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AB-2859 Pharmacy: safe storage products. (2017-2018)

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Assembly Bill No. 2859

CHAPTER 240

An act to add and repeal Section 4106.5 of the Business and Professions Code, relating to pharmacy.

[Approved by Governor August 28, 2018. Filed with Secretary of State August 28, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2859, Caballero. Pharmacy: safe storage products.

Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists and pharmacies by the California State Board of Pharmacy, which is within the Department of Consumer Affairs, and provides that a violation of that law is punishable as a misdemeanor.

This bill would require a pharmacy that dispenses Schedule II, III, or IV controlled substances to display safe storage products in a place on the building premises that is located close to the pharmacy, unless the pharmacy meets 2 requirements related to the ownership and management of the pharmacy. The bill would require the board to assess a fine against a pharmacy for violation of these provisions, except that the bill would allow the board to choose not to take administrative action against a pharmacy if the board determines that compliance with the law would create a financial hardship on the pharmacy or that the pharmacy is temporarily out of stock of safe storage products. The bill would specify that a violation of these provisions shall not be punishable as a misdemeanor. The bill would also define certain terms for these purposes. The bill would repeal these provisions on January 1, 2023.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known, and may be cited, as the Protecting Our Children and Adolescents from Opioids Act of 2018.

SEC. 2. (a) The Legislature finds and declares all of the following:

- (1) Drug overdoses are now the leading cause of death by injury in the United States, outnumbering both traffic crashes and gun-related deaths.
- (2) In 2015, there were 52,404 drug overdose deaths, with 33,091 of those deaths involving the use of opioids.
- (3) Every day, 3,000 children 12 to 17 years of age abuse a prescription painkiller for the first time.
- (4) The federal Centers for Disease Control and Prevention estimates that the nonmedical use of prescription painkillers costs public and private health insurers \$72.8 billion annually.

(5) The National Institute on Drug Abuse has found 90 percent of all teens who abuse pharmaceutical drugs obtain their drugs from their home medicine cabinet or from a friend's medicine cabinet.

(6) Researchers at the Johns Hopkins Bloomberg School of Public Health found that nearly 70 percent of prescription opioid medications kept in homes with children are not stored safely.

(7) Only 18 percent of providers have been estimated to discuss safe storage and disposal of drugs with their patients.

(8) The Partnership for Drug-Free Kids has found that one of the key drivers for abusing prescription painkillers amongst teens is easy access, with more than 3 in 5 teens stating that pain relievers were easy to obtain from their parents' medicine cabinets.

(9) New reports have found that the number of emergency room visits for accidental poisoning amongst toddlers has tripled since 1997.

(b) It is the intent of the Legislature that increasing safe storage practices among parents is an important component to protecting teens and children from the dangers of opioid abuse and that the state must do more to encourage parents to safeguard these medications that are vital to managing certain chronic pain conditions among adults.

SEC. 3. Section 4106.5 is added to the Business and Professions Code, to read:

4106.5. (a) For purposes of this section, the following terms shall have the following meanings:

(1) "Pharmacy" does not include a pharmacy that meets both of the following requirements:

(A) It is owned and operated by a person or persons in which the majority of the beneficial interest, as well as management and control, resides with at least one board-licensed pharmacist, as that term is defined in Section 4036, that exclusively oversees the operations of the pharmacy.

(B) The owner and operator with the beneficial interest, management, and control described in subparagraph (A) owns, operates, and has management and control of no more than four pharmacies.

(2) "Safe storage products" means a device or product made with the purpose of storing prescription medications that includes a locking mechanism that is accessible only by the designated patient with a passcode, alphanumeric code, key, or by another secure mechanism. A safe storage product includes, but is not limited to, medicine lock boxes, locking medicine cabinets, locking medication bags, and prescription locking vials.

(3) "Schedule II, III, or IV controlled substances" means any substance defined as a Schedule II, III, or IV controlled substance in Sections 11055, 11056, and 11057 of the Health and Safety Code.

(b) A pharmacy that dispenses Schedule II, III, or IV controlled substances shall display safe storage products in a place on the building premises that is located close to the pharmacy.

(c) (1) The board shall assess a fine in an amount to be determined by the board for a violation of this section.

(2) Notwithstanding paragraph (1), the board may choose not to take administrative action against a pharmacy if it determines that compliance with this section would create a financial hardship on the pharmacy or that the pharmacy is temporarily out of stock of safe storage products.

(d) Section 4321 shall not apply to a violation of this section.

(e) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.