

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 7, 2005

SENATE BILL

No. 644

Introduced by Senator Ortiz

(Coauthors: Senators Kuehl and Romero)

(Coauthors: Assembly Members Frommer, Jones, and Laird)

February 22, 2005

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

LEGISLATIVE COUNSEL'S DIGEST

SB 644, as amended, Ortiz. Dispensing prescription drugs and devices.

Existing law 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 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 licentiate. The bill would authorize the licentiate to decline to dispense the prescription or order on that basis only if the licentiate notified his or her employer of the objection and it can be reasonably accommodated. *The bill would require the licentiate's employer in those circumstances to establish protocols to ensure a patient's timely access to the prescribed drug or device.*

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

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

1 SECTION 1. It is the intent of the Legislature that health care
2 professionals dispense prescription drugs and devices in a timely
3 way or provide appropriate referrals for patients to obtain the
4 necessary prescription drugs and devices, despite the health care
5 professional's objection to dispensing the drugs or devices on
6 ethical, moral, or religious grounds.

7 SEC. 2 Section 733 is added to the Business and Professions
8 Code, to read:

9 733. 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 (a) Based on the licentiate's professional training and
14 judgment, dispensing pursuant to the order or the prescription is
15 contrary to law or is contraindicated for the patient.

16 (b) The pharmacy does not have the prescription drug or
17 device in its stock. If an order or prescription can not be
18 dispensed because the drug or device is not in stock, the
19 licentiate shall take one of the following actions:

20 (1) Immediately notify the patient and arrange for the drug or
21 device to be delivered to the pharmacy or directly to the patient
22 in a timely way.

23 (2) Promptly transfer the prescription to another pharmacy
24 known to stock the prescription drug or device ~~and~~ that is within
25 a reasonable distance from the pharmacy that is transferring the
26 prescription or order to ensure the patient has timely access to the
27 drug or device.

28 (3) Return the prescription to the patient and refer the patient
29 to a pharmacy known to stock the prescription drug or device ~~and~~
30 that is within a reasonable distance from the referring pharmacy
31 to ensure that the patient has timely access to the drug or device.

32 (c) The licentiate refuses on ethical, moral, or religious
33 grounds to dispense a drug or device pursuant to an order or
34 prescription. A licentiate may decline to dispense a prescription
35 drug or device on this basis only if the licentiate has previously
36 notified his or her employer, in writing, of the drug or class of
37 drugs to which he or she objects, and the licentiate's employer
38 can, without creating undue hardship, provide a reasonable

1 accommodation of the licentiate’s objection ~~by establishing~~. *The*
2 *licentiate’s employer shall establish* protocols that ensure that the
3 patient has timely access to the prescribed drug or device despite
4 the licentiate’s refusal to dispense the prescription or order. For
5 purposes of this subdivision, “reasonable accommodation” and
6 “undue hardship” shall have the same meaning as applied to
7 those terms pursuant to subdivision(1) of Section 12940 of the
8 Government Code.

9 (d) For the purposes of this section, “prescription drug or
10 device” has the same meaning as the definition in Section 4022
11 ~~and includes the drug therapy described in paragraph (8) of~~
12 ~~subdivision (a) of Section 4052.~~

13 (e) *The provisions of this section shall apply to the drug*
14 *therapy described in paragraph (8) of subdivision (a) of Section*
15 *4052.*