

AMENDED IN ASSEMBLY APRIL 27, 2006

AMENDED IN ASSEMBLY MARCH 27, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2583

Introduced by Assembly Member Nation

February 24, 2006

An act to amend ~~Section 733~~ *Sections 733 and 4122* of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2583, as amended, Nation. Dispensing prescription drugs and devices: refusal to dispense.

Existing law prohibits a health care licentiate from obstructing a patient in obtaining a prescription drug or device, and requires the licentiate to dispense drugs and devices pursuant to a lawful prescription or order, except in specified circumstances, including on ethical, moral, or religious grounds asserted by the licentiate if certain requirements are met. Existing law authorizes the California State Board of Pharmacy to issue a citation for a violation of these provisions and authorizes its executive officer to issue a letter of admonishment for their violation. *Existing law requires every pharmacy to prominently post a notice to consumers provided by the board concerning the availability of prescription price information, the possibility of generic drug product selection, and the types of services provided by pharmacies. A violation of this requirement and other provisions of the Pharmacy Law is a crime.*

This bill would require the ~~board to create and provide a sign informing a patient of his or her right to timely access to a prescribed~~

~~drug or device that a licentiate has refused to dispense based on ethical, moral, or religious grounds and informing a patient of how to file a complaint with the board. The bill would require licentiates authorized to make such a refusal, or their employers, to visibly place the sign at or near the entrance of the business consumer notice posted in pharmacies to also contain a statement describing patients' rights relative to access to prescription drugs or devices. By changing 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: ~~no~~yes.

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

- 1 SECTION 1. Section 733 of the Business and Professions
- 2 Code is amended to read:
- 3 733. (a) No licentiate shall obstruct a patient in obtaining a
- 4 prescription drug or device that has been legally prescribed or
- 5 ordered for that patient. A violation of this section constitutes
- 6 unprofessional conduct by the licentiate and shall subject the
- 7 licentiate to disciplinary or administrative action by his or her
- 8 licensing agency.
- 9 (b) Notwithstanding any other provision of law, a licentiate
- 10 shall dispense drugs and devices, as described in subdivision (a)
- 11 of Section 4024, pursuant to a lawful order or prescription unless
- 12 one of the following circumstances exists:
- 13 (1) Based solely on the licentiate's professional training and
- 14 judgment, dispensing pursuant to the order or the prescription is
- 15 contrary to law, or the licentiate determines that the prescribed
- 16 drug or device would cause a harmful drug interaction or would
- 17 otherwise adversely affect the patient's medical condition.
- 18 (2) The prescription drug or device is not in stock. If an order,
- 19 other than an order described in Section 4019, or prescription

1 cannot be dispensed because the drug or device is not in stock,
2 the licentiate shall take one of the following actions:

3 (A) Immediately notify the patient and arrange for the drug or
4 device to be delivered to the site or directly to the patient in a
5 timely manner.

6 (B) Promptly transfer the prescription to another pharmacy
7 known to stock the prescription drug or device that is near
8 enough to the site from which the prescription or order is
9 transferred, to ensure the patient has timely access to the drug or
10 device.

11 (C) Return the prescription to the patient and refer the patient
12 . The licentiate shall make a reasonable effort to refer the patient
13 to a pharmacy that stocks the prescription drug or device that is
14 near enough to the referring site to ensure that the patient has
15 timely access to the drug or device.

16 (3) The licentiate refuses on ethical, moral, or religious
17 grounds to dispense a drug or device pursuant to an order or
18 ~~prescription.~~

19 ~~(A) A prescription.~~ A licentiate may decline to dispense a
20 prescription drug or device on this basis only if the licentiate has
21 previously notified his or her employer, in writing, of the drug or
22 class of drugs to which he or she objects, and the licentiate's
23 employer can, without creating undue hardship, provide a
24 reasonable accommodation of the licentiate's objection. The
25 licentiate's employer shall establish protocols that ensure that the
26 patient has timely access to the prescribed drug or device despite
27 the licentiate's refusal to dispense the prescription or order. For
28 purposes of this section, "reasonable accommodation" and
29 "undue hardship" shall have the same meaning as applied to
30 those terms pursuant to subdivision (l) of Section 12940 of the
31 Government Code.

32 ~~(B) The California State Board of Pharmacy shall create and~~
33 ~~provide to licentiates or licentiate's employers a sign informing~~
34 ~~patients of the following:~~

35 ~~(i) If a licentiate refuses to dispense a prescription drug or~~
36 ~~device based on ethical, moral, or religious grounds, the patient~~
37 ~~has a right to timely access to the prescribed drug or device.~~

38 ~~(ii) How a patient may file a complaint with the board,~~
39 ~~including providing contact information for the board.~~

1 ~~(C) If a licentiate is authorized, pursuant to subparagraph (A),~~
2 ~~to decline to dispense a prescription drug or device, the licentiate~~
3 ~~or licentiate's employer shall place the sign described in~~
4 ~~subparagraph (B) in a location that is visible to patients and that~~
5 ~~is at or near the entrance of the business.~~

6 (c) For the purposes of this section, "prescription drug or
7 device" has the same meaning as the definition in Section 4022.

8 (d) The provisions of this section shall apply to the drug
9 therapy described in paragraph (8) of subdivision (a) of Section
10 4052.

11 (e) This section imposes no duty on a licentiate to dispense a
12 drug or device pursuant to a prescription or order without
13 payment for the drug or device, including payment directly by
14 the patient or through a third-party payer accepted by the
15 licentiate or payment of any required copayment by the patient.

16 (f) *The notice to consumers required by Section 4122 shall*
17 *include a statement that describes patients' rights relative to the*
18 *requirements of this section.*

19 *SEC. 2. Section 4122 of the Business and Professions Code is*
20 *amended to read:*

21 4122. (a) In every pharmacy there shall be prominently
22 posted in a place conspicuous to and readable by prescription
23 drug consumers a notice provided by the board concerning the
24 availability of prescription price information, the possibility of
25 generic drug product selection, ~~and~~ the type of services provided
26 by pharmacies, *and a statement describing patients' rights*
27 *relative to the requirements imposed on pharmacists pursuant to*
28 *Section 733.* The format and wording of the notice shall be
29 adopted by the board by regulation. A written receipt that
30 contains the required information on the notice may be provided
31 to consumers as an alternative to posting the notice in the
32 pharmacy.

33 (b) A pharmacist, or a pharmacist's employee, shall give the
34 current retail price for any drug sold at the pharmacy upon
35 request from a consumer, however that request is communicated
36 to the pharmacist or employee.

37 (c) If a requester requests price information on more than five
38 prescription drugs and does not have valid prescriptions for all of
39 the drugs for which price information is requested, a pharmacist

1 may require the requester to meet any or all of the following
2 requirements:

3 (1) The request shall be in writing.

4 (2) The pharmacist shall respond to the written request within
5 a reasonable period of time. A reasonable period of time is
6 deemed to be 10 days, or the time period stated in the written
7 request, whichever is later.

8 (3) A pharmacy may charge a reasonable fee for each price
9 quotation, as long as the requester is informed that there will be a
10 fee charged.

11 (4) No pharmacy shall be required to respond to more than
12 three requests as described in this subdivision from any one
13 person or entity in a six-month period.

14 (d) This section shall not apply to a pharmacy that is located in
15 a licensed hospital and that is accessible only to hospital medical
16 staff and personnel.

17 (e) Notwithstanding any other provision of this section, no
18 pharmacy shall be required to do any of the following:

19 (1) Provide the price of any controlled substance in response
20 to a telephone request.

21 (2) Respond to a request from a competitor.

22 (3) Respond to a request from an out-of-state requester.

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