

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1106

Introduced by Senator Yee

February 17, 2010

An act to amend Section 4171 of the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1106, as amended, Yee. Prescribers: dispensing of samples.

Existing law, the Pharmacy Law, ~~the knowing violation of which is a crime~~, regulates prescribers, as defined, and the dispensing of drugs. Existing law prohibits a prescriber from dispensing drugs or dangerous devices to patients in his or her office unless certain requirements are met. Existing law also authorizes prescribers to furnish a limited quantity of samples if (1) the samples are dispensed in the manufacturer's package, (2) there is no charge to the patient, and (3) an appropriate record is entered in the patient's chart. *A knowing violation of the Pharmacy Law is a crime.*

This bill would ~~prohibit~~ *require* a prescriber ~~from~~ dispensing a drug sample or a starter kit ~~unless the appropriate manufacturer's warning pamphlet is physically attached to the package to either (1) provide the patient with a copy of the FDA-approved package insert for the drug sample or starter kit or the (2) ensure that the manufacturer's warnings are affixed to the package containing the drug sample or starter kit.~~

Because this bill would impose a new requirement under the Pharmacy Law, the knowing violation of which 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.

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

SECTION 1. Section 4171 of the Business and Professions Code is amended to read:

4171. (a) Section 4170 shall not prohibit the furnishing of a limited quantity of samples by a prescriber, if the prescriber dispenses the samples to the patient in the package provided by the manufacturer, no charge is made to the patient therefor, and an appropriate record is entered in the patient's chart.

(b) Section 4170 shall not apply to clinics, as defined in subdivision (a) of Section 1204 or subdivision (b) or (c) of Section 1206 of the Health and Safety Code, to programs licensed pursuant to Sections 11876, 11877, and 11877.5 of the Health and Safety Code, or to a prescriber dispensing parenteral chemotherapeutic agents, biologicals, or delivery systems used in the treatment of cancer.

~~(c) No prescriber dispensing drugs pursuant to Section 4170 shall dispense a drug sample or a starter kit unless the appropriate manufacturer's warning pamphlet is physically attached to the package containing the drug sample or starter kit or the~~

(c) A prescriber dispensing a drug sample or starter kit pursuant to subdivision (a) or Section 4170 shall either (1) provide the patient with a copy of the FDA-approved package insert for the drug sample or starter kit or (2) ensure that the manufacturer's warnings are affixed to the package containing the drug sample or starter kit.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

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