

Introduced by Senator Ortiz

February 22, 2005

An act to add Section ~~4050.1~~ 733 to the Business and Professions Code, relating to ~~pharmacists~~ *healing arts*.

LEGISLATIVE COUNSEL'S DIGEST

SB 644, as amended, Ortiz. Dispensing of ~~prescriptions~~ *prescription drugs and devices*.

Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and makes a violation of those provisions a crime. Existing law prohibits, except as specified, a person other than a pharmacist from dispensing a dangerous drug, as defined, pursuant to a prescription *makes certain actions by a health care professional unprofessional conduct subject to disciplinary action by the licensing board regulating the health care professional*.

This bill would ~~require a pharmacist to dispense a lawful prescription~~ *include within those provisions, a requirement that a health care licentiate 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 ~~pharmacist licentiate~~. The bill would authorize the ~~pharmacist licentiate~~ to decline to dispense the prescription *or order* on that basis only if *the licentiate notified his or her employer is able to reasonably accommodate that objection of the objection and it can be reasonably accommodated*.

~~Because violation of the bill 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~~ *no*.

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

1 ~~SECTION 1. The Legislature finds and declares the~~
2 ~~following:~~

3 ~~(a) Patients should have timely access to medications that are~~
4 ~~lawfully prescribed for them.~~

5 ~~(b) When engaging in the practice of pharmacy, a pharmacist~~
6 ~~must exercise professional judgment in the best interest of a~~
7 ~~patient's health and respect a patient's dignity and autonomy and~~
8 ~~maintain the confidentiality of a patient's medical information.~~

9 *SECTION 1. It is the intent of the Legislature that health care*
10 *professionals dispense prescription drugs and devices in a timely*
11 *way or provide appropriate referrals for patients to obtain the*
12 *necessary prescription drugs and devices, despite the health care*
13 *professional's objection to dispensing the drugs or devices on*
14 *ethical, moral, or religious grounds.*

15 ~~SEC. 2. Section 4050.1 is added to the Business and~~
16 ~~Professions Code, to read:~~

17 ~~4050.1.—~~

18 *SEC. 2 Section 733 is added to the Business and Professions*
19 *Code, to read:*

20 *733. Notwithstanding any other provision of law, a*
21 *pharmacist shall dispense a lawful prescription unless one of the*
22 *licentiate shall dispense drugs and devices, as described in*
23 *subdivision (a) of Section 4024, pursuant to a lawful order or*
24 *prescription unless one of the following circumstances exists:*

25 *(a) Based on the pharmacist's licentiate's professional training*
26 *and judgment, dispensing pursuant to the order or the*
27 *prescription is contrary to law or is contraindicated for the*
28 *patient.*

29 *(b) The pharmacy does not have the dangerous drug that was*
30 *prescribed prescription drug or device in its stock.—The*
31 *pharmacist shall immediately If an order or prescription can not*

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

3 (1) *Immediately notify the patient and promptly arrange for*
4 *the drug or device to be delivered to the pharmacy or directly to*
5 *the patient in a timely way.*

6 (2) *Promptly transfer the prescription to another pharmacy*
7 *known to stock the dangerous drug or, upon the patient's request,*
8 *return prescription drug or device and that is within a reasonable*
9 *distance from the pharmacy that is transferring the prescription*
10 *or order to ensure the patient has timely access to the drug or*
11 *device.*

12 (3) *Return the prescription to the patient and refer the patient*
13 *to a pharmacy known to stock the dangerous drug prescription*
14 *drug or device and that is within a reasonable distance from the*
15 *referring pharmacy to ensure that the patient has timely access*
16 *to the drug or device.*

17 (c) ~~The pharmacist licentiate~~ *refuses on ethical, moral, or*
18 *religious grounds to dispense a dangerous drug drug or device*
19 *pursuant to an order or prescription. A pharmacist licentiate may*
20 *decline to dispense a dangerous drug prescription drug or device*
21 *on this basis only after notifying if the licentiate has previously*
22 *notified his or her employer, in writing, of the drug or class of*
23 *drugs to which he or she objects, and the pharmacist's*
24 *licentiate's employer can, without creating undue hardship,*
25 *including undue hardship to the patient, provide a reasonable*
26 *accommodation of the pharmacist's licentiate's objection by*
27 *establishing protocols that ensure that the patient has timely*
28 *access to the prescribed dangerous drug drug or device despite*
29 *the pharmacist's licentiate's refusal to dispense the prescription*
30 *or order. For purposes of this subdivision, "reasonable*
31 *accommodation" and "undue hardship" shall have the same*
32 *meaning as applied to those terms pursuant to subdivision (j)(1)*
33 *of Section 12940 of the Government Code, and "dangerous*
34 *drug".*

35 (d) *For the purposes of this section, "prescription drug or*
36 *device" has the same meaning as the definition in Section 4022*
37 *and includes the drug therapy described in paragraph (8) of*
38 *subdivision (a) of Section 4052.*

39 SEC. 3. ~~No reimbursement is required by this act pursuant to~~
40 ~~Section 6 of Article XIII B of the California Constitution because~~

1 ~~the only costs that may be incurred by a local agency or school~~
2 ~~district will be incurred because this act creates a new crime or~~
3 ~~infraction, eliminates a crime or infraction, or changes the~~
4 ~~penalty for a crime or infraction, within the meaning of Section~~
5 ~~17556 of the Government Code, or changes the definition of a~~
6 ~~crime within the meaning of Section 6 of Article XIII B of the~~
7 ~~California Constitution.~~

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