ASSEMBLY BILL No. 110

Introduced by Assembly Member Laird
(Coauthors: Assembly Members Berg, Evans, Hancock, Jones, and Leno)
(Coauthors: Senators Kehoe and Kuehl)

January 5, 2007

An act to amend Section 121349.3 of, and to add Chapter 1.5 (commencing with Section 120780) to Part 4 of Division 105 of, the Health and Safety Code, relating to the use of state HIV prevention and education funds for distribution of needles and syringes.

LEGISLATIVE COUNSEL'S DIGEST

AB 110, as introduced, Laird. Drug paraphernalia: clean needle and syringe exchange projects.

(1) Existing law, with certain exceptions, makes it a misdemeanor for a person to deliver, furnish, transfer, possess with intent to deliver, furnish, or transfer, or manufacture with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Existing law provides an exception to this general rule by authorizing a public entity, its agents, or employees to distribute hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.

Existing law established the Office of AIDS in the State Department of Health Services. That office, among other functions, provides funding for AIDS prevention and education. Commencing July 1, 2007, the office will be transferred to the State Department of Public Health.

This bill would authorize a public entity that receives General Fund money from the State Department of Public Health for HIV prevention and education to use that money to support clean needle and syringe exchange projects authorized by the public entity. The bill would authorize the money to be used for the purchase of sterile hypodermic needles and syringes. The bill would require funds allocated for that purpose to be based upon epidemiological data as reported by the health jurisdiction in its local HIV prevention plan submitted to the Office of AIDS.

(2) Existing law requires the health officer of the participating jurisdiction to annually present a report on the status of clean needle and syringe exchange programs, including relevant statistics on blood-bourne infections.

This bill would require the report to also include the use of public funds for these purposes.

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. The Legislature finds and declares all of the
2 following:
3 (a) The continuing spread of the acquired immunodeficiency
4 syndrome (AIDS) epidemic and the spread of blood-borne hepatitis
5 pose two of the gravest public health threats in California.
6 (b) Injection drug users are the second largest group at risk of
7 becoming infected with the human immunodeficiency virus (HIV)
8 and developing AIDS, and they have been the primary source of
9 heterosexual, female, and perinatal transmission in California, the
10 United States, and Europe.
11 (c) According to the Office of AIDS within the State Department
12 of Public Health, injection drug use continues to be one of the most
13 prevalent risk factors for new HIV and AIDS cases in California.
14 Injection drug users continue to be at high risk of HIV/AIDS and
15 hepatitis infection in California. According to an annual report
16 issued by the Office of AIDS, sharing of contaminated syringes

and other injection equipment is linked to 20 percent of all reported AIDS cases in the state through 2003. State data suggests that over 1,500 new syringe-sharing HIV infections occur annually. According to recent studies, researchers estimate that an American infected with HIV can expect to live about 24 years, on average, and that the cost of his or her health care during this time period is more than $600,000.

(d) Injection drug users are also highly likely to become infected with hepatitis as a result of hypodermic needle and syringe sharing practices.

(e) The Legislature has responded to the spread of HIV and hepatitis among injection drug users by adopting Assembly Bill 136 (Ch. 762, Stats. 1999), that permits localities to determine whether or not to operate clean needle and syringe exchange programs. As a result of that legislation, many localities are now operating these programs.

(f) These programs have been shown to significantly reduce the transmission of HIV and hepatitis among injection drug users, their sexual partners, and children. Moreover, these programs have been effective in moving individuals into substance abuse treatment programs and in reducing the number of used hypodermic needles and syringes disposed of in public places, which pose a threat to public health and safety.

(g) The United States government prohibits the use of federal funds to support the purchase of sterile hypodermic needles and syringes by clean needle and syringe exchange programs. Moreover, the state has not heretofore permitted the use of its funds for the purchase of sterile hypodermic needles and syringes, although current state policy allows state HIV prevention and education funds to be used for costs associated with authorized clean needle and syringe exchange programs, except for the purchase of sterile hypodermic needles and syringes.

(h) The ability of clean needle and syringe exchange programs to purchase an adequate supply of sterile hypodermic needles and syringes is essential to California's ability to further reduce the transmission of HIV and hepatitis and to relieve the public cost for the care and treatment of HIV disease and hepatitis.

SEC. 2. Chapter 1.5 (commencing with Section 120780) is added to Part 4 of Division 105 of the Health and Safety Code, to read:

CHAPTER 1.5. STATE HIV PREVENTION AND EDUCATION FUNDS

120780. A public entity that receives General Fund money from the State Department of Public Health for HIV prevention and education may use that money to support clean needle and syringe exchange projects authorized by the public entity pursuant to existing law. The money may be used for, but is not limited to, the purchase of sterile hypodermic needles and syringes. Funds allocated for the purchase of sterile hypodermic needles and syringes shall be based upon epidemiological data as reported by the health jurisdiction in its local HIV prevention plan submitted to the Office of AIDS within the department.

SEC. 3. Section 121349.3 of the Health and Safety Code is amended to read:

121349.3. The health officer of the participating jurisdiction shall present annually at an open meeting of the board of supervisors or city council a report detailing the status of clean needle and syringe exchange programs including, but not limited to, relevant statistics on blood-borne infections associated with needle sharing activity *and the use of public funds for these programs*. Law enforcement, administrators of alcohol and drug treatment programs, other stakeholders, and the public shall be afforded ample opportunity to comment at this annual meeting. The notice to the public shall be sufficient to assure adequate participation in the meeting by the public. This meeting shall be noticed in accordance with all state and local open meeting laws and ordinances, and as local officials deem appropriate.

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ASSEMBLY BILL No. 249

Introduced by Assembly Member Eng

February 1, 2007

An act to add Section 809.10 to, and to repeal Section 2220.7 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 249, as introduced, Eng. Licensees: healing arts: settlement agreements.

Existing law prohibits a physician and surgeon from including or permitting to be included specified provisions in a settlement agreement arising from his or her practice regardless of whether the agreement is made before or after filing the civil action. Under existing law, a physician and surgeon who violates this requirement is subject to disciplinary action by the Medical Board of California.

This bill would continue to impose that prohibition on physicians and surgeons and would additionally impose it on other healing arts practitioners and would also make them subject to disciplinary action.

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. Section 809.10 is added to the Business and
2 Professions Code, to read:
3 809.10. (a) No person who is licensed, certified, or registered
4 by a board under this division, nor an entity or person acting as an
5 authorized agent of that person, shall include or permit to be

included any of the following provisions in an agreement to settle a civil dispute, whether the agreement is made before or after the commencement of a civil action:

(1) A provision that prohibits the other party in that dispute from contacting or cooperating with the department or board.

(2) A provision that prohibits the other party in that dispute from filing a complaint with the department or board.

(3) A provision that requires the other party in that dispute to withdraw a complaint from the department or board. This type of provision is void as against public policy.

(b) A licensed, certified, or registered person who violates this section is subject to disciplinary action by the appropriate board.

SEC. 2. Section 2220.7 of the Business and Professions Code is repealed.

~~2220.7. (a) A physician and surgeon shall not include or permit to be included any of the following provisions in an agreement to settle a civil dispute arising from his or her practice, whether the agreement is made before or after filing the action:~~

~~(1) A provision that prohibits another party to the dispute from contacting or cooperating with the board.~~

~~(2) A provision that prohibits another party to the dispute from filing a complaint with the board.~~

~~(3) A provision that requires another party to the dispute to withdraw a complaint he or she has filed with the board.~~

~~(b) A provision described in subdivision (a) is void as against public policy.~~

~~(c) A physician and surgeon who violates this section is subject to disciplinary action by the board.~~

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ASSEMBLY BILL No. 501

Introduced by Assembly Members Swanson and Hancock

February 20, 2007

An act to add Section 119404 to the Health and Safety Code, relating to pharmaceutical devices.

LEGISLATIVE COUNSEL'S DIGEST

AB 501, as introduced, Swanson. Pharmaceutical devices.

The existing Medical Waste Management Act, administered by the State Department of Health Services, regulates the management and handling of medical waste, as defined. Effective July 1, 2007, these duties will be transferred to the State Department of Public Health. Under existing law, certain items, such as home-generated sharps waste, as defined, are specifically excluded from the definition of medical waste. The act also prohibits, on or after September 1, 2008, a person from knowingly placing home-generated sharps waste in certain types of containers, provides that home-generated sharps waste is to be transported only in a sharps container, as defined, or other container approved by the department or local enforcement agency, and requires this waste to only be managed at specified locations consistent with existing law.

This bill would require a pharmaceutical company whose product is dispensed through a prefilled syringe, prefilled pen needle, or other prefilled injection device to provide each person for whom the product is prescribed with a specified method for the patient to safely dispose of the syringe, pen needle, or other injection device.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) An estimated 1 million Californians must self-inject
4 prescription medications annually to treat a broad range of serious
5 health problems.
6 (b) The use of prefilled syringes, pens, and devices with needles
7 is an effective method of prescription drug delivery and is expected
8 to increase significantly in the future.
9 (c) The increased use of prefilled syringes, pens, and devices
10 with needles will generate millions of home-generated sharps each
11 year. If improperly disposed in solid waste and recycling containers
12 these needles will result in significant public health risks.
13 (d) The Legislature has found that sharps mail-back programs
14 utilizing containers and packaging approved by the United States
15 Postal Service offer one of the most convenient means for
16 collecting and destroying home-generated sharps and that the
17 cooperative efforts of the pharmaceutical industry is needed to
18 develop a safe needle disposal system for California.
19 SEC. 2. Section 119404 is added to the Health and Safety Code,
20 to read:
21 119404. (a) Every pharmaceutical company whose product is
22 dispensed through a prefilled syringe, prefilled pen needle, or other
23 prefilled injection device shall provide each person for whom the
24 product is prescribed in this state with a method described in this
25 section to safely dispose of the syringe, pen needle, or other
26 injection device. If the person receives this syringe, pen needle,
27 or other injection device as part of a patient starter kit, the
28 pharmaceutical company shall make available to the person, at no
29 additional charge, a postage prepaid, mail-back sharps container
30 by including this container or a coupon for this container in the
31 patient starter kit or by providing the person with a distribution
32 point chosen by the pharmaceutical company. The pharmaceutical
33 company shall also make available, at no additional charge and
34 through an annually renewable program, postage prepaid, mail-back
35 sharps containers to any person who uses this pharmaceutical
36 company's product.
37 (b) For purposes of this section, the following definitions shall
38 apply:

(1) "Coupon" means any written material that allows a person who uses a pharmaceutical company's product pursuant to a prescription to receive a postage prepaid, mail-back sharps container from a distribution point chosen by the pharmaceutical company.

(2) "Patient starter kit" means a package of educational, training, or otherwise instructional materials prepared by, or on behalf of, the pharmaceutical company to educate a person on how to safely use the pharmaceutical company's self-injectable pharmaceutical product.

(3) "Sharps container" has the same meaning as in Section 117750.

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AMENDED IN ASSEMBLY MARCH 28, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 543

Introduced by Assembly Member Plescia
(Coauthor: Assembly Member Jones)

February 21, 2007

An act to amend Sections 2472 and 4190 of the Business and Professions Code, to amend Sections 1204, 1206, 1214.1, 1226, 1226.5, 1233, 1242, and 1248.1 of, and to add Section ~~1204.2~~ *1212.5* to, the Health and Safety Code, and to amend Section 139.3 of the Labor Code, relating to health clinics.

LEGISLATIVE COUNSEL'S DIGEST

AB 543, as amended, Plescia. Ambulatory surgical centers: licensure.

Existing law, with certain exceptions, provides for the licensure and regulation of health facilities and clinics, including specialty clinics, by the State Department of Health Services. Existing law defines a specialty clinic to include a surgical clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain less than 24 hours. A violation of these provisions is a crime. *Effective July 1, 2007, these duties will be transferred to the State Department of Public Health.*

This bill would redesignate a surgical clinic as an ambulatory surgical center for purposes of these licensure and regulatory requirements and would make various conforming changes.

This bill would ~~also require the department to issue or renew an ambulatory surgical center license upon submission of a specified accreditation or, if the applicant chooses to participate in the Medicare Program, a specified certification, but would exempt certain licensees~~

~~from this requirement until January 1, 2013~~ *require, on or after January 1, 2008, any person, firm, association, partnership, or corporation desiring a license for an ambulatory surgical center, in addition to other prescribed licensing requirements, to meet prescribed operational, staffing, and procedural standards. The bill would require the department to perform initial inspections of an ambulatory surgical center within 45 calendar days of the date of an application, and to perform periodic inspections at least once every 3 years thereafter. The bill would specify that, on and after January 1, 2008, surgical clinics that have licenses issued prior to that date, shall not be subject to those additional requirements for ambulatory surgical centers until January 1, 2013. The bill would prohibit the department from issuing any new surgical clinic licenses on or after January 1, 2008.*

The bill would require the department, until January 1, 2015, contingent upon an appropriation in the annual Budget Act, to establish a program for the training of ambulatory surgical center inspection personnel, and to prepare a comprehensive report on the training program, as provided. By imposing new licensure requirements on ambulatory surgical centers, a 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.

~~This bill would also permit the department to make inspections and investigations of ambulatory surgical centers, as necessary.~~

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 2472 of the Business and Professions
2 Code is amended to read:
3 2472. (a) The certificate to practice podiatric medicine
4 authorizes the holder to practice podiatric medicine.
5 (b) As used in this chapter, "podiatric medicine" means the
6 diagnosis, medical, surgical, mechanical, manipulative, and
7 electrical treatment of the human foot, including the ankle and

tendons that insert into the foot and the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot.

(c) A doctor of podiatric medicine may not administer an anesthetic other than local. If an anesthetic other than local is required for any procedure, the anesthetic shall be administered by another licensed health care practitioner who is authorized to administer the required anesthetic within the scope of his or her practice.

(d) (1) A doctor of podiatric medicine who is ankle certified by the board on and after January 1, 1984, may do the following:

(A) Perform surgical treatment of the ankle and tendons at the level of the ankle pursuant to subdivision (e).

(B) Perform services under the direct supervision of a physician and surgeon, as an assistant at surgery, in surgical procedures that are otherwise beyond the scope of practice of a doctor of podiatric medicine.

(C) Perform a partial amputation of the foot no further proximal than the Chopart's joint.

(2) Nothing in this subdivision shall be construed to permit a doctor of podiatric medicine to function as a primary surgeon for any procedure beyond his or her scope of practice.

(e) A doctor of podiatric medicine may perform surgical treatment of the ankle and tendons at the level of the ankle only in the following locations:

(1) A licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

(2) A licensed ambulatory surgical center, as defined in Section 1204 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the ambulatory surgical center.

(3) An ambulatory surgical center that is certified to participate in the Medicare Program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the ambulatory surgical center.

(4) A freestanding physical plant housing outpatient services of a licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1). For purposes of this section, a "freestanding physical plant" means any building that is not physically attached to a building where inpatient services are provided.

(5) An outpatient setting accredited pursuant to subdivision (g) of Section 1248.1 of the Health and Safety Code.

(f) A doctor of podiatric medicine shall not perform an admitting history and physical examination of a patient in an acute care hospital where doing so would violate the regulations governing the Medicare Program.

(g) A doctor of podiatric medicine licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.

SEC. 2. Section 4190 of the Business and Professions Code is amended to read:

4190. (a) Notwithstanding any provision of this chapter, an ambulatory surgical center, licensed pursuant to ~~paragraph (1) of subdivision (b) of Section 1204~~ *Section 1212.5* of the Health and Safety Code, accredited by an accreditation agency as defined in Section 1248 of the Health and Safety Code, or certified to participate in the Medicare Program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, may purchase drugs at wholesale for administration or dispensing, under the direction of a physician, to patients registered for care at the center, as provided in subdivision (b). The center shall keep records of the kind and amounts of drugs purchased, administered, and dispensed, and the records shall be available and maintained for a minimum of three years for inspection by all properly authorized personnel.

(b) The drug distribution service of an ambulatory surgical center shall be limited to the use of drugs for administration to the patients of the ambulatory surgical center and to the dispensing of drugs for the control of pain and nausea for patients of the center. Drugs shall not be dispensed in an amount greater than that

required to meet the patient's needs for 72 hours. Drugs for administration shall be those drugs directly applied, whether by injection, inhalation, ingestion, or any other means, to the body of a patient for his or her immediate needs.

(c) No ambulatory surgical center shall operate without a license issued by the board nor shall it be entitled to the benefits of this section until it has obtained a license from the board. A separate license shall be required for each center location. A center shall notify the board of any change in the center's address on a form furnished by the board.

(d) Any proposed change in ownership or beneficial interest in the licensee shall be reported to the board, on a form to be furnished by the board, at least 30 days prior to the execution of any agreement to purchase, sell, exchange, gift or otherwise transfer any ownership or beneficial interest or prior to any transfer of ownership or beneficial interest, whichever occurs earlier.

SEC. 3. Section 1204 of the Health and Safety Code is amended to read:

1204. Clinics eligible for licensure pursuant to this chapter are primary care clinics and specialty clinics.

(a) (1) Only the following defined classes of primary care clinics shall be eligible for licensure:

(A) A "community clinic" means a clinic operated by a tax-exempt nonprofit corporation that is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic; provided, that the licensee of any community clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a community clinic.

(B) A "free clinic" means a clinic operated by a tax-exempt, nonprofit corporation supported in whole or in part by voluntary donations, bequests, gifts, grants, government funds or

contributions, that may be in the form of money, goods, or services. In a free clinic there shall be no charges directly to the patient for services rendered or for drugs, medicines, appliances, or apparatuses furnished. No corporation other than a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a free clinic; provided, that the licensee of any free clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a free clinic.

(2) Nothing in this subdivision shall prohibit a community clinic or a free clinic from providing services to patients whose services are reimbursed by third-party payers, or from entering into managed care contracts for services provided to private or public health plan subscribers, as long as the clinic meets the requirements identified in subparagraphs (A) and (B). For purposes of this subdivision, any payments made to a community clinic by a third-party payer, including, but not limited to, a health care service plan, shall not constitute a charge to the patient. This paragraph is a clarification of existing law.

(b) The following types of specialty clinics shall be eligible for licensure as specialty clinics pursuant to this chapter:

(1) An "ambulatory surgical center" means a clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain less than 24 hours. An ambulatory surgical center does not include any place or establishment owned or leased and operated as a clinic or office by one or more physicians or dentists in individual or group practice, regardless of the name used publicly to identify the place or establishment, provided, however, that physicians or dentists may, at their option, apply for licensure.

(2) A "chronic dialysis clinic" means a clinic that provides less than 24-hour care for the treatment of patients with end-stage renal disease, including renal dialysis services.

(3) A "rehabilitation clinic" means a clinic that, in addition to providing medical services directly, also provides physical rehabilitation services for patients who remain less than 24 hours. Rehabilitation clinics shall provide at least two of the following

rehabilitation services: physical therapy, occupational therapy, social, speech pathology, and audiology services. A rehabilitation clinic does not include the offices of a private physician in individual or group practice.

(4) An "alternative birth center" means a clinic that is not part of a hospital and that provides comprehensive perinatal services and delivery care to pregnant women who remain less than 24 hours at the facility.

~~SEC. 4. Section 1204.2 is added to the Health and Safety Code, to read:~~

~~1204.2. (a) Notwithstanding Section 1248, the department shall issue or renew an ambulatory surgical center license upon submission of documentation that the applicant has an accreditation by an accreditation agency, as defined in Section 1248, and, if the applicant chooses to participate in the Medicare Program, a certification to participate in the Medicare Program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act.~~

~~(b) Notwithstanding subdivision (a), and until January 1, 2013, an ambulatory surgical center that has a valid, unrevoked, surgical clinic license issued prior to December 31, 2007, shall be subject to the licensure requirements for a surgical clinic in effect prior to January 1, 2008.~~

~~(c) The department may make inspections and investigations as it deems necessary to investigate complaints, follow up on adverse survey findings, or conduct periodic validation surveys.~~

~~SEC. 5.~~

SEC. 4. Section 1206 of the Health and Safety Code is amended to read:

1206. This chapter does not apply to the following:

(a) Except with respect to the option provided with regard to ambulatory surgical centers described in paragraph (1) of subdivision (b) of Section 1204 and further, with respect to chronic dialysis clinics described in paragraph (2) of subdivision (b) of Section 1204, any place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify the place or establishment.

(b) Any clinic directly conducted, maintained, or operated by the United States or by any of its departments, officers, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 that is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. Nothing in this subdivision precludes the department from adopting regulations that utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.

(c) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 450b or 1603 of Title 25 of the United States Code, that is located on land recognized as tribal land by the federal government.

(d) Clinics conducted, operated, or maintained as outpatient departments of hospitals.

(e) Any facility licensed as a health facility under Chapter 2 (commencing with Section 1250).

(f) Any freestanding clinical or pathological laboratory licensed under Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(g) A clinic operated by, or affiliated with, any institution of learning that teaches a recognized healing art and is approved by the state board or commission vested with responsibility for regulation of the practice of that healing art.

(h) A clinic that is operated by a primary care community or free clinic and that is operated on separate premises from the licensed clinic and is only open for limited services of no more than 20 hours a week. An intermittent clinic as described in this subdivision shall, however, meet all other requirements of law, including administrative regulations and requirements, pertaining to fire and life safety.

(i) The offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340).

(j) Student health centers operated by public institutions of higher education.

(k) Nonprofit speech and hearing centers, as defined in Section 1201.5. Any nonprofit speech and hearing clinic desiring an

exemption under this subdivision shall make application therefor to the director, who shall grant the exemption to any facility meeting the criteria of Section 1201.5. Notwithstanding the licensure exemption contained in this subdivision, a nonprofit speech and hearing center shall be deemed to be an organized outpatient clinic for purposes of qualifying for reimbursement as a rehabilitation center under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(*l*) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, that conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic.

(m) Any clinic, limited to in vivo diagnostic services by magnetic resonance imaging functions or radiological services under the direct and immediate supervision of a physician and surgeon who is licensed to practice in California. This shall not be construed to permit cardiac catheterization or any treatment modality in these clinics.

(n) A clinic operated by an employer or jointly by two or more employers for their employees only, or by a group of employees, or jointly by employees and employers, without profit to the operators thereof or to any other person, for the prevention and treatment of accidental injuries to, and the care of the health of, the employees comprising the group.

(o) A community mental health center, as defined in Section 5667 of the Welfare and Institutions Code.

(p) (1) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, as an entity organized and operated exclusively for scientific and charitable purposes and that satisfied all of the following requirements on or before January 1, 2005:

(A) Commenced conducting medical research on or before January 1, 1982, and continues to conduct medical research.

(B) Conducted research in, among other areas, prostatic cancer, cardiovascular disease, electronic neural prosthetic devices, biological effects and medical uses of lasers, and human magnetic resonance imaging and spectroscopy.

(C) Sponsored publication of at least 200 medical research articles in peer-reviewed publications.

(D) Received grants and contracts from the National Institutes of Health.

(E) Held and licensed patents on medical technology.

(F) Received charitable contributions and bequests totaling at least five million dollars ($5,000,000).

(G) Provides health care services to patients only:

(i) In conjunction with research being conducted on procedures or applications not approved or only partially approved for payment (I) under the Medicare Program pursuant to Section 1395y(a)(1)(A) of Title 42 of the United States Code, or (II) by a health care service plan registered under Chapter 2.2 (commencing with Section 1340), or a disability insurer regulated under Chapter 1 (commencing with Section 10110) of Part 2 of Division 2 of the Insurance Code; provided that services may be provided by the clinic for an additional period of up to three years following the approvals, but only to the extent necessary to maintain clinical expertise in the procedure or application for purposes of actively providing training in the procedure or application for physicians and surgeons unrelated to the clinic.

(ii) Through physicians and surgeons who, in the aggregate, devote no more than 30 percent of their professional time for the entity operating the clinic, on an annual basis, to direct patient care activities for which charges for professional services are paid.

(H) Makes available to the public the general results of its research activities on at least an annual basis, subject to good faith protection of proprietary rights in its intellectual property.

(I) Is a freestanding clinic, whose operations under this subdivision are not conducted in conjunction with any affiliated or associated health clinic or facility defined under this division, except a clinic exempt from licensure under subdivision (m). For purposes of this subparagraph, a freestanding clinic is defined as "affiliated" only if it directly, or indirectly through one or more

intermediaries, controls, or is controlled by, or is under common control with, a clinic or health facility defined under this division, except a clinic exempt from licensure under subdivision (m). For purposes of this subparagraph, a freestanding clinic is defined as "associated" only if more than 20 percent of the directors or trustees of the clinic are also the directors or trustees of any individual clinic or health facility defined under this division, except a clinic exempt from licensure under subdivision (m). Any activity by a clinic under this subdivision in connection with an affiliated or associated entity shall fully comply with the requirements of this subdivision. This subparagraph shall not apply to agreements between a clinic and any entity for purposes of coordinating medical research.

(2) By January 1, 2007, and every five years thereafter, the Legislature shall receive a report from each clinic meeting the criteria of this subdivision and any other interested party concerning the operation of the clinic's activities. The report shall include, but not be limited to, an evaluation of how the clinic impacted competition in the relevant health care market, and a detailed description of the clinic's research results and the level of acceptance by the payer community of the procedures performed at the clinic. The report shall also include a description of procedures performed both in clinics governed by this subdivision and those performed in other settings. The cost of preparing the reports shall be borne by the clinics that are required to submit them to the Legislature pursuant to this paragraph.

SEC. 5. Section 1212.5 is added to the Health and Safety Code, to read:

1212.5. (a) On or after January 1, 2008, in addition to other licensing requirements of this chapter, any person, firm, association, partnership, or corporation desiring a license for an ambulatory surgical center shall meet the following standards:

(1) Comply with the Medicare conditions of coverage for ambulatory surgical centers, as set forth in Subpart C of Part 416 of Title 42 of the Code of Federal Regulations, as those regulations existed on January 1, 2007.

(2) Limit surgical procedures to those that:

(A) Do not generally exceed an average of four hours of total operating time.

(B) Do not result in extensive blood loss.

(C) Do not require major or prolonged invasion of body cavities.

(D) Do not directly involve major blood vessels.

(F) Are not emergency or life threatening in nature.

(3) Establish and implement policies and procedures consistent with the Medicare conditions of coverage set forth in Subpart C of Part 416 of Title 42 of the Code of Federal Regulations, as those regulations existed on January 1, 2007, including, but not limited to:

(A) Physician services policies and procedures, including surgical and anesthesia services.

(B) Nursing services policies and procedures.

(C) Infection control policies and procedures.

(D) Pharmaceutical services policies and procedures.

(E) Housekeeping services policies and procedures which include provisions for maintenance of a safe and clean environment.

(F) Laboratory and radiology services.

(G) Patient health records policies and procedures, which shall be developed with the assistance of a person skilled in record maintenance and preservations.

(H) Personnel policies and procedures.

(b) The department shall perform initial inspections of an ambulatory surgical center within 45 calendar days of the date of an application, and periodic inspections shall occur at least once every three years thereafter.

(c) The department may contract for outside personnel to perform inspections of ambulatory surgical centers for compliance with state licensing standards, as necessary, in a manner consistent with the inspections conducted by the department pursuant to Section 1228.

(d) Surgical clinic licenses issued by the department pursuant to paragraph (1) of subdivision (b) of Section 1204 prior to January 1, 2008, shall on or after January 1, 2008, not be subject to the requirements set forth in paragraph (1) of subdivision (a) until January 1, 2013, and an applicant to which this subdivision applies shall be issued an ambulatory surgical center license upon submission of documentation to the department that the applicant has met the requirements set for in paragraph (1) of subdivision (a) and surrenders the license issued by the department as a surgical clinic.

(e) On or after January 1, 2008, the department shall not issue any new surgical clinic licenses.

(f) Contingent upon an appropriation in the annual Budget Act, the department shall until January 1, 2015, establish a program for training of ambulatory surgical center inspection personnel. The goal of this program shall be to provide a sufficient number of qualified persons to facilitate the timely performance of the department's duties and responsibilities relating to initial and periodic licensing inspections of ambulatory surgical centers, in order to ensure compliance with this chapter.

(g) (1) The department shall prepare a comprehensive report on the training program setting forth its goals, objectives, and structure. The report shall assess processing time for initial and periodic licensing inspections of ambulatory surgical centers and include information on all of the following:

(A) The number of ambulatory surgical center inspection personnel to be trained annually.

(B) A timeline for completion of training.

(C) A process for gathering information to evaluate the training programs efficiency that includes dropout and retention rates.

(D) A mechanism to annually assess the need for the training program to continue.

(2) The report required by paragraph (1) shall be submitted to the Joint Legislative Budget Committee no later than February 1, 2008, and no later than February 1 of each year thereafter, through February 1, 2014.

SEC. 6. Section 1214.1 of the Health and Safety Code is amended to read:

1214.1. Notwithstanding the provisions of Section 1214, each application for an ambulatory surgical center or a chronic dialysis clinic under this chapter for an initial license, renewal license, license upon change of ownership, or special permit shall be accompanied by an annual Licensing and Certification Program fee set in accordance with Section 1266.

SEC. 7. Section 1226 of the Health and Safety Code is amended to read:

1226. (a) The regulations shall prescribe the kinds of services which may be provided by clinics in each category of licensure and shall prescribe minimum standards of adequacy, safety, and sanitation of the physical plant and equipment, minimum standards

for staffing with duly qualified personnel, and minimum standards for providing the services offered. These minimum standards shall be based on the type of facility, the needs of the patients served, and the types and levels of services provided.

(b) The Office of Statewide Health Planning and Development, in consultation with the Community Clinics Advisory Committee, shall prescribe minimum construction standards of adequacy and safety for the physical plant of clinics as found in the California Building Standards Code.

(c) A city or county, as applicable, shall have plan review and building inspection responsibilities for the construction or alteration of buildings described in paragraph (1) and paragraph (2) of subdivision (b) of Section 1204 and shall apply the provisions of the latest edition of the California Building Standards Code in conducting these plan review responsibilities. For these buildings, construction and alteration shall include conversion of a building to a purpose specified in paragraphs (1) and (2) of subdivision (b) of Section 1204.

Upon the initial submittal to a city or county by the governing authority or owner of these clinics for plan review and building inspection services, the city or county shall reply in writing to the clinic whether or not the plan review by the city or county will include a certification as to whether or not the clinic project submitted for plan review meets the standards as propounded by the office in the California Building Standards Code.

If the city or county indicates that its review will include this certification it shall do all of the following:

(1) Apply the applicable clinic provisions of the latest edition of the California Building Standards Code.

(2) Certify in writing, to the applicant within 30 days of completion of construction whether or not these standards have been met.

(d) If upon initial submittal, the city or county indicates that its plan review will not include this certification, the governing authority or owner of the clinic shall submit the plans to the Office of Statewide Health Planning and Development which shall review the plans for certification whether or not the clinic project meets the standards, as propounded by the office in California Building Standards Code.

(e) When the office performs review for certification, the office shall charge a fee in an amount that does not exceed its actual costs.

(f) The office of the State Fire Marshal shall prescribe minimum safety standards for fire and life safety in ambulatory surgical centers.

(g) Notwithstanding subdivision (c), the governing authority or owner of a clinic may request the office to perform plan review services for buildings described in subdivision (c). If the office agrees to perform these services, after consultation with the local building official, the office shall charge an amount not to exceed its actual costs. The construction or alteration of these buildings shall conform to the applicable provisions of the latest edition of the California Building Standards Code for purposes of the plan review by the office pursuant to this subdivision.

(h) Regulations adopted pursuant to this chapter establishing standards for laboratory services shall not be applicable to any clinic that operates a clinical laboratory licensed pursuant to Section 1265 of the Business and Professions Code.

SEC. 8. Section 1226.5 of the Health and Safety Code is amended to read:

1226.5. (a) It is the intent of the Legislature to establish seismic safety standards for facilities licensed as ambulatory surgical centers pursuant to this chapter, and for facilities certified for participation in the federal Medicare Program as ambulatory surgical centers, which accommodate surgical patients under general anesthesia, but are not required to remain open and usable after an earthquake to accommodate emergency patients.

(b) A facility described in subdivision (a) which, after January 1, 1991, anchors fixed medical equipment to the floor or roof of the facility with a gross operating weight of more than 400 pounds or anchors fixed medical equipment to the walls or ceiling with a gross operating weight of more than 20 pounds shall retain the services of an architect licensed in California, a structural engineer licensed in California, or a civil engineer registered in California to assure that the equipment is anchored in such a manner to meet the requirements of an occupancy importance factor of 1.00, as set forth in Title 24 of the California Code of Regulations.

(c) A facility described in subdivision (a) which retains the services of an architect or engineer for the anchorage of fixed

medical equipment shall keep available for inspection by the department for a period of five years following the installation, a current written certification from the architect or engineer that the equipment is mounted in accordance with the applicable requirements.

SEC. 9. Section 1233 of the Health and Safety Code is amended to read:

1233. An ambulatory surgical center may restrict use of its facilities to members of the medical staff of the ambulatory surgical center and other physicians and surgeons approved by the medical staff to practice at the center.

SEC. 10. Section 1242 of the Health and Safety Code is amended to read:

1242. The director may temporarily suspend any license issued to a specialty clinic or special permit prior to any hearing, when in his or her opinion this action is necessary to protect the public welfare. The director shall notify the licensee or holder of a special permit of the temporary suspension and the effective date thereof, and at the same time shall serve such provider with an accusation. Upon receipt of a notice of defense by the licensee or holder of a special permit, the director shall set the matter for hearing within 30 days after receipt of such notice. The temporary suspension shall remain in effect until the time when the hearing is completed and the director has made a final determination on the merits; provided, however, that the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

If the provisions of this chapter or the rules or regulations promulgated by the director are violated by a licensed ambulatory surgical center or chronic dialysis clinic or holder of a special permit which is a group, corporation, or other association, the director may suspend the license or special permit of the organization or may suspend the license or special permit as to any individual person within the organization who is responsible for the violation.

SEC. 11. Section 1248.1 of the Health and Safety Code is amended to read:

1248.1. No association, corporation, firm, partnership, or person shall operate, manage, conduct, or maintain an outpatient setting in this state, unless the setting is one of the following:

(a) An ambulatory surgical center that is certified to participate in the Medicare Program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act.

(b) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 450 or 1601 of Title 25 of the United States Code, and located on land recognized as tribal land by the federal government.

(c) Any clinic directly conducted, maintained, or operated by the United States or by any of its departments, officers, or agencies.

(d) Any primary care clinic licensed under subdivision (a) of Section 1204 or any ambulatory surgical center licensed under subdivision (b) of Section 1204.

(e) Any health facility licensed as a general acute care hospital under Chapter 2 (commencing with Section 1250).

(f) Any outpatient setting to the extent that it is used by a dentist or physician and surgeon in compliance with Article 2.7 (commencing with Section 1646) or Article 2.8 (commencing with Section 1647) of Chapter 4 of Division 2 of the Business and Professions Code.

(g) An outpatient setting accredited by an accreditation agency approved by the division pursuant to this chapter.

(h) A setting, including, but not limited to, a mobile van, in which equipment is used to treat patients admitted to a facility described in subdivision (a), (d), or (e), and in which the procedures performed are staffed by the medical staff of, or other health care practitioners with clinical privileges at, the facility and are subject to the peer review process of the facility but which setting is not a part of a facility described in subdivision (a), (d), or (e).

Nothing in this section shall relieve an association, corporation, firm, partnership, or person from complying with all other provisions of law that are otherwise applicable.

SEC. 12. Section 139.3 of the Labor Code is amended to read:

139.3. (a) Notwithstanding any other provision of law, to the extent those services are paid pursuant to Division 4 (commencing with Section 3200), it is unlawful for a physician to refer a person for clinical laboratory, diagnostic nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, outpatient surgery, or diagnostic imaging goods or services, whether for treatment or medical-legal purposes, if the physician, or his or her immediate family, has a

financial interest with the person or in the entity that receives the referral.

(b) For purposes of this section and Section 139.31, the following shall apply:

(1) "Diagnostic imaging" includes, but is not limited to, all X-ray, computed axial tomography magnetic resonance imaging, nuclear medicine, positron emission tomography, mammography, and ultrasound goods and services.

(2) "Immediate family" includes the spouse and children of the physician, the parents of the physician, and the spouses of the children of the physician.

(3) "Physician" means a physician as defined in Section 3209.3.

(4) A "financial interest" includes, but is not limited to, any type of ownership, interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between a licensee and a person or entity to whom the physician refers a person for a good or service specified in subdivision (a). A financial interest also exists if there is an indirect relationship between a physician and the referral recipient, including, but not limited to, an arrangement whereby a physician has an ownership interest in any entity that leases property to the referral recipient. Any financial interest transferred by a physician to, or otherwise established in, any person or entity for the purpose of avoiding the prohibition of this section shall be deemed a financial interest of the physician.

(5) A "physician's office" is either of the following:

(A) An office of a physician in solo practice.

(B) An office in which the services or goods are personally provided by the physician or by employees in that office, or personally by independent contractors in that office, in accordance with other provisions of law. Employees and independent contractors shall be licensed or certified when that licensure or certification is required by law.

(6) The "office of a group practice" is an office or offices in which two or more physicians are legally organized as a partnership, professional corporation, or not-for-profit corporation licensed according to subdivision (a) of Section 1204 of the Health and Safety Code for which all of the following are applicable:

(A) Each physician who is a member of the group provides substantially the full range of services that the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel.

(B) Substantially all of the services of the physicians who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group, and except that in the case of multispecialty clinics, as defined in subdivision (*l*) of Section 1206 of the Health and Safety Code, physician services are billed in the name of the multispecialty clinic and amounts so received are treated as receipts of the multispecialty clinic.

(C) The overhead expenses of, and the income from, the practice are distributed in accordance with methods previously determined by members of the group.

(7) Outpatient surgery includes both of the following:

(A) Any procedure performed on an outpatient basis in the operating rooms, ambulatory surgery rooms, endoscopy units, cardiac catheterization laboratories, or other sections of a freestanding ambulatory surgical center, whether or not licensed under paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code.

(B) The ambulatory surgery itself.

(c) (1) It is unlawful for a licensee to enter into an arrangement or scheme, such as a cross-referral arrangement, that the licensee knows, or should know, has a principal purpose of ensuring referrals by the licensee to a particular entity that, if the licensee directly made referrals to that entity, would be in violation of this section.

(2) It shall be unlawful for a physician to offer, deliver, receive, or accept any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for a referred evaluation or consultation.

(d) No claim for payment shall be presented by an entity to any individual, third-party payer, or other entity for any goods or services furnished pursuant to a referral prohibited under this section.

(e) A physician who refers to or seeks consultation from an organization in which the physician has a financial interest shall disclose this interest to the patient or if the patient is a minor, to the patient's parents or legal guardian in writing at the time of the referral.

(f) No insurer, self-insurer, or other payer shall pay a charge or lien for any goods or services resulting from a referral in violation of this section.

(g) A violation of subdivision (a) shall be a misdemeanor. The appropriate licensing board shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate disciplinary action if the licensee has committed unprofessional conduct. Violations of this section may also be subject to civil penalties of up to five thousand dollars ($5,000) for each offense, which may be enforced by the Insurance Commissioner, Attorney General, or a district attorney. A violation of subdivision (c), (d), (e), or (f) is a public offense and is punishable upon conviction by a fine not exceeding fifteen thousand dollars ($15,000) for each violation and appropriate disciplinary action, including revocation of professional licensure, by the Medical Board of California or other appropriate governmental agency.

SEC. 13. 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 the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CORRECTIONS:

Digest—Page 2.

Text—Page 13.

O

ASSEMBLY BILL No. 851

Introduced by Assembly Member Brownley

February 22, 2007

An act to amend Section 4074 of the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 851, as introduced, Brownley. Prescription drugs: informational insert.

Existing law, the Pharmacy Law, the knowing violation of which is a crime, provides for the licensing and regulation of the practice of pharmacy by the California Board of Pharmacy, in the Department of Consumer Affairs. Existing law requires a pharmacist to inform a patient orally or in writing of the harmful effects of a drug dispensed by prescription if the drug poses substantial risk to the person consuming the drug when taken in combination with alcohol, as specified.

This bill would require a pharmacist to include a large print informational insert with any dispensed prescription that poses substantial risk when taken in combination with alcohol or other medications, warning of the risks involved, as specified. 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:

1 SECTION 1. Section 4074 of the Business and Professions
2 Code is amended to read:
3 4074. (a) A pharmacist shall inform a patient orally or in
4 writing of the harmful effects of a drug dispensed by prescription
5 if the drug ~~poses substantial risk to the person consuming the drug~~
6 ~~when taken in combination with alcohol or if the drug~~ may impair
7 a person's ability to drive a motor vehicle~~, whichever is applicable,~~
8 and provided *that* the drug is determined by the board ~~pursuant to~~
9 ~~subdivision (b)~~ to be a drug or drug type for which this warning
10 shall be given.
11 *(b) A pharmacist shall include a large print informational insert*
12 *with any prescription drug dispensed that poses substantial risk*
13 *to the person consuming the drug when taken in combination with*
14 *alcohol or other medications, including prescription drugs and*
15 *over-the-counter drugs, provided that the drug is determined by*
16 *the board pursuant to subdivision (c) to be a drug or drug type for*
17 *which this warning is appropriate. The insert itself shall warn the*
18 *patient of the specific risk involved and may not satisfy this*
19 *requirement by reference to an outside source of information, such*
20 *as an Internet Web site.*
21 ~~(b)~~
22 *(c)* The board may by regulation require additional information
23 or labeling.
24 ~~(c)~~
25 *(d)* This section shall not apply to drugs furnished to patients
26 in conjunction with treatment or emergency services provided in
27 health facilities or, except as provided in subdivision ~~(d)~~ *(e)*, to
28 drugs furnished to patients pursuant to subdivision (a) of Section
29 4056.
30 ~~(d)~~
31 *(e)* A health facility shall establish and implement a written
32 policy to ensure that each patient shall receive information
33 regarding each medication given at the time of discharge and each
34 medication given pursuant to subdivision (a) of Section 4056. This
35 information shall include the use and storage of each medication,

the precautions and relevant warnings, and the importance of compliance with directions. This information shall be given by a pharmacist or registered nurse, unless already provided by a patient's prescriber, and the written policy shall be developed in collaboration with a physician, a pharmacist, and a registered nurse. The written policy shall be approved by the medical staff. Nothing in this subdivision or any other provision of law shall be construed to require that only a pharmacist provide this consultation.

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

O

ASSEMBLY BILL No. 865

Introduced by Assembly Member Davis

February 22, 2007

An act to amend Section 11022 of the Government Code, relating to state agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 865, as introduced, Davis. State agencies: live customer service agents.

Existing law requires each state agency to establish a procedure whereby incoming telephone calls on any public line shall be answered within 10 rings during regular business hours, subject to certain exceptions.

This bill would require each state agency to answer an incoming call with a live customer service agent, subject to certain exceptions.

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

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

SECTION 1. Section 11022 of the Government Code is amended to read:

11022. Each state agency shall establish a procedure pursuant to which incoming telephone calls on any public line shall be answered *by a live customer service agent* within 10 rings during regular business hours as set forth in Section 11020, except ~~where~~ *when* emergency or illness ~~require~~ *requires* adjustments to normal staffing levels. ~~This requirement shall be met in every office where~~

1 ~~staff is available, unless compliance would require overtime or~~
2 ~~compensating time off.~~

O

ASSEMBLY BILL No. 1025

Introduced by Assembly Member Bass

February 22, 2007

An act to amend Sections 480, 485, 490, and 491 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1025, as introduced, Bass. Professions and vocations: denial of licensure.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny licensure on certain bases, including an applicant's conviction of a crime regardless of whether the conviction has been dismissed on specified grounds, an applicant's performance of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another or to substantially injure another, or an applicant's performance of any act that would be grounds for suspension or revocation of the license. Existing law requires a board that denies an application for licensure to provide the applicant with notice of the denial, as specified. Existing law authorizes a board to suspend or revoke a license on the basis that a licensee has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued, regardless of whether the conviction has been dismissed on specified grounds, and requires the board to provide the ex-licensee with certain information upon doing so.

This bill would provide that a person may not be denied licensure or have his or her license suspended or revoked based on a criminal

conviction that has been dismissed on specified grounds. The bill would also provide that an arrest more than one year old does not constitute grounds for denial of a license pursuant to the above provisions if no disposition is reported. This bill would require the board to provide an applicant or ex-licensee whose application has been denied or whose license has been suspended or revoked based upon a crime with a copy of the criminal history record information relied upon in making the determination, as specified.

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. Section 480 of the Business and Professions Code
2 is amended to read:
3 480. (a) A board may deny a license regulated by this code
4 on the grounds that the applicant has *done* one of the following:
5 (1) Been convicted of a crime. A conviction within the meaning
6 of this section means a plea or verdict of guilty or a conviction
7 following a plea of nolo contendere. Any action which a board is
8 permitted to take following the establishment of a conviction may
9 be taken when the time for appeal has elapsed, or the judgment of
10 conviction has been affirmed on appeal, or when an order granting
11 probation is made suspending the imposition of sentence~~,~~
12 ~~irrespective of a subsequent order under the provisions of Section~~
13 ~~1203.4 of the Penal Code~~.
14 (2) Done any act involving dishonesty, fraud or deceit with the
15 intent to substantially benefit himself or another, or substantially
16 injure another; or
17 (3) Done any act which if done by a licentiate of the business
18 or profession in question, would be grounds for suspension or
19 revocation of license.
20 The board may deny a license pursuant to this subdivision only
21 if the crime or act is substantially related to the qualifications,
22 functions or duties of the business or profession for which
23 application is made.
24 (b) Notwithstanding any other provision of this code, no person
25 shall be denied a license solely on the basis that he *or she* has been
26 convicted of a felony if he *or she* has obtained a certificate of
27 rehabilitation under Section 4852.01 and following of the Penal

Code or that he *or she* has been convicted of a misdemeanor if he *or she* has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482. *In addition, no person shall be denied a license based on any criminal conviction that has been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.*

(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license.

(d) For purposes of this section, the term "act" does not include arrests more than one year old if no disposition is reported.

SEC. 2. Section 485 of the Business and Professions Code is amended to read:

485. Upon denial of an application for a license under this chapter or Section 496, the board shall do either of the following:

(a) File and serve a statement of issues in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Notify the applicant that the application is denied, stating (1) the reason for the denial, and (2) that the applicant has the right to a hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if written request for hearing is made within 60 days after service of the notice of denial. Unless written request for hearing is made within the 60-day period, the applicant's right to a hearing is deemed waived.

Service of the notice of denial may be made in the manner authorized for service of summons in civil actions, or by registered mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise. Service by mail is complete on the date of mailing.

If the denial of a license is due at least in part to the individual's state or federal criminal history record, the board shall include with the notice of denial a copy of the criminal history record relied upon in making the denial determination. The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice, and shall be sent to the address specified by the individual in his or

her application. The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the individual's record, and the criminal history information shall not be made available by the board to any employer.

SEC. 3. Section 490 of the Business and Professions Code is amended to read:

490. A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence~~, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.~~ *No license shall be suspended or revoked based on any criminal conviction that has been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.*

SEC. 4. Section 491 of the Business and Professions Code is amended to read:

491. Upon suspension or revocation of a license by a board on one or more of the grounds specified in Section 490, the board shall *do all of the following*:

(a) Send a copy of the provisions of Section 11522 of the Government Code to the ex-licensee.

(b) Send a copy of the criteria relating to rehabilitation formulated under Section 482 to the ex-licensee.

(c) Send a copy of the criminal history record relied upon in making the determination to suspend or revoke the license to the ex-licensee. The state or federal criminal history record information shall not be modified or altered from its form or content as provided by the Department of Justice, and shall be provided to the board's address of record of the ex-licensee. The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the individual's record,

1 *and the criminal history information shall not be made available*
2 *by the board to any employer.*

O

AMENDED IN ASSEMBLY MARCH 27, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 1137

Introduced by Assembly Member Eng

February 23, 2007

~~An act relating to special education.~~ *An act to amend Section 473.4 of the Business and Professions Code, relating to regulatory programs.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1137, as amended, Eng. ~~Special education: funding.~~ *Boards and commissions.*

Existing law creates various boards to license and regulate professions and vocations and other matters. Under existing law, the Joint Committee on Boards, Commissions, and Consumer Protection is required to determine if a public need exists for the continued existence of a board based on specified factors.

This bill would also require the committee to consider as a factor whether the functions of the board would be accomplished more effectively if the board were replaced by a single executive officer.

~~Existing law requires the Superintendent of Public Instruction, commencing with the 2004–05 fiscal year and each fiscal year thereafter, to make certain calculations for, and the State Department of Education to apportion certain amounts to, special education local plan areas with respect to children residing in certain licensed children's institutions.~~

~~This bill would declare the intent of the Legislature to amend those provisions of existing law to ensure that no school district is worse off financially than it was in the base fiscal year of 2002–03.~~

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

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

1 *SECTION 1. Section 473.4 of the Business and Professions*
2 *Code is amended to read:*
3 473.4. (a) The Joint Committee on Boards, Commissions, and
4 Consumer Protection shall evaluate and determine whether a board
5 or regulatory program has demonstrated a public need for the
6 continued existence of the board or regulatory program and for
7 the degree of regulation the board or regulatory program
8 implements based on the following factors and minimum standards
9 of performance:
10 (1) Whether regulation by the board is necessary to protect the
11 public health, safety, and welfare.
12 (2) Whether the basis or facts that necessitated the initial
13 licensing or regulation of a practice or profession have changed.
14 (3) Whether other conditions have arisen that would warrant
15 increased, decreased, or the same degree of regulation.
16 (4) If regulation of the profession or practice is necessary,
17 whether existing statutes and regulations establish the least
18 restrictive form of regulation consistent with the public interest,
19 considering other available regulatory mechanisms, and whether
20 the board rules enhance the public interest and are within the scope
21 of legislative intent.
22 (5) Whether the board operates and enforces its regulatory
23 responsibilities in the public interest and whether its regulatory
24 mission is impeded or enhanced by existing statutes, regulations,
25 policies, practices, or any other circumstances, including budgetary,
26 resource, and personnel matters.
27 (6) Whether an analysis of board operations indicates that the
28 board performs its statutory duties efficiently and effectively.
29 (7) Whether the composition of the board adequately represents
30 the public interest and whether the board encourages public
31 participation in its decisions rather than participation only by the
32 industry and individuals it regulates.
33 (8) Whether the board and its laws or regulations stimulate or
34 restrict competition, and the extent of the economic impact the
35 board's regulatory practices have on the state's business and
36 technological growth.
37 (9) Whether complaint, investigation, powers to intervene, and
38 disciplinary procedures adequately protect the public and whether

final dispositions of complaints, investigations, restraining orders, and disciplinary actions are in the public interest; or if it is, instead, self-serving to the profession, industry, or individuals being regulated by the board.

(10) Whether the scope of practice of the regulated profession or occupation contributes to the highest utilization of personnel and whether entry requirements encourage affirmative action.

(11) Whether administrative and statutory changes are necessary to improve board operations to enhance the public interest.

(12) Whether the functions of the board would be accomplished more effectively if the board were replaced by a single executive officer.

(b) The Joint Committee on Boards, Commissions, and Consumer Protection shall consider alternatives to placing responsibilities and jurisdiction of the board under the Department of Consumer Affairs.

(c) Nothing in this section precludes any board from submitting other appropriate information to the Joint Committee on Boards, Commissions, and Consumer Protection.

~~SECTION 1. It is the intent of the Legislature to amend certain provisions of Chapter 216 of the Statutes of 2004 (Senate Bill No. 1108), which, among other things, modified the way special education local plan areas were funded for special education pupils residing in licensed children's institutions, to ensure that no school district is worse off financially than it was in the base fiscal year of 2002–03.~~

O

ASSEMBLY BILL No. 1276

Introduced by Assembly Member Karnette

February 23, 2007

An act to amend Section 4076 of, and to add Section 4079 to, the Business and Professions Code, relating to pharmacies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1276, as introduced, Karnette. Pharmacies: prescription containers: labels.

Existing law, the Pharmacy Law, makes the California State Board of Pharmacy responsible for the regulation of the practice of pharmacy. Existing law generally makes it a misdemeanor to knowingly violate the Pharmacy Law.

The Pharmacy Law prohibits a pharmacist from dispensing a prescription except in a container that meets the requirements of state and federal law and is correctly labeled with, among other things, the condition for which the drug was prescribed if requested by the patient and if the condition is indicated on the prescription.

This bill would eliminate the labeling requirement pertaining to the condition for which the drug was prescribed, and would instead require the container to be labeled with the intended purpose, as defined, of the drug if indicated on the prescription. The bill would, except for veterinarians, require a person who is authorized to write or issue a prescription to ask the patient or his or her authorized representative whether to indicate the intended purpose of the prescription on the prescription's label.

Because the bill would specify additional requirements under the Pharmacy Law, the 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:

1 SECTION 1. Section 4076 of the Business and Professions
2 Code is amended to read:
3 4076. (a) A pharmacist shall not dispense any prescription
4 except in a container that meets the requirements of state and
5 federal law and is correctly labeled with all of the following:
6 (1) Except where the prescriber or the certified nurse-midwife
7 who functions pursuant to a standardized procedure or protocol
8 described in Section 2746.51, the nurse practitioner who functions
9 pursuant to a standardized procedure described in Section 2836.1,
10 or protocol, the physician assistant who functions pursuant to
11 Section 3502.1, the naturopathic doctor who functions pursuant
12 to a standardized procedure or protocol described in Section
13 3640.5, or the pharmacist who functions pursuant to a policy,
14 procedure, or protocol pursuant to either ~~subparagraph (D) of~~
15 ~~paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph~~
16 ~~(5) of, subdivision (a) of Section 4052~~ *paragraph (4) of subdivision*
17 *(a) of Section 4052.1 or paragraph (4) of subdivision (a) of Section*
18 *4052.2* orders otherwise, either the manufacturer's trade name of
19 the drug or the generic name and the name of the manufacturer.
20 Commonly used abbreviations may be used. Preparations
21 containing two or more active ingredients may be identified by
22 the manufacturer's trade name or the commonly used name or the
23 principal active ingredients.
24 (2) The directions for the use of the drug.
25 (3) The name of the patient or patients.
26 (4) The name of the prescriber or, if applicable, the name of the
27 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~~ *paragraph (4) of subdivision (a) of Section 4052.1 or paragraph (4) of subdivision (a) of Section 4052.2.*

(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 for which~~ *intended purpose of* the drug ~~was prescribed if requested by the patient and the condition is~~ *or drugs, if* indicated on the prescription. *As used in this section, "purpose" means a concise description of the symptom or symptoms that the drug is, or the drugs are, intended to treat.*

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

(i) Prescriptions dispensed by a veterinarian.

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

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

(B) This paragraph applies to outpatient pharmacies only.

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

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

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

(c) If a pharmacist dispenses a dangerous drug or device in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include on individual unit dose containers for a specific patient, 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~~ *paragraph (4) of subdivision (a) of Section 4052.1 or paragraph (4) of subdivision (a) of Section 4052.2*.

(d) If a pharmacist dispenses a prescription drug for use in a facility licensed pursuant to ~~Section 1250~~ *Chapter 2 (commencing with Section 1250) of Division 2* of the Health and Safety Code, it is not necessary to include the information required in paragraph (11) of subdivision (a) when the prescription drug is administered to a patient by a person licensed under the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), or the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840)), who is acting within his or her scope of practice.

SEC. 2. Section 4079 is added to the Business and Professions Code, to read:

4079. A person described in paragraph (2) of subdivision (a) of Section 4040 shall ask the patient, or the patient's authorized representative if the patient is either incapacitated or a minor who cannot provide informed consent, whether to indicate the intended

purpose of the prescription on the prescription's label. This section does not apply to prescriptions dispensed by veterinarians.

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

O

ASSEMBLY BILL No. 1399

Introduced by Assembly Member Richardson

February 23, 2007

An act to add Section 4076.5 to the Business and Professions Code, relating to pharmacies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1399, as introduced, Richardson. Pharmacies: prescription labels.

The existing Pharmacy Law provides for the licensing and regulation of the practice of pharmacy by the California State Board of Pharmacy. Existing law generally makes it a crime to knowingly violate the Pharmacy Law. The Pharmacy Law prohibits a pharmacist from dispensing a prescription except in a container that meets the requirements of state and federal law and is correctly labeled with specified information, including directions for use of the drug.

This bill would also require a prescription drug label, upon request of a blind or visually impaired customer, to be readable by an assistive technology device for the blind or visually impaired. 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:

1 SECTION 1. Section 4076.5 is added to the Business and
2 Professions Code, to read:
3 4076.5. Upon the request of a customer who is blind or visually
4 impaired, a pharmacist shall provide a prescription drug label that
5 is readable by an assistive technology device for the blind or
6 visually impaired.
7 SEC. 2. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

O

ASSEMBLY BILL No. 1587

Introduced by Assembly Member De La Torre

February 23, 2007

An act to amend Section 56.05 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

AB 1587, as introduced, De La Torre. Personal information: pharmacy.

The Confidentiality of Medical Information Act prohibits a provider of health care, a health care service plan, contractor, or corporation and its subsidiaries and affiliates from intentionally sharing, selling, using for marketing, or otherwise using any medical information, as defined, for any purpose not necessary to provide health care services to a patient, unless a specified exception applies. That law excludes from the definition of marketing communications that are for a specified descriptive purpose, that are tailored to the circumstances of a particular individual, or for which the communicator does not receive remuneration from a 3rd party, as specified.

This bill would additionally exclude from the definition of marketing a written communication or message provided to a pharmacy patient by a pharmacist or pharmacy personnel, as specified.

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

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

1 SECTION 1. Section 56.05 of the Civil Code is amended to
2 read:
3 56.05. For purposes of this part:
4 (a) "Authorization" means permission granted in accordance
5 with Section 56.11 or 56.21 for the disclosure of medical
6 information.
7 (b) "Authorized recipient" means any person who is authorized
8 to receive medical information pursuant to Section 56.10 or 56.20.
9 (c) "Contractor" means any person or entity that is a medical
10 group, independent practice association, pharmaceutical benefits
11 manager, or a medical service organization and is not a health care
12 service plan or provider of health care. "Contractor" does not
13 include insurance institutions as defined in subdivision (k) of
14 Section 791.02 of the Insurance Code or pharmaceutical benefits
15 managers licensed pursuant to the Knox-Keene Health Care Service
16 Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340)
17 of Division 2 of the Health and Safety Code).
18 (d) "Health care service plan" means any entity regulated
19 pursuant to the Knox-Keene Health Care Service Plan Act of 1975
20 (Chapter 2.2 (commencing with Section 1340) of Division 2 of
21 the Health and Safety Code).
22 (e) "Licensed health care professional" means any person
23 licensed or certified pursuant to Division 2 (commencing with
24 Section 500) of the Business and Professions Code, the Osteopathic
25 Initiative Act or the Chiropractic Initiative Act, or Division 2.5
26 (commencing with Section 1797) of the Health and Safety Code.
27 (f) "Marketing" means to make a communication about a
28 product or service that encourages recipients of the communication
29 to purchase or use the product or service.
30 "Marketing" does not include any of the following:
31 (1) Communications made orally or in writing for which the
32 communicator does not receive direct or indirect remuneration,
33 including, but not limited to, gifts, fees, payments, subsidies, or
34 other economic benefits, from a third party for making the
35 communication.
36 (2) Communications made to current enrollees solely for the
37 purpose of describing a provider's participation in an existing
38 health care provider network or health plan network of a

Knox-Keene licensed health plan to which the enrollees already subscribe; communications made to current enrollees solely for the purpose of describing if, and the extent to which, a product or service, or payment for a product or service, is provided by a provider, contractor, or plan or included in a plan of benefits of a Knox-Keene licensed health plan to which the enrollees already subscribe; or communications made to plan enrollees describing the availability of more cost-effective pharmaceuticals.

(3) Communications that are tailored to the circumstances of a particular individual to educate or advise the individual about treatment options, and otherwise maintain the individual's adherence to a prescribed course of medical treatment, as provided in Section 1399.901 of the Health and Safety Code, for a chronic and seriously debilitating or life-threatening condition as defined in subdivisions (d) and (e) of Section 1367.21 of the Health and Safety Code, if the health care provider, contractor, or health plan receives direct or indirect remuneration, including, but not limited to, gifts, fees, payments, subsidies, or other economic benefits, from a third party for making the communication, if all of the following apply:

(A) The individual receiving the communication is notified in the communication in typeface no smaller than 14-point type of the fact that the provider, contractor, or health plan has been remunerated and the source of the remuneration.

(B) The individual is provided the opportunity to opt out of receiving future remunerated communications.

(C) The communication contains instructions in typeface no smaller than 14-point type describing how the individual can opt out of receiving further communications by calling a toll-free number of the health care provider, contractor, or health plan making the remunerated communications. No further communication may be made to an individual who has opted out after 30 calendar days from the date the individual makes the opt out request.

(4) A written communication or message provided to a pharmacy patient during a face-to-face interaction with a pharmacist or pharmacy personnel, in conjunction with dispensing a prescription drug, if all of the following apply:

(A) The communication does not involve the sale or transfer of individually identifiable patient information by the pharmacy to any other entity.

(B) The communication, either in whole or in part, assists the pharmacist or pharmacy personnel in meeting the goals of Section 601 of Public Law 104-180 with respect to the transmittal of useful information regarding a prescription drug dispensed to the patient.

(C) The content of the communication provides information regarding any of the following:

(i) The dispensed drug or a disease or health condition for which the dispensed drug is indicated.

(ii) Another treatment or therapy for a disease or health condition for which the dispensed drug is indicated if that treatment or therapy has demonstrable benefits, including being less expensive, being more effective, having fewer or less serious side effects, or offering more convenient dosing than the dispensed drug.

(iii) A drug dispensed to the patient during the preceding three years or a disease or health condition for which that drug is indicated.

(iv) General information about a health condition for which the patient's disease or health condition puts the patient at risk and that, if left untreated, may result in worsening of the health, symptoms, or daily functioning of the patient.

(v) General information about a health condition for which the patient may be at risk given the age or gender of the patient and that, if left untreated, may result in worsening of the health, symptoms, or daily functioning of the patient.

(vi) The information described in clauses (iii) to (v), inclusive, shall not include any mention, by the proprietary name, brand name, or generic name, of a specific drug or other product, treatment, therapy, or service, other than the dispensed drug or a drug dispensed to the patient during the preceding three years.

(D) The pharmacist is available upon request of the patient to answer questions regarding the communication and the communication notifies the patient that he or she should consult a health care provider.

(E) If the communication is paid for, in whole or in part, by a manufacturer, distributor, or provider of a health care product or service, other than the pharmacy or a business associate of the

pharmacy, the communication shall comply with all of the following:

(i) The communication shall, in a clear written statement placed in a clear and conspicuous location, disclose the source of the sponsorship in a typeface no smaller than 14-point type.

(ii) If the communication is related to information referenced in clause (i) or (ii) of subparagraph (C) and mentions a prescription drug or other product, treatment, therapy, or service, other than the dispensed prescription drug, by its proprietary name, brand name, or generic name, the communication shall also contain the words "paid advertisement" in a typeface no smaller than 14-point type at the top of each sponsored message.

(iii) If any part of the sponsored message is printed on a page that is not contiguous with the page that bears the statement required by clause (ii), the part of the message on the noncontiguous page shall also contain the statement described in clause (ii).

(F) The communication contains instructions in a typeface no smaller than 14-point type describing how the patient can opt out of the portion of the communication that is paid for by a manufacturer, distributor, or provider of a health care product or service by calling a toll-free number. No further sponsored message may be made to an individual who has opted out after 30 calendar days from the date the individual makes the opt out request.

(g) "Medical information" means any individually identifiable information, in electronic or physical form, in possession of or derived from a provider of health care, health care service plan, pharmaceutical company, or contractor regarding a patient's medical history, mental or physical condition, or treatment. "Individually identifiable" means that the medical information includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient's name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the individual's identity.

(h) "Patient" means any natural person, whether or not still living, who received health care services from a provider of health care and to whom medical information pertains.

(i) "Pharmaceutical company" means any company or business, or an agent or representative thereof, that manufactures, sells, or distributes pharmaceuticals, medications, or prescription drugs. "Pharmaceutical company" does not include a pharmaceutical benefits manager, as included in subdivision (c), or a provider of health care.

(j) "Provider of health care" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code; any person licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act; any person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; any clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Provider of health care" does not include insurance institutions as defined in subdivision (k) of Section 791.02 of the Insurance Code.

O

SENATE BILL No. 472

Introduced by Senator Corbett

February 21, 2007

An act relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 472, as introduced, Corbett. Prescription drugs: labeling requirements.

Existing law, the Pharmacy Law, provides for the licensing and regulation of the practice of pharmacy by the California State Board of Pharmacy in the Department of Consumer Affairs. Existing law prohibits a pharmacist from dispensing a prescription except in a container that meets certain labeling requirements.

This bill would declare the intent of the Legislature to adopt a standard format for the labeling of prescription drug containers dispensed in the state, that would include regulations for the font size of printed words on the label and the placement of information of the prescription and would provide that translated prescription drug labels should be made available to the patient if the patient's primary language is not English.

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

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

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:
3 (a) Health care costs and spending in California are rising
4 dramatically and are expected to continue to increase.

(b) In California, prescription drug spending totaled over $188 billion in 2004, a $14 billion dollar per year spending increase since 1984.

(c) Prescription drug cost continues to be among the most significant cost factors in California's overall spending on health care.

(d) According to the Institution of Medicine of the National Academies, medication errors are among the most common medical errors, harming at least 1.5 million people every year.

(e) Up to one-half of all medications are taken incorrectly or mixed with other medications that cause dangerous reactions that can lead to injury and death.

(f) Approximately 46 percent of American adults cannot understand the label on their prescription medications.

(g) Ninety percent of Medicare patients take medications for chronic conditions and nearly one-half of them take five or more different medications.

(h) It is the intention of the Legislature to adopt a standard format for the labeling of prescription drug containers dispensed in the state. That would include regulations for the font size of printed words on the label and the placement of information of the prescription and would provide that translated prescription drug labels should be made available to the patient if the patient's primary language is not English.

O

AMENDED IN SENATE MARCH 27, 2007

SENATE BILL No. 615

Introduced by Senator Oropeza

February 22, 2007

An act to add Section 4410 to the Business and Professions Code, *and to amend Section 128345 of,* and to add Article ~~3 (commencing with Section 128199) to Chapter 3~~ *6 (commencing with Section 128560) to Chapter 5* of Part 3 of Division 107 of, the Health and Safety Code, relating to pharmacy technicians.

LEGISLATIVE COUNSEL'S DIGEST

SB 615, as amended, Oropeza. Pharmacy technicians: scholarship and loan repayment program.

(1) Existing law provides for the licensure and regulation of pharmacy technicians by the California State Board of Pharmacy. Existing law authorizes the imposition of *an annual license renewal fee upon pharmacies and* a biennial license renewal fee upon pharmacy technicians.

This bill would ~~authorize a pharmacy technician to make a $10 contribution at the time of renewing a license,~~ *require the board to collect an additional fee of $10 at the time a pharmacy license or pharmacy technician license is renewed* to be deposited in the California Pharmacy Technician Scholarship and Loan Repayment Program Fund.

(2) Existing law authorizes the Health Professions Education Foundation to implement specified loan repayment programs for nurses, mental health service providers, and physicians.

~~(2) Existing~~

Existing law establishes in the Office of Statewide Health Planning and Development the California Pharmacist Scholarship and Loan

Repayment Program to provide scholarships to pay for the educational expenses of pharmacy students and to repay qualifying educational loans of pharmacists who agree to serve in areas of the state where unmet priority needs exist, as specified. Existing law requires the office to administer the program utilizing the same general guidelines applicable to specified federal programs, with the exception that no matching funds shall be required from any entity in the practice site area.

This bill would establish the California Pharmacy Technician Scholarship and Loan Repayment Program to provide scholarships to pay for the educational expenses of pharmacy technician students and to repay qualifying educational loans of pharmacy technicians who agree to serve in areas of the state where unmet priority needs exist, as specified. The bill would require the ~~office~~ *Health Professions Education Foundation* to administer this program in the same manner as the program for pharmacists, including that no matching funds shall be required from any entity in the practice site area.

(3) Existing law establishes the California Pharmacist Scholarship and Loan Repayment Program Fund in the State Treasury, and requires that the moneys in the fund be available for expenditure, upon appropriation by the Legislature, for purposes of implementing the program. Existing law provides that the program shall be implemented only to the extent that sufficient moneys are available in the fund.

This bill would establish the California Pharmacy Technician Scholarship and Loan Repayment Program Fund, under the same terms and conditions, for purposes of implementing the program established by the bill.

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. Section 4410 is added to the Business and
2 Professions Code, to read:
3 4410. At the time a *pharmacy license is renewed pursuant to*
4 *subdivision (a) of Section 4110 or a* pharmacy technician license
5 is renewed pursuant to subdivision (r) of Section 4400, the
6 ~~pharmacy technician may make a contribution of ten dollars ($10),~~
7 ~~to be submitted to the board,~~ *board shall collect an additional fee*
8 *of ten dollars ($10) at the time of renewal* for the sole purpose of

1 funding the California Pharmacy Technician Scholarship and Loan
2 Repayment Program established pursuant to Article 3 (commencing
3 with Section 128199) of Chapter 3 of Part 3 of Division 107 of
4 the Health and Safety Code. The ~~contribution~~ *fee* submitted
5 pursuant to this section shall be paid into the State Treasury and
6 credited to the California Pharmacy Technician Scholarship and
7 Loan Repayment Program Fund established pursuant to Section
8 128199.5 of the Health and Safety Code.
9 *SEC. 2. Section 128345 of the Health and Safety Code is*
10 *amended to read:*
11 128345. The Health Professions Education Foundation may
12 do any of the following:
13 (a) Solicit and receive funds from business, industry,
14 foundations, and other private or public sources for the purpose
15 of providing financial assistance in the form of scholarships or
16 loans to African-American students, Native American students,
17 Hispanic-American students, and other students from
18 underrepresented groups. These funds shall be expended by the
19 office after transfer to the Health Professions Education Fund,
20 created pursuant to Section 128355.
21 (b) Recommend to the director the disbursement of private
22 sector moneys deposited in the Health Professions Education Fund
23 to students from underrepresented groups accepted to or enrolled
24 in schools of medicine, dentistry, nursing, or other health
25 professions in the form of loans or scholarships.
26 (c) Recommend to the director a standard contractual agreement
27 to be signed by the director and any participating student, that
28 would require a period of obligated professional service in the
29 areas in California designated by the commission as deficient in
30 primary care services. The agreement shall include a clause
31 entitling the state to recover the funds awarded plus the maximum
32 allowable interest for failure to begin or complete the service
33 obligation.
34 (d) Develop criteria for evaluating the likelihood that applicants
35 for scholarships or loans would remain to practice their profession
36 in designated areas deficient in primary care services.
37 (e) Develop application forms, which shall be disseminated to
38 students from underrepresented groups interested in applying for
39 scholarships or loans.

(f) Encourage private sector institutions, including hospitals, community clinics, and other health agencies to identify and provide educational experiences to students from underrepresented groups who are potential applicants to schools of medicine, dentistry, nursing, or other health professions.

(g) Prepare and submit an annual report to the office documenting the amount of money solicited from the private sector, the number of scholarships and loans awarded, the enrollment levels of students from underrepresented groups in schools of medicine, dentistry, nursing, and other health professions, and the projected need for scholarships and loans in the future.

(h) Recommend to the director that a portion of the funds solicited from the private sector be used for the administrative requirements of the foundation.

(i) Implement the Steven M. Thompson Physician Corps Loan Repayment Program and the Volunteer Physician Program, as provided under Article 5 (commencing with Section 128550).

(j) Administer the California Pharmacy Technician Scholarship and Loan Repayment Program, as provided under Article 6 (commencing with Section 128560).

~~SEC. 2.~~

SEC. 3. Article ~~3~~*6* (commencing with Section ~~128199)~~*128560)* is added to Chapter ~~3~~*5* of Part 3 of Division 107 of the Health and Safety Code, to read:

Article ~~3.~~*6.* California Pharmacy Technician Scholarship and Loan Repayment Program

~~128199.~~

128560. (a) (1) There is hereby established ~~in the Office of Statewide Health Planning and Development~~ *within the Health Professions and Education Foundation* the California Pharmacy Technician Scholarship and Loan Repayment Program.

(2) The program shall provide scholarships to pay for the educational expenses of pharmacy technician school students and to repay qualifying educational loans of pharmacy technicians who agree to participate in designated medically underserved areas as provided in this section.

(b) The ~~Office of Statewide Health Planning and Development~~ *Health Professions Education Foundation* shall administer the

California Pharmacy Technician Scholarship and Loan Repayment Program utilizing the same general guidelines applicable to the federal National Health Service Corps Scholarship Program established pursuant to Section 254 *l* of Title 42 of the United States Code and the National Health Service Corps Loan Repayment Program established pursuant to Section 254 *l*-1 of Title 42 of the United States Code, except as follows:

(1) A pharmacy technician or pharmacy technician student shall be eligible to participate in the program if he or she agrees to provide pharmacy technician services in a practice site located in areas of the state where unmet priority needs for primary care family physicians exist as determined by the Health Workforce Policy Commission.

(2) No matching funds shall be required from any entity in the practice site area.

(c) This section shall be implemented only to the extent that sufficient moneys are available in the California Pharmacy Technician Scholarship and Loan Repayment Program Fund to administer the program.

~~128199.5.~~

128561. The California Pharmacy Technician Scholarship and Loan Repayment Program Fund is hereby established in the State Treasury. Revenues from the ~~contributions~~ *payments* made pursuant to Section 4410 of the Business and Professions Code, as well as any other private or public funds made available for purposes of the California Pharmacy Technician Scholarship and Loan Repayment Program, shall be deposited into the fund. Upon appropriation by the Legislature, moneys in the fund shall be available for expenditure by the ~~Office of Statewide Health Planning and Development~~ *Health Professions Education Foundation* for purposes of implementing the California Pharmacy Technician Scholarship and Loan Repayment Program pursuant to this article. The ~~Office of Statewide Health Planning and Development~~ *Health Professions Education Foundation* shall be under no obligation to administer a program under this article until sufficient moneys have been accumulated in the fund and appropriated to the ~~office~~ *foundation* by the Legislature.

O

AMENDED IN SENATE MARCH 26, 2007

SENATE BILL No. 809

Introduced by ~~Senator Ashburn~~ *Senators Ashburn and Runner*

February 23, 2007

~~An act relating to primary care services.~~ *An act to amend Sections 2725.1, 2835.5, 2836, 2836.1, 2836.2, 2836.3, 3640, 3640.5, 4024, 4040, 4060, 4061, 4076, 4170, and 4174 of, and to add Section 2835.7 to, the Business and Professions Code, to amend Sections 11150 and 120582 of the Health and Safety Code, and to amend Sections 14111, 14111.5, and 16952 of the Welfare and Institutions Code, relating to nursing.*

LEGISLATIVE COUNSEL'S DIGEST

SB 809, as amended, Ashburn. ~~Primary care clinics: underserved areas: improved access.~~ *Nurse practitioners: scope of practice.*

(1) Existing law, the Nursing Practice Act, provides for the certification and regulation of nurse practitioners and nurse-midwives by the Board of Registered Nursing and requires the board to establish categories of, and standards for, nurse practitioners in consultation with specified health care practitioners, including physicians and surgeons with expertise in the nurse practitioner field. Existing law requires nurse practitioners to meet certain requirements, including educational requirements, and authorizes a nurse practitioner who has been issued a board number for the furnishing or ordering of drugs to furnish or order drugs under certain conditions, including pursuant to standardized procedures or protocols and under the supervision of a physician and surgeon. Existing law prohibits a physician and surgeon from supervising more than 4 nurse practitioners at one time. A violation of the Nursing Practice Act is a crime.

This bill would set forth the activities that a nurse practitioner is authorized to engage in, and would delete the requirement that the board consult with physicians and surgeons in establishing categories of nurse practitioners. The bill would revise the educational requirements for certification as a nurse practitioner and would require a nurse practitioner to be certified by a nationally recognized certifying body approved by the board. The bill would allow a nurse practitioner to prescribe drugs and devices if he or she has been certified by the board to have satisfactorily completed at least 6 months of supervised experience in the prescribing of drugs and devices and if such prescribing is consistent with his or her education or established clinical competency, would delete the requirement of standardized procedures and protocols, and would delete the requirement of physician supervision. The bill would require that a nurse practitioner be issued a board number prior to prescribing drugs and devices and would allow revocation or suspension or denial of a board number for incompetence or gross negligence. The bill would delete the prohibition against a physician and surgeon supervising more than 4 nurse practitioners at one time.

Because this bill would impose additional requirements under the Nursing Practice Act, the violation of which would be a crime, it would impose a state-mandated local program.

(2) Existing law, the Medi-Cal Act, provides for the Medi-Cal program, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. The act authorizes certain covered health care services provided under in a long-term health care facility to be delegated to a nurse practitioner if specified conditions are met, including mandatory supervision by a physician and surgeon.

This bill would remove the requirement of mandatory supervision of the nurse practitioner by a physician and surgeon in order for the services to be delegated to a nurse practitioner.

(3) Existing law, the Emergency Medical Services System and Prehospital Emergency Medical Care Personnel Act, authorizes a county to establish an emergency medical services fund for reimbursement of emergency medical service related costs. Existing law makes physician and surgeons eligible to receive payment from the fund for patient care services, as specified, performed by a nurse practitioner or nurse-midwife under the direct supervision of a physician and surgeon.

This bill would also make a nurse practitioner eligible to receive payment for those patient care services and would remove the requirement of supervision of the services by a physician and surgeon. The bill would authorize a nurse practitioner to receive reimbursement for emergency services and inpatient and outpatient obstetric pediatric services that the nurse practitioner determines to be medically necessary.

(4) 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.

~~Existing law provides for licensing of clinics by the State Department of Health Services, and establishes the Primary Clinic Revolving Fund for the purposes of providing payments to clinics. Effective July 1, 2007, these duties will be transferred to the State Department of Public Health.~~

~~This bill would declare the intent of the Legislature to subsequently amend this bill to include provisions that would improve access to primary care in underserved areas by encouraging establishment of additional clinics by allowing registered nurse practitioners greater flexibility to operate clinics.~~

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

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

1 *SECTION 1. Section 2725.1 of the Business and Professions*
2 *Code is amended to read:*
3 2725.1. Notwithstanding any other provision of law, a
4 registered nurse may dispense drugs or devices upon an order by
5 a licensed physician and surgeon, *nurse practitioner, or nurse*
6 *midwife* if the nurse is functioning within a licensed clinic as
7 defined in paragraphs (1) and (2) of subdivision (a) of Section
8 1204 of, or within a clinic as defined in subdivision (b) or (c) of
9 Section 1206, of the Health and Safety Code.
10 No clinic shall employ a registered nurse to perform dispensing
11 duties exclusively. No registered nurse shall dispense drugs in a
12 pharmacy~~,~~ *or* keep a pharmacy, open shop, or drugstore for the

retailing of drugs or poisons. No registered nurse shall compound drugs. Dispensing of drugs by a registered nurse, except a certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51 or a nurse practitioner ~~who functions pursuant to a standardized procedure described in Section 2836.1, or protocol~~, shall not include substances included in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code). Nothing in this section shall exempt a clinic from the provisions of Article 13 (commencing with Section 4180) of Chapter 9.

SEC. 2. Section 2835.5 of the Business and Professions Code is amended to read:

2835.5. (a) A registered nurse who is holding himself or herself out as a nurse practitioner or who desires to hold himself or herself out as a nurse practitioner shall, within the time prescribed by the board and prior to his or her next license renewal or the issuance of an initial license, submit educational, experience, and other credentials and information as the board may require for it to determine that the person qualifies to use the title "nurse practitioner," pursuant to the standards and qualifications established by the board.

(b) Upon finding that a person is qualified to hold himself or herself out as a nurse practitioner, the board shall appropriately indicate on the license issued or renewed, that the person is qualified to use the title "nurse practitioner." The board shall also issue to each qualified person a certificate evidencing that the person is qualified to use the title "nurse practitioner."

(c) A person who has been found to be qualified by the board to use the title "nurse practitioner" prior to the effective date of this section, shall not be required to submit any further qualifications or information to the board and shall be deemed to have met the requirements of this section.

(d) On and after January 1, 2008, an applicant for initial qualification or certification as a nurse practitioner under this article who has not been qualified or certified as a nurse practitioner in California or any other state shall meet the following requirements:

(1) Hold a valid and active registered nursing license issued under this chapter.

(2) Possess a master's degree in nursing~~, a master's degree in a clinical field related to nursing,~~ or a ~~graduate~~ *doctoral* degree in nursing.

(3) Satisfactorily complete a nurse practitioner program approved by the board.

(4) Be certified as a nurse practitioner by a nationally recognized certifying body approved by the board.

SEC. 3. Section 2835.7 is added to the Business and Professions Code, to read:

2835.7. (a) A nurse practitioner may do all of the following:

(1) Perform a comprehensive history and physical examination.

(2) Establish diagnoses for physical, mental, or emotional ailments or potential ailments.

(3) Admit patients to hospitals and nursing facilities.

(4) Order, perform, and interpret laboratory, radiographic, and other diagnostic tests.

(5) Identify, develop, implement, and evaluate a plan of care for a patient to promote, maintain, and restore health.

(6) Perform therapeutic procedures that the nurse practitioner is qualified by education and experience to perform.

(7) Prescribe treatments.

(8) Prescribe and dispense medications when granted authority by the board.

(9) Refer patients to appropriate licensed physician and surgeons or other health care providers.

(10) Provide emergency care.

(11) Perform additional acts that the nurse practitioner is educationally prepared and clinically competent to perform.

(12) Sign death certificates, return-to-work, school certificates, and other related health certification forms.

(13) Certify incapacity for the purpose of activating durable power of attorney for health care.

(14) Sign handicapped parking applications.

(15) Order home health services.

(16) Order durable medical equipment.

(17) Order home schooling or tutoring.

(b) A nurse practitioner shall consult or refer a patient to a physician and surgeon or another health care provider if the referral will protect the health and welfare of the patient and if a

situation or condition occurs in a patient that is beyond the nurse practitioner's knowledge and experience.

SEC. 4. Section 2836 of the Business and Professions Code is amended to read:

2836. (a) The board shall establish categories of nurse practitioners and standards for nurses to hold themselves out as nurse practitioners in each category. Such standards shall take into account the types of advanced levels of nursing practice ~~which~~ *that* are or may be performed and the clinical and didactic education, experience, or both needed to practice safely at those levels. In setting ~~such~~ *the* standards, the board shall consult with nurse practitioners~~, physicians and surgeons with expertise in the nurse practitioner field,~~ and health care organizations utilizing nurse practitioners. Established standards shall apply to persons without regard to the date of meeting such standards. ~~If the board sets standards for use of nurse practitioner titles which include completion of an academically affiliated program, it shall provide equivalent standards for registered nurses who have not completed such a program.~~

(b) Any regulations promulgated by a state department, *board, commission, or bureau* that affect the scope of practice of a nurse practitioner shall be developed in consultation with the board.

SEC. 5. Section 2836.1 of the Business and Professions Code is amended to read:

~~2836.1. Neither this chapter nor any other provision of law shall be construed to prohibit a nurse practitioner from furnishing or ordering drugs or devices when all of the following apply:~~

~~(a) The drugs or devices are furnished or ordered by a nurse practitioner in accordance with standardized procedures or protocols developed by the nurse practitioner and the supervising physician and surgeon~~

2836.1. (a) A nurse practitioner may prescribe drugs and devices when the drugs or devices ~~furnished or ordered~~ *prescribed* are consistent with the practitioner's educational preparation or for which clinical competency has been established and maintained.

~~(b) The nurse practitioner is functioning pursuant to standardized procedure, as defined by Section 2725, or protocol. The standardized procedure or protocol shall be developed and approved by the supervising physician and surgeon, the nurse practitioner, and the facility administrator or the designee.~~

~~(c) (1) The standardized procedure or protocol covering the furnishing of drugs or devices shall specify which nurse practitioners may furnish or order drugs or devices, which drugs or devices may be furnished or ordered, under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the nurse practitioner's competence, including peer review, and review of the provisions of the standardized procedure.~~

~~(2) In addition to the requirements in paragraph (1), for Schedule II controlled substance protocols, the provision for furnishing Schedule II controlled substances shall address the diagnosis of the illness, injury, or condition for which the Schedule II controlled substance is to be furnished.~~

~~(d) The furnishing or ordering of drugs or devices by a nurse practitioner occurs under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include (1) collaboration on the development of the standardized procedure, (2) approval of the standardized procedure, and (3) availability by telephonic contact at the time of patient examination by the nurse practitioner.~~

~~(e) For purposes of this section, no physician and surgeon shall supervise more than four nurse practitioners at one time.~~

~~(f) (1)~~

(b) Drugs or devices ~~furnished or ordered~~ *prescribed* by a nurse practitioner may include Schedule II through Schedule V controlled substances under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) ~~and shall be further limited to those drugs agreed upon by the nurse practitioner and physician and surgeon and specified in the standardized procedure~~.

~~(2) When Schedule II or III controlled substances, as defined in Sections 11055 and 11056, respectively, of the Health and Safety Code, are furnished or ordered by a nurse practitioner, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician. A copy of the section of the nurse practitioner's standardized procedure relating to controlled substances shall be provided, upon request, to any licensed~~

~~pharmacist who dispenses drugs or devices, when there is uncertainty about the nurse practitioner furnishing the order.~~

~~(g) (1) The~~

(c) A nurse practitioner may not prescribe drugs or devices under this section unless the board has certified in accordance with Section 2836.3 that the nurse practitioner has satisfactorily completed ~~(1)~~ at least six ~~month's physician and surgeon-supervised~~ *months' supervised* experience in the ~~furnishing or ordering~~ *prescribing* of drugs ~~or~~ *and* devices ~~and (2) a course in pharmacology covering the drugs or devices to be furnished or ordered under this section~~.

~~(2) Nurse practitioners who are certified by the board and hold an active furnishing number, who are authorized through standardized procedures or protocols to furnish Schedule II controlled substances, and who are registered with the United States Drug Enforcement Administration, shall complete, as part of their continuing education requirements, a course including Schedule II controlled substances based on the standards developed by the board. The board shall establish the requirements for satisfactory completion of this subdivision.~~

~~(h) Use of the term "furnishing" in this section, in health facilities defined in Section 1250 of the Health and Safety Code, shall include (1) the ordering of a drug or device in accordance with the standardized procedure and (2) transmitting an order of a supervising physician and surgeon.~~

~~(i) "Drug order" or "order" for purposes of this section means an order for medication which is dispensed to or for an ultimate user, issued by a nurse practitioner as an individual practitioner, within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription of the supervising physician; (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by nurse practitioners; and (3) the signature of a nurse practitioner on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.~~

SEC. 6. Section 2836.2 of the Business and Professions Code is amended to read:

2836.2. ~~Furnishing or ordering of drugs or devices by nurse practitioners is defined to mean the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure.~~ All nurse practitioners who are authorized pursuant to Section ~~2831.1~~ *2836.1* to ~~furnish or issue drug orders~~ *prescribe* for controlled substances shall register with the United States Drug Enforcement Administration.

SEC. 7. Section 2836.3 of the Business and Professions Code is amended to read:

2836.3. (a) The ~~furnishing~~ *prescribing* of drugs or devices by nurse practitioners is conditional on issuance by the board of a number to the nurse *practitioner* applicant who has successfully completed the requirements of subdivision ~~(g)~~ *(c)* of Section 2836.1. The number shall be included on all ~~transmittals of orders~~ *prescriptions* for drugs or devices by the nurse practitioner. The board shall make the list of numbers issued available to the Board of Pharmacy. The board may charge the applicant a fee to cover all necessary costs to implement this section.

(b) The number shall be renewable at the time of the applicant's registered nurse license renewal.

(c) The board may revoke, suspend, or deny issuance of the numbers for incompetence or gross negligence in the performance of functions specified in Sections 2836.1 and 2836.2.

SEC. 8. Section 3640 of the Business and Professions Code is amended to read:

3640. (a) A naturopathic doctor may order and perform physical and laboratory examinations for diagnostic purposes, including, but not limited to, phlebotomy, clinical laboratory tests, speculum examinations, orificial examinations, and physiological function tests.

(b) A naturopathic doctor may order diagnostic imaging studies, including X-ray, ultrasound, mammogram, bone densitometry, and others, consistent with naturopathic training as determined by the bureau, but shall refer the studies to an appropriately licensed health care professional to conduct the study and interpret the results.

(c) A naturopathic doctor may dispense, administer, order, and prescribe or perform the following:

(1) Food, extracts of food, ~~nutraceuticals~~ *neutraceuticals*, vitamins, amino acids, minerals, enzymes, botanicals and their

extracts, botanical medicines, homeopathic medicines, all dietary supplements and nonprescription drugs as defined by the federal Food, Drug, and Cosmetic Act, consistent with the routes of administration identified in subdivision (d).

(2) Hot or cold hydrotherapy; naturopathic physical medicine inclusive of the manual use of massage, stretching, resistance, or joint play examination but exclusive of small amplitude movement at or beyond the end range of normal joint motion; electromagnetic energy; colon hydrotherapy; and therapeutic exercise.

(3) Devices, including, but not limited to, therapeutic devices, barrier contraception, and durable medical equipment.

(4) Health education and health counseling.

(5) Repair and care incidental to superficial lacerations and abrasions, except suturing.

(6) Removal of foreign bodies located in the superficial tissues.

(d) A naturopathic doctor may utilize routes of administration that include oral, nasal, auricular, ocular, rectal, vaginal, transdermal, intradermal, subcutaneous, intravenous, and intramuscular.

(e) The bureau may establish regulations regarding ocular or intravenous routes of administration that are consistent with the education and training of a naturopathic doctor.

(f) Nothing in this section shall exempt a naturopathic doctor from meeting applicable licensure requirements for the performance of clinical laboratory tests.

~~(g) The authority to use all routes for furnishing prescription drugs as described in Section 3640.5 shall be consistent with the oversight and supervision requirements of Section 2836.1.~~

SEC. 9. Section 3640.5 of the Business and Professions Code is amended to read:

3640.5. Nothing in this chapter or any other provision of law shall be construed to prohibit a naturopathic doctor from furnishing or ordering drugs when all of the following apply:

(a) The drugs are furnished or ordered by a naturopathic doctor in accordance with standardized procedures or protocols developed by the naturopathic doctor and his or her supervising physician and surgeon.

(b) The naturopathic doctor is functioning pursuant to standardized procedure~~, as defined by subdivisions (a), (b), (d), (e), (h), and (i) of Section 2836.1 and paragraph (1) of subdivision~~

~~(c) of Section 2836.1,~~ or protocol. The standardized procedure or protocol shall be developed and approved by the supervising physician and surgeon, the naturopathic doctor, and, where applicable, the facility administrator or his or her designee.

(c) The standardized procedure or protocol covering the furnishing of drugs shall specify which naturopathic doctors may furnish or order drugs, which drugs may be furnished or ordered under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the naturopathic doctor's competence, including peer review, and review of the provisions of the standardized procedure.

(d) The furnishing or ordering of drugs by a naturopathic doctor occurs under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include all of the following:

(1) Collaboration on the development of the standardized procedure.

(2) Approval of the standardized procedure.

(3) Availability by telephonic contact at the time of patient examination by the naturopathic doctor.

(e) For purposes of this section, a physician and surgeon shall not supervise more than four naturopathic doctors at one time.

(f) Drugs furnished or ordered by a naturopathic doctor may include Schedule III through Schedule V controlled substances under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) and shall be further limited to those drugs agreed upon by the naturopathic doctor and physician and surgeon as specified in the standardized procedure. When Schedule III controlled substances, as defined in Section 11056 of the Health and Safety Code, are furnished or ordered by a naturopathic doctor, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician. A copy of the section of the naturopathic doctor's standardized procedure relating to controlled substances shall be provided upon request, to a licensed pharmacist who dispenses drugs, when there is uncertainty about the naturopathic doctor furnishing the order.

(g) The bureau has certified that the naturopathic doctor has satisfactorily completed adequate coursework in pharmacology

covering the drugs to be furnished or ordered under this section. The bureau shall establish the requirements for satisfactory completion of this subdivision.

(h) Use of the term "furnishing" in this section, in health facilities defined in subdivisions (b), (c), (d), (e), and (i) of Section 1250 of the Health and Safety Code, shall include both of the following:

(1) Ordering a drug in accordance with the standardized procedure.

(2) Transmitting an order of a supervising physician and surgeon.

(i) For purposes of this section, "drug order" or "order" means an order for medication which is dispensed to or for an ultimate user, issued by a naturopathic doctor as an individual practitioner, within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations.

(j) Notwithstanding any other provision of law, the following apply:

(1) A drug order issued pursuant to this section shall be treated in the same manner as a prescription of the supervising physician.

(2) All references to prescription in this code and the Health and Safety Code shall include drug orders issued by naturopathic doctors.

(3) The signature of a naturopathic doctor on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

SEC. 10. Section 4024 of the Business and Professions Code is amended to read:

4024. (a) Except as provided in subdivision (b), "dispense" means the furnishing of drugs or devices upon a prescription from a physician *and surgeon*, dentist, optometrist, podiatrist, veterinarian, *nurse practitioner,* or naturopathic doctor pursuant to Section 3640.7, or upon an order to furnish drugs or transmit a prescription from a certified nurse-midwife, ~~nurse practitioner,~~ physician assistant, naturopathic doctor pursuant to Section 3640.5, or pharmacist acting within the scope of his or her practice.

(b) "Dispense" also means and refers to the furnishing of drugs or devices directly to a patient by a physician *and surgeon*, dentist, optometrist, podiatrist, or veterinarian, or by a certified

nurse-midwife, nurse practitioner, naturopathic doctor, or physician assistant acting within the scope of his or her practice.

SEC. 11. Section 4040 of the Business and Professions Code is amended to read:

4040. (a) "Prescription" means an oral, written, or electronic transmission order that is both of the following:

(1) Given individually for the person or persons for whom ordered that includes all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed.

(E) A legible, clear notice of the condition for which the drug is being prescribed, if requested by the patient or patients.

(F) If in writing, signed by the prescriber issuing the order, or the certified nurse-midwife, ~~nurse practitioner,~~ physician assistant, or naturopathic doctor who issues a drug order pursuant to Section 2746.51, ~~2836.1,~~ 3502.1, or 3640.5, respectively, or the pharmacist who issues a drug order pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

(2) Issued by a physician *and surgeon*, dentist, optometrist, podiatrist, veterinarian, *nurse practitioner,* or naturopathic doctor pursuant to Section 3640.7 or, if a drug order is issued pursuant to Section 2746.51, ~~2836.1,~~ 3502.1, or 3460.5, by a certified nurse-midwife, ~~nurse practitioner,~~ physician assistant, or naturopathic doctor licensed in this state, or pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052 by a pharmacist licensed in this state.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance, that contains at least the name and signature of the prescriber, the name and address of the patient in a manner consistent with paragraph (3) of subdivision (b) of Section 11164 of the Health and Safety Code, the name and quantity of the drug

prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist as long as any additional information required by subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict between this subdivision and Section 11164 of the Health and Safety Code, Section 11164 of the Health and Safety Code shall prevail.

(c) "Electronic transmission prescription" includes both image and data prescriptions. "Electronic image transmission prescription" means any prescription order for which a facsimile of the order is received by a pharmacy from a licensed prescriber. "Electronic data transmission prescription" means any prescription order, other than an electronic image transmission prescription, that is electronically transmitted from a licensed prescriber to a pharmacy.

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

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

SEC. 12. Section 4060 of the Business and Professions Code is amended to read:

4060. No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician *and surgeon*, dentist, podiatrist, optometrist, veterinarian, *nurse practitioner,* or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, ~~a nurse practitioner pursuant to Section 2836.1,~~ a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician *and surgeon*, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, ~~a nurse practitioner,~~ a physician assistant, or a naturopathic doctor~~,~~ to order his or her own stock of dangerous drugs and devices.

SEC. 13. Section 4061 of the Business and Professions Code is amended to read:

4061. (a) No manufacturer's sales representative shall distribute any dangerous drug or dangerous device as a complimentary sample without the written request of a physician *and surgeon*, dentist, podiatrist, optometrist, veterinarian, *nurse practitioner,* or naturopathic doctor pursuant to Section 3640.7. However, a certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, ~~a nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol,~~ a physician assistant who functions pursuant to a protocol described in Section 3502.1, or a naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5~~,~~ may sign for the request and receipt of complimentary samples of a dangerous drug or dangerous device that has been identified in the standardized procedure, protocol, or practice agreement. Standardized procedures, protocols, and practice agreements shall include specific approval by a physician *and surgeon*. A review process, consistent with the requirements of Section 2725, 3502.1, or 3640.5, of the complimentary samples requested and received by a ~~nurse practitioner,~~ certified nurse-midwife, physician assistant, or naturopathic doctor~~,~~ shall be defined within the standardized procedure, protocol, or practice agreement.

(b) Each written request shall contain the names and addresses of the supplier and the requester, the name and quantity of the specific dangerous drug desired, the name of the certified nurse-midwife, ~~nurse practitioner,~~ physician assistant, or naturopathic doctor, if applicable, receiving the samples pursuant to this section, the date of receipt, and the name and quantity of the dangerous drugs or dangerous devices provided. These records shall be preserved by the supplier with the records required by Section 4059.

(c) Nothing in this section is intended to expand the scope of practice of a certified nurse-midwife, ~~nurse practitioner,~~ physician assistant, or naturopathic doctor.

SEC. 14. Section 4076 of the Business and Professions Code is amended to read:

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

(1) Except where the prescriber or 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 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 for which the drug was prescribed if requested by the patient and the condition is indicated on the prescription.

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

(i) Prescriptions dispensed by a veterinarian.

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

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

(B) This paragraph applies to outpatient pharmacies only.

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

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

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

(c) If a pharmacist dispenses a dangerous drug or device in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include on individual unit dose containers for a specific patient, 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.

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

SEC. 15. Section 4170 of the Business and Professions Code is amended to read:

4170. (a) No prescriber shall dispense drugs or dangerous devices to patients in his or her office or place of practice unless all of the following conditions are met:

(1) The dangerous drugs or dangerous devices are dispensed to the prescriber's own patient, and the drugs or dangerous devices are not furnished by a nurse or physician attendant.

(2) The dangerous drugs or dangerous devices are necessary in the treatment of the condition for which the prescriber is attending the patient.

(3) The prescriber does not keep a pharmacy, open shop, or drugstore, advertised or otherwise, for the retailing of dangerous drugs, dangerous devices, or poisons.

(4) The prescriber fulfills all of the labeling requirements imposed upon pharmacists by Section 4076, all of the recordkeeping requirements of this chapter, and all of the packaging requirements of good pharmaceutical practice, including the use of childproof containers.

(5) The prescriber does not use a dispensing device unless he or she personally owns the device and the contents of the device, and personally dispenses the dangerous drugs or dangerous devices to the patient packaged, labeled, and recorded in accordance with paragraph (4).

(6) The prescriber, prior to dispensing, offers to give a written prescription to the patient that the patient may elect to have filled by the prescriber or by any pharmacy.

(7) The prescriber provides the patient with written disclosure that the patient has a choice between obtaining the prescription from the dispensing prescriber or obtaining the prescription at a pharmacy of the patient's choice.

(8) A certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, ~~a nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol,~~ a physician assistant who functions pursuant to Section 3502.1, or a naturopathic doctor who functions pursuant to Section 3640.5, may hand to a patient of the supervising physician and surgeon *or nurse practitioner* a properly labeled prescription drug prepackaged by a physician and surgeon, a manufacturer as defined in this chapter, *a nurse practitioner,* or a pharmacist.

(b) The Medical Board of California, the State Board of Optometry, the Bureau of Naturopathic Medicine, the Dental Board of California, the Osteopathic Medical Board of California, the Board of Registered Nursing, the Veterinary Medical Board, and the Physician Assistant Committee shall have authority with the California State Board of Pharmacy to ensure compliance with this section, and those boards are specifically charged with the enforcement of this chapter with respect to their respective licensees.

(c) "Prescriber," as used in this section, means a person, who holds a ~~physician's~~ *physician* and surgeon's certificate, a license to practice optometry, a license to practice naturopathic medicine, a license to practice dentistry, a license to practice veterinary medicine, ~~or~~ a certificate to practice podiatry, *or a license and certification as a nurse practitioner,* and who is duly registered by the Medical Board of California, the State Board of Optometry, the Bureau of Naturopathic Medicine, the Dental Board of California, the Veterinary Medical Board, ~~or~~ the Board of Osteopathic Examiners, *or the Board of Registered Nursing* of this state.

SEC. 16. Section 4174 of the Business and Professions Code is amended to read:

4174. Notwithstanding any other provision of law, a pharmacist may dispense drugs or devices upon the drug order of ~~a nurse practitioner functioning pursuant to Section 2836.1 or~~ a certified nurse-midwife functioning pursuant to Section 2746.51, ~~a drug~~

~~order of~~ a physician assistant functioning pursuant to Section 3502.1, or a naturopathic doctor functioning pursuant to Section 3640.5, or the order of a pharmacist acting under Section 4052.

SEC. 17. Section 11150 of the Health and Safety Code is amended to read:

11150. No person other than a physician *and surgeon*, dentist, podiatrist, or veterinarian, or naturopathic doctor acting pursuant to Section 3640.7 of the Business and Professions Code, or pharmacist acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or within the scope of either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052 of the Business and Professions Code, a registered nurse acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a certified nurse-midwife acting within the scope of Section 2746.51 of the Business and Professions Code, a nurse practitioner acting within the scope of ~~Section~~ *Sections 2835.7 and* 2836.1 of the Business and Professions Code, a physician assistant acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or Section 3502.1 of the Business and Professions Code, a naturopathic doctor acting within the scope of Section 3640.5 of the Business and Professions Code, or an optometrist acting within the scope of Section 3041 of the Business and Professions Code, or an out-of-state prescriber acting pursuant to Section 4005 of the Business and Professions Code shall write or issue a prescription.

SEC. 18. Section 120582 of the Health and Safety Code is amended to read:

120582. (a) Notwithstanding any other provision of law, a physician and surgeon *or a nurse practitioner* who diagnoses a sexually transmitted chlamydia, gonorrhea, or other sexually transmitted infection, as determined by the department, in an individual patient may prescribe, dispense, furnish, or otherwise provide prescription antibiotic drugs to that patient's sexual partner or partners without examination of that patient's partner or partners. The department may adopt regulations to implement this section.

(b) Notwithstanding any other provision of law, ~~a nurse practitioner pursuant to Section 2836.1 of the Business and~~

~~Professions Code,~~ a certified nurse-midwife pursuant to Section 2746.51 of the Business and Professions Code~~,~~ and a physician assistant pursuant to Section 3502.1 of the Business and Professions Code may dispense, furnish, or otherwise provide prescription antibiotic drugs to the sexual partner or partners of a patient with a diagnosed sexually transmitted chlamydia, gonorrhea, or other sexually transmitted infection, as determined by the department, without examination of the patient's sexual partner or partners.

SEC. 19. Section 14111 of the Welfare and Institutions Code is amended to read:

14111. (a) As permitted by federal law or regulations, for health care services provided in a long-term health care facility that are reimbursed by Medicare, a physician and surgeon may delegate any of the following to a nurse practitioner:

(1) Alternating visits required by federal law and regulations with a physician and surgeon.

(2) Any duties consistent with federal law and regulations within the scope of practice of nurse practitioners, so long as all of the following conditions are met:

(A) A physician and surgeon approves, in writing, the admission of the individual to the facility.

~~(B) The medical care of each resident is supervised by a physician and surgeon.~~

~~(C)~~

(B) A physician and surgeon performs the initial visit and alternate required visits.

(b) This section does not authorize benefits not otherwise authorized by federal law or regulation.

~~(c) All responsibilities delegated to a nurse practitioner pursuant to this section shall be performed under the supervision of the physician and surgeon and pursuant to a standardized procedure among the physician and surgeon, nurse practitioner, and facility.~~

~~(d)~~

(c) No task that is required by federal law or regulation to be performed personally by a physician *and surgeon* may be delegated to a nurse practitioner.

~~(e)~~

(d) Nothing in this section shall be construed as limiting the authority of a long-term health care facility to hire and employ

nurse practitioners so long as that employment is consistent with federal law and within the scope of practice of a nurse practitioner.

SEC. 20. Section 14111.5 of the Welfare and Institutions Code is amended to read:

14111.5. (a) As permitted by federal law or regulations, for health care services provided in a long-term health care facility that are reimbursed under this chapter, a nurse practitioner may, to the extent consistent with his or her scope of practice, perform any of the following tasks otherwise required of a physician and surgeon:

(1) With respect to visits required by federal law or regulations, making alternating visits, or more frequent visits if the physician and surgeon is not available.

(2) Any duty or task that is consistent with federal and state law or regulation within the scope of practice of nurse practitioners, so long as all of the following conditions are met:

(A) A physician and surgeon approves, in writing, the admission of the individual to the facility.

~~(B) The medical care of each resident is supervised by a physician and surgeon.~~

~~(C)~~

(B) A physician and surgeon performs the initial visit and alternate required visits.

(b) This section does not authorize benefits not otherwise authorized by federal or state law or regulation.

~~(c) All responsibilities undertaken by a nurse practitioner pursuant to this section shall be performed in collaboration with the physician and surgeon and pursuant to a standardized procedure among the physician and surgeon, nurse practitioner, and facility.~~

~~(d)~~

(c) Except as provided in subdivisions (a) ~~to (c), inclusive~~ *and (b)*, any task that is required by federal law or regulation to be performed personally by a physician *and surgeon* may be delegated to a nurse practitioner who is not an employee of the long-term health care facility.

~~(e)~~

(d) Nothing in this section shall be construed as limiting the authority of a long-term health care facility to hire and employ nurse practitioners so long as that employment is consistent with federal law and with the scope of practice of a nurse practitioner.

SEC. 21. Section 16952 of the Welfare and Institutions Code is amended to read:

16952. (a) (1) Each county shall establish within its emergency medical services fund a Physician Services Account. Each county shall deposit in the Physician Services Account those funds appropriated by the Legislature for the purposes of the Physician Services Account of the fund.

(2) (A) Each county may encumber sufficient funds to reimburse physician *and surgeon* losses incurred during the fiscal year for which bills will not be received until after the fiscal year.

(B) Each county shall provide a reasonable basis for its estimate of the necessary amount encumbered.

(C) All funds that are encumbered for a fiscal year shall be expended or disencumbered prior to the submission of the report of actual expenditures required by Sections 16938 and 16980.

(b) (1) Funds deposited in the Physician Services Account in the county emergency medical services fund shall be exempt from the percentage allocations set forth in subdivision (a) of Section 1797.98. However, funds in the county Physician Services Account shall not be used to reimburse for physician *and surgeon* services provided by ~~physicians~~ *physician and surgeons* employed by county hospitals.

(2) No physician *and surgeon* who provides physician *and surgeon* services in a primary care clinic which receives funds from this act shall be eligible for reimbursement from the Physician Services Account for any losses incurred in the provision of those services.

(c) The county ~~physician services account~~ *Physician Services Account* shall be administered by each county, except that a county electing to have the state administer its medically indigent adult program as authorized by Section 16809, may also elect to have its county physician services account administered by the state in accordance with Section 16954.

(d) Costs of administering the account, whether by the county or by the department through the emergency medical services contract-back program, shall be reimbursed by the account based on actual administrative costs, not to exceed 10 percent of the amount of the account.

(e) For purposes of this article "administering agency" means the agency designated by the board of supervisors to administer

this article, or the department, in the case of those CMSP counties electing to have the state administer this article on their behalf.

(f) The county Physician Services Account shall be used to reimburse ~~physicians~~ *physician and surgeons* for losses incurred for services provided during the fiscal year of allocation due to patients who do not have health insurance coverage for emergency services and care, who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government with the exception of claims submitted for reimbursement through Section 1011 of the federal Medicare Prescription Drug, Improvement and Modernization Act of 2003.

(g) Nurse practitioners shall be eligible to receive payment for patient care services. Payment shall be limited to those claims that are substantiated by a medical record.

~~(g) Physicians~~

(h) Physician and surgeons shall be eligible to receive payment for patient care services provided by, or in conjunction with, a ~~properly credentialed nurse practitioner or~~ *licensed* physician's assistant for care rendered under the direct supervision of a physician and surgeon who is present in the facility where the patient is being treated and who is available for immediate consultation. Payment shall be limited to those claims that are substantiated by a medical record and that have been reviewed and countersigned by the supervising physician and surgeon in accordance with regulations established for the supervision of ~~nurse practitioners and~~ physician assistants in California.

~~(h)~~

(i) (1) Reimbursement for losses shall be limited to emergency services as defined in Section 16953, obstetric, and pediatric services as defined in Sections 16905.5 and 16907.5, respectively.

(2) It is the intent of this subdivision to allow reimbursement for all of the following:

(A) All inpatient and outpatient obstetric services ~~which~~ *that* are medically necessary, as determined by the attending physician *and surgeon or nurse practitioner.*

(B) All inpatient and outpatient pediatric services ~~which~~ *that* are medically necessary, as determined by the attending physician *and surgeon or nurse practitioner.*

~~(i)~~

(j) Any physician *and surgeon or nurse practitioner* may be reimbursed for up to 50 percent of the amount claimed pursuant to Section 16955 for the initial cycle of reimbursements made by the administering agency in a given year. All funds remaining at the end of the fiscal year shall be distributed proportionally, based on the dollar amount of claims submitted and paid to all ~~physicians~~ *physician and surgeons and nurse practitioners* who submitted qualifying claims during that year. The administering agency shall not disburse funds in excess of the total amount of a qualified claim.

SEC. 22. 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 the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. It is the intent of the Legislature to subsequently amend this act to include provisions that would improve access to primary care in underserved areas by encouraging establishment of additional clinics by allowing registered nurse practitioners greater flexibility to operate clinics.~~

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AMENDED IN SENATE MARCH 28, 2007

SENATE BILL No. 822

Introduced by Senator Aanestad
(Coauthors: Senators Romero and Lowenthal)

February 23, 2007

An act to amend ~~Section 2914.3 of~~ *Sections 2902, 2904, 2960, 4040, 4502, 4502.1, and 4502.2 of, and to add Sections 2949, 2949.2, 2949.3, 2949.4, and 2949.5 to,* the Business and Professions Code, relating to psychology.

LEGISLATIVE COUNSEL'S DIGEST

SB 822, as amended, Aanestad. Psychology.

The Psychology Licensing Law provides for the licensure and regulation of psychologists by the Board of Psychology, and the Pharmacy Law provides for the regulation of prescription drug and medical device dispensing by the California State Board of Pharmacy. The Psychology Licensing Law provides that the practice of psychology does not include the prescribing of drugs and does not authorize a psychologist to prescribe drugs or write prescriptions. Existing law additionally makes a violation of its provisions a crime and unprofessional conduct, constituting grounds for disciplinary action by the Board of Psychology.

This bill would revise these provisions to authorize a certified prescribing psychologist, as defined, to prescribe drugs for the treatment of disorders related to the practice of a certified psychologist if certain requirements are met. This bill would require the Board of Psychology to establish and administer a certification process to grant licensed psychologists the authority to write prescriptions, and would require an applicant for certification as a prescribing psychologist to meet

specified education and training requirements, including requirements of clinical competency, and passing a nationally recognized examination approved and administered by the board. The bill would require the board to charge fees for the issuance and renewal of a certificate to cover the costs of administering the certification process and the examination, and would provide for the deposit of these fees in the Psychology Fund. The bill would require the board to establish requirements for the renewal of a certificate, including continuing education requirements, and to provide certain information to the California State Board of Pharmacy, including a list of psychologists certified to prescribe drugs. The bill would also require an approved education or training program to meet specified requirements, including providing certain reports to the board.

This bill would include as unprofessional conduct, subject to disciplinary action by the board, a violation of particular provisions of law relating to the prescribing of drugs.

By adding these provisions, this bill would impose a state-mandated local program by creating new crimes.

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.

~~Existing law provides for the licensure and regulation of the practice of psychology by the Board of Psychology. Under existing law, the board is required to encourage institutions offering doctorate degree programs in psychology to include education and training in psychopharmacology and related topics. Under existing law, the board is also required to develop education and training guidelines for psychologists whose practice includes patients who may require psychopharmacological treatment.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

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

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

1 *SECTION 1. The Legislature hereby finds and declares all of*
2 *the following:*
3 *(a) According to the National Institute for Mental Health, one*
4 *in four individuals suffer from a diagnosable mental illness in a*
5 *given year, and one in 17 suffers from a severe mental illness.*
6 *(b) According to the American Board of Medical Specialties*
7 *Directory of Board Certified Medical Specialists, there are 11*
8 *California counties with no psychiatrist and an additional 17*
9 *California counties with five or fewer psychiatrists in residence.*
10 *(c) Currently, there are 49 counties that have areas that are*
11 *eligible for designation as California Health Professional Shortage*
12 *Areas for mental health treatment, based upon the national*
13 *definition of areas that have fewer than one psychiatrist for every*
14 *30,000 residents, which represents nearly 85 percent of the*
15 *counties in the state.*
16 *(d) According to the American Journal of Psychiatry, more than*
17 *80 percent of all psychotropic drug prescriptions are written by*
18 *nonpsychiatrists with limited training in mental health.*
19 *(e) Californians living in rural areas face unique and*
20 *challenging mental health and family problems, and they are often*
21 *underserved by health care practitioners. Psychologists practicing*
22 *with primary care groups have been effective in addressing the*
23 *mental health problems of rural Californians.*
24 *(f) California's prison and state operated mental health facilities*
25 *have experienced severe shortages of psychiatrists, with systemwide*
26 *vacancies for the California Department of Corrections and*
27 *Rehabilitation (CDCR) at 67 percent in September 2006, and for*
28 *the State Department of Mental Health at 40 percent in February*
29 *2007.*
30 *(g) As a result of the severe shortages, patient care has been*
31 *compromised and CDCR, with over 32,000 mentally ill patients,*
32 *is in federal receivership for poor health and mental health care.*
33 *(h) In 1990, the Public Citizen Health Research Group*
34 *published a report entitled "Care of the Seriously Mentally Ill, A*
35 *Rating of State Programs." The Public Citizen Health Research*
36 *Group recommended that psychologists, physician assistants, and*
37 *nurse practitioners be allowed to obtain additional training and*

to prescribe medications to help meet the needs of mentally ill persons.

(i) The Legislature, in order to increase the availability of services to patients, has placed into law the authority for optometrists, dentists, naturopaths, and nurse practitioners to prescribe or order medications in a limited capacity. The Legislature has also extended authority for physician assistants to administer medications, and transmit prescriptions for medications, to patients upon the order of a physician and surgeon or within a specified protocol.

(j) Since 1978, when psychologists were statutorily granted the right to serve on hospital medical staffs, psychologists have become increasingly important in overseeing care for mentally ill and disordered patients in health care facilities.

(k) As a prerequisite to licensure, clinical psychologists are required to obtain more specific education and training in the identification of mental disorders and illnesses than any other mental health care professional.

(l) Section 2914.3 of the Business and Professions Code directed the Board of Psychology to develop guidelines for psychologists to discuss medication management with their patients and the patient's physician or licensed prescriber.

(m) Psychologists are trained to assess behavioral and cognitive changes in a scientific manner. This knowledge, combined with the ability to discontinue inappropriate medication, ensures psychologists will be better trained to contribute to the welfare of all mentally ill and disordered persons, including the elderly and the groups who have limited access to care.

(n) Psychologists have been prescribing medication in the United States Department of Defense since 1991, and have seen over 160,000 patients with no deaths and no adverse outcomes.

(o) Psychologists are authorized to prescribe medication in New Mexico, Louisiana, and the United States territory of Guam, and have written over 40,000 prescriptions with no deaths and no adverse outcomes.

(p) In order to meet the increasing demands for services to mentally ill and disordered persons in California, it is the intent of the Legislature to support a program whereby psychologists who choose to receive the appropriate education and training may prescribe medications for their patients who require that treatment.

SEC. 2. Section 2902 of the Business and Professions Code is amended to read:

2902. As used in this chapter, unless the context clearly requires otherwise and except as in this chapter expressly otherwise provided, the following definitions apply:

(a) "Licensed psychologist" means an individual to whom a license has been issued pursuant to the provisions of this chapter, which license is in force and has not been suspended or revoked.

(b) "Board" means the Board of Psychology.

(c) A person represents himself or herself to be a psychologist when the person holds himself or herself out to the public by any title or description of services incorporating the words "psychology," "psychological," "psychologist," "psychology consultation," "psychology consultant," "psychometry," "psychometrics" or "psychometrist," "psychotherapy," "psychotherapist," "psychoanalysis," or "psychoanalyst," or when the person holds himself or herself out to be trained, experienced, or an expert in the field of psychology.

(d) "Accredited," as used with reference to academic institutions, means the University of California, the California State University, *an institution that is accredited under Section 94761 of the Education Code,* or an institution that is *located in another state and that is* accredited by a national or an applicable regional accrediting agency recognized by the United States Department of Education.

(e) "Approved," as used with reference to academic institutions, means an institution ~~having "approval to operate", as defined in Section 94718~~ *approved under Section 94800* of the Education Code.

(f) "Prescriptive authority" means the authority to prescribe, discontinue, order, administer or dispense without charge, drugs or controlled substances recognized for, or customarily used in, the inpatient or outpatient diagnosis, treatment, or evaluation and management of individuals with psychiatric, mental, cognitive, nervous, emotional, addictive, developmental, or behavioral disorders, and to order or utilize other procedures, consultations, devices, and tests related thereto in accordance with rules and regulations adopted by the Board of Psychology.

(g) "Health service provider" means a licensed psychologist who is duly trained and experienced in the delivery of preventive,

assessment, diagnostic, and therapeutic intervention services relative to the psychological and physical health of consumers and who has done all of the following:

(1) Completed scientific and professional training resulting in a doctoral degree in psychology from a regionally accredited school or, before January 1, 2003, from a state-approved school.

(2) Completed an internship and supervised experience in health care settings.

(3) Been licensed as a psychologist at the independent practice level.

(h) "Prescribing psychologist" means a health service provider who has received from the board, pursuant to Section 2949, a valid certificate granting prescriptive authority, and whose certificate has not been revoked or suspended.

(i) "Drug" has the same meaning as provided in Section 4025, and includes controlled substances and dangerous drugs, as defined in Sections 4021 and 4022, respectively.

(j) "Device" has the same meaning as provided in Section 4023, and includes dangerous devices, as defined in Section 4022.

(k) "Prescription" has the same meaning as provided in Sections 4040 and 4070.

SEC. 3. Section 2904 of the Business and Professions Code is amended to read:

2904. The practice of psychology shall not include ~~prescribing drugs, performing surgery or administering electroconvulsive therapy.~~ *any of the following:*

(a) Prescribing drugs, except for those prescribed by prescribing psychologists, as defined in Section 2902, certified pursuant to Section 2949.

(b) Performing surgery.

(c) Administering electroconvulsive therapy.

SEC. 4. Section 2949 is added to the Business and Professions Code, to read:

2949. (a) The board shall establish and administer a certification process to grant licensed psychologists prescriptive authority. The board shall also develop a procedure for psychologists-in-training to prescribe under the supervision and license of a qualified prescriber. The board shall develop procedures for certification, and shall develop procedures for the administration of an appropriate, valid, nationally recognized

examination, such as the American Psychological Association Practice Organization's College of Professional Psychology examination, approved by the board. The board shall charge applicants reasonable fees for the issuance of, and renewal of, a certificate in order to cover the costs of administering the certification process and the examination. These fees shall be deposited in the Psychology Fund.

(b) Each applicant for certification as a "prescribing psychologist," as defined in subdivision (g) of Section 2902, shall show by official transcript or other official evidence satisfactory to the board that he or she has successfully completed both of the following:

(1) An organized and planned sequence of psychopharmacological training resulting in a Master's degree in psychopharmacology from a regionally accredited institution of higher learning approved by the board, or training from an approved provider of continuing education that has been designated and approved by the board as providing an organized and planned program of appropriate training consistent with the American Psychological Association's (APA) training guidelines for prescriptive authority. In its discretion, the board may certify a psychologist from a federal or other state jurisdiction that has authorized the psychologist to prescribe if the board determines that the psychologist has practiced safely and effectively. Also, the board may, in its discretion, certify a psychologist to practice as a prescribing psychologist if the psychologist has lawfully prescribed under another professional license that authorizes prescribing, and the training and experience under the other license is consistent with the training standards required for a prescribing psychologist. At the discretion of the board, approved programs may give credit for required didactic science courses taken at other educational institutions that would meet the educational requirements of the program. Coursework shall be consistent with the most current APA training guidelines, and shall include education in all of the following subjects:

(A) Basic science, including anatomy, physiology, and biochemistry.

(B) Neurosciences, including neuroanatomy, neurophysiology, and neurochemistry.

(C) Physical assessment and laboratory examinations, including the following:

(i) Physical assessment.

(ii) Laboratory and radiological assessment.

(iii) Medical terminology and documentation.

(iv) Integration of the subjects in clauses (i) to (iii), inclusive, through supervised clinical experience or laboratory experience in conducting physical examinations, ordering psychometric and laboratory tests, and understanding results and interpretation.

(D) Clinical medicine and pathophysiology, including the following:

(i) Pathophysiology, with particular emphasis on cardiac, renal, hepatic, neurologic, gastrointestinal, hematologic, dermatologic, and endocrine systems.

(ii) Clinical medicine, with particular emphasis on signs, symptoms, and treatment of disease states with behavioral and psychiatric manifestations or comorbidities.

(iii) Differential diagnosis.

(iv) Clinical correlations.

(v) Chemical dependency and chronic pain management.

(vi) Integration of the subjects in clauses (i) to (v), inclusive, through supervised clinical experience or laboratory experience in taking medical history, assessment for differential diagnosis, and review of systems.

(E) Clinical and research pharmacology and psychopharmacology, including the following:

(i) Pharmacology.

(ii) Clinical pharmacology.

(iii) Pharmacogenetics.

(iv) Psychopharmacology.

(v) Developmental psychopharmacology.

(vi) Integration of the subjects in clauses (i) to (v), inclusive, through supervised clinical experience or laboratory experience in clinical medicine and ongoing treatment monitoring and evaluation.

(F) Clinical pharmacotherapeutics, including the following as related to pharmacotherapeutics:

(i) Professional, ethical, and legal issues.

(ii) Combined therapies, such as psychotherapy and pharmocotherapy interactions.

(iii) Computer-based aids to practice.

(iv) Pharmacoepidemiology.

(v) Integration of clauses (i) to (iv), inclusive, through supervised clinical experience or laboratory experience in integrated treatment planning and consultation and the implications of treatment.

(G) Research, including the following:

(i) Methodology and design of psychopharmacological research.

(ii) Interpretation and evaluation of psychopharmalogical research.

(iii) Federal Food and Drug Agency drug development and other regulatory processes.

(2) Relevant supervised clinical experience to obtain competency in prescribing and in psychopharmacological treatment of a diverse patient population under the direction of qualified prescribers, as determined by the board. The supervised clinical experience is intended to be an intensive, closely supervised experience. Approved programs shall commit to providing training courses and experiences that encourage sensitivity to the interactions between pharmacological and psychological interventions with the developmental status, gender, health status, culture, and ethnicity of patients. The supervised experience shall be an organized sequence of education and training that provides an integrative approach to learning, as well as the opportunity to assess competencies in skills and applied knowledge. The intent of the supervised clinical experience shall be both the following:

(A) To provide ongoing integration of didactic and applied clinical knowledge throughout the learning sequence, including ample opportunities for practical learning and clinical application of skills.

(B) To provide opportunity for programs to assess formative and summative clinical competency in skills and applied knowledge. The clinical competencies targeted by this experience shall include all of the following:

(i) Physical examination and mental status evaluation, including knowledge and execution of elements and sequence of both comprehensive and focused physical examination and mental status evaluation, proper use of instruments used in physical examination, such as stethoscopes and blood pressure measurement devices,

and scope of knowledge gained from physical examination and mental status examination.

(ii) Review of systems, including knowledge and ability to systematically describe the process of integrating information learned from patient reports, signs, symptoms, and a review of each of the major body systems.

(iii) Medical history interview and documentation, including the ability to systematically conduct a patient clinical interview producing a personal and family medical history, and to communicate the findings in written and verbal form.

(iv) Assessment indications and interpretation, including the ability to order and interpret appropriate tests, such as psychometric, laboratory, and radiological tests, for the purpose of making a differential diagnosis and for monitoring therapeutic and adverse effects of treatment.

(v) Differential diagnosis, including use of appropriate processes, including established diagnostic criteria such as ICD-9 and DSM-IV, to determine primary and alternate diagnoses.

(vi) Integrated treatment planning, including the ability to identify and select, using all available data, the most appropriate treatment alternatives and to sequence treatment within the larger biopsychosocial context.

(vii) Consultation and collaboration, including understanding of the parameters of the role of the prescribing psychologist or medical psychologist and working with other professionals in an advisory or collaborative manner to effect treatment of a patient.

(viii) Treatment management, including application, monitoring, and modification, as needed, of treatment.

(d) The supervised clinical experience required subdivision (b) should also meet the following requirements:

(1) The range of diagnostic categories, settings, and developmental status, gender, health status, and ethnicity reflected in the patients seen in connection with the supervised clinical experience required by this section should be appropriate to the current and anticipated practice of the trainee. It should allow the trainee to gain exposure to acute, short-term, and maintenance medication strategies.

(2) Prior to being granted certification as a prescribing psychologist, a trainee shall obtain supervised clinical experience with a sufficient range and number of patients in order to

demonstrate threshold performance levels for each of the competency areas. In order to achieve the complex clinical competency skills required for independent prescribing, a minimal number of supervised patient contact hours shall be completed.

(3) A trainee shall only recommend or prescribe drugs or devices in consultation with, or under the supervision of, a person with demonstrated skill and experience in clinical psychopharmacology who is authorized to recommend or prescribe the drugs or devices and in accordance with other applicable laws.

(e) An approved program shall be subject to the following requirements:

(1) The program shall provide the board with a report for each applicant that includes all of the following information:

(A) The total number of supervised clinical experience hours that students experience, separating face-to-face patient contacts versus other clinical experiences, including each clinical competency required.

(B) A description of the method and appropriate benchmarks for assuring each clinical competency. Methods may include performing basic physical examinations, case presentations, or patient simulations based on actual patients and patients for whom the trainee assumes direct psychological responsibility.

(2) The program shall provide final approval of the supervised clinical experience of an applicant.

(3) Supervised clinical experience may be integrated into each level of a trainee's education and training, provided in a final summative practical experience, or provided in a combination of those methods according to the design of the program.

(f) A trainee shall demonstrate competency in his or her ability to integrate didactic learning and applied clinical skill in a capstone competency evaluation prior to being certified as a prescribing psychologist.

(g) A prescribing psychologist shall maintain competency through continuing education over the lifespan of maintaining and practicing in prescriptive authority or collaborative activities with other prescribers.

SEC. 5. Section 2949.2 is added to the Business and Professions Code, to read:

2949.2. (a) The board, shall set forth the requirements for renewal of a certificate of a prescribing psychologist for each license renewal period.

(b) Each applicant for renewal of a certificate for prescriptive authority shall present evidence of having completed approved mandatory continuing education in the area of psychopharmacology and related prescribing practice as set forth by the board.

SEC. 6. Section 2949.3 is added to the Business and Professions Code, to read:

2949.3. (a) Each prescribing psychologist shall comply with all state and federal rules and regulations relating to the prescribing, dispensing, and recordkeeping for drugs or devices, as defined in Sections 4021, 4022, 4023, 4025, and 4055, and other applicable provisions of law. If the board determines that it would facilitate administration of the provisions governing prescribing psychologists to identify a prescribing psychologist by another name that is consistent with other jurisdictions, it may do so.

(b) A written order of a prescribing psychologist shall include his or her prescribing identification number, which shall be assigned by the board to any certified prescribing psychologist.

(c) A prescribing psychologist shall not delegate the prescribing of medication to any other person except for a supervised trainee in a recognized training program for prescribing psychologists.

(d) Records of all prescriptions shall be maintained in a prescribing psychologists client records.

SEC. 7. Section 2949.4 is added to the Business and Professions Code, to read:

2949.4. (a) The board shall annually transmit to the California State Board of Pharmacy a list of prescribing psychologists containing, at a minimum, all of the following information:

(1) The name of the prescribing psychologist.

(2) The unique identification number indicating certification of the prescribing psychologist to prescribe.

(3) The effective date of prescribing psychologists prescriptive authority.

(b) The board shall promptly forward to the California State Board of Pharmacy the names and identification numbers of prescribing psychologists added to or deleted from the annual list of psychologists certified to prescribe.

(c) The board shall notify the California State Board of Pharmacy in a timely manner upon termination, suspension, or reinstatement of a psychologist's authority to prescribe.

SEC. 8. Section 2949.5 is added to the Business and Professions Code, to read:

2949.5. Nothing in this chapter shall be construed to authorize a prescribing psychologist to prescribe medications other than those generally recognized for the treatment of disorders within the scope of practice of a psychologist, as defined in Section 2903.

SEC. 9. Section 2960 of the Business and Professions Code is amended to read:

2960. The board may refuse to issue any registration or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to, *all of the following*:

(a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

(b) Use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug, or any alcoholic beverage to an extent or in a manner dangerous to himself or herself, any other person, or the public, or to an extent that this use impairs his or her ability to perform the work of a psychologist with safety to the public.

(c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.

(d) Impersonating another person holding a psychology license or allowing another person to use his or her license or registration.

(e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.

(f) Paying, or offering to pay, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of clients.

(g) Violating Section 17500.

(h) Willful, unauthorized communication of information received in professional confidence.

(i) Violating any rule of professional conduct promulgated by the board and set forth in regulations duly adopted under this chapter.

(j) Being grossly negligent in the practice of his or her profession.

(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.

(*l*) The aiding or abetting of any person to engage in the unlawful practice of psychology.

(m) The suspension, revocation or imposition of probationary conditions by another state or country of a license or certificate to practice psychology or as a psychological assistant issued by that state or country to a person also holding a license or registration issued under this chapter if the act for which the disciplinary action was taken constitutes a violation of this section.

(n) The commission of any dishonest, corrupt, or fraudulent act.

(o) Any act of sexual abuse, or sexual relations with a patient or former patient within two years following termination of therapy, or sexual misconduct that is substantially related to the qualifications, functions or duties of a psychologist or psychological assistant or registered psychologist.

(p) Functioning outside of his or her particular field or fields of competence as established by his or her education, training, and experience.

(q) Willful failure to submit, on behalf of an applicant for licensure, verification of supervised experience to the board.

(r) Repeated acts of negligence.

(s) Violating Section 2949.3.

SEC. 10. Section 4040 of the Business and Professions Code is amended to read:

4040. (a) "Prescription" means an oral, written, or electronic transmission order that is both of the following:

(1) Given individually for the person or persons for whom ordered that includes all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or

her license classification, and his or her federal registry number, if a controlled substance is prescribed.

(E) A legible, clear notice of the condition for which the drug is being prescribed, if requested by the patient or patients.

(F) If in writing, signed by the prescriber *or health care practitioner* issuing the order~~, or the certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor who issues a drug order pursuant to Section 2746.51, 2836.1, 3502.1, or 3640.5, respectively, or the pharmacist who issues a drug order pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052~~.

(2) Issued by a physician, dentist, optometrist, podiatrist, veterinarian, *prescribing psychologist,* or naturopathic doctor pursuant to Section 3640.7 or, if a drug order is issued pursuant to Section 2746.51, 2836.1, 3502.1, or 3460.5, by a certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor licensed in this state, or pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052 by a pharmacist licensed in this state.

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

(c) "Electronic transmission prescription" includes both image and data prescriptions. "Electronic image transmission prescription" means any prescription order for which a facsimile of the order is received by a pharmacy from a licensed prescriber. "Electronic data transmission prescription" means any prescription order, other than an electronic image transmission prescription,

that is electronically transmitted from a licensed prescriber to a pharmacy.

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

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

SEC. 11. Section 4502 of the Business and Professions Code is amended to read:

4502. As used in this chapter, "psychiatric technician" means any person who, for compensation or personal profit, implements procedures and techniques which involve understanding of cause and effect and which are used in the care, treatment, and rehabilitation of mentally ill, emotionally disturbed, or mentally retarded persons and who has one or more of the following:

(a) Direct responsibility for administering or implementing specific therapeutic procedures, techniques, treatments, or medications with the aim of enabling recipients or patients to make optimal use of their therapeutic regime, their social and personal resources, and their residential care.

(b) Direct responsibility for the application of interpersonal and technical skills in the observation and recognition of symptoms and reactions of recipients or patients, for the accurate recording of such symptoms and reactions, and for the carrying out of treatments and medications as prescribed by a licensed physician and surgeon ~~or a~~, psychiatrist, *or prescribing psychologist.*

The psychiatric technician in the performance of such procedures and techniques is responsible to the director of the service in which his duties are performed. The director may be a licensed physician and surgeon, psychiatrist, psychologist, rehabilitation therapist, social worker, registered nurse, or other professional personnel.

Nothing herein shall authorize a licensed psychiatric technician to practice medicine or surgery or to undertake the prevention, treatment or cure of disease, pain, injury, deformity, or mental or physical condition in violation of the law.

SEC. 12. Section 4502.1 of the Business and Professions Code is amended to read:

4502.1. A psychiatric technician, working in a mental health facility or developmental disability facility, when prescribed by a physician and surgeon *or prescribing psychologist*, may administer medications by hypodermic injection.

SEC. 13. Section 4502.2 of the Business and Professions Code is amended to read:

4502.2. A psychiatric technician, when prescribed by a physician and surgeon *or prescribing psychologist*, may withdraw blood from a patient with a mental illness or developmental disability if the psychiatric technician has received certification from the board that the psychiatric technician has completed a prescribed course of instruction approved by the board or has demonstrated competence to the satisfaction of the board.

SEC. 14. 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 the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. Section 2914.3 of the Business and Professions Code is amended to read:~~

~~2914.3. (a) The board shall encourage institutions that offer a doctorate degree program in psychology to include in their biobehavioral curriculum, education and training in psychopharmacology and related topics, including pharmacology and clinical pharmacology.~~

~~(b) The board shall develop guidelines for the basic education and training of psychologists whose practices include patients with medical conditions and patients with mental and emotional disorders, who may require psychopharmacological treatment and whose management may require collaboration with physicians and other licensed prescribers. In developing these guidelines for basic education and training, the board shall consider, but not be limited to, all of the following:~~

~~(1) The American Psychological Association's guidelines for training in the biological bases of mental and emotional disorders.~~

~~(2) The necessary educational foundation for understanding the biochemical and physiological bases for mental disorders.~~

~~(3) Evaluation of the response to psychotropic compounds, including the effects and side effects.~~

~~(4) Competent basic practical and theoretical knowledge of neuroanatomy, neurochemistry, and neurophysiology relevant to research and clinical practice.~~

~~(5) Knowledge of the biological bases of psychopharmacology.~~

~~(6) The locus of action of psychoactive substances and mechanisms by which these substances affect brain function and other systems of the body.~~

~~(7) Knowledge of the psychopharmacology of classes of drugs commonly used to treat mental disorders.~~

~~(8) Drugs that are commonly abused that may or may not have therapeutic uses.~~

~~(9) Education of patients and significant support persons in the risks, benefits, and treatment alternatives to medication.~~

~~(10) Appropriate collaboration or consultation with physicians or other prescribers to include the assessment of the need for additional treatment that may include medication or other medical evaluation and treatment and the patient's mental capacity to consent to additional treatment to enhance both the physical and the mental status of the persons being treated.~~

~~(11) Knowledge of signs that warrant consideration for referral to a physician.~~

~~(c) This section is intended to provide for training of clinical psychologists to improve the ability of clinical psychologists to collaborate with physicians. It is not intended to provide for training psychologists to prescribe medication. Nothing in this section is intended to expand the scope of licensure of psychologists.~~

O

SENATE BILL No. 963

Introduced by Senator Ridley-Thomas

February 23, 2007

An act to amend Sections 4001 and 4003 of, and to repeal Section 101.1 of, the Business and Professions Code, relating to regulatory boards.

LEGISLATIVE COUNSEL'S DIGEST

SB 963, as introduced, Ridley-Thomas. Regulatory boards: termination.

Existing law creates the Department of Consumer Affairs within the State and Consumer Services Agency. Under existing law, the department consists of boards that license and regulate members of various professions and vocations. Existing law provides for the boards to become inoperative on a specified date unless that date is extended or deleted by the Legislature. Under existing law, when a board becomes inoperative, the department succeeds to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction of the board and its executive officer that are not otherwise repealed or made inoperative.

This bill would delete that provision that requires the department to succeed to the duties, powers, purposes, responsibilities, and jurisdiction of an inoperative board.

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. Section 101.1 of the Business and Professions
2 Code is repealed.

~~101.1. (a) It is the intent of the Legislature that all existing and proposed consumer-related boards or categories of licensed professionals be subject to a review every four years to evaluate and determine whether each board has demonstrated a public need for the continued existence of that board in accordance with enumerated factors and standards as set forth in Division 1.2 (commencing with Section 473).~~

~~(b) (1) In the event that any board, as defined in Section 477, becomes inoperative or is repealed in accordance with the act that added this section, or by subsequent acts, the Department of Consumer Affairs shall succeed to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of that board and its executive officer.~~

~~(2) Any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that board is inoperative or repealed. Every reference to the inoperative or repealed board, as defined in Section 477, shall be deemed to be a reference to the department.~~

~~(3) Notwithstanding Section 107, any provision of law authorizing the appointment of an executive officer by a board subject to the review described in Division 1.2 (commencing with Section 473), or prescribing his or her duties, shall not be implemented and shall have no force or effect while the applicable board is inoperative or repealed. Any reference to the executive officer of an inoperative or repealed board shall be deemed to be a reference to the director or his or her designee.~~

~~(c) It is the intent of the Legislature that subsequent legislation to extend or repeal the inoperative date for any board shall be a separate bill for that purpose.~~

SEC. 2. Section 4001 of the Business and Professions Code is amended to read:

4001. (a) There is in the Department of Consumer Affairs a California State Board of Pharmacy in which the administration and enforcement of this chapter is vested. The board consists of 13 members.

(b) The Governor shall appoint seven competent pharmacists who reside in different parts of the state to serve as members of the board. The Governor shall appoint four public members, and the Senate Committee on Rules and the Speaker of the Assembly

shall each appoint a public member who shall not be a licensee of the board, any other board under this division, or any board referred to in Section 1000 or 3600.

(c) At least five of the seven pharmacist appointees to the board shall be pharmacists who are actively engaged in the practice of pharmacy. Additionally, the membership of the board shall include at least one pharmacist representative from each of the following practice settings: an acute care hospital, an independent community pharmacy, a chain community pharmacy, and a long-term health care or skilled nursing facility. The pharmacist appointees shall also include a pharmacist who is a member of a labor union that represents pharmacists. For the purposes of this subdivision, a "chain community pharmacy" means a chain of 75 or more stores in California under the same ownership, and an "independent community pharmacy" means a pharmacy owned by a person or entity who owns no more than four pharmacies in California.

(d) Members of the board shall be appointed for a term of four years. No person shall serve as a member of the board for more than two consecutive terms. Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. Vacancies occurring shall be filled by appointment for the unexpired term.

(e) Each member of the board shall receive a per diem and expenses as provided in Section 103.

(f) In accordance with ~~Sections 101.1 and~~ *Section* 473.1, this section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 3. Section 4003 of the Business and Professions Code is amended to read:

4003. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter. The executive

officer may or may not be a member of the board as the board may determine.

(b) The executive officer shall receive the compensation as established by the board with the approval of the Director of Finance. The executive officer shall also be entitled to travel and other expenses necessary in the performance of his or her duties.

(c) The executive officer shall maintain and update in a timely fashion records containing the names, titles, qualifications, and places of business of all persons subject to this chapter.

(d) The executive officer shall give receipts for all money received by him or her and pay it to the Department of Consumer Affairs, taking its receipt therefor. Besides the duties required by this chapter, the executive officer shall perform other duties pertaining to the office as may be required of him or her by the board.

(e) In accordance with ~~Sections 101.1 and~~ *Section* 473.1, this section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

O

SENATE BILL No. 966

Introduced by Senators Simitian and Kuehl

February 23, 2007

An act to add Chapter 6.9.2 (commencing with Section 25400.50) to Division 20 of the Health and Safety Code, relating to pharmaceuticals.

LEGISLATIVE COUNSEL'S DIGEST

SB 966, as introduced, Simitian. Pharmaceutical drug disposal.

(1) Existing law requires the Department of Toxic Substances Control to take renewal actions with respect to a hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, or a material intended to be used in the manufacture of controlled substances, and the department is authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose.

This bill would require every retailer of pharmaceutical drugs, as defined, on and after July 1, 2008, to have in place a system for the acceptance and collection of pharmaceutical drugs for proper disposal that includes specified elements. The bill would provide that any person who violates those provisions shall, if convicted, be guilty of a misdemeanor, and subject to specified civil and criminal penalties. Because the bill would create a new crime, the bill would impose a state-mandated local program.

(2) 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. Chapter 6.9.2 (commencing with Section
2 25400.50) is added to Chapter 4 of Division 20 of the Health and
3 Safety Code, to read:
4
5 CHAPTER 6.9.2. PHARMACEUTICAL DRUG DISPOSAL
6
7 25400.50. The Legislature finds and declares all of the
8 following:
9 (a) The United States Geological Survey conducted a study in
10 2002 sampling 139 streams across 30 states and found that 80
11 percent had measurable concentrations of prescription and
12 nonprescription drugs, steroids, and reproductive hormones.
13 (b) Exposure, even to low levels of pharmaceuticals, has been
14 shown to have negative effects on fish and other aquatic species
15 and may have negative effects on human health.
16 (c) In order to reduce the likelihood of improper disposal of
17 pharmaceuticals, it is the purpose of this article to establish a
18 program through which the public may return and ensure the safe
19 and environmentally sound disposal of pharmaceutical drugs and
20 may do so in a way that is convenient for consumers and cost
21 effective for retailers.
22 25400.51. For the purposes of this article, the following terms
23 have the following meanings, unless the context clearly requires
24 otherwise:
25 (a) "Consumer" means an individual purchaser or owner of a
26 pharmaceutical drug. "Consumer" does not include a business,
27 corporation, limited partnership, or an entity involved in a
28 wholesale transaction between a distributor and retailer.
29 (b) "Pharmaceutical drug" means a prescription or
30 over-the-counter drug, including, but not limited to, a drug as
31 defined in Section 109925 or the Federal Food, Drug, and Cosmetic
32 Act, as amended (21 U.S.C. Sec. 321(g)(1)).
33 (c) "Retailer" means a person or entity who makes a retail sale
34 of a pharmaceutical drug to a consumer in this state.

(d) "Sale" includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, but does not include a sale that is a wholesale transaction with a distributor or retailer.

25400.52. (a) On and after July 1, 2008, every retailer shall have in place a system for the acceptance and collection of pharmaceutical drugs for proper disposal.

(b) A system for the acceptance and collection of pharmaceutical drugs for proper disposal shall, at a minimum, include all of the following elements:

(1) The take-back, at no cost to the consumer, of a pharmaceutical drug, the type or brand of which the retailer sold or previously sold.

(2) A notice to consumers that shall include informational materials, including, but not limited to, Internet Web site links or a telephone number, placed on the invoice or purchase order, or packaged with the pharmaceutical drug, that provide consumers access to obtain more information about the opportunities and locations for no-cost pharmaceutical drug recycling.

(3) Information made available to consumers about pharmaceutical drug return opportunities provided by the retailer and encouraging consumers to utilize those opportunities. This information may include, but is not limited to, one or more of the following:

(A) Signage that is prominently displayed and easily visible to the consumer.

(B) Written materials provided to the consumer at the time of purchase or delivery, or both.

(C) Reference to the pharmaceutical drug take-back opportunity in retailer advertising or other promotional materials, or both.

(D) Direct communications with the consumer at the time of purchase.

(c) If a retailer is participating in an existing pharmaceutical drug take-back system and the system otherwise complies with the requirements of this article.

25400.53. On and after July 1, 2008, it is unlawful for a retailer to sell a pharmaceutical drug to a consumer unless the retailer complies with this article, and any violation of this section shall be a misdemeanor.

1 25400.54. Notwithstanding any other provision of law, any
2 person who violates this chapter shall, if convicted, be subject to
3 imprisonment for not more than one year in the county jail or a
4 fine of not more than one thousand dollars ($1,000), or both the
5 imprisonment and fine.
6 SEC. 2. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

O

SENATE BILL No. 993

Introduced by Senator Calderon

February 23, 2007

An act to amend Section 2904 of, and to add Article 1.5 (commencing with Section 2919.10) to Chapter 6.6 of Division 2 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 993, as introduced, Calderon. Psychologists: scope of practice: prescribing drugs.

Existing law, the Psychology Licensing Law, provides for the licensure and regulation of the practice of psychology by the Board of Psychology in the Department of Consumer Affairs. Existing law excludes prescribing drugs from the scope of practice of a licensed psychologist.

This bill would, with certain exceptions, authorize the board to grant a prescription certificate or a conditional prescription certificate to a licensed psychologist authorizing, within the scope of practice of a psychologist, the prescription of certain drugs if certain conditions are met.

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. The Legislature finds and declares all of the
2 following:
3 (a) The delivery of comprehensive, accessible, and affordable
4 medical care may be enhanced by providing trained medical
5 psychologists, licensed in California, with limited prescriptive

authority for the specific purpose of providing integrated mental health care services. The Legislature has previously authorized prescription privileges to advanced nurse practitioners, optometrists, dentists, podiatrists, osteopaths, physician assistants, and naturopaths.

(b) Psychologists with appropriate credentials have been allowed to prescribe medications to active duty personnel and their families in military facilities for many years. Louisiana and New Mexico are two states that have adopted legislation authorizing prescriptive authority for psychologists.

(c) For many years, psychologists in California have been allowed to discuss and recommend psychotropic medications to both patients and physicians. California psychologists routinely collaborate with primary care physicians to provide combined therapy and psychopharmacological care for their patients. California psychologists have independent hospital privileges.

(d) California licensed psychologists complete an average of seven years of postbaccalaureate study and three thousand hours of postgraduate supervised practice in the diagnosis and treatment of mental illness. Medical psychologists have earned additional Master of Science degrees in clinical psychopharmacology, or its equivalent, and passed a national examination in psychopharmacology. Because the current scope of medical psychologists' practice in California does not include prescribing medications, patients must consult with and pay for another provider to obtain the requisite prescription. However, physicians are not readily available in many areas and for minority populations.

(e) This is a particular hardship for patients residing in health care treatment shortage areas and in rural areas. For patients who require treatment in county and state mental health facilities, including the Department of Corrections and Rehabilitation, medical psychologists could eliminate the problem of access to care and psychiatrist shortages while significantly enhancing mental health treatment. Timely, efficient, and cost-effective treatment of mental illnesses could avoid the significantly greater social, economic, and medical costs of nontreatment for these needy populations.

(f) Research data soundly demonstrates that there is not enough mental health care available to serve the needs of all people in the

California due to the severe shortages of psychiatrists. Further, the economically disadvantaged and medically underserved would receive little or no mental health services if not for the services provided by clinical psychologists.

(g) The State of California has long recognized the extraordinarily deficient mental health care of its citizens. California has some of the highest rates of untreated psychological concerns in the United States. Recent concerns include the receivership of the prison system due to the state's inability to provide adequate mental and physical health care to inmates. There are several outstanding lawsuits against the State of California alleging that inmates and patients at state mental hospitals are not receiving constitutionally adequate mental health care due to the severe shortage of competent psychiatrists.

(h) Further exacerbating the dire need for mental health treatment in underserved areas is the fact that patients from diverse cultural backgrounds are reluctant to seek treatment due to the stigma of mental health problems. Timely access to accurate diagnosis and effective treatment of emotional and behavioral disorders also may contribute substantially to the state's responsibilities to children and needy adults in underserved rural areas.

(i) Professional psychology has developed a model curriculum for the education and training of prescribing psychologists. Independent evaluations of the Department of Defense Psychopharmacological Demonstration Project by the United States General Accounting Office and the American College of Neuropsychopharmacology have found that appropriately trained medical psychologists prescribe safely and effectively. Two states, New Mexico and Louisiana, and the territory of Guam, now allow appropriately trained psychologists to prescribe psychotropic medications. Psychologists in the military have been providing medication services to personnel and their families since 1990. Hundreds of thousands to over 1,000,000 prescriptions written by psychologists with not one patient injured. This record far exceeds the safety records of any prescribing class of professionals.

SEC. 2. Section 2904 of the Business and Professions Code is amended to read:

2904. The practice of psychology shall not include ~~prescribing drugs,~~ performing surgery or administering electroconvulsive

therapy. *The practice of psychology shall not include prescribing drugs, except as authorized pursuant to Article 1.5 (commencing with Section 2919.10).*

SEC. 3. Article 1.5 (commencing with Section 2919.10) is added to Chapter 6.6 of Division 2 of the Business and Professions Code, to read:

Article 1.5. Prescription Certificate and Conditional Prescription Certificate.

2919.10. As used in this article the following terms have the following meanings, unless the context otherwise requires:

(a) "Board" means the Board of Psychology.

(b) "Collaborative relationship" means a cooperative working relationship between a psychologist holding a conditional prescription certificate and a doctor of medicine in the provision of patient care, including diagnosis and cooperation in the management and delivery of physical and mental health care.

(c) "Narcotics" mean natural and synthetic opioid analgesics, and their derivatives used to relieve pain.

(d) "Nonpsychotropic treating formulary" means any medication that is labeled to treat adverse conditions caused by a psychotropic medication.

(e) "Prescribing mental health professional" means a medically trained and licensed physician, psychiatrist, advance practice nurse, or nurse practitioner specializing in mental health care.

(f) "Psychotropic medication" means only those agents related to the diagnosis and treatment of mental and emotional disorders, including controlled substances, except narcotics.

2919.15. (a) A psychologist may apply to the board for a conditional prescription certificate. The application shall be made on a form approved by the board, and be accompanied by evidence satisfactory to the board, that the applicant complies with all of the following:

(1) Holds a current license in good standing to practice psychology in the state.

(2) Has successfully completed a planned sequence of psychopharmacological training from an institution of higher learning approved by the board, or from a continuing education program consistent with professional psychology's postdoctoral

training in psychopharmacology or has been recommended by the National Alliance of Professional Psychology Providers. Any applicant who has received a postdoctoral Master of Science degree in psychopharmacology from a regionally accredited institution of higher learning, or an educational institution approved by the state to provide this education, or received a certificate of completion from an approved provider of continuing education designated by the board to provide this training to California licensed psychologists, shall be deemed as meeting the requirements of this section. This training shall include didactic classroom instruction in at least the following core areas of instruction:

(A) Anatomy and physiology.

(B) Biochemistry.

(C) Neurosciences.

(D) Pharmacology.

(E) Psychopharmacology.

(F) Pathophysiology.

(G) Health assessment, including relevant physical and laboratory assessment.

(H) Clinical pharmacotherapeutics.

(3) Has passed a national proficiency examination, approved by the board, that tests the applicant's knowledge of pharmacology in the diagnosis, care, and treatment of mental disorders. The board shall establish what constitutes a passing score and the number of times an applicant may retake the exam within a specific time period.

(4) Applies for a federal Drug Enforcement License for limited use as restricted by state law.

(5) Meets all other requirements, as determined by rules adopted by the board pursuant to obtaining a conditional prescription certificate.

(b) The board shall issue a conditional prescription certificate if it finds that the applicant has met the requirements of this section.

2191.20. (a) A psychologist holding a conditional prescription certificate may administer and prescribe psychotropic medication within the recognized scope of the profession, including the ordering and review of laboratory tests in conjunction with prescribing medication for the treatment of mental disorders.

(b) When prescribing psychotropic medication for a patient, a psychologist holding a conditional prescription certificate shall maintain an ongoing collaborative relationship with the medical practitioner who oversees the patient's general medical care to ensure that necessary medical examinations are conducted, and to be aware of any significant changes in the patient's physical condition.

(c) A prescription written by a psychologist with a conditional prescription certificate shall do all of the following:

(1) Comply with applicable state and federal laws.

(2) Be identified as issued by the psychologist as a "Medical Psychologist."

(3) Include the psychologist's board number or the identification number assigned by the department of commerce and consumer affairs.

(d) A psychologist holding a conditional prescription certificate shall not delegate prescriptive authority to any other person. Records of all prescriptions shall be maintained in the prescribing psychologists' patient records.

(e) When authorized to prescribe controlled substances, a psychologist holding a conditional prescription certificate shall file with the board in a timely manner all individual federal Drug Enforcement Agency registrations and numbers.

2191.25. (a) A psychologist may apply to the board for a prescription certificate. The application shall be made on a form approved by the board and be accompanied by evidence satisfactory to the board that the applicant complies with all of the following:

(1) Has been issued a conditional prescription certificate and has successfully completed one year of prescribing psychotropic medication.

(2) Holds a current license to practice psychology in California.

(3) Meets all other requirements, as determined by rule of the board, for obtaining a prescription certificate.

(b) The board shall issue a prescription certificate if it finds that the applicant has met the requirements of subdivision (a).

2191.30. A psychologist with a prescription certificate may prescribe psychotropic medication if the psychologist complies with all of the following:

(a) Continues to hold a current license to practice psychology in California.

(b) Complies with the requirements set forth in paragraph (2) of subdivision (a) of Section 2919.15.

(c) Annually satisfies the continuing education requirements for psychologists, if any are set by the board.

2191.35. (a) By July 1, 2008, the board shall adopt rules pursuant to establishing the procedures to be followed to obtain a conditional prescription certificate, a prescription certificate, and renewals of a conditional prescription certificate and prescription certificate. The board may set reasonable application and renewal fees.

(b) The board shall adopt rules pursuant to establishing the grounds for denial, suspension, or revocation of a conditional prescription certificate and prescription certificate including a provision for suspension or revocation of a license to practice psychology upon suspension or revocation of a conditional prescription certificate or prescription certificate. Actions of denial, suspension, or revocation of a conditional prescription certificate or a prescription certificate shall be in accordance with this chapter.

(c) The board shall maintain current records on every prescribing psychologist, including federal registrations and numbers.

(d) The board shall provide to the California State Board of Pharmacy an annual list of psychologists holding a conditional prescription certificate that contains the information agreed upon between the board and the board of pharmacy. The board shall promptly notify the board of pharmacy of psychologists who are added or deleted from the list.

(e) The board shall be the sole and exclusive administrative body to implement and oversee this article.

2191.40. (a) This article shall not be construed to permit a medical psychologist to administer or prescribe a narcotic.

(b) This article shall not apply to any of the following:

(1) Any person teaching, lecturing, consulting, or engaging in research in psychology insofar as the activities are performed as part of or are dependent upon employment in a college or university, provided that the person shall not engage in the practice of psychology outside the responsibilities of the person's employment.

(2) Any person who performs any, or any combination, of the professional services defined as the practice of psychology under the direction of a licensed psychologist in accordance with rules

adopted by the board, provided that the person may use the term "psychological assistant," but shall not identify the person's self as a psychologist or imply that the person is licensed to practice psychology.

(3) Any person employed by a local, state, or federal government agency in a school psychologist or psychological examiner position, or a position that does not involve diagnostic or treatment services, but only at those times when that person is carrying out the functions of that government employment.

(4) Any person who is a student of psychology, a psychological intern, or a resident in psychology preparing for the profession of psychology under supervision in a training institution or facility and who is designated by a title as "psychology trainee," "psychology student," "psychology intern," or "psychology resident," that indicates the person's training status; provided that the person shall not identify the person's self as a psychologist or imply that the person is licensed to practice psychology.

(5) Any person who is a member of another profession licensed under the laws of this jurisdiction to render or advertise services, including psychotherapy, within the scope of practice as defined in the statutes or rules regulating the person's professional practice, provided that the person does not represent the person's self to be a psychologist or does not represent that the person is licensed to practice psychology.

(6) Any person who is a member of a mental health profession not requiring licensure, provided that the person functions only within the person's professional capacities, and provided further that the person does not represent the person to be a psychologist, or the person's services as psychological.

(7) Any person who is a duly recognized member of the clergy; provided that the person functions only within the person's capacities as a member of the clergy; and provided further that the person does not represent the person to be a psychologist, or the person's services as psychological.

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