

AMENDED IN SENATE APRIL 27, 2009

SENATE BILL

No. 470

Introduced by Senator Corbett

February 26, 2009

An act to amend Sections 4040 and 4076 of the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 470, as amended, Corbett. Prescriptions.

Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and *provides that* a knowing violation of the law is a crime. Existing law ~~authorizes~~ *requires* a prescription, as defined, to include *a legible, clear notice of* the condition for which the drug is prescribed, if requested by the patient. Existing law prohibits a pharmacist from dispensing any prescription unless it is in a specified container ~~and the prescription label includes that is correctly labeled to include~~, among other information, the condition for which the drug was prescribed if requested by the patient and the condition is indicated on the prescription.

This bill would ~~revise that requirement to~~ instead require the label to ~~include the~~ *that every prescription include a legible, clear notice of the condition or purpose for which the drug* ~~was is~~ prescribed ~~if requested by the patient or if the purpose is indicated on the prescription. The bill would also make a conforming change, and would delete the requirement that a patient request the inclusion of that information. The bill would also require that every prescription container be correctly labeled to include that information if so included on the prescription, and would provide a process for inclusion of that information on the~~

label if it is not included on the prescription and is requested by the patient.

By revising ~~this requirement~~ *these requirements*, the knowing violation of which would be a crime, 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.

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 4040 of the Business and Professions
- 2 Code is amended to read:
- 3 4040. (a) "Prescription" means an oral, written, or electronic
- 4 transmission order that is both of the following:
- 5 (1) Given individually for the person or persons for whom
- 6 ordered that includes all of the following:
- 7 (A) The name or names and address of the patient or patients.
- 8 (B) The name and quantity of the drug or device prescribed and
- 9 the directions for use.
- 10 (C) The date of issue.
- 11 (D) Either rubber stamped, typed, or printed by hand or typeset,
- 12 the name, address, and telephone number of the prescriber, his or
- 13 her license classification, and his or her federal registry number,
- 14 if a controlled substance is prescribed.
- 15 (E) A legible, clear notice of the *condition or purpose* for which
- 16 the drug is being prescribed, ~~if requested by the patient or patients.~~
- 17 (F) If in writing, signed by the prescriber issuing the order, or
- 18 the certified nurse-midwife, nurse practitioner, physician assistant,
- 19 or naturopathic doctor who issues a drug order pursuant to Section
- 20 2746.51, 2836.1, 3502.1, or 3640.5, respectively, or the pharmacist
- 21 who issues a drug order pursuant to either subparagraph (D) of
- 22 paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph
- 23 (5) of, subdivision (a) of Section 4052.
- 24 (2) Issued by a physician, dentist, optometrist, podiatrist,
- 25 veterinarian, or naturopathic doctor pursuant to Section 3640.7 or,

1 if a drug order is issued pursuant to Section 2746.51, 2836.1,
2 3502.1, or 3460.5, by a certified nurse-midwife, nurse practitioner,
3 physician assistant, or naturopathic doctor licensed in this state,
4 or pursuant to either subparagraph (D) of paragraph (4) of, or
5 clause (iv) of subparagraph (A) of paragraph (5) of, subdivision
6 (a) of Section 4052 by a pharmacist licensed in this state.

7 (b) Notwithstanding subdivision (a), a written order of the
8 prescriber for a dangerous drug, except for any Schedule II
9 controlled substance, that contains at least the name and signature
10 of the prescriber, the name and address of the patient in a manner
11 consistent with paragraph (3) of subdivision (b) of Section 11164
12 of the Health and Safety Code, the name and quantity of the drug
13 prescribed, directions for use, and the date of issue may be treated
14 as a prescription by the dispensing pharmacist as long as any
15 additional information required by subdivision (a) is readily
16 retrievable in the pharmacy. In the event of a conflict between this
17 subdivision and Section 11164 of the Health and Safety Code,
18 Section 11164 of the Health and Safety Code shall prevail.

19 (c) “Electronic transmission prescription” includes both image
20 and data prescriptions. “Electronic image transmission
21 prescription” means any prescription order for which a facsimile
22 of the order is received by a pharmacy from a licensed prescriber.
23 “Electronic data transmission prescription” means any prescription
24 order, other than an electronic image transmission prescription,
25 that is electronically transmitted from a licensed prescriber to a
26 pharmacy.

27 (d) The use of commonly used abbreviations shall not invalidate
28 an otherwise valid prescription.

29 (e) Nothing in the amendments made to this section (formerly
30 Section 4036) at the 1969 Regular Session of the Legislature shall
31 be construed as expanding or limiting the right that a chiropractor,
32 while acting within the scope of his or her license, may have to
33 prescribe a device.

34 SEC. 2. Section 4076 of the Business and Professions Code is
35 amended to read:

36 4076. (a) A pharmacist shall not dispense any prescription
37 except in a container that meets the requirements of state and
38 federal law and is correctly labeled with all of the following:

39 (1) Except where the prescriber or the certified nurse-midwife
40 who functions pursuant to a standardized procedure or protocol

described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052 orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.

(2) The directions for the use of the drug.

(3) The name of the patient or patients.

(4) The name of the prescriber or, if applicable, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

(5) The date of issue.

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

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

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

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

(10) The *condition or purpose* for which the drug was prescribed ~~if requested by the patient or the purpose is indicated on the prescription.~~ *if the condition or purpose is indicated on the prescription. If the patient requests the condition or purpose on the container label but it is not included on the prescription, the*

1 *pharmacist may include this information only after consulting with*
2 *the prescriber. The consultation may be conducted orally or*
3 *electronically.*

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

8 (i) Prescriptions dispensed by a veterinarian.

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

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

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

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

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

21 (b) If a pharmacist dispenses a prescribed drug by means of a
22 unit dose medication system, as defined by administrative
23 regulation, for a patient in a skilled nursing, intermediate care, or
24 other health care facility, the requirements of this section will be
25 satisfied if the unit dose medication system contains the
26 aforementioned information or the information is otherwise readily
27 available at the time of drug administration.

28 (c) If a pharmacist dispenses a dangerous drug or device in a
29 facility licensed pursuant to Section 1250 of the Health and Safety
30 Code, it is not necessary to include on individual unit dose
31 containers for a specific patient, the name of the certified
32 nurse-midwife who functions pursuant to a standardized procedure
33 or protocol described in Section 2746.51, the nurse practitioner
34 who functions pursuant to a standardized procedure described in
35 Section 2836.1, or protocol, the physician assistant who functions
36 pursuant to Section 3502.1, the naturopathic doctor who functions
37 pursuant to a standardized procedure or protocol described in
38 Section 3640.5, or the pharmacist who functions pursuant to a
39 policy, procedure, or protocol pursuant to either subparagraph (D)

1 of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph
2 (5) of, subdivision (a) of Section 4052.

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

13 SEC. 3. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.