposes criminal penalties for violations of these provisions.

This bill would revise the above-described exception to also permit hospitals containing 100 beds or fewer to purchase drugs at wholesale for dispensation by physicians to persons registered as inpatients or to outpatients of those hospitals. The bill would impose specified restrictions on the dispensation of those drugs to outpatients but would provide that physicians shall not be subject to criminal penalties for violations of this provision. It also would make related changes, including expansion of requirements concerning adoption of a specified written policy by health facilities. To the extent that the bill would expand the scope of an existing

crime with respect to these requirements, the 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.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. 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 4056 of the Business and
2 Professions Code is amended to read:
3 4056. (a) Notwithstanding any provision of this
4 chapter, a licensed hospital that contains 100 beds or ~~less~~
5 *fewer*, and that does not employ a full-time pharmacist,
6 may purchase drugs at wholesale for administration,
7 under the direction of a physician, *or for dispensation by*
8 *a physician*, to ~~patients~~ *persons registered in as inpatients*
9 *or, under the conditions described in subdivision (f),*
10 *outpatients* of the hospital or to emergency cases under
11 treatment in the hospital. The hospital shall keep records
12 of the kind and amounts of drugs so purchased and
13 administered *or dispensed*, and the records shall be
14 available for inspection by all properly authorized
15 personnel of the board.
16 (b) No hospital shall be entitled to the benefits of
17 subdivision (a) until it has obtained a license from the
18 board. Each license shall be issued to a specific hospital
19 and for a specific location.
20 (c) Each application for a license under this section
21 shall be made on a form furnished by the board. Upon the
22 filing of the application and payment of the fee
23 prescribed in subdivision (a) of Section 4400, the
24 executive officer of the board shall issue a license
25 authorizing the hospital to which it is issued to purchase



1 drugs at wholesale pursuant to subdivision (a). The
2 license shall be renewed annually on or before November
3 1 of each year upon payment of the renewal fee
4 prescribed in subdivision (b) of Section 4400 and shall not
5 be transferable.

6 (d) The form of application for a license under this
7 section shall contain the name and address of the
8 applicant, the number of beds, whether the applicant is
9 a licensed hospital, whether it does or does not employ a
10 full-time pharmacist, the name of its chief medical officer,
11 and the name of its administrator.

12 (e) The board may deny, revoke, or suspend a license
13 issued under this section in the manner and for the
14 grounds specified in Article 19 (commencing with
15 Section 4300).

16 (f) *A physician may dispense drugs to outpatients*
17 *pursuant to subdivision (a) only if the physician*
18 *reasonably believes that a retail pharmacy, other than any*
19 *pharmacy located in the hospital, is not available and*
20 *accessible at the time of dispensation to the patient within*
21 *30 minutes of the hospital by means of the method of*
22 *transportation the patient states that he or she intends to*
23 *use. The drugs so dispensed shall not exceed a 72-hour*
24 *supply. The physician shall comply with the labeling*
25 *requirements of subdivision (b) of Section 4077. A*
26 *physician shall not be subject to criminal penalties for a*
27 *violation of this subdivision.*

28 SEC. 2. Section 4074 of the Business and Professions
29 Code is amended to read:

30 4074. (a) A pharmacist shall inform a patient orally or
31 in writing of the harmful effects of a drug dispensed by
32 prescription if the drug poses substantial risk to the
33 person consuming the drug when taken in combination
34 with alcohol or if the drug may impair a person's ability
35 to drive a motor vehicle, whichever is applicable, and
36 provided the drug is determined by the board pursuant
37 to subdivision (b) to be a drug or drug type for which this
38 warning shall be given.

39 (b) The board may by regulation require additional
40 information or labeling.



1 (c) This section shall not apply to drugs furnished to
2 patients in conjunction with treatment or emergency
3 services provided in health facilities *or, except as*
4 *provided in subdivision (d), to drugs furnished to patients*
5 *pursuant to subdivision (a) of Section 4056.*

6 (d) A health facility shall establish and implement a
7 written policy to ensure that each patient shall receive
8 information regarding each medication given at the time
9 of discharge *and each medication given pursuant to*
10 *subdivision (a) of Section 4056.* This information shall
11 include the use and storage of each medication, the
12 precautions and relevant warnings, and the importance
13 of compliance with directions. This information shall be
14 given by a pharmacist or registered nurse, unless already
15 provided by a patient's prescriber, and the written policy
16 shall be developed in collaboration with a physician, a
17 pharmacist, and a registered nurse. The written policy
18 shall be approved by the medical staff. Nothing in this
19 subdivision or any other provision of law shall be
20 construed to require that only a pharmacist provide this
21 consultation.

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

32 Notwithstanding Section 17580 of the Government
33 Code, unless otherwise specified, the provisions of this act
34 shall become operative on the same date that the act
35 takes effect pursuant to the California Constitution.

36 SEC. 4. This act is an urgency statute necessary for the
37 immediate preservation of the public peace, health, or
38 safety within the meaning of Article IV of the
39 Constitution and shall go into immediate effect. The facts
40 constituting the necessity are:



1 In order to allow patients to obtain necessary
2 medications, it is necessary that this act take effect
3 immediately.

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